

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

FINAL FINDING AND DECISION
CONVEYANCE OF STATE LAND UNDER AS 29.65, AS 38.05.035(e)

NORTH SLOPE BOROUGH MUNICIPAL LAND ENTITLEMENT SELECTION ADL 414826
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I. SUPPLEMENTAL STATEMENT

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated December 5, 2022. The attached map to this FFD depicts the selection that is the focus of this decision. The PD (attached) has received the required public review.

II. RECOMMENDED ACTION

The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends that Alternative 3, as described in the PD, is the preferred action since it best fits the intent and requirements of the Municipal Entitlement Act. This decision covers approximately 10,240 acres, approving approximately 10,240 acres for conveyance and transfer of management authority.

III. AUTHORITY

The authority for conveyance of state land is pursuant to *AS 29.65 General Grant Land* and the authority for the Final Finding and Decision is pursuant to *AS 38.05.035(e) Power and Duties of the Director*.

IV. PUBLIC PARTICIPATION AND INPUT

Pursuant to *AS 38.05.945 Notice*, public notice inviting comment on the PD for the proposed conveyance of municipal entitlement selections was published and distributed in the following manner:

- Posted on the State of Alaska Online Public Notice website from December 5, 2022, to January 13, 2023.
- Posted on the Public Notices page of the DNR Alaska State Land Sales website from December 5, 2022, to January 13, 2023.
- Posted on the DNR Municipal Entitlement website from December 5, 2022, to January 13, 2023.
- Mailed with a request to post for 30 days to the Utqiagvik, Nuiqsut, and Prudhoe Bay postmasters and Nuiqsut and Utqiagvik Public Libraries per *AS 38.05.945(c)(4)*.
- Mailed to the Arctic Slope Regional Corporation per *AS 38.05.945(c)(2)-(3)*.
- Mailed and emailed to the North Slope Borough per *AS 38.05.945(c)(1)*.
- Emailed notice to all other State agencies who received the agency review notice.

The public notice stated that written comments must be received by 4:30 PM, Friday, January 13, 2023, in order to ensure consideration and eligibility to appeal. For more information, refer to the attached PD.

V. SUMMARY OF COMMENTS

DNR DMLW LCS received comments from DNR DOG State Pipeline Coordinator's Section, the Department of Transportation & Public Facilities, and the North Slope Borough. All comments received during the public comment period are summarized and addressed below.

DNR DMLW LCS received brief comments of non-objection from the following agency:
Department of Transportation & Public Facilities (DOT&PF)

DNR DMLW LCS Response: LCS appreciates your review.

Comments from DNR DOG State Pipeline Coordinator's Section (SPCS):

The State Pipeline Coordinator's Section (SPCS) reviewed the Preliminary Decision – North Slope Borough Municipal Land Entitlement Selection and has no concerns regarding the parcels to be conveyed.

DNR DMLW LCS Response: LCS appreciates your review.

However, we do have concerns regarding how these parcels will be accessed after the land has been conveyed. On page 4, under item "D. Access" of the Preliminary Decision there is mention of an ice road, trail, and a gravel road that can be used to access the parcel/block of land. We would like information on who builds the ice road yearly and if it's a private easement or public easement; the trail mentioned does not explain where it begins nor how it will be accessed; and lastly, where does the gravel road begin and is it public or private. The trail(s) and gravel road may cross AS 38.35 pipelines – leased and proposed – several times.

DNR DMLW LCS Response to SPCS: The Northern Region Office (NRO) mentions in its DMLW Comment the nearby Alpine Supply Ice Road, authorized under LAS 25360, is issued to ConocoPhillips Alaska (CPAI). The ice road is used by multiple oil companies, contractors, and local communities to travel to the graveled road system and beyond. An agreement between NRO and CPAI has currently fixed the location of the ice road, but the ice road may need to be moved in the future.

DOT&PF did not point out any state ROWs that needed to be included as a 'subject to' in a conveyance. Access is also granted via the Section Line Easements per AS 19.10.010 and AAC 51.025.

The following AS 38.35 pipeline rights-of-way are in the vicinity of the proposed access. The SPCS requests that before the land is conveyed to the North Slope Borough either DMLW or the North Slope Borough receive a letter of non-objection from the Lessee companies listed below, if the proposed activities are anticipated to enter or cross the AS 38.35 pipeline rights-of-way, and coordinate with the AS 38.35 pipeline lessees if the proposed activities could affect the AS 38.35 pipeline related activities.

DNR DMLW LCS Response to SPCS: It is NSB's responsibility to contact lessees if any of their projects or activities cross ROW leases to access their parcel. The list SPCS has provided will be provided to NSB. As mentioned above, public access is granted along section lines should the Borough use those routes to access their parcel.

Will the gravel road to DS-2K shown in Attachment A be reserved and retained in State ownership?

DNR DMLW LCS Response to SPCS: DOT&PF did not identify any State ROWs that needed to be included as a 'subject to' in a conveyance. Nor did NRO mention the gravel road as a leased ROW that cross the parcel. The gravel road to DS – 2K will not be reserved to the State.

Comments from North Slope Borough (NSB):

NSB was concerned with a statement in the standard language in subsection **F. Hazardous Materials and Potential Contaminants**. Particularly the last sentence, “NSB, by selecting these lands and requesting their conveyance through this PD, recognizes the surrounding areas of identified contaminated sites and will take the land “as is.”

DNR DMLW LCS Response to NSB: LCS appreciates your review. If DEC or DMLW Statewide Abatement of Impaired Lands (SAIL) were aware of any known contaminations, they would have informed LCS through the DMLW and Agency Review processes, and LCS would have included that information in the Preliminary Decision. Neither agency had any objections or concerns with LCS proposing to convey the parcel to NSB. Their agencies were listed under Section M. DMLW and Agency Review in the second paragraph.

NSB’s concern on the wording only needs clarification. For modifications to this decision, please see **Section VI. Modifications to Decisions** below.

NSB asked for more information regarding the leases and permits, specifically the closed research permit and the Alpine Resupply Ice Road that NRO commented on in the PD.

DNR DMLW LCS Response to NSB: LCS reached out to NRO with NSB’s concerns and received additional information:

LAS 29523 to ConocoPhillips (CPAI) is for rehabilitation from rolligon damage.

LAS 31702 is a closed University of Alaska (UA) research permit that looked at caribou forage. UA only performed non-destructive plant sampling.

The Alpine Resupply Ice Road traverses the selected parcel’s general area but does not currently cross into the parcel. The permit associated with this ice road has been transferred to the Division of Oil and Gas (DOG), but NRO continues to work closely with DOG on the impacts of the ice road on the landscape. There is no plan to move the ice road at this time, but it may need to be moved in the future to reduce potential tundra damage. If the ice road was rerouted onto NSB land, there would be considerable coordination and discussion at that time.

VI. MODIFICATIONS TO DECISION

Pursuant to a comment received during the public notice period, there is a minor correction and clarification to be made between the PD and FFD. This change does not affect the amount of acreage approved for conveyance.

- Subsection F. Hazardous Materials and Potential Contaminants is modified to read, “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 no contaminated sites with institutional controls. See DEC’s comment in subsection **M. DMLW and Agency Review** for details.

NSB is expected to inspect this selection and familiarize itself with regard to 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.”

VII. DISCUSSION AND FINAL FINDING AND DECISION

Through this Final Finding and Decision, DNR determines that it is in the best interest of the State to convey 10,240 acres of state land with management authority transferred to NSB upon the effective date of this decision. There are no overriding state interests in retaining this selection, and the conveyance to NSB is consistent with the requirements for conveyance under AS 29.65, and the management intent requirements of the North Slope Area Plan.

Lands Approved for Conveyance

Table 1 below lists those lands approved for conveyance in this decision by location/map name, Meridian (M), Township (T), Range (R), Section and legal description, and approximate acreage. The estimated acreages for conveyance do not account for any exclusions, and exact acreages would be determined by survey, if one is needed. The final acreage amount will be credited towards partial fulfillment of North Slope Borough’s municipal land entitlement.

Table 1

Map Name	MTR	Section and Legal Description	Acres
East of Nuiqsut and Colville River	U009N006E	Sec. 1: All Sec. 2: All Sec. 3: All, <i>excluding bed of lake</i> Sec. 4: All	2,560
	U010N006E	Sec. 21: All Sec. 22: All Sec. 23: All, <i>excluding bed of lake</i> Sec. 24: All, <i>excluding bed of lake</i> Sec. 25: All, <i>excluding bed of lake</i> Sec. 26: All, <i>excluding bed of lake</i> Sec. 27: All Sec. 28: All Sec. 33: All Sec. 34: All Sec. 35: All Sec. 36: All	7,680
APPROVED for CONVEYANCE: TOTAL APPROXIMATE ACRES			10,240

Final Finding and Decision

The Land Conveyance Section recommends proceeding with the action as described in the Preliminary Decision. This action is undertaken under relevant authorities.

1. It is appropriate to convey approximately 10,240 acres of state-owned land to North Slope Borough. This decision determines that the interest of the State to retain this land does not outweigh the interests of NSB to obtain it.

The findings presented above have been reviewed and considered. The Public Notice has been accomplished in accordance with AS 38.05.945. The case file has been found to be complete, and the requirements of all applicable statutes have been satisfied. It has been determined that it is in the best interest of the State to proceed with the conveyance identified in this FFD to the North Slope Borough under the authority of AS 29.65.

Mary Hermon

1/26/2023

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

Date

Under the authority of the applicable statutes, it is in the best interest of the State to proceed with the recommended action as described in this Final Finding and Decision.

Rachel Longacre

1/26/2023

Approved by: Rachel Longacre
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

Date

APPEAL PROVISION

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per *AS 44.37.011* and *11 AAC 02*. Any appeal must be received within twenty (20) calendar days after issuance of this decision under *11 AAC 02.040*. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska State Courts establish its own rules for timely appealing final administrative orders and decisions of the department. Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in *11 AAC 05.160(d)(1)(F)*, which has been set at \$200 under the provisions of *11 AAC 05.160 (a)-(b)*. A .pdf or print copy of *11 AAC 02* may be obtained by contacting Erik Fossum via phone at (907) 269-8429, via email at erik.fossum@alaska.gov, and is also available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

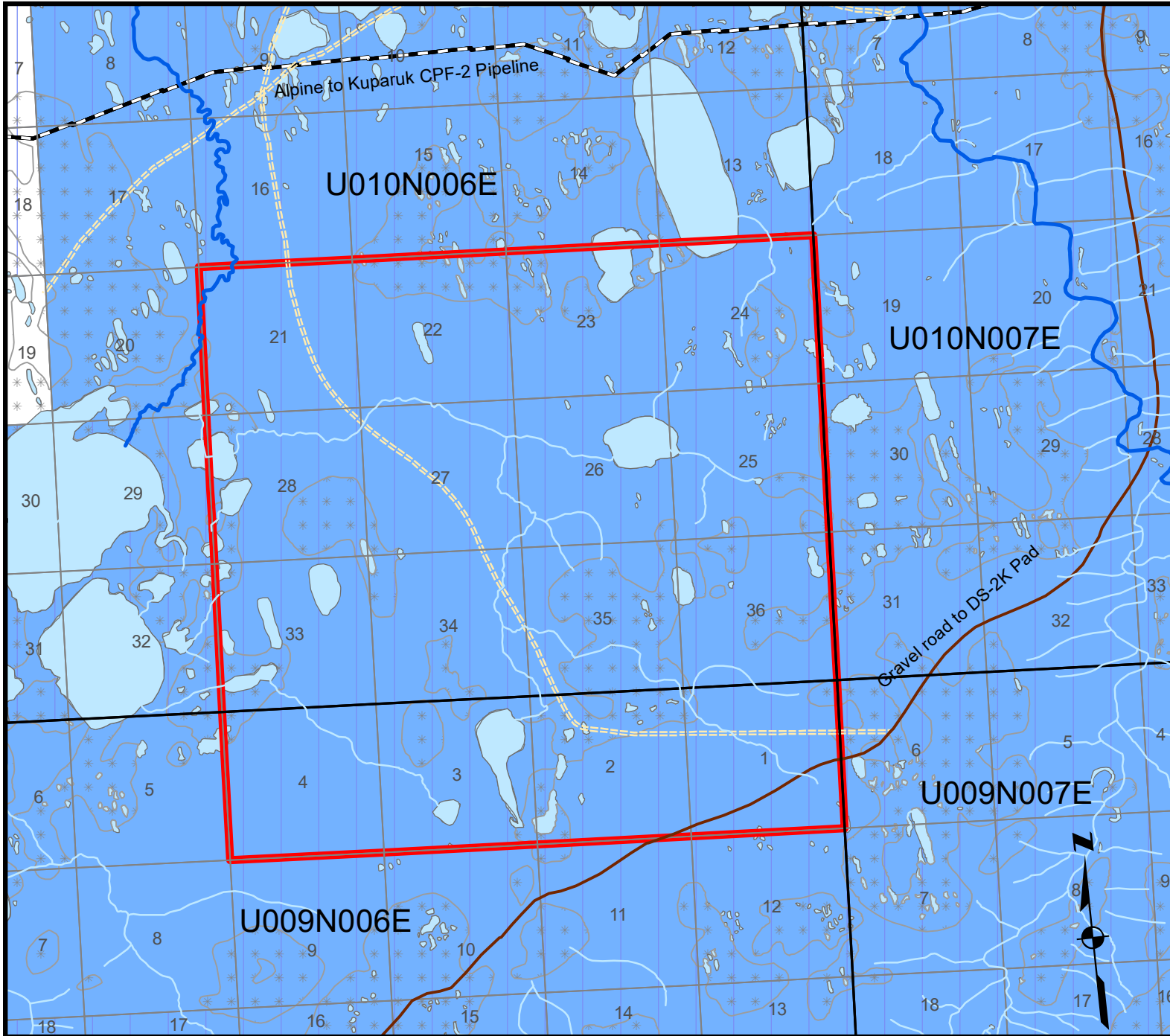
North Slope Borough

Municipal Selections








Final Finding and Decision

ADL 414826

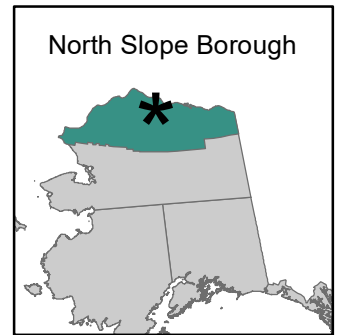
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Legend

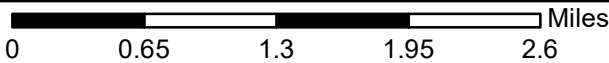
-  Anadromous Stream
-  Local Roads
-  Pipeline
-  Trail
-  Proposed Approval
-  State Land - TA or Patent
-  Mineral Leases

NSAP Unit C-18



Created by DNR-DMLW-LCS-ME

January 2023



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.

