

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

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

PRELIMINARY DECISION

ADL 421268

BLM No. FF013752

PUBLIC COMMENT PERIOD ENDS 3:00 P.M., TUESDAY, MARCH 4, 2025

I. Proposed Action

Preliminary Decision: Judy Bauman Native Allotment – ADL 421268

Attachment A: Vicinity Map

Attachment B: Public Notice

Attachment C: U.S. Survey 14506

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, U.S. Survey No. 14506, containing 159.99 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. FF013752 claimed by Judy Bauman. 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 38.05.035(b)(9) Power and Duties of the Director, AS 38.05.830 Land Disposal in the Unorganized Borough, and the settlement authority of the Attorney General in accordance with *Aguilar*.

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III. Administrative Record

The DNR case file - ADL 421268 and BLM case file FF013752, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Eastern Tanana Area Plan for State Lands (ETAP, adopted August 8, 2015) and associated land classification files; and
- DNR case file GS 1166.

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 Powers 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 in DNR's Northern Region and the Unorganized Borough, the subject parcel is approximately 21 miles south of Delta Junction and within Section 28, Township 13 South, Range 10 East, Fairbanks Meridian. The subject parcel consists of approximately 159.99 acres identified for reconveyance by this proposed action. See *Attachment A: Vicinity Map* for a depiction of the subject parcel.

USGS Map Coverage: Mt. Hayes D-4

Borough/Municipality: Unorganized Borough

Native Councils and Corporations: The subject parcel is within the boundaries of Doyon Regional Corporation. There are no villages within 25 miles of this proposed action. Notice will be sent to the Tanana Chiefs Conference.

VI. Legal Description

U.S. Survey No. 14506, Alaska, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, Anchorage, Alaska, on January 15, 2021, and officially filed on October 27, 2021, containing 159.99 acres, more or less.

Situated in the Fairbanks Recording District.

VII. Title

The State received title to the land on May 28, 1964, under a Tentative Approval. The State file is GS 1166 (BLM Serial No. F 029672). Title Report No. 12060 was issued on October 8, 2019. No third-party interests were identified. The parcel is subject to the reservations, easements, and exceptions contained in Tentative Approval dated May 28, 1964. An updated title report has been requested; if any concerns are discovered, they will be addressed in the FFD.

Acquisition: The State filed selection application GS 1166 (BLM Serial No. F 029672) for Township 13 South, Range 10 East, Fairbanks Meridian on May 3, 1962.

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Restrictions: Any reservations in the Tentative Approval the State received from BLM will merge with the title once the land is conveyed back to the United States.

VIII. Background

The following events for this case are:

- Judy Bauman began her use and occupancy of the subject lands in 1959 according to documentation in DNR case file ADL 421268.
- The Native allotment application was signed on March 1, 1971, and filed on March 29, 1971.
- The State filed selection application GS 1166 for Township 13 South, Range 10 East, Fairbanks Meridian on May 3, 1962, and received title by Tentative Approval on May 28, 1964.
- BLM determined Native Allotment application FF013752, valid on July 29, 2019.
- The State received a request for reconveyance on July 31, 2019.
- BLM surveyed the 159.99-acre parcel and issued plat U.S. Survey No. 14506 in 2021.

IX. Planning, Classification, and Mineral Orders

1. *Planning:* The subject parcel is located within the Delta Region of the Eastern Tanana Area Plan adopted on August 28, 2015, in unit D-47. Recommended land use within this unit includes facilitating development of the coal and mineral resources while maintaining habitat values. The plan designates the subject parcel as Minerals and Habitat. These designations convert to classifications of Mineral Land and Wildlife Habitat Land.
2. *Land Use Classification:* The State classified the subject parcel as Mineral Land and Wildlife Habitat Land under Classification Order CL NC-10-004 based on ETAP, adopted August 28, 2015. As this reconveyance falls under AS 38.05.035(b)(9), this parcel of land may be reconveyed without classification or reclassification under AS 38.05.035(c).
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 Land Disposal in the Unorganized Borough, a traditional use finding is required if the subject parcel is within the Unorganized Borough. This parcel is within 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.

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

Public Access: This parcel abuts the Richardson Highway.

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

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Easements To and Along Navigable and Public Water, and 11 AAC 53.450 Buffer Strips, Reserved Areas, and Public Easements.

The subject parcel is unaffected by AS 38.05.127 easements.

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-foot 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 subject parcel is unaffected by any section lines and the accompanying easements.

There are no known trails crossing the parcel. The highway was excluded from the parcel at time of survey. The Trans-Alaska Pipeline System (TAPS) is outside the parcel to the west.

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) All other valid existing rights, including reservations, and exceptions in the U.S. Patent, or other state or federal conveyance, and in acts authorizing the issue thereof; easements, rights-of-way, covenants, conditions reservations, notes of the plat, and restrictions of record, if any.

XII. Reservation of the Mineral Estate

The Division of Oil and Gas (DOG) and DMLW have determined that it is not in the State's best interest to retain the mineral estate. The mineral estate will not be retained pursuant to AS 38.05.035(e) Powers and Duties of the Director. The State will 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 14506*.

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

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decision. Agency review was conducted from November 15, 2023, to December 15, 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: DNR Division of Parks and Outdoor Recreation, and DNR Division of Oil and Gas State Pipeline Coordinator's Section.

DNR DMLW LCS response: Thank you for your review of this reconveyance.

Comments from DNR Division of Oil and Gas (DOG): DOG has no objection. There are no third-party interests or pending applications. DOG does not request reservation of the mineral estate as there is no energy potential around the parcel for oil, gas, or geothermal resources.

DNR DMLW LCS response: Thank you for the information. The mineral estate will not be reserved.

Comments from Alaska Department of Fish and Game (ADF&G): ADF&G has no objection. There are no ADF&G interests on the parcel. Portions of the parcel provide habitat for moose and caribou. There are no fisheries resources.

DNR DMLW LCS response: Thank you for the information.

Comments from Department of Transportation and Public Facilities (ADOT&PF): ADOT&PF has no objection. ADOT&PF advises that any new driveway or modification of an existing driveway that connects to the Richardson Highway requires an ADOT&PF driveway permit prior to construction. For more information, contact ADOT&PF Right-of-Way Group in Fairbanks.

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 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

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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 P.M., TUESDAY, MARCH 4, 2025**

XVII. Alternatives

The following alternatives were considered:

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 Ms. Bauman's Native Allotment application to be valid on July 29, 2019. Based on documentation within BLM's case file and subsequent comments received from

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agency review, LCS has found no legal reason for denying this reconveyance subject to public notice and a final decision.

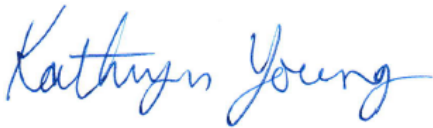
For the reasons outlined above, Alternative 1 is the preferred alternative.

Recommendation follows.

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.



January 28, 2025

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

Date



January 28, 2025

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

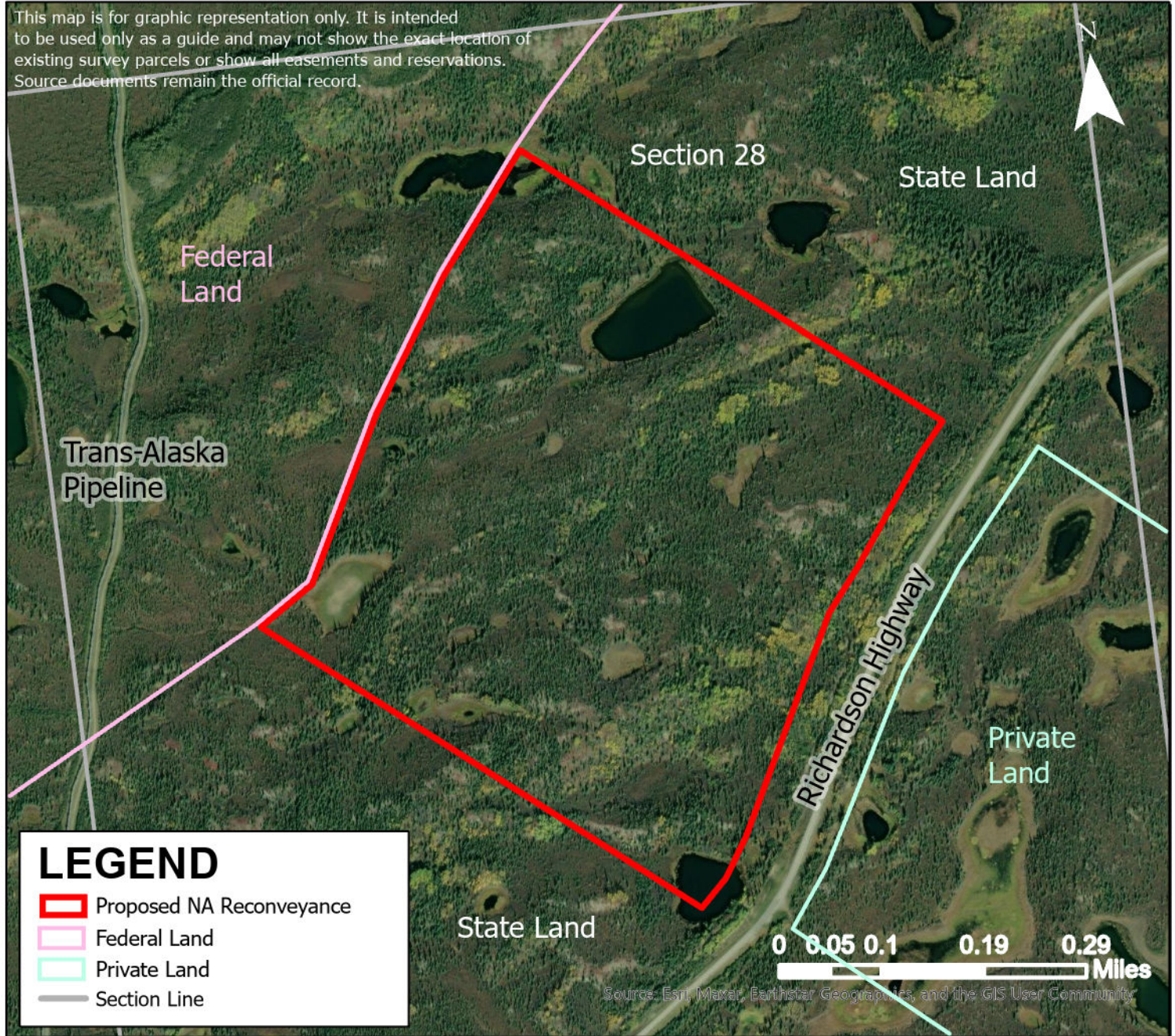
Date



Attachment A: Vicinity Map

Judy Bauman Native Allotment, ADL 421268 / BLM FF013752

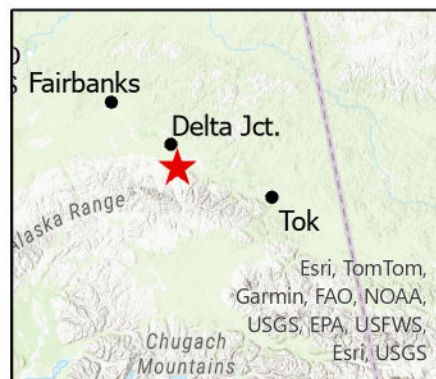
This map is for graphic representation only. It is intended to be used only as a guide and may not show the exact location of existing survey parcels or show all easements and reservations. Source documents remain the official record.



Section 28, Township 13 South, Range 10 East, Fairbanks Meridian

USGS Quad 1:63,360 Hayes D-4

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 421268
AS 38.05.035**

COMMENT PERIOD ENDS 3:00 P.M., TUESDAY, MARCH 4, 2025

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 twenty-one miles south of Delta Junction. The legal description for the parcel is U.S. Survey No. 14506, Alaska, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, Anchorage, Alaska, on January 15, 2021, and officially filed on October 27, 2021. containing 159.99 acres, more or less.

To obtain the notice, Preliminary Decision (PD), or instructions on submitting comment, go to <http://dnr.alaska.gov/mlw/landsales/> 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 8:30 AM and 4:00 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 3:00 P.M., Tuesday, February 27, 2025.

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 P.M., TUESDAY, MARCH 4, 2025.** 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.

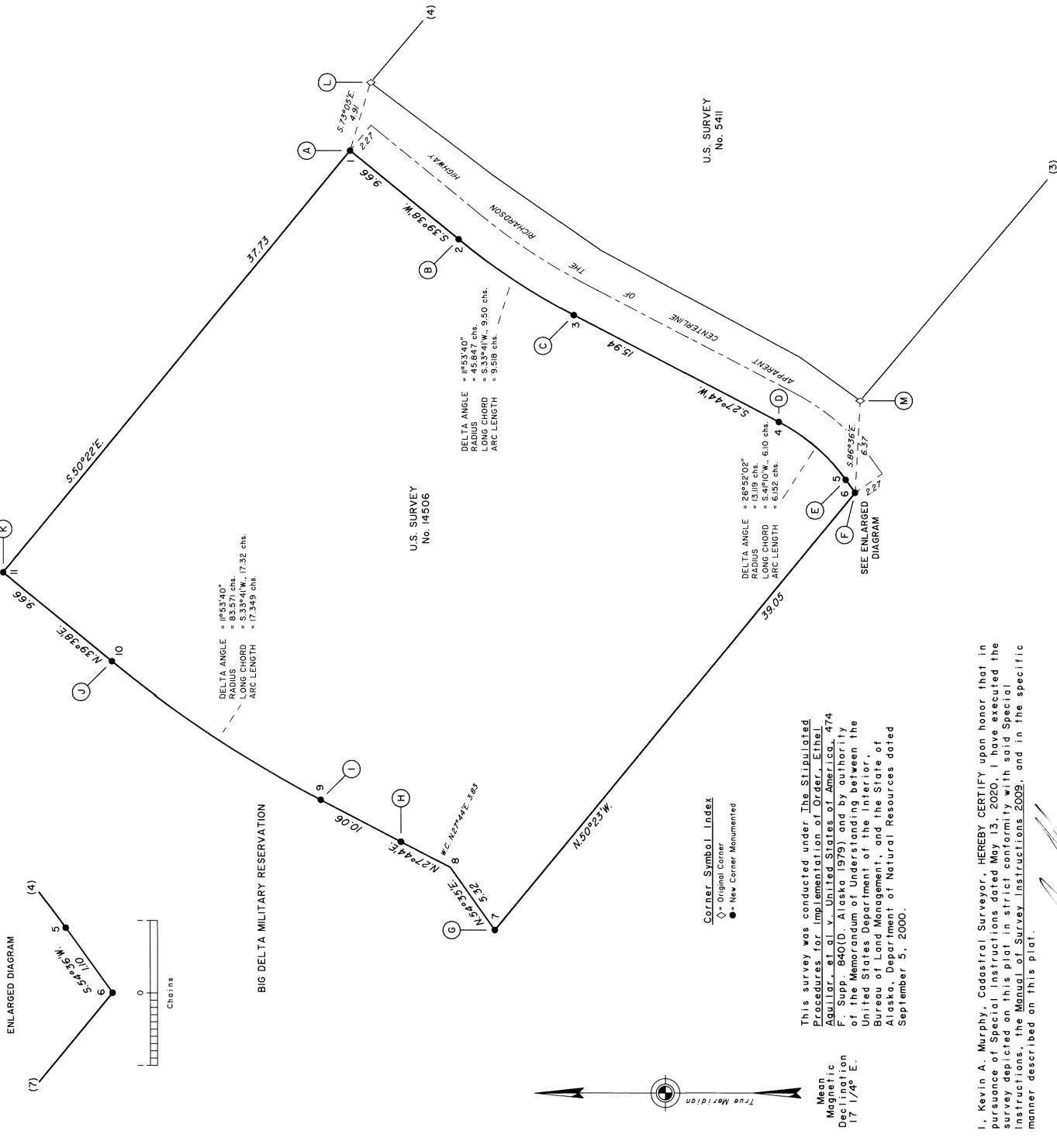
Attachment C

Officially Filed

ORIGINAL

DATE October 27, 2021

SHEET No. 1 OF 2 SHEETS



**U. S. SURVEY
No. 14506, ALASKA**

This plat (in two sheets) contains the entire survey record.
A history of surveys is located on sheet 2 of 2 sheets.
This survey was accomplished using Global Navigation Satellite Systems (GNSS), and no lines were brushed or marked between corners.

This survey was executed by Kevin A. Murphy, Cadastral Surveyor, September 15 through October 23, 2020, in accordance with the specifications set forth in the Manual of Surveying Instructions (2009). Special Instructions dated May 13, 2020 approved August 21, 2020.

Field assistants were:

Kurt D. Hukra, Supervisory Cadastral Surveyor
Jame NMI Fierro, Jr., Cadastral Surveyor
Christopher E. Williams, Cadastral Surveyor
Nolan D. Nolah, Survey Technician

Area Surveyed: 159.99 Acres

The direction and length of lines were determined by GNSS, Real-Time Kinematic (RTK) observations. The direction of each line is with reference to the meridian. All bearings are mean bearings. All distances are horizontal distances reduced to their sea level equivalent.

The geographic position of corner No. 1, U.S. Survey 14506, in NAD83 (2011), epoch 2010.00, determined by GNSS observations, utilizing the National Geodetic Survey Online Positioning User 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 meters, 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: 63° 45' 37.645" North NAD 83
Longitude: 145° 48' 29.162" West

The mean magnetic declination was derived from the International Geomagnetic Reference Field Model (IGRF-12).

This survey is situated approximately 9 1/4 miles southwest of Delta Junction, Alaska, within Township 13 South, Range 10 East, of the Fairbanks Meridian, Alaska.

The land is on a gentle southwesterly slope with spruce, birch, aspen, alder, willow, low brush, berry grass, grass, and moss.

The soil consists of silt, clay, and rock, underlain by permafrost.
Access to the survey was by vehicle and foot.

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.

Kevin A. Murphy for the Director

January 15, 2021 Date
Chief Cadastral Surveyor for Alaska

U. S. Survey No. 14506, Alaska

This survey was conducted under The Stipulated Procedures for Implementation of Order, Ethel Aquilar, et al. v. United States of America, 474 F. Supp. 840(D. Alaska 1979) and by authority of the Memorandum of Understanding between the United States Department of the Interior, Bureau of Land Management, and the State of Alaska, Department of Natural Resources dated September 5, 2000.

I, Kevin A. Murphy, Cadastral Surveyor, HEREBY CERTIFY upon honor that in pursuance of Special Instructions dated May 13, 2020, I have executed the survey depicted on this plat in strict conformity with said Special Instructions, the Manual of Survey Instructions 2009, and in the specific manner described on this plat.

1/15/2021 Date
Kevin A. Murphy Cadastral Surveyor