

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 422203**

**PUBLIC COMMENT PERIOD ENDS 4:30 P.M., FRIDAY, APRIL 12, 2024**

**I. PROPOSED ACTION**

*Preliminary Decision: North Slope Borough Municipal Land Entitlement Selection – ADL 422203*

*Attachment A: Mine Site F, East Map*

*Attachment B: 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 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*: Vicinity for the depiction of the project area.

NSB has selected a parcel in the Arctic Coast Region West as identified in the North Slope Area Plan<sup>1</sup> (NSAP). In this decision, LCS will adjudicate approximately 505 acres.

LCS proposes to convey approximately 505 acres of state-owned vacant, unappropriated, unreserved (VUU<sup>2</sup>) general grant land. LCS has determined that no overriding state interests merit retaining this selection in 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 B*: 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).

**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.

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

<sup>2</sup> *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).

### III. ADMINISTRATIVE RECORD

The administrative record for this proposed action consists of casefile Alaska Division of Lands (ADL) 422203. Also incorporated by reference are:

- North Slope Area Plan (NSAP, adopted March 2021) 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 1313, ADL 25644, and ADL 25655.

### 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 selections meet 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 approximately 13 miles south of Oliktok Point and the Beaufort Sea; approximately 22 miles southwest of Beechey Point; and about 35 miles west of the Deadhorse Airport. The land is generally flat and rolling with wetlands and ponds.

<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>	Beechey Point Quadrangle (1:250,000) Beechey Point B-5 (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 and date, and any third-party interests affecting those state-owned. The State holds fee title to the land and mineral estates through 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 Reservation, 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. 23367, current as of November 28, 2023, indicates that the State of Alaska received title to the land and mineral estate under Patent 50-74-0093 on March 27, 1974 (*Table 1*).

Table 1

Map Name	MTRS	State Case File	Title/Date	Third-Party Interests
Mine Site F, East	U011N009E07	GS 1313	PA 50-74-0093 3/27/1974	ADL 25644 O&G Lease, Issued
	U011N009E18			ADL 25655 O&G Lease, 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 for Boroughs and Unified Municipalities. To date, 24,605 acres, more or less, have been patented or approved for conveyance to NSB, and approximately 65,245 acres remain in their entitlement, of which approximately 12,406 acres have been selected. This decision covers approximately 505 acres that were submitted as a selection in October 2023. 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 Arctic Coast Region West within the NSAP. The NSAP describes the management intent and area plan designation for each unit. 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). Accordingly, the NSAP governs the management intent and classifications for the land selection.

**2. Land Use Designation and Classification**

The land selection proposed for conveyance in this decision is designated as Habitat and Oil and Gas, which convert to the classifications of Wildlife Habitat Land and Oil & Gas Land, which are not conveyable classifications for 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 A-12 is as follows:

...Lands within this unit have been identified by NSB as potential municipal entitlement selections and may be appropriate for conveyance based on a future decision. If a subsequent municipal entitlement decision determines that it is otherwise appropriate to convey the state land to the borough, then the Ha and Og designations are extinguished and replaced by Rm [Resource management] designation that converts to a conveyable classification...

...Lands with infrastructure that is critical for oil and gas development, maintenance, or operations not approved for conveyance shall be retained in state ownership...

Table 2 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
Mine Site F, East	U011N009E	07, 18	505	A-12	Wildlife Habitat Land, Oil & Gas Land

**3. Mineral Orders**

The mineral estate is reserved to the State pursuant to AS 38.05.125 Reservation. No mineral orders affect the selection parcel.

**4. Special Use Lands**

The parcel within this ADL is part of the North Slope Special Use Lands (ADL 50666) defined under 11 AAC 96.014(1) 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.

**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 area. More minor local roads and paths traverse throughout the area as access routes to various stations and pads, though some roads are restricted to authorized personnel only. The Deadhorse Airport and the Prudhoe Bay Airfield are available to most aircraft types. The parcel is approximately 35 miles northwest of the Dalton Highway and the Deadhorse Airport. Spine Road traverses the land east-west toward the parcel to a point approximately 5 miles from the parcel, where it connects with Oliktok Road, which runs southwesterly approximately 2 miles from the parcel. These roads may have restricted access, and permission from the leaseholders would be required if use of the roads is needed. The large lake bordering the northeast portion of the parcel is large enough to land a float plane on it.

**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, 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 section lines running through the middle and along the eastern border (*Attachment A: Mine Site F, East Map*).

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

A review of state records verifies that there is one public utility easement in active adjudication to Quintillion Networks, LLC, within Section 18. The exact location is unknown at this time because the easement application is in Active Adjudication status. It may or may not impact the selected parcel.

## **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, DNR will review the results of the survey work. 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 Umiat<sup>3</sup>. The Equal Footing Doctrine and Submerged Lands Act do not apply to the North Slope area because the waters were withdrawn at statehood. However, through the Riparian Rights afforded by the Federal government, the State 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 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

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<sup>3</sup> 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.

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 MHWM is established at the time of survey. There are no tidal or tidal influenced waters in this parcel proposed for conveyance. Per PLO 82, inland tidal-influenced waters are not considered navigable for title purposes.

*Public Waters:* Pursuant of 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 at 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 is difficult because of topography or obstructions. *Table 3* below identifies the public access easement for the navigable waters (based on size) for the proposed conveyance parcel.

*Table 3*

Map Name	MTRS	Waterbody Name	Anadromous Water Catalog #	Public Access Easement (to & along)
Mine Site F, East	U011N009E07	Unnamed meanderable lake	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.

Two active oil and gas leases, ADL 25644 and 25655, issued to ConocoPhillips Alaska, Inc., cover the municipal selection. The proposed conveyance will be subject to these leases.

#### **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, several active and 'clean up completed' contaminated sites with institutional controls to the east of the selection. Any of DEC's closure decisions place conditions and long-term monitoring requirements on the properties. See the details of DEC's and SAIL's comments in subsection **M. DMLW and Agency Review**.

The parcel proposed for conveyance contains no recorded hazardous sites.

NSB is expected to inspect this selection and familiarize itself regarding 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. 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."

#### **G. Survey**

Before DNR issues a conveyance document, a state-approved survey is required. 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 after the FFD. There is no requirement under AS 29.65.070 Selection and Conveyance Procedure to appraise the land before 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 unauthorized use but has reviewed department records and is unaware of any existing unauthorized use within the land selection.

NSB is expected to inspect all of 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 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 authorizations will remain under the DOG's jurisdiction and will not be transferred to NSB.

There are no current leaseholds or permitted areas affecting the parcel. Quintillion Networks, LLC submitted one pending application for a public utility easement within Section 18.

#### **K. Cultural Resources**

The Alaska Office of History and Archaeology (OHA) maintains the Alaska Heritage Resources Survey (AHRs), an inventory of all reported historic, prehistoric, and archaeological sites in the State. No cultural resources have been noted in this selection. However, only a very small portion of the State has been surveyed for cultural resources; therefore, the possibility remains that the selected lands may contain previously unidentified cultural resources. While the conveyance of these parcels will not directly affect 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 selections are 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 November 20, 2023, through December 29, 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.

DNR DMLW LCS received brief comments of non-objection from the following agencies: Alaska Department of Fish & Game (ADF&G), Department of Transportation & Public Facilities (DOT&PF), DNR Division of Parks and Outdoor Recreation (DPOR), DNR DMLW Statewide Abatement of Impaired Lands (SAIL), and DNR DMLW Northern Region Office (NRO).

*DNR DMLW LCS Response:* LCS appreciates your review.

#### Comments from the Alaska Department of Environmental Conservation (DEC):

"Based on the information provided, the Alaska Department of Environmental Conservation (DEC), Contaminated Sites Program (CSP) has no comments related to this information request. If the scope of the project changes, update your research and contact CSP as needed.

CSP provides resources for researching contaminated sites and groundwater plumes at <http://dec.alaska.gov/spar/csp/> through the Search Map and Search Database buttons. Site locations depicted by triangle on the CSP map may not denote the exact location of contaminated soil and groundwater. Contamination may be present at any site, including those



with an active, cleanup complete, or informational status. If you have questions about a specific site or contaminated groundwater plume, contact the staff person directly, or DEC-ICunit@alaska.gov when no staff person is listed. Additional documents can be requested.

Spills or releases to soil and water are also managed by the DEC Prevention Preparedness and Response Program (PPRP) and are not captured in the CSP database or map. Information about spills can be found in the PPRP SPILLS database at <https://dec.alaska.gov/Applications/SPAR/PublicMVC/PERP/SpillSearch>. For more information about spill responses contact the appropriate regional response team office <https://dec.alaska.gov/spar/ppr/spill-information/reporting/>.

In addition, actions, orders, and requirements of the Resource Conservation and Recovery Act (RCRA) or Toxic Substances and Control Act (TSCA) may also apply to a project area. Please consider applicable federal regulations and contact Region 10 of the Environmental Protection Agency if needed.

If during the project, a previously unknown area of contamination is discovered or a spill occurs, Alaska state law requires all oil and hazardous substance releases to be reported to the Department of Environmental Conservation. For reporting information, please visit: <https://dec.alaska.gov/spar/ppr/spill-information/reporting/>.”

*DNR DMLW LCS Response to DEC:* LCS appreciates DEC’s review. If the scope of the project changes, LCS will contact DEC.

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

“Thank you for the opportunity to review and comment on the proposed municipal entitlement land conveyance to the North Slope Borough. 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:**

This proposed state land conveyance, if approved, would partially fulfill North Slope Borough’s municipal land entitlement as provided under AS 29.65.010(a)(12). The parcel under consideration for this conveyance is located within: TOWNSHIP 11 NORTH, RANGE 9 EAST, UMIAT MERIDIAN Sec 7 & 18.

The parcel of approximately 505 acres is within the Arctic Coast Region of the NSAP, management unit A-12, which has co-classifications of Wildlife Habitat Land and Oil and Gas Land. The management intent for Unit A-12 includes the following language:

“Lands within this unit have been identified by the NSB as potential municipal entitlement selections and may be appropriate for conveyance based on a future decision. If a subsequent municipal entitlement decision determines that it is otherwise appropriate to convey state land to the borough, then the Ha and Og designations are extinguished and replaced by Rm designation that converts to a conveyable classification.”

This language allows the adjudicator to consider the above-described land for potential conveyance to the North Slope Borough, without requiring an amendment to the NSAP to change the land use classifications to conveyable classifications under AS 29.65.130.

**Recommendation:**

Taking the above area plan recommendations into account, the proposed municipal conveyance 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 (DOG):

"The Division of Oil and Gas has no objection to the proposed disposal. The State reserves its mineral interests in the entitlement area and currently has two active oil and gas leases, ADL 25644 and ADL 25655, within it."

*DNR DMLW LCS Response to DOG:* Thank you for your review. Conveyance of the selection will be subject to ADL 25644 and 25655.

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

"The lake that is meandered from the lands being adjudicated is greater than 50 acres. All other lakes/ponds are less than 5 acres. The average width of the small streams crossing the parcel are less than 10 feet wide; although there are isolated locations where the stream is greater than 20-50 feet wide. Therefore the large lake is navigable and public water, per AS 38.05.126, 127 as defined in AS 38.05.965 (14) and (21). Please reserve the appropriate easements to and along these public waters. The other waters do not require easements."

*DNR DMLW LCS Response to PAAD:* Thank you for your review. Per AS 38.05.127 Access to Navigable or Public Water, all waterbodies that are considered public, meanderable, 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 the appropriate to and along easements.

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

"The State Pipeline Coordinator's Section (SPCS) reviewed the Municipal Entitlement Preliminary Decision for North Slope Borough (NSB), Mine Site F East land transfer, ADL 422203. Based on the location of the land under discussion, it does not appear to encompass any AS 38.35 pipeline rights-of-way.

However, to access the proposed land may involve crossing or entering the AS 38.35 pipeline rights-of-way. The following AS 38.35 pipeline rights-of-way are in the vicinity of the proposed action.

- Kuparuk Pipeline Extension (ADL 409027)
- Pikka Pipeline Project (ADL 421843)
- Alpine Oil Pipeline (ADL 415701)

The SPCS requests that the North Slope Borough coordinate with the lessees listed below, if the proposed activities are anticipated to enter or cross the AS 38.35 pipeline rights-of-way, and/or coordinate with the AS 38.35 pipeline lessees if the proposed activities could affect the AS 38.35 pipeline related activities.

The AS 38.35 pipeline lessees may be contacted at:

Alpine Oil (ADL 415701), and Kuparuk Pipeline Extension (ADL 409027) Pipelines

ConocoPhillips Company (for Alpine), Kuparuk Transportation Company

Cameron Reitmeier, Vice President

P.O. Box 100360, ATO 20-2044

Anchorage, AK 99510-0360

907-265-6412

cameron.reitmeier@conocophillips.com

cc: sandra.m.pierce@conocophillips.com

Pikka Pipeline Project, ADL 421843  
Oil Search (Alaska) LLC  
A subsidiary of Santos Limited  
Patrick Conway, Environmental & Permitting  
P.O. Box 240927  
Anchorage, AK 99524-0927  
(907) 350-2127  
patrick.conway@santos.com  
cc: erika.denman@santos.com”

*DNR DMLW LCS Response to SPCS:* Thank you for your review. The above listed pipelines (ADL 409027, ADL 421843, ADL 415701) run south of the selection and do not cross the boundary. NSB will be notified to contact the pipeline lessees regarding access to the parcel.

Comments from the DNR DLMW Water Resource Section, Water Management Unit (WRS):  
“The DNR Water Resources Section, Water Management Unit, has no objection to the proposed, potential land conveyance for NSB under selection ADL 422203, near Kalubik Creek. There are no water rights or temporary water use authorizations in the selection area. There are temporary water use authorizations nearby under TWUA A2019-188 on a lake to the north of the selection area and under TWUAs A2020-109 and A2022-19 on Kuparuk Mine Site F just to the west. There is also TWUA A2022-19 on various impoundments in surrounding sections.”

*DNR DMLW LCS Response to WRS:* 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
- US Fish & Wildlife
- Office of Project Management and Permitting
- Department of Natural Resources
  - Division of Geological and Geophysical Surveys
  - Division of Forestry & Fire Protection (DOF&FP)
  - Division of Outdoor Parks and Recreation, Office of History and Archaeology

## **VII. SUBMITTAL OF PUBLIC COMMENTS**

### **See Attachment B: 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 comment 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 P.M., FRIDAY, APRIL 12, 2024**

**VIII. DISCUSSION AND ALTERNATIVES**

**A. Discussion**

This PD for NSB's municipal entitlement land selection covers approximately 505 acres of state land. LCS proposes to approve for conveyance and transfer equitable title and management authority on 505 acres, more or less, of state land identified in *Table 4* below.

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 A-12, recommends that specific 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 and upon such a determination the Habitat and Oil and Gas designations are extinguished and replaced by a designation of Resource Management which converts to the conveyable classification of Resource Management Land. The Habitat and Oil and Gas designations assigned to this unit will convert to the conveyable classification of Resource Management Land for only the selected land within this decision.

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 code. 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 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 with management authority transferred, 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 for conveyance (*Table 4*), 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, meanderable, and navigable (based on size) 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 for 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, and 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. Reservation of 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 Lease ADL 25644 and 25655.

**C. Recommended Action on Municipal Selections**

This decision recommends the 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 4 lists those lands proposed to be approved for conveyance in this decision. The estimated acreage for conveyance does not account for any exclusions, and exact acreages will be determined by survey. The final acreage amount will be credited towards partial fulfillment of the North Slope Borough municipal land entitlement.

Table 4

Map Name	MTR	Section and Legal Description	Acres
Mine Site F, East	U011N009E	Sec. 7: Uplands of S1/2NW1/4 (45 ac), uplands of SW1/4 (132 ac), uplands of W1/2NW1/4SE1/4 (3 ac), uplands of NW1/4SW1/4SE1/4 (4 ac), uplands of the S1/2SW1/4SE1/4 (19 ac), uplands of the SW1/4NE41/SW1/4SE1/4 (.3 ac)....204 ac.	204
		Sec. 18: N1/2....301 ac.	301
<b>PROPOSED CONVEYANCE: TOTAL APPROXIMATE ACRES</b>			<b>505</b>

**D. Preliminary Decision**

The following are the findings for this Preliminary Decision:

1. It is appropriate to extinguish the current Habitat and Oil and Gas designations for only the selected portion of land within Unit A-12 and replace them with the designation of Resource Management which converts to the conveyable classification of Resource Management Land.
2. It is appropriate to convey 505 acres, more or less, 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 the Borough to obtain it.

This Preliminary Decision, described above, represents the preferred alternative that has been reviewed and considered. After review and consideration of 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

3/14/2024  
Date



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

March 15, 2024  
Date

# North Slope Borough









Municipal Selections

Preliminary Decision

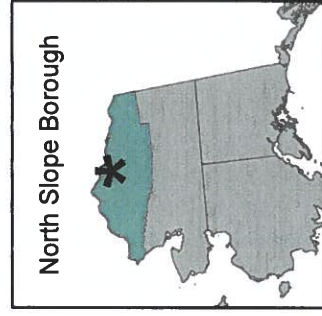
**ADL 422203**

Mine Site F, East

**Legend**

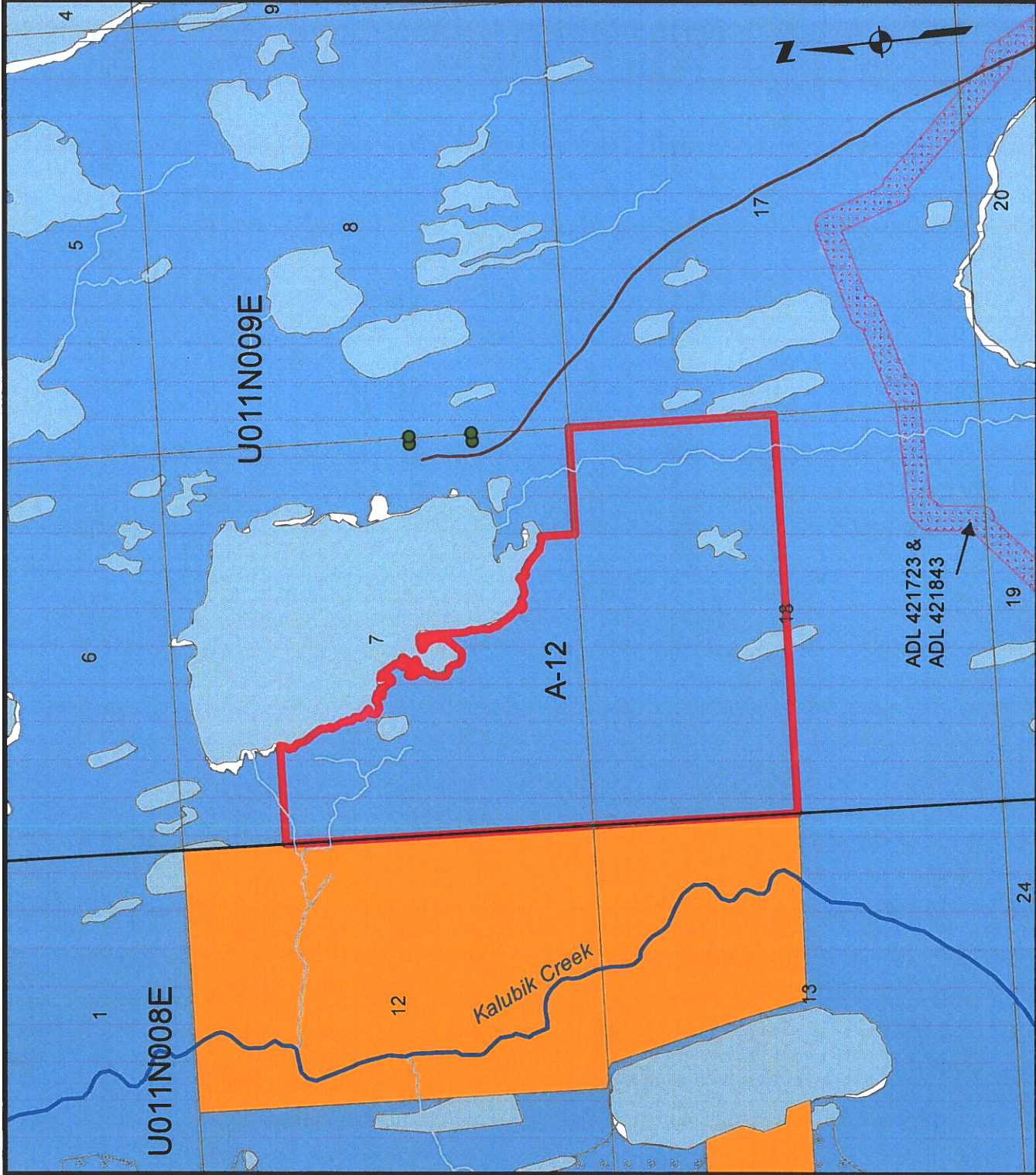
-  Anadromous Stream
-  Local Roads
-  Potential Hazard Site
-  Proposed Approval
-  Conveyed to Borough
-  State Land - TA or Patent
-  Mineral Leases
-  Easement

NSAP Unit A-12



Created by DNR-DMLW-LCS-ME

April 2024



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.





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

**Attachment B: PUBLIC NOTICE**

Requesting Input for a Proposed Conveyance Under AS 29.65  
**North Slope Borough Municipal Land Entitlement Selection – ADL 422203**

**COMMENT PERIOD ENDS: 4:30 P.M., FRIDAY, APRIL 12, 2024**

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 505 acres, more or less, of state-owned vacant, unappropriated, unreserved (VUU) general grant land to North Slope Borough (NSB) 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 Arctic Coast Region (the Western Planning area) 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 outweighs 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 p.m., Friday, April 12, 2024.** Only persons from whom LCS receives timely written comment during the identified comment period will be eligible to file an 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](mailto: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, LCS will consider the written responses received and may modify the decision 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. LCS will send a copy of the FFD 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, by email, phone, or 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 a.m. to 5:00 p.m., 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.