

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

PRELIMINARY DECISION
PROPOSED CONVEYANCE OF STATE LAND UNDER AS 29.65.010

NORTH SLOPE BOROUGH
MUNICIPAL LAND ENTITLEMENT SELECTION
ADL 414835

PUBLIC COMMENT PERIOD ENDS 4:30 PM, FRIDAY, MAY 23, 2025

I. PROPOSED ACTION

Preliminary Decision: North Slope Borough Municipal Land Entitlement Selection – ADL 414835

Attachment A: Franklin Bluffs Area Map

Attachment B: Public Access and Defense (PAAD) Navigable and Public Waters Map

Attachment C: Interagency Land Management Agreement (ILMA) ADL 415408 Boundary Map

Attachment D: Public Notice

Primary Proposed Action: The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) proposes to convey in part and reject in part, lands selected by the North Slope Borough (NSB) in partial fulfillment of their general grant land entitlement under AS 29.65.010 Determination of entitlement of boroughs and unified municipalities. See *Attachment A: Franklin Bluffs Area Map* for a depiction of the project area.

NSB has selected a parcel in the Dalton Corridor Region North as identified in the North Slope Area Plan¹ (NSAP). In this decision, LCS will adjudicate 871 acres, more or less.

LCS proposes to convey 358 acres, more or less, of state-owned vacant, unappropriated, unreserved (VUU²) general grant land. LCS has determined that no overriding state interests merit retaining this selection in state ownership.

LCS proposed to reject the conveyance of 513 acres, more or less, of NSB's selections because the land is ineligible for conveyance per the NSAP or LCS has otherwise determined it is not in the State's best interest to convey those lands out of state ownership.

Public Notice of Proposal: In accordance with AS 38.05.945 Notice, during a period of at least 30 consecutive days, the public is invited to submit written comments on this Preliminary Decision (PD).

See **Section VII. Submittal of Public Comments** at the end of this document and *Attachment D: Public Notice* for details on submitting a comment for consideration. If LCS moves forward with the proposal after considering timely, written comments, LCS will issue a Final Finding and Decision (FFD).

¹ The North Slope Area Plan (NSAP) adopted March 2021 determines the management intent, land-use designations, and management guidelines that apply to all state lands in the applicable planning area. This plan forms the basis for the land use classifications that constitute vacant, unappropriated, unreserved land for purposes of determining the eligibility of state land for potential conveyance to a municipality under AS 29.65 General Grant Land.

² *Vacant, unappropriated, unreserved* (VUU) land is general grant land patented or tentatively approved to the State from the United States, excluding minerals as required by 6(i) of the Alaska Statehood Act, and is conveyable under the Municipal Entitlement Act (AS 29.65).

II. AUTHORITY

The proposed actions in this PD are authorized pursuant to Alaska Statute (AS) and Alaska Administrative Code (AAC), particularly AS 29.65 General Grant Land, AS 38.05.035(e) Power and duties of the director, AS 38.05.125 Reservations, AS 38.05.127 Access to navigable or public water, AS 19.10.010 Dedication of land for public highways, and 11 AAC 51 Public easements.

III. ADMINISTRATIVE RECORD

The administrative record for this proposed action consists of case file Alaska Division of Lands (ADL) 414835. Also incorporated by reference are:

- North Slope Area Plan (NSAP, adopted March 2021), Dalton Highway Master Plan (March 1998) and associated land classification files;
- Alaska Department of Fish and Game (ADF&G) Alaska Anadromous Waters Catalog & Atlas to the Catalog;
- Alaska Department of Environmental Conservation (DEC) Contaminated Sites Database; and
- DNR case files: GS 1669, ADL 392298, ADL 392299, ADL 392301, and ADL 392302.

IV. SCOPE OF DECISION

The scope of this proposal under the statutes described in the preceding **Section II. Authority** is limited and specific to determine whether it is appropriate to convey the subject parcel to NSB. This decision includes a review of third-party interests, stipulations necessary to effectuate this decision, and an evaluation of whether the public interest in retaining state ownership of the land outweighs NSB's interest in obtaining the selected land as provided in AS 29.65.050 Fulfillment of land entitlement. In this decision, LCS will also determine whether NSB's municipal entitlement land selection meets the requirements under AS 29.65.070(c) Selection and conveyance procedure and whether it is appropriate to allow NSB to exercise immediate management authority for conditional sales and leases on land approved for conveyance.

V. DESCRIPTION

A. Location and Geographical Features

NSB was incorporated as a Home Rule Borough in 1974. The area is characterized by treeless undulating hills north of the Brooks Range blending into vast tundra plains. Numerous ponds, lakes, and marsh areas dot the landscape. Vegetation consists of small scrubby alders and lichens.

The selected parcel is located west of the Sagavanirktok River, along the Dalton Highway at Mileposts 377 and 378, Franklin Bluffs Platform and approximately 34 miles south of Deadhorse.

<i>Borough/Municipality:</i>	North Slope Borough
<i>Meridian:</i>	Umiat Meridian (U)
<i>Regional Corporation:</i>	Arctic Slope Regional Corporation
<i>Federally Recognized Tribe:</i>	None
<i>Village Corporation:</i>	None
<i>USGS Map Coverage:</i>	Sagavanirktok Quadrangle (1:250,000) Sagavanirktok C-3 (1:63,360)

B. Legal Description, Land Status, and Third-Party Interests

Table 1 below identifies the NSB land selection adjudicated in this decision by location name, Meridian (M), Township (T), Range (R), Section (S), and includes state case file, title status, date, and any third-party interest affecting those state-owned. The State holds fee title to the land and mineral estates through a patent (PA) from the U.S. Department of Interior, Bureau of Land Management (BLM). The State will only convey the land estate on lands approved for conveyance to NSB. AS 38.05.125 Reservations requires the State to retain the mineral estate. Pursuant to AS 29.65.070(b) Selection and conveyance procedure, the State may only issue a

patent to a municipality once BLM has patented the land to the State. Information from Title Report No. 22936, current as of February 8, 2024, indicates that the State of Alaska received title to the land and mineral estate under Patent 50-74-0096 on March 27, 1974 (*Table 1*).

Table 1

Map Name	State Case File	Title/Date	MTRS	Third-Party Interests
Franklin Bluffs	GS 1669	PA 50-74-0096 3-27-1974	U004N014E03	ADL 392298 O&G lease, Issued ADL 63574 Pipeline TAPS ROW, Issued
			U004N014E04	ADL 63826 Public Access Easement, Issued ADL 392301 O&G lease, Issued ADL 63574 Pipeline TAPS ROW, Issued ADL 415408 ILMA application complete ADL 418997 Pipeline ROW lease, Issued
			U004N014E09	ADL 63826 Public Access Easement, Issued ADL 392301 O&G lease, Issued ADL 392302 O&G lease, Issued ADL 63574 Pipeline TAPS ROW, Issued ADL 414573 Private Easement, Issued ADL 418997 Pipeline ROW lease, Issued ADL 421297 Pipeline ROW lease, Issued ADL 415408 ILMA application complete LAS 32080 Misc Land Use, Issued LAS 33376 Misc Land Use, issued LAS 33568 Misc Land Use, Issued ADL 421939 Trespass, Abandon equipment ADL 418232 Potential Hazard, Unverified ADL 420360 Potential Hazard, Restrict Use TWUA A2023-71 Temp Water Use Authorization TWUA A2023-72 Temp Water Use Authorization
			U004N014E10	ADL 392298 O&G lease, Issued ADL 392299 O&G lease, Issued ADL 63574 Pipeline TAPS ROW, Issued ADL 414573 Private Easement, Issued LAS 33568 Misc Land Use, Issued

VI. PRELIMINARY DECISION

A. Background

In 1972, NSB was certified as an incorporated home rule borough and was granted 89,850 acres of municipal entitlement under AS 29.65.010 Determination of entitlement of boroughs and unified municipalities. To date, 25,317 acres, more or less, have been patented or approved for conveyance to NSB, and approximately 64,533 acres remain in their entitlement, of which approximately 12,409 acres have been selected. This decision covers 871 acres, more or less, west of Sagavanirktok River at Franklin Bluff Platform. Various companies have long-held leaseholds in the area supporting North Slope oil development and Trans-Alaska Pipeline activities.

DNR adopted the NSAP in March 2021, and NSB resumed submitting their selections under AS 29.65.050(d) Fulfillment of land entitlements. The NSAP supersedes previous classifications and reclassifies all state lands within the planning area.

B. Planning, Classification, and Mineral Orders

1. Planning

The NSAP is the controlling land management planning authority. The land selection falls within the Dalton Corridor Region (North Planning Units) within the NSAP. The NSAP describes each management unit's management intent and area plan designation. These

plan designations convert to land use classifications, establishing what land the State may convey under the Municipal Entitlement Act (AS 29.65 General Grant Land). NSB’s land selection falls within the planning boundary of the NSAP and is governed by the management intent and classifications found in the plan.

2. Land Use Designation and Classification

The land selection proposed for conveyance in this decision is designated Habitat (Ha) and Transportation corridor (Tc), which converts to the classification of Wildlife Habitat Land (WHB) and Transportation Corridor Land (TC), which are not conveyable classifications as municipal entitlement general grant land under AS 29.65.130 Definitions. However, the management intent of the NSAP provides an avenue for municipal entitlement conveyance in this case.

The NSAP states that the plan’s management intent for Unit D-20 is as follows:

Manage this unit to maintain transportation and pipeline development. Authorizations must also consider potential impacts on the habitat and harvest values and include general mitigation measures that will avoid, minimize, or mitigate any potential negative effects. ADNDR shall consult ADF&G regarding authorizations involving uses that may impact musk ox concentrations.

Lands within this unit have been identified by the NSB as potential municipal entitlement selections. If a subsequent municipal entitlement decision determines that it is otherwise appropriate to convey state land to the borough, then the Ha/Tc designation is extinguished and replaced by Se designation that converts to a conveyable classification. This action affects only the area of the municipal entitlement selection.

Lands within the proposed AKLNG and ASAP rights-of-way and other lands with infrastructure that is critical for oil and gas development, maintenance, or operations shall be retained in state ownership.

Maintain important harvest/subsistence opportunities.

Lands are available for lease, permit, or other less-than-fee disposal.

Subsequently, for those lands approved for conveyance by this decision, the designations of Habitat and Transportation corridor and the classifications of Habitat Management Land and Transportation Corridor Land are extinguished and replaced with the designation of Settlement and a classification of Settlement Land.

Table 2 below shows the land use classifications derived from the NSAP for the land selection adjudicated in this decision.

Table 2

Map Name	MTR	Section(s)	Approx. Acres	Unit	Classification
Franklin Bluffs	U004N014E	3, 4, 9, 10	871	D-20	Wildlife Habitat Land, Transportation Corridor Land

3. Mineral Orders

The mineral estate is reserved to the State pursuant to AS 38.05.125 Reservation. MO 1147, MO 1162A01, and MO 1162A03 have closed mineral entry to lands covered by infrastructure.

4. Special Use Lands

The subject parcel within this ADL is part of the North Slope Special Use Lands (ADL 50666) defined under 11 AAC 96.014 Special use land. This special use land encompasses all land within the Umiat Meridian. In 1980, the James Dalton Highway Corridor Legislatively Restricted Area was established per AS 19.40.010 Declaration of policy. Although AS 19.40.200(a) restricts disposals within 5 miles of the Dalton Highway right-of-way (ROW) under AS 38, development nodes were established pursuant to AS 19.40.200(b)(3). Disposal of land or materials for nonresidential purposes, within which nonresidential development can occur. The parcel proposed for conveyance falls within the Franklin Bluffs node, which is listed in the statute AS 19.40.200(b)(3)(C) Disposal of land or materials. Conveyance of land for municipal entitlement are pursuant to AS 29.65 General Grant Land; therefore, the statute allows municipal entitlement land under AS 29.65 to be selected and conveyed within the Dalton Highway corridor.

C. Traditional Use Finding

In an unorganized borough, disposal of state land with traditional uses is to be reviewed under AS 38.05.830 Land disposal in the unorganized borough. NSB is an organized borough under AS 29.05.031 Incorporation of a borough or unified municipality and eligible for municipal entitlement. Therefore, a determination for traditional uses is not required. NSB's legal boundary encompasses their municipal entitlement land selection in this decision.

D. Access

Public access will be reserved in accordance with AS 19.10.010 Dedication of land for public highways, AS 19.30.400 Identification and acceptance to rights-of-way, AS 38.05.125 Reservations, AS 38.05.127 Access to navigable or public water, and 11 AAC 51 Public easements.

The Dalton Highway, terminating in Deadhorse, is the only major public road in the North Slope area. The Dalton Highway runs through the parcel, in addition to two small, unrestricted airstrips capable of handling various aircraft. A local road leading from the Sagavanirktok River to the Dalton Highway also crosses the parcel and allows access to the parcel via boat.

1. Section Line Easements

As required under AS 19.10.010 Dedication of land for public highways, and in accordance with 11 AAC 51.025 Section line easements, a public access easement 100 feet wide will be reserved along each section line on lands approved for conveyance. If a section line forms a boundary of a selection being conveyed, then the easement will be 50 feet wide measured from the section line. If a section line runs through a selection being conveyed, then the easement will be 50 feet wide, measured on each side of the section line, for a total width of 100 feet.

The parcel has several section lines running through it (*Attachment A: Franklin Bluffs Area Map*).

2. Trails, Rights-Of-Way, RS 2477, and Easements

A review of state records verifies that the Dalton Highway ROW (ADL 63826) of 200' runs through the NSB's land selection. There are also several other easements and rights-of-way within this parcel. *Table 3* lists those currently active or issued. There are no known RS 2477 trails traversing the parcel.

MTR	Section	Case Number and Company	Width (ft)
U004N014E	03	ADL 63574 Pipeline TAPS ROW Lease to Alyeska Pipeline Services Co.	100
	04	ADL 63574 Pipeline TAPS ROW Lease to Alyeska Pipeline Services Co.	100
		ADL 63826 Public Access Easement to AK Dept. of Transportation & Public Facilities	200
		ADL 418997 Pipeline ROW Lease to Alaska Gasline Development Corp - ASAP	120
	09	ADL 63574 Pipeline TAPS ROW Lease to Alyeska Pipeline Services Co.	100
ADL 63826 Public Access Easement to AK Dept. of Transportation & Public Facilities		200	
ADL 414573 Private Easement to Alyeska Pipeline Services Co – TAPS		100	
ADL 418997 Pipeline ROW Lease to Alaska Gasline Development Corp – ASAP		120	
10	ADL 421297 Pipeline ROW Lease to Alaska Gasline Development Corp.	110	
	ADL 63574 Pipeline TAPS ROW Lease to Alyeska Pipeline Services Co.	100	
		ADL 414573 Private Easement to Alyeska Pipeline Services Co – TAPS	100

3. Navigable and Public Water

Throughout most of the state, the State of Alaska retains ownership of the beds of navigable water bodies, including all gravel bars and islands, and conveys the beds of public waters through municipal entitlement when public waters are included in a municipal entitlement selection. A survey determines the Ordinary High Water Mark (OHWM) of the navigable and public waters, the Mean High Water Mark (MHWM) on marine meandering shorelines, identifies islands, and determines the specific areas to be retained by the State. At the time of survey, fieldwork may find that a body of water or a waterway is different than identified in the decision. If this occurs, the results of the survey work will be reviewed further within DNR. If the fieldwork is determined to be accurate, then the survey results will supersede the recommendation in the adjudication decision. However, navigable waters on the North Slope are different.

Per Public Land Order (PLO) 82 of 1943 and Original 84 (Original: United States V. Alaska, 521 U.S. 1 - Docket number 84, June 19, 1997), there are no inland navigable waters (including tidally influenced waterbodies) on the North Slope; other than the Colville River, which had been determined navigable by the courts to the community of Umiat³. The Equal Footing Doctrine and Submerged Lands Act do not apply to the North Slope area because the waters were withdrawn at statehood. However, the State, through the Riparian Rights afforded by the Federal government, owns the beds of the meanderable waters where it holds title to the uplands next to those waters.

The North Slope is generally defined (per the PLO 82 and Original 84) as the watershed that drains north of the Brooks Range, including the marine lagoons and waters bounded by barrier islands less than 3 miles from shore within the National Petroleum Reserve-Alaska (NPR-A) and Arctic National Wildlife Reserve (ANWR). The boundaries for NPR-A and ANWR describe which offshore lands and waters were withdrawn at statehood, title to which did not vest with Alaska at statehood.

Meanderable Waters: Lakes greater than 50 acres and rivers averaging greater than three chains (198 feet) as measured OHWM to OHWM are considered meanderable. The

³ The State used Statehood Entitlement acreage to secure ownership of the bed of the Colville River since title did not transfer to the State at statehood. A court-negotiated settlement with Arctic Slope Regional Corporation provides public access easement along the river since it is considered navigable.

waterbed belongs to the upland owner, also known as Riparian Rights, but they are not charged for the acreage. Riparian rights extend from the shoreland to the center of the river or the very middle of a lake.

Navigable Waters: Pursuant to 11 AAC 51.035 Determination of Navigable or Public Water, a water body is navigable if it is at least 50 acres in size or a waterway at least 50 feet wide from OHWM to OHWM. A water body will also be considered navigable if it is found navigable for a useful public purpose in accordance with AS 38.05.965 Definitions. Otherwise, it will be considered public water in accordance with 11 AAC 51.035 Determination of navigable or public water. With state-owned navigable beds, ownership of land adjacent to navigable water does not create any right of title to land below the OHWM of the navigable water.

Tidal Waters: Marine waters are considered navigable under the Submerged Lands Act (67 Stat 29, PL 31, 5/22/1953). The MHWL is established at the time of survey. There are no tidal or tidal-influenced waters in this proposed conveyance parcel. Per PLO 82, inland tidal-influenced waters are not considered navigable for title purposes.

Public Waters: Pursuant to 11 AAC 51.035 Determination of navigable or public water, a water body is considered public water if it is at least ten but less than 50 acres in size or at least ten feet but less than 50 feet wide from OHWM to OHWM. Ownership of the land under or adjacent to public water does not grant an exclusive right to use of the water (AS 38.05.126 Navigable and public water).

4. Easements To and Along Navigable and Public Water

A public access easement on the bed and 50 feet in width upland of the OHWM will be reserved on all water bodies and waterways determined to be public, and 50 feet in width upland of the OHWM of meanderable, and navigable (based on size) waters, in accordance with AS 38.05.127 Access to navigable or public water and 11 AAC 51 Public easements. This easement is referred to as the 'along' easement. The 'to' easement is to be established approximately once each mile and is often provided on section line easements of 50 feet in width adjacent to the section line on each side (AS 19.10.010 Dedication of land for public highways and 11 AAC 51.025 Section line easements). The 'along' easement applies to these water bodies, and the 'to' easement is intended to provide access to the 'along' easements.

An alternative upland access route may be reserved if LCS finds that access along an easement reserved under 11 AAC 51.045(d)(1) Easements to and along navigable and public water are difficult because of topography or obstructions.

Several tributaries of the Sagavanirktok River run through the selected parcel. A survey will determine if the streams are considered public and require a public access easement described above in 4.

Easements To and Along Navigable and Public Water.

Table 4 lists bodies of water that may be considered Public. Public waterbodies will have a 50-foot public access easement established on the bed, upland, and along the shore (OHWM); there are no meanderable or navigable (based on size) waterbodies as determined by DNR Public Access Assertion and Defense Section (PAAD). See *Attachment B: Public Access and Defense (PAAD) Navigable and Public Waters Map*.

Table 4

Map Name	MTR	Section(s)	Waterbody Name	Anadromous Water Catalog #	Public Access Easement (to & along)
Franklin Bluffs	U004N014E	3, 4, 9, 10	Unnamed tributaries	None	On the bed and 50' upland
		9	Unnamed lakes	None	On the bed and 50' upland

E. Reservation of Mineral Estate

A conveyance of VUU general grant land to a municipality under AS 29.65 General Grant Land conveys no interest in the mineral estate. All mineral-related permits, licenses, claims, and leases affecting the land for conveyance, if any, will remain under the authority of the State.

In accordance with Section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation, the State, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing, and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with AS 38.05.130 Damages and posting of bond and other applicable statutes and regulations.

Four active oil and gas leases cover this area; see the table below.

Table 5

Map Name	MTR	ADL and Company
Franklin Bluffs	U004N014E	ADL 392301 – Accumulate Energy Alaska, Inc. ADL 392302 -- Accumulate Energy Alaska, Inc. ADL 392298 -- Accumulate Energy Alaska, Inc. ADL 392299 – Accumulate Energy Alaska, Inc.

F. Hazardous Materials and Potential Contaminants

It is the responsibility of the State to protect the overall public interest if there is a reasonable expectation that hazardous contamination may exist on land being proposed for disposal. Based on a review of DEC’s list of contaminated sites and comments received, there are two potential hazard sites on this parcel (ADLs 418232 and ADL 420360, DEC Hazard ID 14), both are associated with Alyeska Pipeline Service Co – TAPS known as the Franklin Bluffs Camp (DEC file # 330.38.061) within Section 9. ADL 420360 has restricted use and is associated with an ILMA (ADL 415408) to the Department of Transportation and Public Facilities (DOT&PF). ADL 418232 has been reported as a potential hazard but is unverified at this time. ADL 418232 is considered unverified because the site has not been investigated by DEC or DNR DMLW Statewide Abatement of Impaired Lands Section (SAIL). ADL 418232 will remain unverified until DEC or SAIL do a site visit and gather contamination data, or DEC and SAIL receive sampling from a qualified environmental contractor that documents contamination. See SAIL’s comment in subsection **M. DMLW and Agency Review** for details. Neither potential hazard site is within the portion of the selected parcel being proposed for conveyance in this decision.

NSB is expected to inspect this selection and familiarize itself with the condition and quality of the land. The State of Alaska makes no representations and no warranties, expressed or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land proposed here for conveyance. The State assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or

pollutants, nor any liability for the remediation of the site should such substances ever be identified. By selecting these lands and requesting their conveyance through this PD, NSB recognizes the surrounding areas of identified contaminated sites and will take the land “as is.”

G. Survey

A state-approved survey is required prior to the issuance of a conveyance document. If no approved survey exists, then one must be performed by an Alaska Registered Land Surveyor under the direction of the DNR DMLW Survey Section. NSB is responsible for the expense of any survey. NSB may request a survey determination at any time subsequent to the FFD. There is no requirement under AS 29.65.070 Selection and Conveyance Procedure to appraise the land prior to conveyance.

H. Conditional Leases and Sales

NSB will receive management authority and equitable title to all land approved for conveyance in this decision once the FFD is effective. This will allow NSB to approve conditional leases and make conditional sales pursuant to AS 29.65.070(b) Selection and conveyance procedure, but not to dispose of land approved for conveyance until the land has been surveyed and ownership transferred to NSB.

I. Unauthorized Use

LCS has not physically inspected all areas of the selected lands for the presence of unauthorized use but has reviewed department records and found a trespass dumpsite containing abandoned equipment (ADL 421939) east of the Dalton Highway ROW in Section 9 that belongs to Joshua Ed Hernandez. This unauthorized use is not within the portion of the parcel being proposed for conveyance in this decision.

NSB is expected to inspect all its land selections to familiarize itself with the condition and quality of the land.

J. Disposition of Leases, Permits, and Applications

Administration of any active leases, permits, and easements for the surface estate issued by the State on land to be conveyed will be transferred to NSB when the FFD becomes effective unless such authorizations are specifically excluded from the conveyance. Any pending applications that have not been adjudicated and issued will be closed, and the applicant will be advised to apply to NSB to obtain authorization to occupy or use NSB land.

Note: This section does not apply to Plan of Operation authorizations issued by the DNR Division of Oil and Gas (DOG). These specific authorizations will remain under DOG jurisdiction and will not be transferred to NSB.

Currently, there are several leases and permits within this parcel. *Table 6* lists those currently active or issued. See *Attachment C: Interagency Land Management Agreement (ILMA) Map ADL 415408 Boundary Map* for the location of the proposed ADL 415408 boundary.

Table 6

MTR	Section	Case Number and Company
U004N014E	03	None
	04	ADL 415408 Interagency Land Management Agreement to DOT&PF

MTR	Section	Case Number and Company
	09	ADL 415408 Interagency Land Management Agreement to DOT&PF LAS 32080 Miscellaneous Land Use to Accumulate Energy Alaska, Inc LAS 33376 Miscellaneous Land Use to GCI Communication Corp. LAS 33568 Miscellaneous Land Use to Alyeska Pipeline Service Co - TAPS TWUA A2023-71 Temporary Water Authorization to DOT&PF TWUA A2023-72 Temporary Water Authorization to DOT&PF
	10	LAS 33568 Miscellaneous Land Use to Alyeska Pipeline Service Co - TAPS

K. Cultural Resources

The Alaska Office of History and Archaeology (OHA) maintains the Alaska Heritage Resources Survey (AHRs), which is an inventory of all reported historic, prehistoric, and archaeological sites in the State. No historical cultural resources have been found in the selected area.

However, it should be noted that only a very small portion of the State has been surveyed for cultural resources. Therefore, the possibility remains that previously unidentified cultural resources may be located within the selected land. While the conveyance of this parcel will have no direct effects on cultural resources, future projects that NSB may propose on selected lands could affect unidentified cultural resources. Should any cultural resources be encountered, NSB will need to take those actions required by law to protect such resources in accordance with AS 41.35.070(d) Preservation of historic, prehistoric, and archeological resources threatened by public construction.

L. Form and Width Requirement

Each municipal entitlement land selection is required to be compact in form with its length not exceeding approximately four times its width pursuant to AS 29.65.070(c) Selection and conveyance procedure. A review of the NSB's land selection proposed for conveyance in this decision indicates that the selection is consistent with this statute.

M. 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 PD. Agency review was conducted between March 16, 2023, through April 3, 2023. The intent of an agency review is to request comments from agencies that may be affected by a municipal entitlement land conveyance decision. Agencies are given the opportunity to evaluate and comment on the municipality's land selection to determine if the State should retain all or a portion of the selected lands and, if so, provide supporting reasons for the requested action. Additionally, agencies are requested to identify any stipulations that may be appropriate if the land is to be conveyed out of state ownership.

Comments from DNR DMLW Water Resources Section (WRS), Water Management:

“The DNR Water Resources Section, Water Management Unit, has no objection to the proposed land conveyance for NSB ADL 414835 Franklin Bluffs. There are no water rights in the selection area. There are two temporary water use authorization under TWUA A2018-69 and TWUA A2018-70. Temporary water use authorizations are at-will and do not convey any rights.

There is a reservation of water under LAS 20644 on the Sag River near this land selection.”

DNR DMLW LCS Response to WRS/MM: Thank you for your review.

Comments from DNR DMLW Water Resources Section (WRS), Reservation of Water Program:

"Thanks for the heads-up regarding these land conveyances. Since there are reservation of water certificates on the Sag River, I'm going to include ADF&G - Joe Klein (Instream Flow program Supervisor) who is the holder of these certificates on this email so he can comment (if needed). I have no further comments regarding either one of these land conveyances."

DNR DMLW LCS Response to WRS/RWP: Thank you for your review. No comments have been received from Joe Klein of ADF&G.

Comments from DNR DMLW Statewide Abatement of Impaired Lands (SAIL):

"The SAIL Section conducted a desktop review of readily available information to identify contamination and solid waste concerns that could impact the conveyance serialized as ADL 414835 referred to as Franklin Bluffs. This review does not include authorizations and/or a file review outside of the Division of Mining, Land & Water.

This parcel has a history of industrial use, airstrips, a landfill, three well sites, releases of hazardous substances, site characterization and cleanup, and other regulatory actions (see DEC records Hazard ID 14 and DNR ADL 420360).

Because of the property's history, use, and proximity to other industrial sites, it is a candidate for a detailed environmental site assessment, prior to conveyance, ideally in August or September when seasonal thaw is deepest. An environmental assessment could document the current environmental condition of the property in a field report which can be disclosed to the prospective purchase prior to conveyance of the land.

Recommendations:

SAIL recommends disclosure of past site use, known environmental concerns and assessment and clean-up activities that have taken place on the subject property. SAIL prepared a summary of the DMLW site history and known environmental concerns and liabilities associated with the property for the purpose of disclosure.

Furthermore, SAIL recommends communicating to the prospective purchaser (in this case the North Slope Borough) that DMLW "makes no warranties as to the 'nonexistence' of contamination not now identified" and that "state records are not a warranty as to all potential contamination".

DNR DMLW LCS Response to SAIL: Thank you for your review. LCS agrees with the coordination with SAIL and NSB regarding the status of the contaminated area. Because LCS is not proposing conveyance to any of the potential hazard sites, a disclosure of past site use is not needed. NSB will be notified that DMLW makes no warranty as to the nonexistence of contamination not now identified. State records are not a warranty for all potential contamination, including those within this decision's **F. Hazardous Materials and Potential Contaminants** section.

Comments from DNR DMLW Northern Regional Office (NRO):

"The DMLW Northern Regional Lands Office has reviewed the NSB municipal land selection for the Franklin Bluffs area. As depicted in the map, there is an existing ILMA to DOT on the north side of the main gravel pad (ADL 415408) which is used for material and supply stockpiling for highway maintenance. Additionally, there is an updated ILMA application from DOT (currently under ADL 415408) that requests the entirety of the gravel pad and airstrip for DOT management and use. For a variety of reasons, this updated application has not yet been adjudicated. Please see the attached for more information.

Franklin Bluffs pad is frequently used by the public, truckers, DOT contractors, oil and gas, and other permitted entities for various activities given its strategic location and gravel infrastructure. It is also an access point for the Trans-Alaska Pipeline System. It is beneficial to retain public use for this area. NRO requests that public notice for the conveyance preliminary decision include all authorized users of the area.”

DNR DMLW LCS Response to NRO: Thank you for your review. Public Notice will be sent to all permittees and lessees using the land within the selected parcel. Lands that lie east of the Dalton Highway ROW, which included lands within the proposed ILMA boundary (ADL 415408), will be retained by the State.

Comments from DNR DMLW Resource and Development Section (RADS):

“Thank you for the opportunity to review and comment on the proposed Municipal Land Entitlement conveyance to the North Slope Borough (NSB). The Resource Assessment & Development Section (RADS) has reviewed the available data, satellite imagery, and the applicable regional land use plan – North Slope Area Plan (NSAP) and provides the following comments.

Background & Discussion:

The NSB has selected the subject lands for potential conveyance in partial fulfillment of its municipal entitlement under AS 29.65.010. The lands selected under ADL 414835, totaling approximately 860 acres, are located in Township 4 North, Range 14 East, Umiat Meridian, Sections 3, 4, 9 and 10, in the Franklin Bluffs area. The selected parcel is within Management Unit D-20 within the Dalton Corridor Region of the NSAP, which was adopted in 2021. The lands in unit D-20 are co-designated Habitat/Transportation Corridor (Ha/Tc) which converts to land classifications of Wildlife Habitat and Transportation Corridor Land and are not conveyable under AS 29.65. The management intent language for Unit D-20 on Pg. 3-108 of the NSAP includes a provision that allows for the Ha/Tc designation to convert to a Se designation, which converts to a conveyable classification of Settlement Land. This land classification would be appropriate for potential conveyance to a municipality under AS 29.65. However, the management intent for Unit D-20 also includes the following language: “Lands within the proposed AKLNG and ASAP rights-of-way and other lands with infrastructure that is critical for oil and gas development, maintenance, or operations shall be retained in state ownership.” It appears that much of the land within this municipal selection at Franklin Bluffs may contain such rights-of-way and critical infrastructure, so adjudicators should work with the Division of Oil & Gas (DOG) to identify those lands to retain in state ownership. If any land in this selection remains that would otherwise be suitable for conveyance, the “converter” language mentioned above could be applied to change the land classification to Settlement. Please note that this would apply only to the lands considered for conveyance under ADL 414835, and not to any other land in Unit D-20.

Recommendation:

Based on RADS review of the subject lands and taking the above area plan recommendations into account, the proposed conveyance of the selected lands in ADL 414835, located within U004N014E, is a viable application that should move forward. Thank you for the opportunity to review.”

DNR DMLW LCS Response to RADS: Thank you for your review.

Comments from DNR Division of Oil and Gas Leasing (DOGL):

“Thank you for the opportunity to review ADL 414835. This parcel is situated within active oil and gas leases in the North Slope Lease Sale Area, which are listed in the attached table [see Table 5 above]. DOG therefore requests that any conveyance, if found to be in the State’s

interest, be subject to these leases. Additionally, it is evident that these parcels are mostly situated on and around developed and infrastructure. DOG Leasing Section will defer any comments regarding infrastructure and permitted activities to DOG Permitting Section and other DNR sections concerning surface authorizations. We look forward to providing any other information you may seek regarding oil and gas leases coinciding with the proposed conveyances.”

DNR DMLW LCS Response to DOGL: Thank you for your review. Any lands approved for conveyance to NSB will be made subject to any active oil and gas leases. Land east of the Dalton Highway will be retained in state ownership.

Comments from DNR Division of Oil and Gas Permitting (DOGP):

“The Division of Oil and Gas Permitting Section objects to the land selection due to the following:

The land selection is situated within active oil and gas leases contained within the Toolik River unit. Accumulate Energy Alaska, Inc. (AEA), who owns the leases and operates the units, has previously drilled two exploration wells from the Franklin Bluffs pad (within the proposed selection) in 2015 and 2017, Icewine 1 and 2 (LONS 15-001 and 16-006 respectively). Based on AEA’s prior use, and discussions with the Division about using the pad for future operations, the Division anticipates that the Franklin Bluffs pad would be a critical resource to support future development of the oil and gas resources in the unit.

In addition to the AEA operations in the area, the Division permitted the Franklin Bluffs Core Hole program in 2005, to evaluate the resource potential of gas from coal seams, research gas hydrates, and permafrost. Several seismic projects have also utilized the franklin bluffs pad as a staging area in support of exploration activities in the area. Based on these past activities, the Division anticipates that the Franklin Bluffs pad would be a critical resource for future exploration and development of oil and gas resources in the area.

Conveying this parcel would negatively impact DNR’s ability to facilitate future exploration and development of state oil and gas resources in the area. This pad plays a substantial role in supporting the exploration of oil and gas resources in area. Any action that negates the ability of DNR to manage and facilitate the surface use of the pad on the parcel in question could jeopardize future oil and gas exploration and development in the area.”

DNR DMLW LCS Response to DOGP: Thank you for your review. Lands that fall east of the Dalton Highway ROW, which contain the areas of concern described in your comment, will be retained in state ownership.

Comments from DNR DMLW Public Access Assertion and Defense (PAAD):

“There are no navigable waters for title purposes within this parcel (AS 38.04.062, Original 84, Kukpowruk River).

There is one lake between 10 and 50 acres. Four waterbodies of note less than 10 acres intersected by the parcel, see attached map [Attachment B]. One of the less than 10 acre waterbody (7.5 acre) is not mapped and is the area of the abandoned/blocked channel of the Sagavanirktok River that is backed up behind the airstrip. Multiple less significant waterbodies less than 10 acres in size that have been created by the blocking of channels by roads and infrastructure. The five largest would be considered public water per AS 38.05.127 as defined in AS 38.05.965 (21), this decision is based on habitat for wildlife.”

DNR DMLW LCS Response to PAAD: Thank you for your review. Per AS 38.05.127, all waterbodies that are considered public or navigable (see above explanation in section **D. Access**, specifically subsections **3. Navigable and Public Water** and **4. Easements To and Along Navigable and Public Water**) based on size will have reserved a 50-foot access easement along the shore from OHWM.

Comments from DNR State Pipeline Coordinator Section (SPCS):

"The State Pipeline Coordinator's Section (SPCS) reviewed the North Slope Borough Municipal Land Entitlement Selection, ADL 414835. The SPCS found that existing AS 38.35 pipeline rights-of-way (ROW) would be impacted by the North Slope Borough Municipal Entitlement selections. These lands are part of the AS 38.35 pipeline Alaska LNG GTP-Mainline-LF Pipeline (AKLNG-Mainline), ADL 421297; Alaska Stand Alone Pipeline (ASAP), ADL 418997; and the Trans-Alaska Pipeline System (TAPS), ADL 63574.

As stated in the North Slope Area Plan under "Special Purpose Land" (page 1-4), pertaining to the Legislatively Designated Area (LDA) known as the James Dalton Highway LDA, the plan states the area "is managed under AS 19.40.010. This section of statute requires that state-owned land within five miles of the Dalton Highway right-of-way must be retained in state-ownership. Additionally, land within this LDA is not available for disposal if selected by a municipality to satisfy a municipal land grant under the Municipality Entitlement Act (AS 29.65)."

Within the Dalton Corridor Region, the management intent is for lands of the "proposed AKLNG and ASAP rights-of-way and other lands with infrastructure that is critical for oil and gas development, maintenance, or operations shall be retained in state ownership."

The SPCS requests that DNR reject, in part, the land the North Slope Borough requests for Municipality Entitlement in which AS 38.35 pipeline ROW Leases exist for the purposes of retaining the rental revenue to the State of Alaska and for DNR/SPCS oversight authority of these lands to safely operate and maintain the pipeline and related facilities for the interest of the people of the State.

This is consistent with the Management Intent of the North Slope Area Plan for the SPCS to maintain and enforce a systems-wide approach for its oversight of integrity, maintenance, and operations of oil and gas infrastructure directly related to common and contract carrier pipelines. For these reasons mentioned above, the SPCS does not believe it is in the public's interest for the North Slope Borough to obtain lands containing AS 38.35 ROW leases and retaining state ownership of the land outweighs the municipality's interest in obtaining the land."

DNR DMLW LCS Response to SPCS: Thank you for your review. Policy and guidelines for the James Dalton Highway are outlined in AS 19.40. AS 19.40.200(a) outlines that "the state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway." Pursuant to AS 19.40.200(b) Disposal of land or materials, there are exceptions to the restrictions on disposals under AS 38 within five miles of the right-of-way for lands within specific development nodes. AS 19.40.200(b)(3)(C) identifies Franklin Bluffs as a development node that allows for the disposal of land for nonresidential development under AS 38. Conveyances of land for municipal entitlement are pursuant to AS 29.65; therefore, the statute allows municipal entitlement land under AS 29.65 to be selected and conveyed within the Dalton Highway corridor.

Thank you for pointing out the paragraph in chapter one of the North Slope Area Plan, which indicates that municipal entitlement land cannot be selected and conveyed within the Dalton Corridor. This language contradicts the rest of the North Slope Area plan and relevant statutes. According to RADS, this language was overlooked in a final review of the area plan. RADS issued area plan determination NC-19-001D01 to rectify the error, stating:

The intent of Chapter 1 of the NSAP is to discuss the purpose of the plan, description of the planning area, how and why the plan was developed, what the plan does and does not cover, and a summary of plan actions. Chapter 1 is not intended to provide a thorough discussion of management requirements for specific areas of the plan. The language above attempts to summarize the management requirements of the James Dalton Highway LDA and it lacks clarity regarding the relationship between AS 19.40 and AS 29.65. The statutory requirements and management intent for this LDA are outlined clearly in Chapters 2 through 4 rendering the summary provided in Chapter 1 unnecessary.

To correct this issue, the language described above as set out on page 1-4 will be deleted.

The Dalton Highway ROW and lands within the current DOT&PF ILMA will stay in state ownership. The pipeline ROW leases, ADL 418997 and ADL 421297, that fall on the west side of the Dalton Highway ROW, will not be conveyed but will be included as a subject to in the patent document since they are part of the oil and gas Plan of Operations.

Comments from the Department of Transportation & Public Facilities (DOT&PF):

“DOT&PF, as the department responsible for the for the planning, construction, maintenance, protection, and control of the state highway system (AS 19.05.010), provides the following comments in regards to the Department of Natural Resources Agency Review Notices for Municipal Land Entitlement Selection: ADL 414835, North Slope Borough, Franklin Bluffs, and ADL 414838, North Slope Borough, Happy Valley.

The Dalton Highway is identified in Statute (AS19.40) as part of the state highway system as a public highway. DOT&PF has been investing State and Federal funds for highway upgrades and maintenance efforts since the highway was turned over to the State of Alaska in 1979 and intends to continue to upgrade and maintain the highway long into the future. As part of the capital upgrades and day to day maintenance, gravel sources, equipment staging and material storage areas are required. Along the 110 miles of highway between our DOT&PF operated Sag River Camp, and Prudhoe Bay, areas suitable for gravel mining, staging and storing are extremely limited, due to the geology, topography, elevated road requirements and large regions of tundra.

DOT&PF does not object to the municipal entitlement conveyance to the North Slope Borough as described in the respective agency review notices, and ask that there be provisions stipulated that allow for the department to utilize areas within these conveyances for gravel mining, equipment staging and material storage areas to ensure the continued maintenance and operations of this important highway. It is in the State of Alaska’s best interest to ensure DOT&PF can continue with cost effective operations to upgrade and maintain the Dalton Highway.”

DNR DMLW LCS Response to DOT&PF: Thank you for your review. The Dalton Highway ROW and lands east of the Dalton highway will be retained in state ownership.

Comments from the Division of Geological & Geophysical Surveys (DGGs):

"Hydrology and Surficial Geology, Geologic Hazards

Jamie Buscher and Jennifer Athey

Physiography

The parcel under agency review is located in the northern part of the Arctic Coastal Plain physiographic province, close to the transition between flatlands in the north and sporadic low-relief hills protruding above the flatlands in the south (Wahrhaftig, 1965).

Lithology

Tertiary and Cretaceous bedrock exposed in the Arctic Coastal Plain represents foreland basin material sourced from ancient uplift of the Brooks Range (Mull et al., 2003 and references therein). The Franklin Bluffs, located across river from the parcel, consist of the Franklin Bluffs Member (early Eocene to Miocene) of the Sagavanirktok Formation and represent fluvial deposits characterized by light gray to pink weathered sandstone overlain by a cap of white weathered conglomerate (Mull et al., 2003). The parcel located just west of the Sagavanirktok River is underlain by unconsolidated glacial outwash, colluvium and trace amounts of till and alluvium deposits that characterize most of the Arctic Coastal Plain (Wilson et al., 2015).

Material Resource

This parcel may have the potential to be a source for construction material, but more insight on the continuity of surface geologic units and permafrost and the effects of material excavation on drainage patterns is suggested.

Hydrology

This parcel has two airstrips and a camp located just west of the Sagavanirktok River and across the river from the distinct Franklin Bluffs outcrops. The history of flooding at this site from annual ice breakup, including the recent 2015 Sagavanirktok River flood that directly impacted the Franklin Bluffs area (Toniolo et al., 2017), illustrates that flooding is expected to occur regularly at this parcel.

Permafrost

The parcel is expected to be underlain by permafrost as observed in >90% of the Arctic Coastal Plain area (e.g., Jorgenson et al., 2008). However, close proximity to the Sagavanirktok River is expected to increase the likelihood of local permafrost thawing.

Seismicity

The parcel contains no mapped faults as observed in most of the Arctic Coastal Plain (Plafker et al., 1994; Koehler and Carver, 2018). The region's overall seismic hazard potential is low (Shumway, 2019). Standard best building practices should be used to accommodate the regional seismic hazard.

Radon

Radon, a naturally occurring cancer-causing radioactive gas, is modeled to be moderate in the immediate vicinity of the parcel. The Environmental Protection Agency's (EPA) Action Level for radon is 4 pCi/L; the EPA suggests homeowners consider radon mitigation for test results of 2–4 pCi/L. Any home, school, or building can have high levels of radon and should be tested.

Summary

Based on surficial geologic data, we see no reason to oppose conveyance of this parcel.

References

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Koehler, R.D., Carver, G.A., and Alaska Seismic Hazards Safety Commission, 2018, Active Faults and Seismic Hazards in Alaska: Alaska Division of Geological & Geophysical Surveys Miscellaneous Publication 160, 59 p. <http://doi.org/10.14509/29705>

Mull, C.G., Houseknecht, D.W., and Bird, K.J., 2003, Revised Cretaceous and Tertiary Stratigraphic Nomenclature in the Colville Basin, Northern Alaska: U.S. Geological Survey Professional Paper 1673, 51 p. <https://doi.org/10.3133/pp1673>

Plafker, George, Gilpin, L.M., and Lahr, J.C., 1994, Neotectonic map of Alaska, in Plafker, George, and Berg, H.C., eds., The Geology of Alaska: Geological Society of America, 2 Sheets, Scale 1:2,500,000.

Shumway, A.M., 2019, Data Release for the 2007 Alaska Seismic Hazard Model: U.S. Geological Survey data release, <https://doi.org/10.5066/P96AUPNO>.

Toniolo, H., Youcha, E.K., Tape, K.D., Paturi, R., Homan, J., Bondurant, A., Ladines, I., Laurio, J., Vas, D., Keech, J., Tschetter, T., and LaMesjerant, E., 2017, Hydrological, Sedimentological, and Meteorological Observations and Analysis on the Sagavanirktok River: 2017 Interim Report. University of Alaska Fairbanks, Water and Environmental Research Center, Report INE/WERC 17.18, Fairbanks, AK.

Wahrhaftig, Clyde, 1965, Physiographic Divisions of Alaska: U.S. Geological Survey Professional Paper 482, 52 p., 6 Sheets, Scale 1:2,500,000.

Wilson, F.H., Hults, C.P., Mull, C.G., and Karl, S.M., comps., 2015, Geologic Map of Alaska: U.S. Geological Survey Scientific Investigations Map 3340, 197 p., 2 Sheets, Scale 1:1,584,000, <http://dx.doi.org/10.3133/sim3340>.

Energy Resources Marwan Wartes

Franklin Bluffs (414835):

- That area along Franklin Bluffs may already be leased for oil and gas exploration and development. If so, I would guess the lease is held by Pantheon (+/- Great Bear), although the Division of Oil & Gas can confirm.
- The land was leased due to its prospectivity. We (DGGS) have attempted to draw attention to the promising geology in this underexplored part of State land since our early mapping in ~2006-2008. The companies now exploring the area have identified multiple hydrocarbon plays at different depths, colloquially known as Ahpun and Alkaid. They've announced significant discoveries, although it's not yet clear if it will prove commercially viable. More drilling appears to be planned. The land may even already be unitized (again, DOG would know).
- The selected land appears to deliberately capture a disturbed pad. This appears to be an active materials site, either for DOT or Alyeska. I assume the site has value to those entities.

- The proximity to the Haul Road further increases the value of that land due its potential accessibility for staging exploration and development supplies, equipment and infrastructure.

The above would seem to indicate the land has manifest value to the State Alaska, with the potential to yield revenue in the future.”

DNR DMLW LCS Response to DGGS: Thank you for your review.

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

- Department of Commerce, Community & Economic Development
- Alaska Department of Fish & Game
- Alaska Department of Environmental Conservation
- Department of Natural Resources
 - Division of Forestry and Fire Protection
 - Division of Parks and Outdoor Recreation
 - DPOR, Office of History and Archaeology
 - Mental Health Trust Land Office

VII. SUBMITTAL OF PUBLIC COMMENTS

See *Attachment D: Public Notice for specific date 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) Notice 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 PD, 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 LCS receives timely, written comments during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Upon approval and issuance of a Final Finding and Decision, a copy of the decision will be made available online at <http://landsales.alaska.gov/> and <http://dnr.alaska.gov/mlw/muni/> 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 the attached Public Notice.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS
4:30 PM, FRIDAY, MAY 23, 2025**

VIII. DISCUSSION AND ALTERNATIVES

A. Discussion

This Preliminary Decision for the North Slope Borough's municipal entitlement land selection covers approximately 871 acres of state land. LCS proposes to approve the conveyance and transfer equitable title and management authority on 358 acres, more or less, of state land, identified in *Table 7* below, and to reject the conveyance of 513 acres, more or less (*Table 8*).

This decision determines that the municipal selection adjudicated in this decision for which the State currently has title is appropriate for conveyance to NSB. Although these lands do not fall within a conveyable classification, the management intent for NSAP Unit D-20 states that certain parcels are appropriate as municipal entitlement conveyance if the State determines that the State's interest in retaining this land selection does not outweigh the interest of NSB in obtaining it. The Habitat and Transportation corridor designations and the classifications of Habitat Management Land and Transportation Corridor Land assigned to this unit are extinguished and replaced by the designation of Settlement and the conveyable classification of Settlement Land only for the lands that have been approved for conveyance within this parcel.

The Dalton Highway, Trans-Alaskan Pipeline System (TAPS), and portions of the ROW leases for AKLNG and ASAP lines (ADL 421297 and ADL 418997) run through this parcel. The State will retain the Dalton Highway and TAPS ROWs. The leases for AKLNG and ASAP will not be transferred to NSB since they are part of the Plan of Operation authorizations issued by DOG. The proposed conveyance will be made subject to these leases.

The land proposed for rejection (*Table 8*) is within an area that contains the TAPS ROW and local airstrips. The associated management intent of Unit D-20 states that, "[...] Lands within the proposed AKLNG and ASAP Rights-of-Way and other lands with infrastructure critical for oil and gas development, maintenance, or operations shall be retained in state ownership. [...]". DOT&PF, NRO, SPCS, and DOG provided comments during the agency review and expressed the need to keep the pad and surrounding infrastructure in state ownership for the continued operations critical to the industry. DOT&PF uses land within the ILMA for material mining, staging areas, and material storage to maintain the Dalton Highway. NRO recommends that the airstrips remain in state ownership for public use since these are the closest useable runways to Deadhorse and are considered backup landing strips in case the Deadhorse runways are fogged in or otherwise unavailable.

This decision further determines that, for those lands to be conveyed to NSB, certain conditions and restrictions are appropriate and necessary to protect important resources and public access. This decision, therefore, imposes restrictions and reservations to be part of the conveyance document to ensure adherence to state statutes and administrative codes. Restrictions and reservations are listed in **Section IX. Recommendation and Preliminary Decision**.

B. Alternatives

The following alternatives exist:

1. Take no action to approve or reject NSB'S land selection. This alternative would, in effect, preclude NSB'S ownership of lands considered to be important to their land base. This action would be inconsistent with the purpose of the Municipal Entitlement Act and inconsistent with the basis for the disapproval of a municipal entitlement selection. Such selections can only be rejected when a state's interests outweigh the interest of the borough, and there is no basis for such a determination.

2. Reject NSB's selection in its entirety. This alternative would have the same effect as Alternative #1 and would, similarly, be inconsistent with the statutory basis for rejection of a municipal selection.
3. Approve, in part, with management authority transferred and reject, in part, portions of the parcel, under the requirements of AS 29.65 General Grant Land. This alternative is effective in meeting the intent of the Municipal Entitlement Act to convey appropriately classified state general grant land to NSB.

IX. RECOMMENDATION AND PRELIMINARY DECISION

A. Recommended Alternative

This decision determines that Alternative 3 is the preferred action and best fits the intent of the Municipal Entitlement Act. NSB's land selection is approved, in part, for conveyance, subject to the conditions, restrictions, and reservations listed below.

B. Recommended Conditions, Restrictions, and Reservations

Conditions

1. As required under AS 38.05.127 Access to navigable or public water and 11 AAC 51 Public easements, the location of the OHWM of public waters will be determined at the time of survey.
2. Management authority will transfer to NSB on those lands approved for conveyance once the FFD becomes effective.
3. Management authority for public access easements is transferred to NSB once the FFD becomes effective. No such easements may be vacated, abandoned, or otherwise extinguished or rendered incapable of reasonable use by the public without the approval of the State of Alaska unless an alternative means for reasonable public access is provided and approved by the State.
4. Administration of state leases and permits pertinent to the surface estate will be transferred to NSB once the FFD becomes effective. Administration of issued state leases and permits on the mineral estate will remain with the State.
5. Once the FFD is effective, NSB may execute conditional leases and make conditional sales on lands approved for conveyance, prior to issuance of a state patent in accordance with AS 29.65.070(b) Selection and conveyance procedure.
6. The net chargeable acreage approved for conveyance shall be credited towards partial fulfillment of NSB's municipal land entitlement pursuant to AS 29.65.010 Determination of entitlement of boroughs and unified municipalities.
7. Notification to the Alaska State Historic Preservation Office in accordance with AS 41.35.070(d) Preservation of historic, prehistoric, and archeological resources threatened by public construction is required upon discovery of historic, prehistoric, or archaeological sites, locations, remains, or objects.

Restrictions and Reservations

Conveyance document will be issued subject to the following restrictions and reservations:

1. Valid existing rights, including reservations, easements, 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 on the plat, and restrictions of record, if any.

2. Reservation of a 50-foot wide easement on each side of all surveyed and unsurveyed section lines in accordance with AS 19.10.010 Dedication of land for public highways and 11 AAC 51.025 Section line easements.
3. Reservation of a continuous public access easement, 50 feet wide, upland of and adjacent to the OHWM of all meanderable waters on the bed and 50 feet upland along public waters pursuant to AS 38.05.127 Access to navigable or public water and 11 AAC 51 Public easements.
4. Subject to the mineral estate pursuant to Section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation; and reservation of reasonably necessary access to the mineral estate in accordance with AS 38.05.130 Damages and posting of bond.
5. Subject to Oil and Gas Leases ADL 392301 and ADL 392302.
6. Subject to ADL 421297 and ADL 418997 ROW leases that are part of the Oil and Gas Plan of Operations.
7. Excepting and reserving to the State of Alaska, DOT&PF, all DOT&PF properties, rights, highways, roads, and all other facilities. This includes the Dalton Highway (ADL 63826) ROW of 200 feet.

C. Recommended Action on Municipal Selections

This decision recommends conveyance of certain state-owned vacant, unappropriated, unreserved general grant land to North Slope Borough located in the Umiat Meridian of Northern Alaska.

LANDS PROPOSED FOR CONVEYANCE

Table 7 lists those lands proposed to be approved for conveyance in this decision. The estimated acreages for conveyance do not account for any exclusions, and exact acreages would be determined by survey. The final acreage amount will be credited towards partial fulfillment of North Slope Borough municipal land entitlement.

Table 7

Map Name	MTR	Sections and Legal Description	Acres
Franklin Bluffs	U004N014E	Sec. 04: Land in SE1/4 that is west of the Dalton Hwy ROW (70 ac.) Sec. 09: Land that is west of the Dalton Hwy ROW (288 ac.)	70 288
PROPOSED CONVEYANCE: TOTAL APPROXIMATE ACRES			358

LANDS PROPOSED FOR REJECTION

Table 8 lists those lands proposed to be rejected for conveyance in this decision. These include lands to be retained by the State for Oil and Gas infrastructure, organization, and maintenance critical to the industry. The NSAP states the land will be retained by the State if the use is important to the Oil and Gas industry.

Table 8

Map Name	MTR	Sections and Legal Description	Acres
Franklin Bluffs	U004N014E	Sec. 03: Tract B-1 ASLS 86-114 (14 ac.)	14
		Sec. 04: Land that is east of the Dalton Hwy ROW (90 ac.)	90
		Sec. 09: Land that is east of the Dalton Hwy ROW (337 ac.)	337
		Sec. 10: Tract B-1 ASLS 86-114 (74 ac.)	74
PROPOSED REJECTION: TOTAL APPROXIMATE ACRES			513

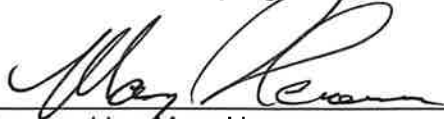
D. Preliminary Decision

The following are the findings for this Preliminary Decision:

1. It is appropriate to convert the Ha/Tc designation on the selected parcel that falls within U004N014E and is within Unit D-20 to Se and, therefore, change to the conveyable classification of Settlement Land. This only applies to the land approved for conveyance within the unit.
2. It is appropriate to convey 358 acres, more or less, of state-owned land to North Slope Borough. This decision determines that the interest of the State in retaining this land does not outweigh the interests of NSB in obtaining it.
3. It is appropriate to reject approximately 513 acres because the State's interests outweigh the NSB's interest in obtaining them.

This Preliminary Decision, described above, represents the preferred alternative that has been reviewed and considered. After reviewing and considering the materials in this PD, LCS finds that the recommended action may be in the best interest of the State and that it is hereby approved to proceed to Public Notice in accordance with AS 38.05.945 Notice.

After public notice, the subsequent review process may result in changes to the preferred alternative(s) or disapproval of the proposed action altogether. A Final Finding and Decision will address any significant issues or concerns raised during the public review process.



Prepared by: Mary Hermon
 Natural Resource Specialist 2
 Land Conveyance Section
 Division of Mining, Land and Water
 Department of Natural Resources
 State of Alaska

4-18-2025

Date



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

4-18-2025

Date

North Slope Borough

Municipal Selections

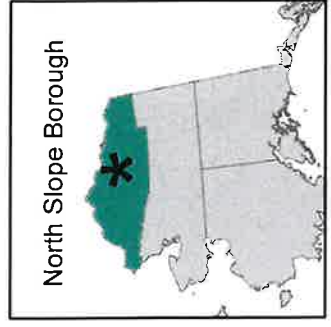
Preliminary Decision

ADL 414835

Franklin Bluffs

Legend

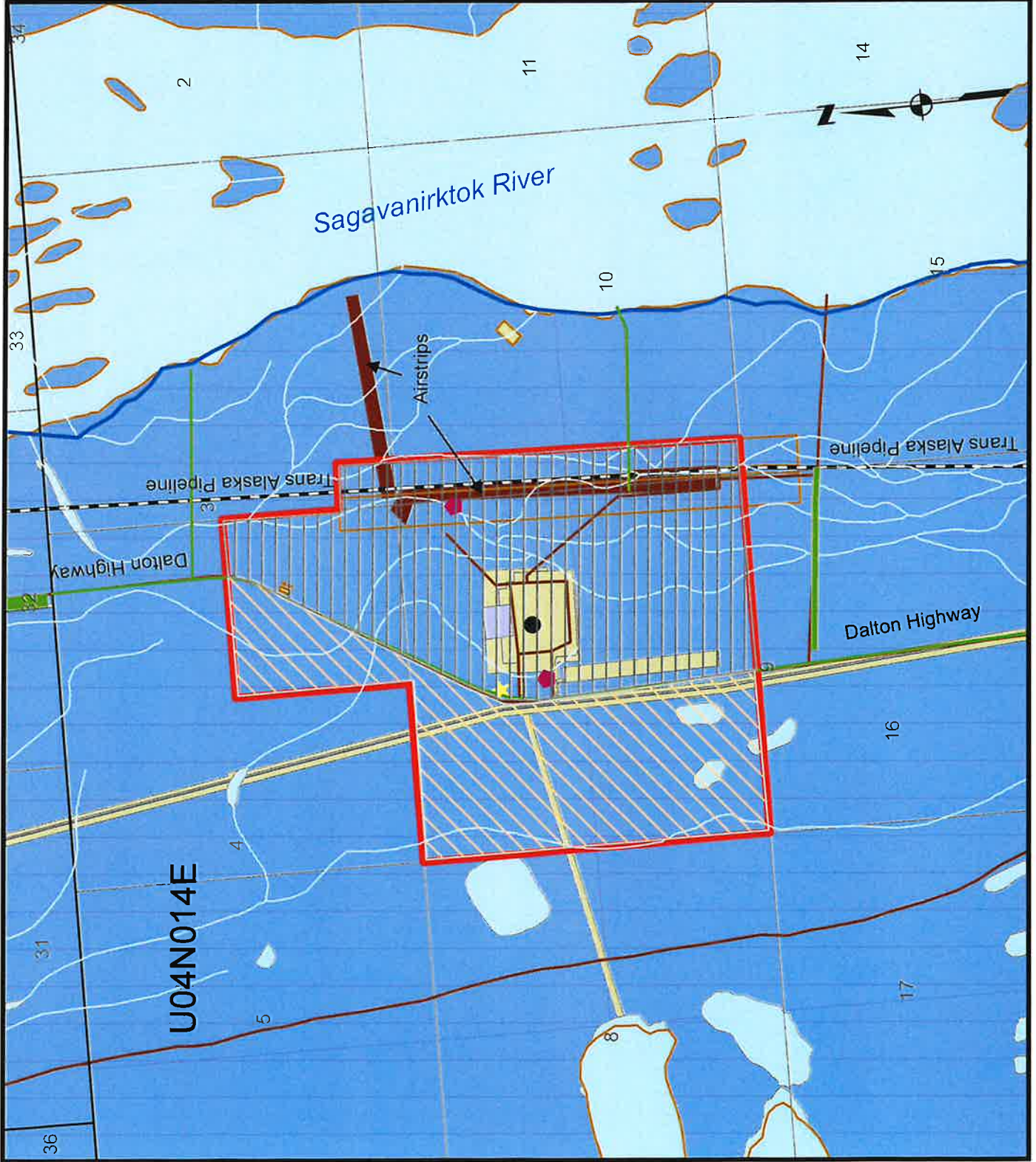
- TWUP
- Trespass
- Potential Hazard Site
- Local Roads
- Pipeline
- Easement
- Selected by Borough
- Proposed Approval
- Proposed Rejection
- State Land - TA or Patent
- Mineral Leases
- Land Estate Leases
- ILMA to DOT&PF
- NSAP Unit D-20



Created by DNR-DMLW-LCS-ME



March 2025



U04N014E



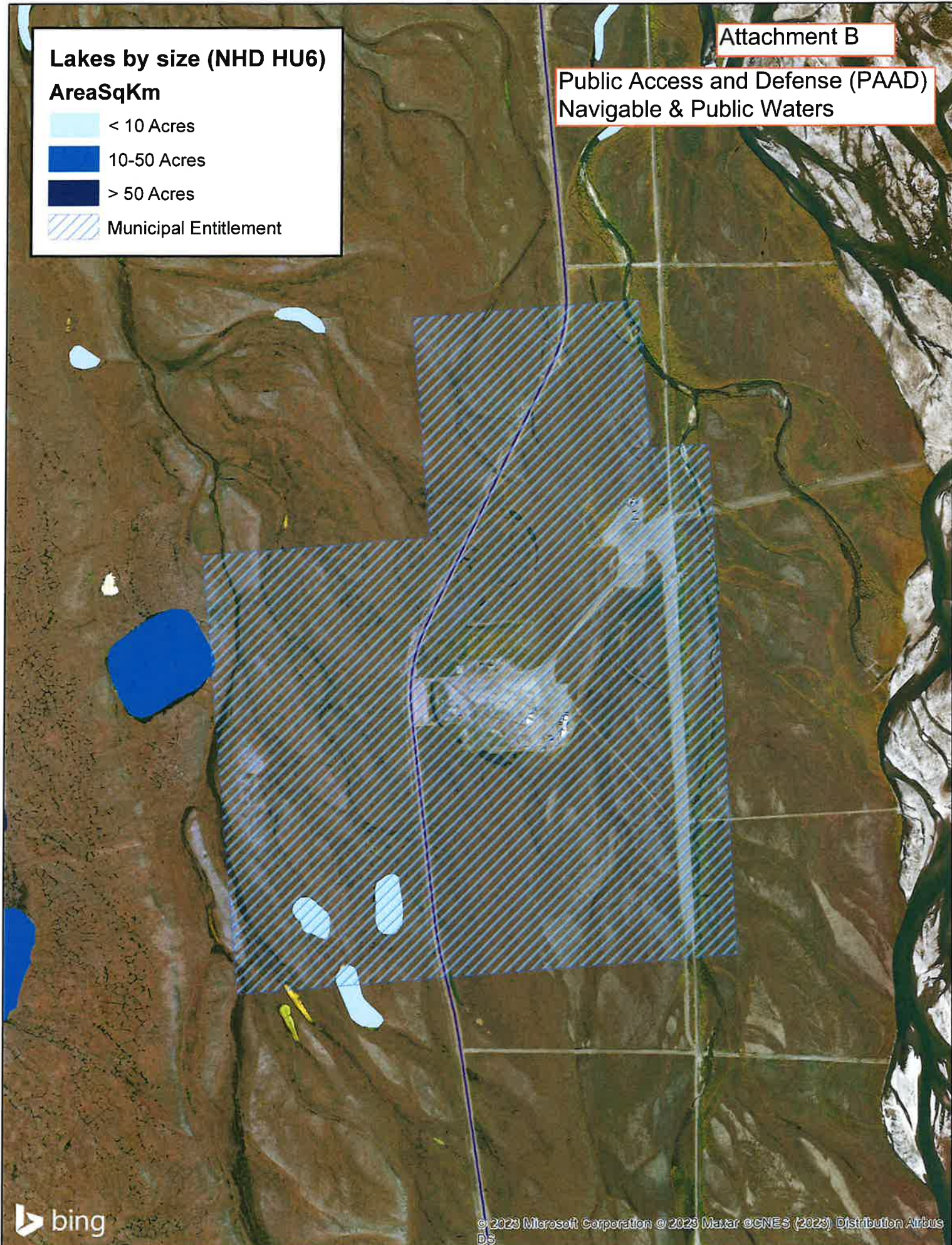
This map is for representation only. It is intended to be used as a guide only and may not show exact location or existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

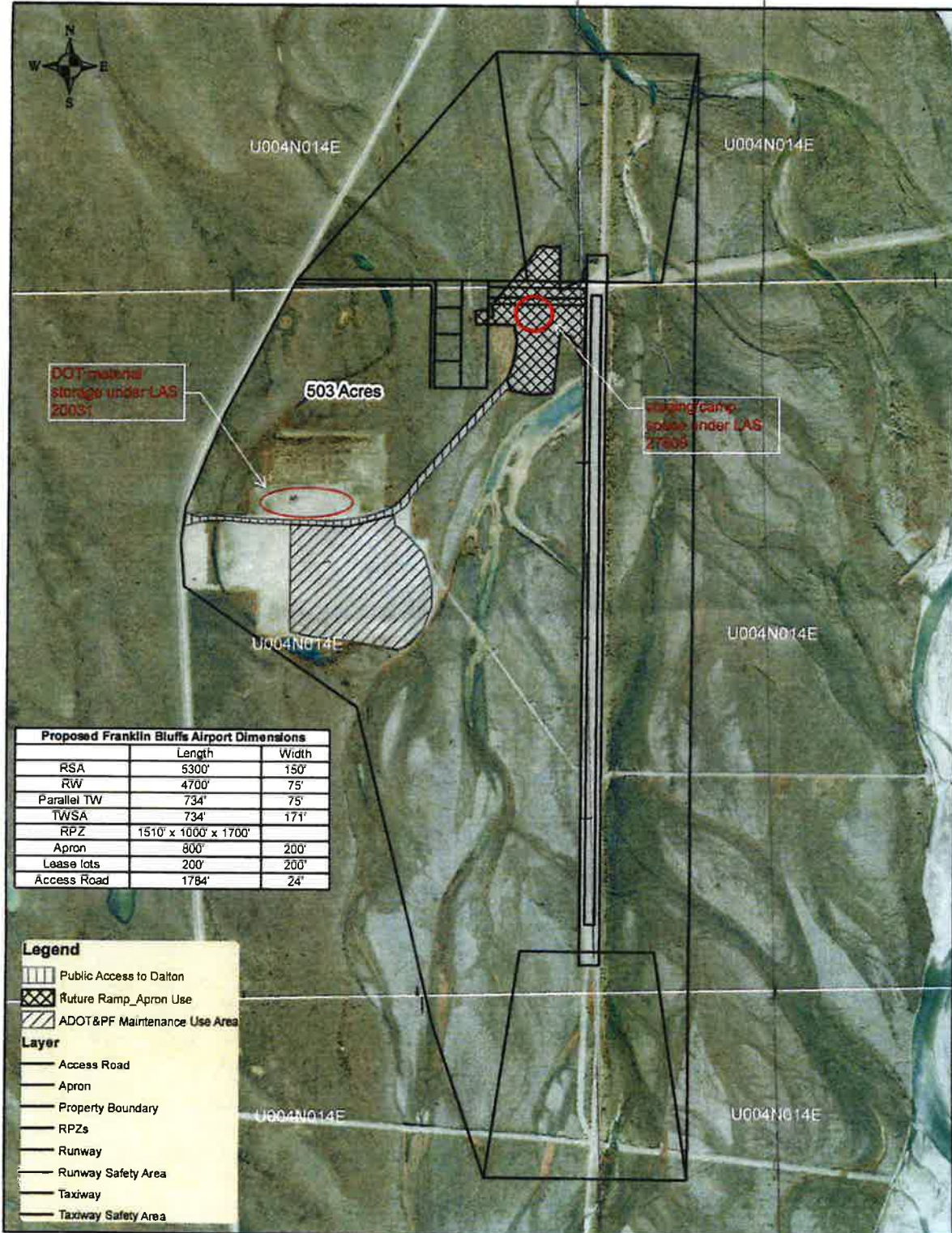
Lakes by size (NHD HU6)

AreaSqKm

-  < 10 Acres
-  10-50 Acres
-  > 50 Acres
-  Municipal Entitlement

Public Access and Defense (PAAD)
Navigable & Public Waters





Proposed Franklin Bluffs Airport Dimensions

	Length	Width
RSA	5300'	150'
R/W	4700'	75'
Parallel TW	734'	75'
TWSA	734'	171'
RPZ	1510' x 1000' x 1700'	
Apron	800'	200'
Lease lots	200'	200'
Access Road	1784'	24'

Legend

- Public Access to Dalton
- Future Ramp_Apron Use
- ADOT&PF Maintenance Use Area

Layer

- Access Road
- Apron
- Property Boundary
- RPZs
- Runway
- Runway Safety Area
- Taxiway
- Taxiway Safety Area



Proposed B-II Franklin Bluffs Layout

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

Attachment D: PUBLIC NOTICE

Requesting Input for a Proposed Conveyance Under AS 29.65
North Slope Borough Municipal Land Entitlement Selection – ADL 414835

COMMENT PERIOD ENDS: 4:30 PM, FRIDAY, MAY 23, 2025

The Department of Natural Resource (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) has prepared a Preliminary Decision (PD) for a proposal to convey approximately 358 acres of state owned vacant, unappropriated, unreserved (VUU) general grant land to North Slope Borough (NSB) in order to partially fulfill their municipal land entitlement under AS 29.65.010 Determination of Entitlement for Boroughs and Unified Municipalities. Located within DNR's Northern Region, this land selection falls within the Dalton Corridor Region (North Planning Units) as identified in the North Slope Area Plan. LCS finds that the proposed conveyance is consistent with the requirements of AS 29.65 General Grant Land, and that NSB's interest in obtaining these state lands outweigh the State's interest in retaining them.

Pursuant to AS 38.05.945 Notice, the public is invited to comment on this PD which proposes to transfer ownership of state land to the North Slope Borough. **The deadline for submitting public comment is 4:30 PM, Friday, May 23, 2025.** Only persons from whom LCS receives timely written comment during the identified comment period will be eligible to file and appeal of the Final Finding and Decision (FFD). Comments must be received in writing to the Division of Mining, Land and Water, Attention: Mary Hermon, at 550 West 7th Avenue, Suite 640, Anchorage, Alaska 99501, by fax at (907) 269-8916, or by email at mary.hermon@alaska.gov. If you have questions, call Mary Hermon at (907) 269-6546.

The public notice is available on the Alaska Online Public Notice System at: <http://dnr.alaska.gov/commis/pic/pubnotfrm.htm>. The Preliminary Decision is available on the DMLW Municipal Entitlement web site at: <http://dnr.alaska.gov/mlw/muni/> and on the DMLW Land Sales website at: <http://landsales.alaska.gov>.

Following the comment deadline, those written responses received will be considered and the decision may be modified to incorporate public comments in the FFD. Only persons who comment during this public comment period will be eligible to file an administrative appeal of the FFD. A copy of the FFD will be sent to any person who comments on the PD. The FFD will include the appeal instructions. Please direct all inquiries or questions to Mary Hermon, at the above address, electronic mail, phone or by fax.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids or services when requested. Individuals with audio impairments who wish to respond to this decision by telephone may call the DNR, Public Information Center in Anchorage between the hours of operation: 10:00 AM to 5:00 PM, Monday through Friday at TTY: 711 for Alaska relay or 800-770-8973 or go to <http://dnr.alaska.gov/commis/pic/>

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.