

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

FINAL FINDING AND DECISION

of a
Reconveyance of Alaska Native Allotment Case File
ADL 234123
BLM FF013768

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) for ADL 234123, issued on November 17, 2023.

I. Recommended Action

On November 17, 2023, the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) proposed to voluntarily reconvey to the United States of America, parcel containing 51.57 aggregate acres of wrongfully conveyed state land described as U.S. Survey No. 9564, Lots 3 and 8, and is located within Sections 3 and 4, Township 16 North, Range 43 West, Seward Meridian in the Kuskokwim Recording District. The parcel is claimed by Kriska Gregory (deceased) as his Native Allotment. There are no changes to the stipulations outlined in the attached PD. This decision supersedes any prior decisions regarding this parcel.

II. Authority

This reconveyance is being adjudicated pursuant to Alaska Statute (AS) 38.05.020 Authority and Duties of the Commissioner, AS 38.05.035 Power and Duties of the Director, AS 38.05.830 Land Disposal in the Unorganized Borough, 11 Alaska Administrative Code (AAC) 67.930 Purpose and Procedure, and the settlement authority of the Attorney General in accordance with the Stipulated Procedures for Implementation of Order, *Aguilar v. United States 474 F. Supp. 840 (D. Alaska 1979)*, (herein cited as *Aguilar*). The authority to execute this Final Finding and Decision has been delegated to the Section Chief, LCS, DMLW, DNR, pursuant to AS 38.05.035(b)(1) Power and Duties of the Director.

III. Public Notice

Pursuant to AS 38.05.945 Notice, a public notice announcing the PD for the proposed Native allotment reconveyance along with the solicitation for public comment was published and distributed in compliance with the above statute in the following manner:

- Posted on the State of Alaska Online Public Notice and the LCS website from November 17, 2023, to December 28, 2023;
- Mailed, with a request to post for 30 days, to the postmasters in Sleetmute, Red Devil, and Stony River per AS 38.05.945(c)(4) Notice;
- Mailed to the regional and village corporations per AS 38.05.945(c)(2)-(3) Notice (Kuskokwim Corporation, the Village of Sleetmute, the Village of Stony River, the Village of Red Devil, the Association of Village Council Presidents (AVCP), and Calista Corporation); and
- Mailed to the heirs of Kriska Gregory (allottee), Alaska Legal Services Corporation, Bureau of Land Management, and Bureau of Indian Affairs.

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The public notice stated that written comments must be received by 3:00 p.m. Thursday, December 28, 2023, in order to ensure consideration and eligibility to appeal. For more information, refer to the attached PD.

IV. Comments Received

No written comments were received during the public comment period.

V. Traditional Use Finding

This parcel is in the Unorganized Borough and a traditional use finding is required. No information was received concerning traditional use outside the use by the Native allottee.

VI. Modifications to Decision and Stipulations

The recommended action has not been modified from the original proposed action described in the PD of November 17, 2023. An updated title report was received on September 5, 2024. No new information was discovered. This parcel is described as:

Lots 3 and 8, U.S. Survey No. 9564, Alaska, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, Anchorage, Alaska, on December 29, 2014, and officially filed on March 26, 2015, aggregating 51.57 acres, more or less.

Situated in the Kuskokwim Recording District.

It is in the best interest of the State to reconvey the land to the United States subject to the reservations, exceptions, and restrictions, as stated below. This will allow the heirs to the Native Allottee to obtain title to the land while the State will retain public access on the property as prescribed by statute and thus avoid title recovery litigation by the federal government. The State may proceed with the reconveyance of this parcel to the United States of America subject to the following easements, reservations, exceptions, and restrictive covenants:

Subject to:

- (a) An easement fifty (50) feet in width along the southern side of the surveyed township line in common with Section 36, Township 17 North, Range 43 West, and Section 4, Township 16 North, Range 43 West, Seward Meridian, pursuant to AS 19.10.010 Dedication of Land for Public Highways, 11 AAC 51.025 Section Line Easements, and AS 19.25.010 Use of Rights-of-way for Utilities; and
- (b) An easement fifty (50) feet in width along each side of the section line in common with Sections 3 and 4, Township 16 North, Range 43 West, Seward Meridian, pursuant to AS 19.10.010 Dedication of Land for Public Highways, 11 AAC 51.025 Section Line Easements, and AS 19.25.010 Use of Rights-of-way for Utilities; and
- (c) An easement fifty (50) feet in width for public access, upland, abutting, and running in common with the ordinary high-water mark along the Holitna River and the Hoholitna River within Lot 3 in Sections 3 and 4, Township 16 North, Range 43 West, Seward Meridian, Alaska, pursuant to AS 38.05.127 Access to Navigable and Public Water, 11 AAC 51.045 Easements To and Along Navigable and Public Water;

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(d) All other valid existing rights, if any.

The Division of Oil and Gas and DMLW have determined that it is in the State's best interest to retain the mineral estate. The mineral estate will be retained pursuant to AS 38.05.035(e) Powers and Duties of the Director. The State will not receive an acreage credit for the lands.

Any reservations in the modified tentative approval the State received from BLM will merge with the title once the land is conveyed back to the United States.

Recommendation and approval of the Final Finding and Decision follow.

VII. Final Finding and Decision

LCS recommends proceeding with the proposed action as described in the Preliminary Decision. This action is undertaken under relevant authorities. Public notice has been accomplished in accordance with AS 38.05.945 Notice, and comments received were considered. The case file has been found to be complete and the requirements of all applicable statutes, regulations, and court orders have been satisfied.



October 2, 2024

Recommended by: Kathryn Young
Native Allotment Coordinator
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

Date

Under the authority of the applicable statutes and *Aguilar*, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended action as described and referenced herein.



October 2, 2024

Approved by: Hannah Uher-Koch
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

Date

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Appeal Provision

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department.

Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

**Proposed Reconveyance of a
Alaska Native Allotment in the Unorganized Borough**

PRELIMINARY DECISION

ADL 234123

BLM No. FF013768

PUBLIC COMMENT PERIOD ENDS 3:00 PM, THURSDAY, DECEMBER 28, 2023

I. Proposed Action

Preliminary Decision: Kriska Gregory – ADL 234123

Attachment A: Vicinity Map

Attachment B: Public Notice

Attachment C: U.S. Survey 9564

Proposed Action: The primary proposed action of this Preliminary Decision (PD) of the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) is to voluntarily reconvey to the United States of America, Lots 3 and 8, U.S. Survey No. 9564, containing 51.57 aggregate acres of wrongfully conveyed state land. See *Attachment A: Vicinity Map* for a depiction of the project area.

The subject parcel is an Alaska Native allotment, Bureau of Land Management (BLM) Serial No. FF013768 claimed by Kriska Gregory (deceased). The claim is being settled in accordance with the Stipulated Procedures for Implementation of Order approved by the Court to implement the decision in Ethel Aguilar v. United States of America, 474 F. Supp. 840 (D. Alaska 1979) (herein cited as Aguilar) and *Alaska Statute (AS) 38.05.035(b)(9) Powers and Duties of the Director*.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal.

See **Section XVI. Submittal of Public Comments** at the end of this document and *Attachment B: Public Notice* for details on how to submit a comment for consideration. If, after consideration of timely, written comments, DNR DMLW LCS moves forward with the proposal, a Final Finding and Decision (FFD) will be issued.

II. Authority

This reconveyance is being adjudicated pursuant to *AS 38.05.020 Authority and Duties of the Commissioner*, *AS 38.05.035 Power and Duties of the Director*, *AS 38.05.830 Land Disposal in the Unorganized Borough*, *11 Alaska Administrative Code (AAC) 67.930 Purpose and Procedure* and the settlement authority of the Attorney General in accordance with Aguilar. The authority to execute this PD has been delegated to the Section Chief, LCS, DMLW, DNR, pursuant to *AS 38.05.035(b)(1) Power and Duties of the Director*.

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III. Administrative Record

The DNR case file - ADL 234123 and BLM case file FF013768, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Kuskokwim Area Plan for State Lands (KAP), adopted March 1988 and associated land classification files; and
- DNR case files: GS 2297.

IV. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section II. Authority**, is limited and specific to DNR DMLW's proposal to voluntarily reconvey this land to the United States of America in accordance with the Stipulated Procedures for Implementation of Order approved by the Court to implement the decision in Aguilar and *AS 38.05.035 Power and Duties of the Director*, and whether the reconveyance should be made subject to any stipulations to best serve the interests of the public and the State.

V. Location

Located within DNR's Southcentral Region, approximately 15 miles southeast of Sleetmute, the subject parcel is within Sections 3 and 4, Township 16 North, Range 43 West, Seward Meridian, within the Unorganized Borough. The subject parcel consists of approximately 51.57 aggregate acres identified for reconveyance by this proposed action. See *Attachment A: Vicinity Map* for a depiction of the subject parcel.

USGS Map Coverage: Sleetmute C-3

Borough/Municipality: Unorganized Borough

Native Councils and Corporations: The subject parcel is within the boundaries of Calista Corporation. Sleetmute, Red Devil, and Stony River are within 25 miles of this proposed action and notice will be sent to the Kuskokwim Corporation, the Village of Sleetmute, the Village of Stony River, the Village of Red Devil, and the Association of Village Council Presidents.

VI. Legal Description

Lots 3 and 8, U.S. Survey No. 9564, Alaska, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, Anchorage, Alaska, on December 29, 2014, and officially filed on March 26, 2015, aggregating 51.57 acres, more or less.

Situated in the Kuskokwim Recording District.

VII. Title

The State received title to the land on August 21, 1980, under a Modified Tentative Approval. The State file is GS 2297. No third-party interests have been identified. The parcel is subject to the reservations, easements, and exceptions contained in the Modified Tentative Approval dated August 21, 1980. A title report has been requested; if any concerns are discovered, they will be addressed in the FFD.

Acquisition: The State filed selection application GS 2297 (BLM Serial No. AA008928) for Township 16 North, Range 43 West, Seward Meridian on March 22, 1974.

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Restrictions: The Modified Tentative Approval contains a reservation for a right-of-way thereon for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945 and a reservation for the right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the Act of March 12, 1914 (38 Stat. 305).

VIII. Background

The following events for this case are:

- Kriska Gregory began his use and occupancy of the subject lands in 1933 according to documentation in DNR case file ADL 234123.
- His Native allotment application was signed on November 11, 1970, and filed on March 30, 1971.
- The State filed selection application GS 2297 for Township 16 North, Range 43 West, Seward Meridian on March 22, 1974, and received title by Modified Tentative Approval on August 21, 1980.
- BLM determined Native Allotment application FF013768 valid on July 16, 1991.
- BLM surveyed the allotment and filed plat U.S. Survey No. 9564 on March 26, 2015.
- The State received a request for reconveyance on April 22, 2015.

IX. Planning, Classification, and Mineral Orders

1. *Planning:* The subject parcel is located within the Holitna River - West Region of the Kuskokwim Area Plan (KAP) adopted on May 19, 1988, in Unit 15a. Recommended land use within this unit includes management for forestry and wildlife habitat. The plan designates the subject parcel as Forestry and Wildlife Habitat. These designations convert to classifications of Forest Land and Wildlife Habitat Land.
2. *Land Use Classification:* The State classified the subject parcel as Forest Land and Wildlife Habitat Land under Classification Order CL SC-88-001A15 based on KAP, adopted May 19, 1988.
3. *Mineral Order:* The parcel is not subject to a mineral order.
4. *Local Planning:* This parcel does not exist within any local planning unit.

X. Traditional Use Finding

In accordance with AS 38.05.830, a traditional use finding is required if the subject parcel is within the Unorganized Borough. This parcel is in the Unorganized Borough, and a traditional use finding is required. Information on traditional use is welcome during the public comment period and if this proposal is approved, LCS will address the information received in a subsequent FFD. See the **Section XVI. Submittal of Public Comments** at the end of this document and *Attachment B: Public Notice* for details on how to submit comment.

Alaska Department of Fish and Game (ADFG) has commented that hunting, fishing, and subsistence activities occur in the area and may be impacted by this change in land ownership.

XI. Access, including Access To and Along Public or Navigable Water

Public Access: This parcel is on the banks of the Holitna and Hoholitna Rivers and can be accessed via these rivers.

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Access To and Along Public or Navigable Waters: In accordance with AS 38.05.127 *Access To Navigable or Public Water*, DNR will determine if a water body is navigable or public and establish easements or rights-of-way as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or rights-of-way under this statute include 11 AAC 51.035 *Determination of Navigable and Public Water*, 11 AAC 51.045 *Easements To and Along Navigable and Public Water*, and 11 AAC 53.450 *Buffer Strips, Reserved Areas, and Public Easements*.

The subject parcel sits at the confluence of the Holitna and Hoholitna Rivers, which has been determined to be navigable. Normally, a 50-foot public access easement under AS 38.05.127 *Access To Navigable or Public Water* would be reserved along the river. A review of the subject parcel, the surrounding area, and land ownership shows that land status prevents continuous easement around Lot 8. Lot 8, which sits on the north bank of the confluence, has private lands to the northeast, which were conveyed into private ownership without any public access easements along the river. However, Lot 3, which sits on the south bank of the confluence, has state land on either side, so a 50-foot public access easement is required. Therefore, as allowed by 11 AAC 51.045 *Easements To and Along Navigable and Public Water* in these circumstances, the AS 38.05.127 *Access To Navigable or Public Water* easement will only be imposed on Lot 3, which sits on the south bank of the confluence.

Easements and Setbacks: Under AS 19.10.010 *Dedication of Land for Public Highways*, the application of a 50-foot section line easement is required on all protracted or surveyed section or township lines on State land. There are no provisions under the law to exclude this 50' section line easement dedication at conveyance or reconveyance back to the federal government. However, an affected landowner may, under 11 AAC 51.065 *Vacation of Easements*, file a request with DNR to vacate, modify, or relocate a section line easement.

The section lines within this parcel are protracted or unsurveyed. Therefore, the exact location of the section line easements is unknown. The township line on the north boundary of Lot 8 has been surveyed.

The reconveyance will except, reserve, or be subject to the reservations brought forth by the public notice, if any, and the following:

Subject to:

- (a) An easement fifty (50) feet in width along the southern side of the surveyed township line in common with Section 36, Township 17 North, Range 43 West, and Section 4, Township 16 North, Range 43 West, Seward Meridian, pursuant to AS 19.10.010 *Dedication of Land for Public Highways*, 11 AAC 51.025 *Section Line Easements*, and AS 19.25.010 *Use of Rights-of-way for Utilities*; and
- (b) An easement fifty (50) feet in width along each side of the section line in common with Sections 3 and 4, Township 16 North, Range 43 West, Seward Meridian, pursuant to AS 19.10.010 *Dedication of Land for Public Highways*, 11 AAC 51.025 *Section Line Easements*, and AS 19.25.010 *Use of Rights-of-way for Utilities*; and

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- (c) An easement fifty (50) feet in width for public access, upland, abutting, and running in common with the ordinary high-water mark along the Holitna River and the Hoholitna River within Lot 3 in Sections 3 and 4, Township 16 North, Range 43 West, Seward Meridian, Alaska, pursuant to AS 38.05.127 *Access to Navigable and Public Water, 11 AAC 51.045 Easements To and Along Navigable and Public Water*;
- (d) All other valid existing rights, if any.

XII. Reservation of the Mineral Estate

The Division of Oil and Gas (DOG) and DMLW have determined that it is in the State's best interest to retain the mineral estate. The mineral estate will be retained pursuant to AS 38.05.035(e) *Powers and Duties of the Director*. The State will not receive an acreage credit for the lands.

XIII. Hazardous Materials and Potential Contaminants

The Department of the Interior, BLM, is expected to inspect the parcel and familiarize itself with the condition and quality of the land. The State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for reconveyance. The State does not assume any liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances ever be identified.

XIV. Survey

The parcel is adequately surveyed for reconveyance to the United States of America. See *Attachment C: U.S. Survey 9564*.

XV. DMLW and Agency Review

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. Agency review was conducted from October 4, 2023, to October 25, 2023. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent FFD.

DNR DMLW LCS received brief comments of non-objection from the following agencies:
Alaska Department of Transportation and Public Facilities.

Comments from DNR Division of Oil and Gas: DOG has no objection. DOG requests reservation of the mineral estate as there is energy potential in the area. While there are currently no third-party interests, an exploration license was issued in the past.

DNR DMLW LCS response: Thank you for the information.

Comments from Alaska Department of Fish and Game: ADFG has no interests on this parcel and no objection to the reconveyance. However, hunting, fishing, and subsistence activities occur in the area and may be impacted by this change in land ownership. ADFG concurs with the reservation of a 50-foot public access easement along the rivers, guaranteeing access to the river system.

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DNR DMLW LCS response: Thank you for the information.

The following agencies or groups were included in the agency review, but no comment was received:

- DNR Division of Agriculture
- DNR Division of Forestry and Fire Protection
- DNR Division of Geological and Geophysical Surveys
- DNR Division of Parks and Outdoor Recreation
- DNR State Historical Preservation Office
- Alaska Department of Environmental Conservation
- US Fish and Wildlife Service

XVI. Submittal of Public Comments

See *Attachment B: Public Notice for specific dates and conditions.*

Pursuant to *AS 38.05.945 Notice*, LCS is issuing public notice inviting comment on this Preliminary Decision.

In accordance with *AS 38.05.946(a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945(c)* may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

LCS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the Preliminary Decision, including any deletions, minor changes, and summary of comments and LCS responses will be issued as a subsequent Final Finding and Decision, without further notice.

Only persons from whom DNR DMLW LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the FFD. Upon approval and issuance of a FFD, a copy of the decision will be made available online at <http://landsales.alaska.gov/> or <https://aws.state.ak.us/OnlinePublicNotices/> and sent with an explanation of the appeal process to any party who provides timely written comment.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact DNR's Public Information Center. For more information, refer to *Attachment B: Public Notice*.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS
3:00 PM, THURSDAY, DECEMBER 28, 2023**

XVII. Alternatives

The following alternatives were considered:

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Alternative 1: Reconvey

Reconvey the land to the United States subject to the reservations, exceptions, and restrictions as stipulated in **Section XI. Access, Including Access To and Along Public or Navigable Water, Easements and Setbacks**. This will allow the Native allottee to obtain title to the land while the State will retain public access on the property as prescribed by statute and thus avoid title recovery litigation by the federal government. Therefore, it is in the best interest of the State to reconvey the parcel as proposed in this decision, and this is the preferred alternative.

Alternative 2: Retain

Retain ownership and withhold reconveyance. DNR currently does not have a persuasive reason to pursue this option. This alternative may lead to title recovery litigation brought by the United States on behalf of the Native Allottee, thus subjecting the State to an uncertain expenditure of resources and an uncertain result of litigation. This alternative is not preferred.

In accordance with the Stipulated Procedures for Implementation of Order in Aguilar, BLM reviewed and determined Mr. Gregory's Native Allotment application to be valid on July 16, 1991. Based on documentation within BLM's case file and subsequent comments received from agency review, LCS has found no legal reason for denying this reconveyance subject to public notice and a final decision.

For the reasons outlined above, Alternative 1 is the preferred alternative.

Recommendation follows.

Preliminary Decision

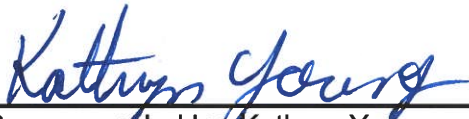
ADL 234123

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XVIII. Recommendation

This Preliminary Decision for the proposed reconveyance of state lands described throughout this document and its attachments may be within the State's best interest. Reconveyance under the conditions in Alternative 1 is preferable to title recovery litigation. The State's reconveyance will allow the BLM to transfer title of the land to the Native Allottee and will eliminate any further title recovery action. As represented by the preferred alternative, the PD described above has been reviewed and considered. I find that the recommended action may be in the best interest of the State and that it is hereby approved to proceed to public notice.

This is a Preliminary Decision, and analysis of subsequent public review may result in changes to the preferred alternative of the proposed reconveyance of state lands. If the decision is approved, a Final Finding and Decision may be issued.



Recommended by: Kathryn Young
Native Allotment Coordinator
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

November 17, 2023

Date



Approved by: Hannah Uher-Koch
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

November 17, 2023

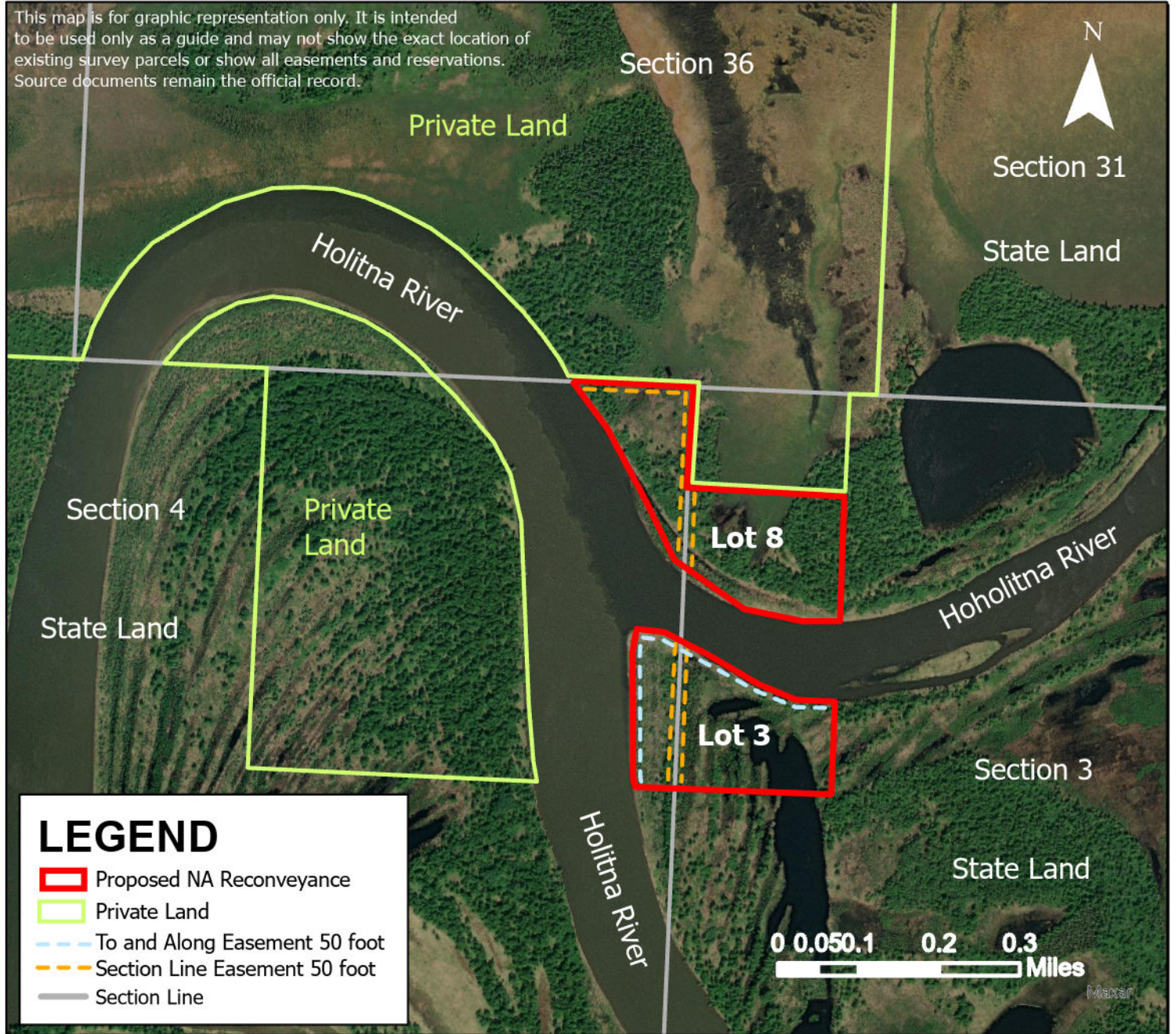
Date



Attachment A: Vicinity Map

Kriska Gregory Sr., ADL 234123 / BLM FF013768

This map is for graphic representation only. It is intended to be used only as a guide and may not show the exact location of existing survey parcels or show all easements and reservations. Source documents remain the official record.



Sections 3 and 4, Township 16 North, Range 43 West, Seward Meridian

USGS Quad 1:63,360 Sleetmute C-3

For more information contact:
 Kathryn Young
 Department of Natural Resources
 Division of Mining, Land and Water
 Land Conveyance Section
 Phone: 907-269-8574
 Fax: 907-269-8916
 Email: kathryn.young@alaska.gov



**STATE OF ALASKA,
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

ATTACHMENT B: PUBLIC NOTICE

**Requesting Input for Proposed
Native Allotment Reconveyance - ADL 234123
AS 38.05.035**

COMMENT PERIOD ENDS 3:00 PM, THURSDAY, DECEMBER 28, 2023

The Alaska Department of Natural Resources (DNR), Division of Mining Land and Water (DMLW), Land Conveyance Section (LCS) is conducting a public notice to reconvey the following erroneously conveyed State land to the United States of America for conveyance to the Native allotment applicant. The parcel of land is approximately 15 miles southeast of Sleetmute. The legal description for the parcel is Lots 3 and 8, U.S. Survey No. 9564, Alaska, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, Anchorage, Alaska, on December 29, 2014, and officially filed on March 26, 2015, aggregating 51.57 acres, more or less.

To obtain the notice, Preliminary Decision (PD), or instructions on submitting comment, go to <http://dnr.alaska.gov/mlw/landsale/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10:00 AM and 5:00 PM in Anchorage at (907) 269-8400 or Fairbanks at (907) 451-2705 or the Southeast Land Office in Juneau at (907) 465-3400 or TTY: 711 for Alaska Relay or 1-800-770-8973 or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, Thursday, December 21, 2023.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comments on the Preliminary Decision. **The deadline for public comment is 3:00 PM, THURSDAY, DECEMBER 28, 2023.** Only persons from whom DNR DMLW LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision (FFD). Written comment may be received by fax, email, or postal mail. To submit comments or for direct inquiries, contact Kathryn Young by mail at 550 West 7th Ave, Suite 640, Anchorage, AK 99501 or by fax at (907) 269-8916 or by email at kathryn.young@alaska.gov. If you have questions, call Kathryn Young at (907) 269-8574.

If no significant change is required, the PD, including any minor changes and a summary of comments and responses, will be issued as the FFD, without further notice. A copy of the FFD will be sent to any persons who commented timely on the PD.

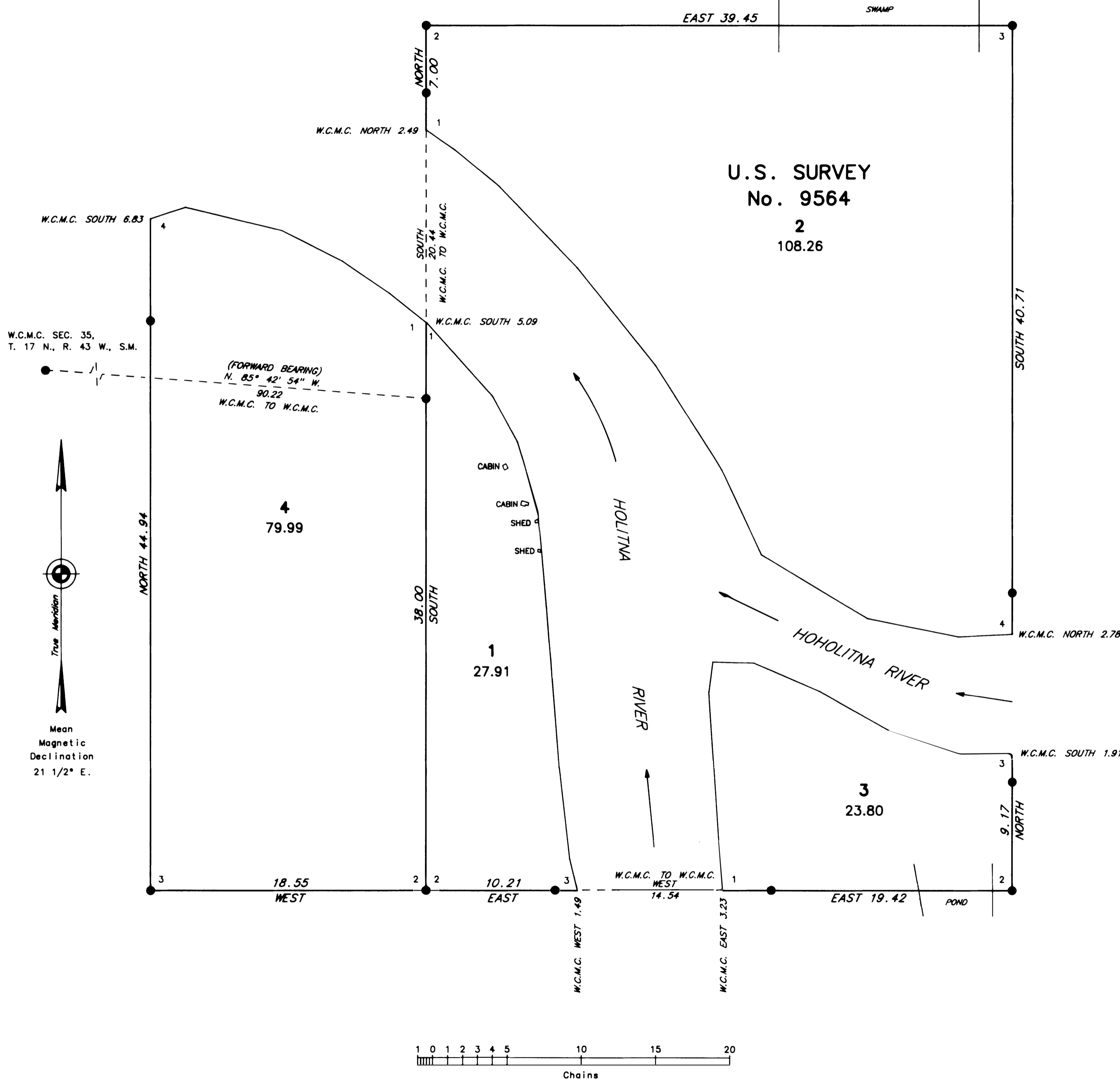
DNR reserves the right to waive technical defects in this notice.

Attachment C

Officially Filed
DATE AUGUST 8, 1989

ORIGINAL

4956 5577



U.S. SURVEY
No. 9564, ALASKA
COMPRISING LOTS 1 THROUGH 4

SITUATED
AT THE CONFLUENCE OF THE
HOHLITNA AND HOHOLITNA RIVERS
APPROXIMATELY 15 MILES SOUTHEASTERLY
OF
THE VILLAGE OF SLEETMUTE, ALASKA

GEOGRAPHIC POSITION
OF
THE WITNESS CORNER TO CORNER NO. 1, LOT 1
IDENTICAL WITH THE WITNESS CORNER TO
CORNER NO. 1, LOT 4, BOTH MEANDER CORNERS

IS:
LATITUDE: 61° 30' 44.04" NORTH
LONGITUDE: 156° 59' 29.52" WEST
NAD 27

AREA: 239.96 ACRES

SURVEYED
BY
STANLEY E. SEARS
REGISTERED ALASKA LAND SURVEYOR NO. LS-2087
FOR
R&M CONSULTANTS, INC.
JULY 5 THROUGH JULY 30, 1988
UNDER SPECIAL INSTRUCTIONS
DATED SEPTEMBER 1, 1987
APPROVED SEPTEMBER 24, 1987
AND CONTRACT NO. YA-551-CT8-340031
AWARDED APRIL 11, 1988

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Anchorage, Alaska

This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

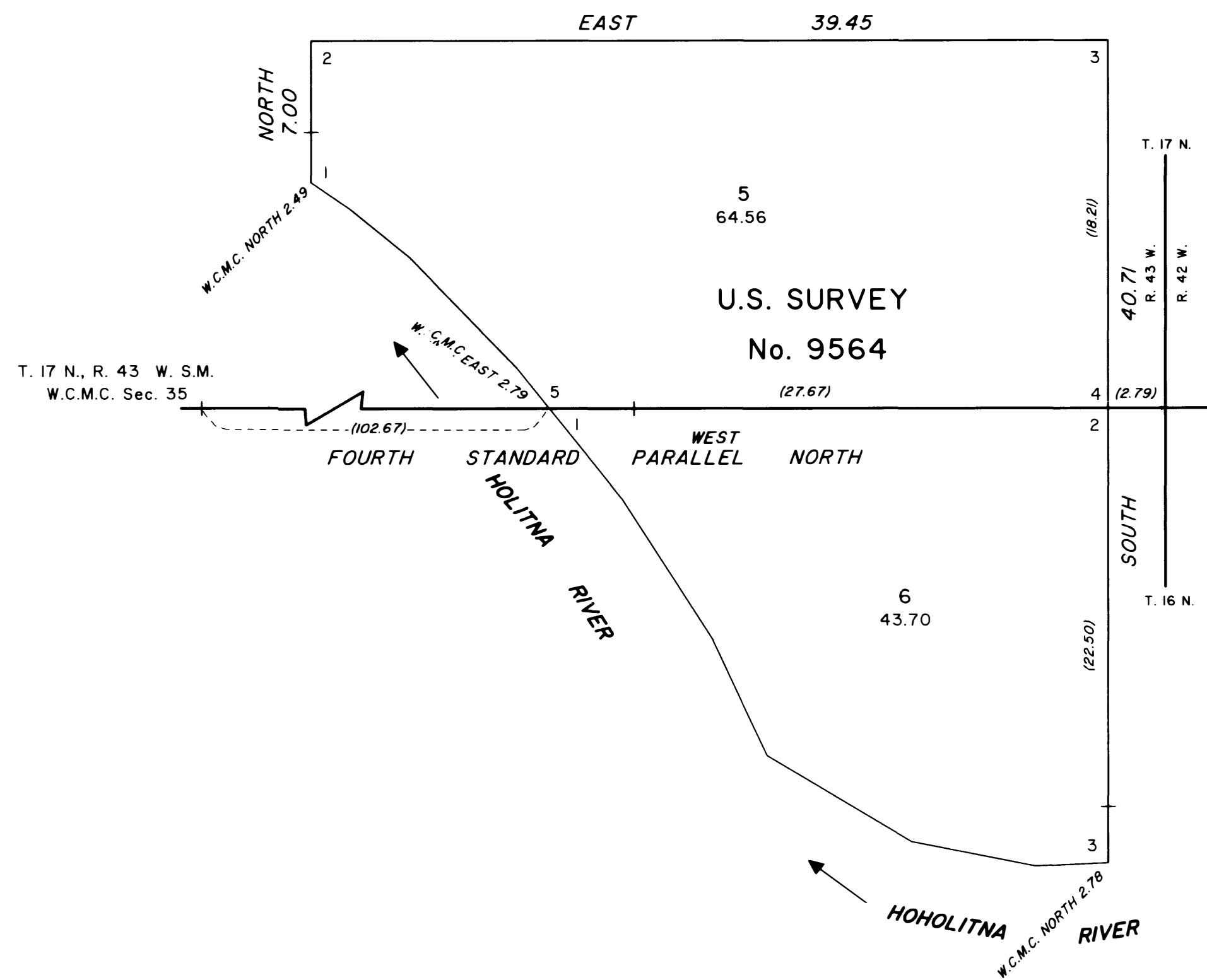
Robert H. Anderson For the Director
Date 10 JULY 1989

Deputy State Director for Cadastral Survey, Alaska

Attachment C

U.S. SURVEY
No. 9564, ALASKA
SUPPLEMENTAL PLAT

This supplemental plat of U.S. Survey No. 9564 shows amended lottings created by the subdivision of Lot 2, U.S. Survey 9564, into Lot 5 and Lot 6. This revision is based upon the official survey records: the plat of Township 17 North, Range 43 West, Seward Meridian, Alaska, accepted March 31, 1978; the plat of U.S. Survey No. 9564 accepted July 10, 1989; and the amended plat of Township 17 North, Range 43 West, Seward Meridian, Alaska, accepted February 25, 1992.



Acceptance of this survey does not purport to transfer any interest in submerged lands to which the State of Alaska is entitled under the Equal Footing Doctrine and Section 6(m) of the Alaska Statehood Act, P.L. 85-508, notwithstanding the use, location, or absence of meander lines to depict water bodies.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Anchorage, Alaska

This supplemental plat is based upon the official records and, having been correctly prepared in accordance with the regulations of this Bureau, is hereby accepted.

For the Director

Daniel L. Johnson 7-14-99
ACTING Date
Deputy State Director for Cadastral Survey,
Alaska

DATE MARCH 24, 2015

**U.S. SURVEY
No. 9564, ALASKA**
DEPENDENT RESURVEY AND SUBDIVISION
OF LOT 6, INTO LOTS 7 AND 8

This plat contains the entire survey record.

The survey of the Fourth Standard Parallel North, along the south boundary of Township 17 North, Range 43 West, Seward Meridian, Alaska, was surveyed by Donald L. Dart, Cadastral Surveyor, in 1974 through 1975.

U.S. Survey No. 9564 was surveyed under contract by Stanley E. Sears, Alaska Registered Land Surveyor, in 1988.

An amended plat of Township 17 North, Range 43 West, Seward Meridian, Alaska, was accepted on February 25, 1992.

A supplemental plat of U.S. Survey No. 9564 was accepted on July 14, 1999.

The dependent resurvey of the Fourth Standard Parallel North, along the north boundary of Township 16 North, Range 43 West, Seward Meridian, Alaska, was surveyed by Kurt D. Huhta, Cadastral Surveyor, in 2011.

The direction and length of lines were determined by Global Navigation Satellite Systems (GNSS) Real-Time Kinematic (RTK) observations. The direction of each line is with reference to the true meridian. All bearings are true mean bearings. All distances are horizontal distances reduced to their sea level equivalent. No lines were brushed or marked between corners.

This survey was executed by Gates C. Kesler, Cadastral Surveyor, August 16 through August 17, 2013, in accordance with the specifications set forth in the Manual of Surveying Instructions (2009), Supplemental Special Instructions No. 1, dated May 2, 2013, approved May 6, 2013, and Assignment Instructions dated August 15, 2013.

Field assistant was:

Joshua J. Smail, Land Surveyor

Area Subdivided: 43.70 Acres

Except as indicated hereon, the lottings and areas are as shown on the supplemental plat accepted July 14, 1999.

The mean magnetic declination was observed in the field.

This survey is situated at the confluence of the Holitna and Hoholitna Rivers, approximately 15 miles southeasterly of Sleetmute, within Townships 16 and 17 North, Range 43 West, Seward Meridian, Alaska.

The terrain is generally level. Elevation varies from 190 to 200 feet above sea level. Vegetation consists mostly of grasses, alder, willow, spruce, and birch trees.

Access to the survey was by boat.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Anchorage, Alaska

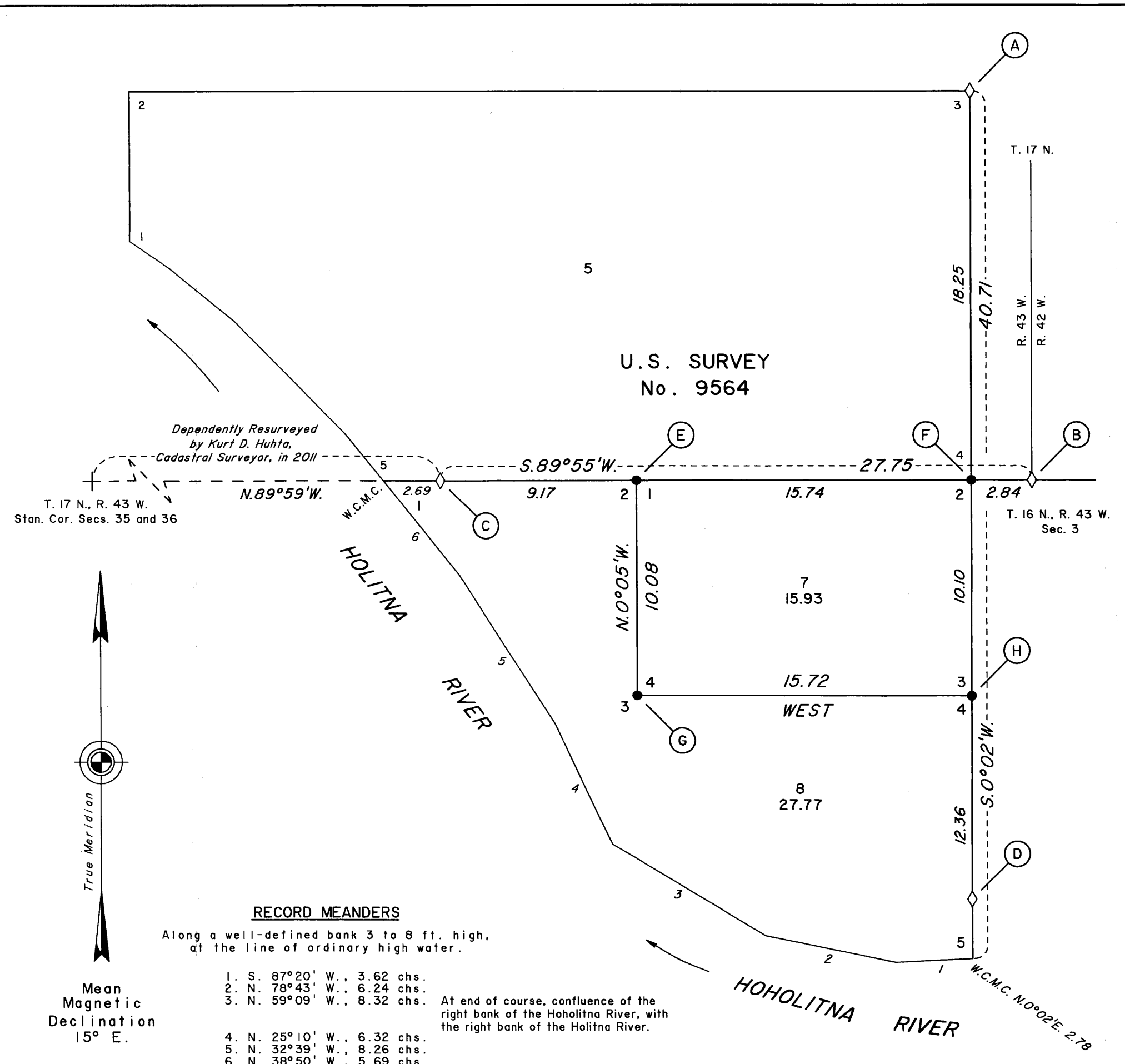
The survey represented by this plat, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

For the Director



DEC. 29, 2014
Date

Chief Cadastral Surveyor for Alaska



- (A) Found an alum. rod, 3/4 in. diam., firmly set, projecting 8 ins. above ground, with alum. cap mkd. C3L2S956420111988, from which
A magnetic disturbance bears S. 45° E., 10 lks. dist.
A magnetic disturbance bears S. 45° W., 10 lks. dist.
- (B) Found an iron post, 2 1/2 ins. diam., firmly set, projecting 7 ins. above ground, with brass cap mkd. SC T17NR43WR42WS36S31S3T16N R43W20111975, from which
A birch, 7 ins. diam., bears N. 53 1/2° E., 157 lks. dist., mkd. XBT on open blazes. (Not of record)
Original orange fiberglass cone was found wired over top of the iron post.
- (C) Found an iron post, 2 1/2 ins. diam., firmly set, projecting 6 ins. above ground, with brass cap mkd. WC T17NR43WS36MC S4T16N 20111975, from which the remains of the original bearing tree
A birch stump, 15 ins. diam., 5 ft. high, bears N. 30° W., 49 lks. dist., mkd. X at breast height, no marks visible at base.
and 2011 bearing trees
A birch, 9 ins. diam., bears N. 18° E., 145 lks. dist., mkd. XBT on open blazes.
A birch, 9 ins. diam., bears S. 64 1/4° E., 70 lks. dist., mkd. XBT on open blazes.
This cor. now functions as the witness cor. to cor. No. 1, Lot 8, identical with the witness cor. to cor. No. 5, Lot 5, both meander cors. This cor. also functions as an angle point for both Lot 5 and Lot 8.
- (D) Found an iron post, 2 1/2 ins. diam., firmly set, projecting 4 ins. above ground, with brass cap mkd. WC S9564L2C4 MC 1988, from which the original bearing trees
A birch, 6 ins. diam., bears N. 36° E., 26 lks. dist., mkd. XBT on partially healed blazes.
A birch, 10 ins. diam., bears N. 74° W., 19 lks. dist., with fragmentary scribe marks visible on mostly healed blazes.
This cor. now becomes the witness cor. to cor. No. 5, Lot 8, a meander cor.
Change marks on brass cap to read as shown.
- (E) Set a stainless steel post, 28 ins. long, 2 1/2 ins. diam., 28 ins. in the ground, with brass cap mkd. as shown, from which
A birch, 7 ins. diam., bears N. 52 1/4° E., 72 lks. dist., mkd. XBT.
A birch, 9 ins. diam., bears N. 76 3/4° W., 100 1/2 lks. dist., mkd. XBT.
Deposit a magnet in a clear plastic case at the base of the stainless steel post.
Located on level ground among dense willow and sparse birch.
- (F) Set a stainless steel post, 28 ins. long, 2 1/2 ins. diam., 28 ins. in the ground, with brass cap mkd. as shown, from which
A magnet, in a blue plastic case, bears S. 45° W., 10 lks. dist., 12 ins. below ground.
A magnet, in an orange plastic case, bears N. 45° W., 10 lks. dist., 12 ins. below ground.
Drive a steel fence post, 5 ft. long, 2 1/2 ft. in the ground, 3 lks. dist., N of cor.
Deposit a magnet in a clear plastic case at the base of the stainless steel post.
Located on level ground in a large open tussock field.
- (G) Set a stainless steel post, 28 ins. long, 2 1/2 ins. diam., 28 ins. in the ground, with brass cap mkd. as shown, from which
A birch, 7 ins. diam., bears S. 77° W., 54 1/2 lks. dist., mkd. S9564L8C4BT.
A birch, 9 ins. diam., bears N. 7° W., 75 lks. dist., mkd. S9564L7C3BT.
Deposit a magnet in a clear plastic case at the base of the stainless steel post.
Located on level ground, among dense birch and berry bushes.
- (H) Set a stainless steel post, 28 ins. long, 2 1/2 ins. diam., 28 ins. in the ground, with brass cap mkd. as shown, from which
A birch, 8 ins. diam., bears N. 85° E., 55 lks. dist., mkd. S9564L7C4BT.
A birch, 10 ins. diam., bears N. 81 1/4° W., 54 lks. dist., mkd. S9564L8C3BT.
Deposit a magnet in a clear plastic case at the base of the stainless steel post.
Located on level ground, among birch, poplar, and willow brush.

The geographic position of the witness corner to corner No. 5, Lot 8, U.S. Survey No. 9564, a meander corner, in NAD 83 (2011), epoch 2010.00, as determined by GNSS observation utilizing the National Geodetic Survey Online Positioning Users Service (OPUS), to a Network Accuracy with a maximum peak-to-peak separation for each component of the computed position, of less than or equal to 0.05 meter, semi-major axis 95% error ellipse, as defined in the Bureau of Land Management's Standards for the Positional Accuracy of Cadastral Surveys When Using Global Navigation Satellite Systems (GNSS), dated February 23, 2009, is:

Latitude: 61° 30' 33.170" North
Longitude: 156° 58' 44.228" West
NAD 83

I, Gates C. Kesler, HEREBY CERTIFY upon honor that in pursuance of Supplemental Special Instructions No. 1, dated May 2, 2013, I have executed the survey depicted on this plat in strict conformity with said Supplemental Special Instructions, the Manual of Surveying Instructions (2009), and in the specific manner described on this plat.

12/17/2014
Date

Cadastral Surveyor