

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

PRELIMINARY DECISION
ADL 417596
BLM No. FF011943 (Parcel B)

**Proposed Reconveyance of a
Alaska Native Allotment in the North Slope Borough**

PUBLIC COMMENT PERIOD ENDS 4:30 PM, THURSDAY, AUGUST 12, 2021

I. Proposed Action

Preliminary Decision: Lydia K. Sovalik– ADL 417596

Attachment A: Public Notice

Attachment B: U.S. Survey No. 9490

Attachment C: Vicinity & Easement Map

Attachment D: Ownership Map

Proposed Action: The primary proposed action of this Preliminary Decision (PD) of the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) is to voluntarily reconvey to the United States of America, U.S. Survey No. 9490, containing 79.95 acres of wrongfully conveyed state land. See *Attachment C: Vicinity & Easement Map* for a depiction of the project area.

The subject parcel is an Alaska Native allotment, Bureau of Land Management (BLM) Serial No. FF011943 (Parcel B) claimed by Lydia K. Sovalik. The claim is being settled in accordance with the Stipulated Procedures for Implementation of Order approved by the Court to implement the decision in *Ethel Aguilar v. United States of America*, 474 F. Supp. 840 (D. Alaska 1979) (herein cited as *Aguilar*) and Alaska Statute (AS) 38.05.035(b)(9) *Powers and Duties of the Director*.

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

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

II. Authority

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

Preliminary Decision

ADL 417596

Page 2 of 7

III. Administrative Record

The DNR case file - ADL 417596 and BLM case file FF011943 (Parcel B), constitutes the administrative record for this proposed action. Also incorporated by reference are:

- North Slope Area Plan for State Lands (NSAP, adopted March 12, 2021) and associated land classification files; and
- DNR case files: GS 1359.

IV. Scope of the Proposal

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

V. Location

Located within DNR's Northern Region, approximately 22 miles east of Deadhorse, the project area is within Section 25, Township 10 North, Range 18 East, Umiat Meridian, within the North Slope Borough. The project area consists of approximately 79.95 acres identified for reconveyance by this proposed action. See *Attachment C: Vicinity & Easement Map* for a depiction of the project area.

USGS Map Coverage: Beechey Point A-1

Borough/Municipality: North Slope Borough

Native Councils and Corporations: The project area is within the boundaries of the Arctic Slope Regional Corporation. Deadhorse is within 25 miles of this proposed action and notice will be sent to Arctic Slope Native Association.

VI. Legal Description

The legal description is U.S. Survey No. 9490, Alaska, containing 79.95 acres, more or less, according to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management, Anchorage, Alaska, on July 11, 1989, and officially filed on July 26, 1989.

VII. Title

The State received title to the land on October 9, 1964 under a Tentative Approval, which was later modified via a Modified Tentative Approval on February 19, 1969. The State file is GS 1359. Title Report 21804 was issued June 3, 2021. No third-party interests were identified. The subject parcel contains proposed reservations, easements, and exceptions in the Tentative Approval.

Acquisition: The State filed selection application GS 1359 (BLM Serial No. 031840) for Township 10 North, Range 18 East, Umiat Meridian on January 8, 1964.

Restrictions: The Tentative Approval contains a proposed reservation for a right-of-way thereon for ditches and canals under the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945 and a reservation for the right-of-way thereon for the construction of railroads,

Preliminary Decision

ADL 417596

Page 3 of 7

telegraph and telephone lines, as prescribed and directed by the Act of March 12, 1914 (38 Stat. 305).

VIII. Background

Lydia K. Sovalik began her use and occupancy of the subject lands in 1941 according to documentation in DNR case file ADL 417596. The State filed selection application GS 1359 for Township 10 North, Range 18 East, Umiat Meridian on January 8, 1964 and received title by Tentative Approval on October 9, 1964. BLM surveyed the 79.95-acre parcel and issued plat U.S. Survey No. 9490 in 1989. On August 12, 2004, BLM determined Native Allotment application FF011943 (Parcel B) valid and the State received a request for reconveyance on September 14, 2005.

IX. Planning, Classification, and Mineral Orders

1. *Planning:* The subject parcel is located within the North Slope Area Plan (NSAP, adopted March 12, 2021), Arctic Coast Region, Unit A-06. The plan designates the subject parcel as Habitat and Oil and Gas. These designations convert to classifications of Wildlife Habitat Land and Oil and Gas Land. Recommended land use within this unit includes maintaining wildlife habitat and oil and gas resource values.
2. *Land Use Classification:* The State classified the subject parcel as Wildlife Habitat Land and Oil and Gas Land under Classification Order CL NC-19-001 based on NSAP, adopted 2021.
3. *Mineral Order:* No mineral order has been issued for the parcel in question.
4. *Local Planning:* This parcel does not exist within any local planning unit.

X. Traditional Use Finding

Before a sale, lease under *AS 38.05.070 – 38.05.105 Alaska Land Act*, or other disposal of state land in the unorganized borough, the Commissioner shall consider the effect that the sale, lease, or disposal may be expected to have on the density of population in the vicinity of the land, and potential for conflicts with the traditional uses of the land that could result from the sale, lease, or disposal. If necessary, the Commissioner shall develop a plan to resolve or mitigate the conflicts in a manner consistent with the public interest and the provisions of this chapter (§33 ch. 113 SLA 1981).

Additional information on traditional use is welcome during the public comment period and if this proposal is approved, LCS will address the information received in a subsequent FFD. See the **Section XVI. Submittal of Public Comments** at the end of this document and *Attachment A: Public Notice* for details on how to submit comment.

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

Public Access: This parcel is located on Foggy Island Bay, which has been determined to be a navigable and public waterbody. This parcel is primarily accessed by boat and ATV in the summer and by dogsled and snow machine in the winter.

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

Preliminary Decision

ADL 417596

Page 4 of 7

include 11 AAC 51.035 *Determination of Navigable and Public Water*, 11 AAC 51.045 *Easements To and Along Navigable and Public Water*, and 11 AAC 53.450, *Buffer Strips, Reserved Areas, and Public Easements*.

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

Subject to:

- (a) An easement fifty (50) feet in width for public access, upland, abutting, and running in common with the mean high water mark along the lagoon of Foggy Island Bay within USS 9490, Alaska, pursuant to AS 38.05.127 *Access to Navigable and Public Water*, 11 AAC 51.045 *Easements To and Along Navigable and Public Water*; and
- (b) All other valid existing rights, if any.

XII. Reservation of the Mineral Estate

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

XIII. Hazardous Materials and Potential Contaminants

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

XIV. Survey

The parcel is adequately surveyed for reconveyance to the United States of America.

XV. DMLW and Agency Review

Information and comments received from multiple sections with DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. Agency review was conducted from April 29, 2021 to June 1, 2021. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision (FFD).

DNR DMLW LCS received brief comments of non-objection from the following agencies:
DNR Division of Oil and Gas.

Preliminary Decision

ADL 417596

Page 5 of 7

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

- Alaska Department of Fish and Game
- State Historical Preservation Office

XVI. Submittal of Public Comments

See Attachment A: Public Notice for specific dates and conditions.

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

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

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

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

Only persons from whom DNR DMLW LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the 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/> or <https://aws.state.ak.us/OnlinePublicNotices/> and sent with an explanation of the appeal process to any party who provides timely written comment.

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

**DEADLINE TO SUBMIT WRITTEN COMMENT IS
4:30 PM, THURSDAY, AUGUST 12, 2021**

XVII. Discussion and Alternatives

The following alternatives were considered:

Alternative 1: Reconvey

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

Preliminary Decision

ADL 417596

Page 6 of 7

interest of the State to reconvey the parcel as proposed in this decision, and this is the preferred alternative.

Alternative 2: Retain

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

In accordance with the Stipulated Procedures for Implementation of Order in Aguilar, BLM reviewed and determined Ms. Sovalik's Native Allotment application to be valid on August 12, 2004. Based on documentation within BLM's case file and subsequent comments received from agency review, LCS has found no legal reason for denying this reconveyance subject to public notice and a final decision.

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

Recommendation follows.

Preliminary Decision

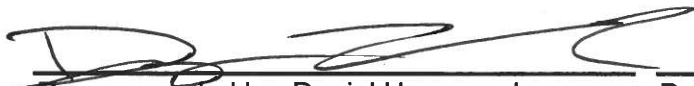
ADL 417596

Page 7 of 7


XVIII. Recommendation

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

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



Recommended by: Daniel Hovancsek Date July 12, 2021
Native Allotment Coordinator
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

for → 

Approved by: Rachel Longacre Date July 12, 2021
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

PUBLIC NOTICE

State of Alaska
Department of Natural Resources (DNR)
Division of Mining, Land and Water
Realty Services Section
550 W. 7th Ave., Suite 1050A
Anchorage, Alaska 99501-3579

Notice is hereby given that the Division of Mining, Land and Water has made a preliminary decision under AS 38.05.035(e) to reconvey the following erroneously conveyed State land to the United States of America for conveyance to the Native allotment applicant noted below pursuant to AS 38.05.035(b)(9) and in accordance with the Stipulated Procedures for Implementation of Order in *Aguilar v. United States*, 474 F. Supp. 840 (D. Alaska 1979):

Applicant: Lydia Sovalik Woods
BLM No.: FF-011943 (Parcel B)
ADL No.: 417596
Location: Section 25, T. 10 N., R. 18 E., Umiat Meridian
Survey: U.S. Survey No. 9490, containing 79.95 acres, more or less

The public is invited to comment on the proposals to reconvey the land. Copies of the Preliminary Decision are available from the address above. Comments must be in writing and received at the above physical address, faxed to (907) 269-8916, or submitted by email to danny.hovancsek@alaska.gov before August 12, 2021 in order to ensure consideration and appeal in accordance with 11 AAC 02.010(c). Public comments will be reviewed and considered in the Final Finding and Decision. The final decision will be issued on or about August 19, 2021, or thereafter, and will be sent to any person who commented during the thirty-day comment period. The Final Finding and Decision will provide additional information about the appeal procedures.

The State of Alaska, Department of Natural Resources, complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services, or special modifications to participate in this review may call 269-8411 TTY/TTD. Please provide sufficient notice in order for the Department to accommodate your needs.

The DNR, Division of Mining, Land and Water reserves the right to waive technical defects in this notice and will forgo an additional notice and comment period upon issuance of the Final Finding and Decision.

Date of Publication: July 12, 2021

**U. S. SURVEY
No. 9490, ALASKA**

GRAVESITE

From M.C.M.C. No. 1
A. gravestone bears S. 49°03' E., 29.92
CH. DIST.

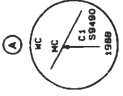
MEANDERS

Along a well-defined shoreline, 4 to 12
ft. high, at the line of mean high
tide.

1. N. 66°33' W., 12.39 CHS.
2. N. 62°41' W., 8.20 CHS.
3. N. 50°15' W., 25.88 CHS.

U.S.C. & G.S., 7th Ed., Sec. 1049
Let. 1049-1050, 1051, 1052, 1053, 1054
Long. 147°28' 45.42" W.
(NAD 1927)

U.S.C. & G.S., 7th Ed., Sec. 1049
Let. 1049-1050, 1051, 1052, 1053, 1054
Long. 147°28' 45.42" W.
(NAD 1927)



Drive on alum. rod, 6 ft. long, 3/4 in. diam., 5.5 ft. in the ground, with alum. cap marked as shown, from which
A. gravestone bears S. 49°03' E., 29.92
CH. DIST.

A pink DEEP-1 magnet bears S. 45°E., 15
lks. dist., 18 ins. below ground.

A blue DEEP-1 magnet bears S. 45°W., 15
lks. dist., 18 ins. below ground.
Bury a clear DEEP-1 magnet alongside
the alum. rod, 18 ins. below ground.

Drive on alum. rod, 6 ft. long, 3/4 in. diam., 5.5 ft. in the ground, with alum. cap marked as shown, from which
A. pink DEEP-1 magnet bears N. 45°E., 15
lks. dist., 12 ins. below ground.

A pink DEEP-1 magnet bears N. 45°E., 15
lks. dist., 12 ins. below ground.
Bury a clear DEEP-1 magnet alongside
the alum. rod, 12 ins. below ground.

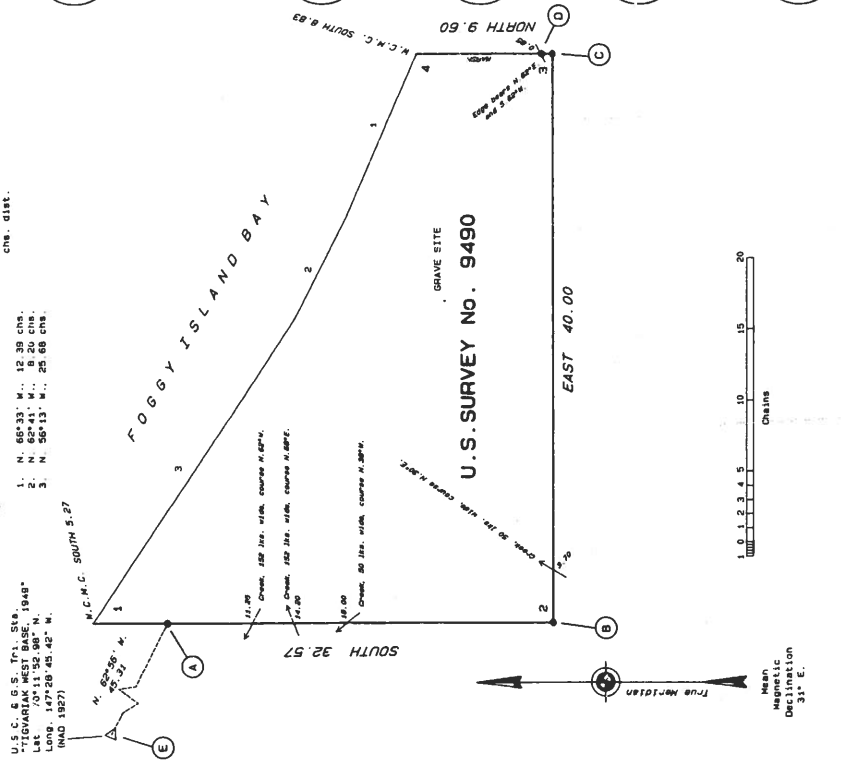
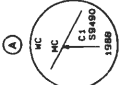
Drive on blue. rod, 6 ft. long, 3/4 in. diam., 5.5 ft. in the ground, with alum. cap marked as shown, from which
A. pink DEEP-1 magnet bears N. 45°E., 15
lks. dist., 12 ins. below ground.

A pink DEEP-1 magnet bears N. 45°E., 15
lks. dist., 12 ins. below ground.
Bury a clear DEEP-1 magnet alongside
the alum. rod, 12 ins. below ground.

Drive on blue. rod, 6 ft. long, 3/4 in. diam., 5.5 ft. in the ground, with alum. cap marked as shown, from which
A. pink DEEP-1 magnet bears S. 45°E., 15
lks. dist., 18 ins. below ground.

A pink DEEP-1 magnet bears S. 45°E., 15
lks. dist., 18 ins. below ground.
Bury a clear DEEP-1 magnet alongside
the alum. rod, 18 ins. below ground.

Recovered a copper pipe, 3 ins. diam.,
firmly set, projecting 18 ins. above
the ground, with a standard brass disk
braced to the top, and, as shown
Referenced as described in the official
records.



This plat contains the entire survey record.
The exterior boundaries of fractional Township
10 North, Range 18 East, Unit Meridian, Alaska,
were surveyed by Jerome C. Ives, Supervisory
Cadastral Surveyor, in 1965.

This survey was executed by Kenneth J. Ludy,
Registered Alaska Land Surveyor No. 13802,
in accordance with the specifications set forth in
the Manual of Surveying Instructions, 1923,
August 4, 1967, under Contract No. Y4551-07E-
48041, awarded June 3, 1968, and Notice to
Proceed dated July 15, 1968.

Field assistants were:
Charles E. Akin, Jr., Cadastre and Surveyor,
Robert A. Brown, Land Surveyor,
Marren P. Latvala, Land Surveyor.
Area: 79.95 Acres.

The azimuth was obtained by direct observations
of the Sun, and refers to the true meridian.
The geographic position of the witness corner to
the west of the monument was determined
by a direct tie United States Coast
and Geodetic Survey triangulation station
"TIGOMIAK WEST 1949", is:

Latitude: 70°11'38.80" North
Longitude: 147°27'28.17" West (MAD 27)

The observed magnetic declination is 31° East.
This survey is situated on the southeastern
shore of Foggy Island Bay, approximately 22
miles easterly of Prudhoe Bay, Alaska.

The land is rolling tundra, being very marshy in
the lower elevations, vegetated with native
grasses and berry plants.

Permafrost lies approximately 9 to 12 inches
below the topsoil of organic loam.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ANCHORAGE, ALASKA

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

For the Director
James D. Evans
Deputy State Director for Cadastral Survey,
Alaska.
Acting



I, Kenneth J. Ludy, Registered Alaska Land Surveyor No.
13802, hereby certify that the foregoing is a true and
correct copy of the original survey record, and that I have
Special Instructions dated May 1, 1967, and under Contract
No. Y4551-07E-48041, awarded June 3, 1968, and I have
conformed with said Special Instructions, the Manual of
Instruction for the Survey of Public Lands of the United
States, 1923, and in the specific manner describing on this
plat.

Kenneth J. Ludy
Date July 16, 1989
Registered Land Surveyor

S. R. S.

Attachment C: Vicinity & Easement Map Lydia Sovalik Woods ADL 417596



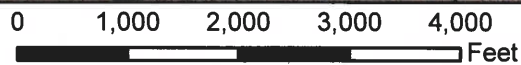
This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



Source: Esri, Maxar, GeoEye, Earthstar
Geographics, CNES/Airbus DS, USDA, USGS, munty

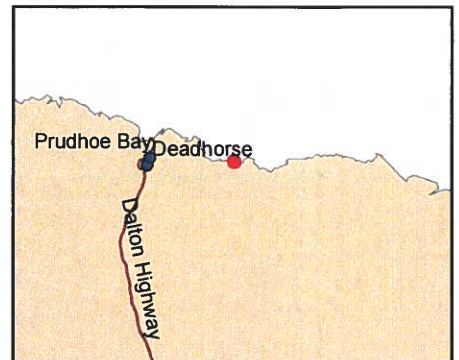
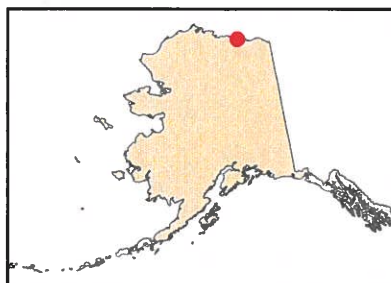
Legend

- 50-Foot Public Access Easement
- ▭ Lydia Sovalik Woods Native Allotment



DLH 6/14/21

**Section 25, Township 10 North,
Range 18 East, Umiat Meridian**



USGS QUAD 1:63,360 Beechey Point A-1

For more information contact:

Daniel Hovancsek

Department of Natural Resources

Division of Mining, Land and Water

Land Conveyance Section

Phone: 907-269-8574

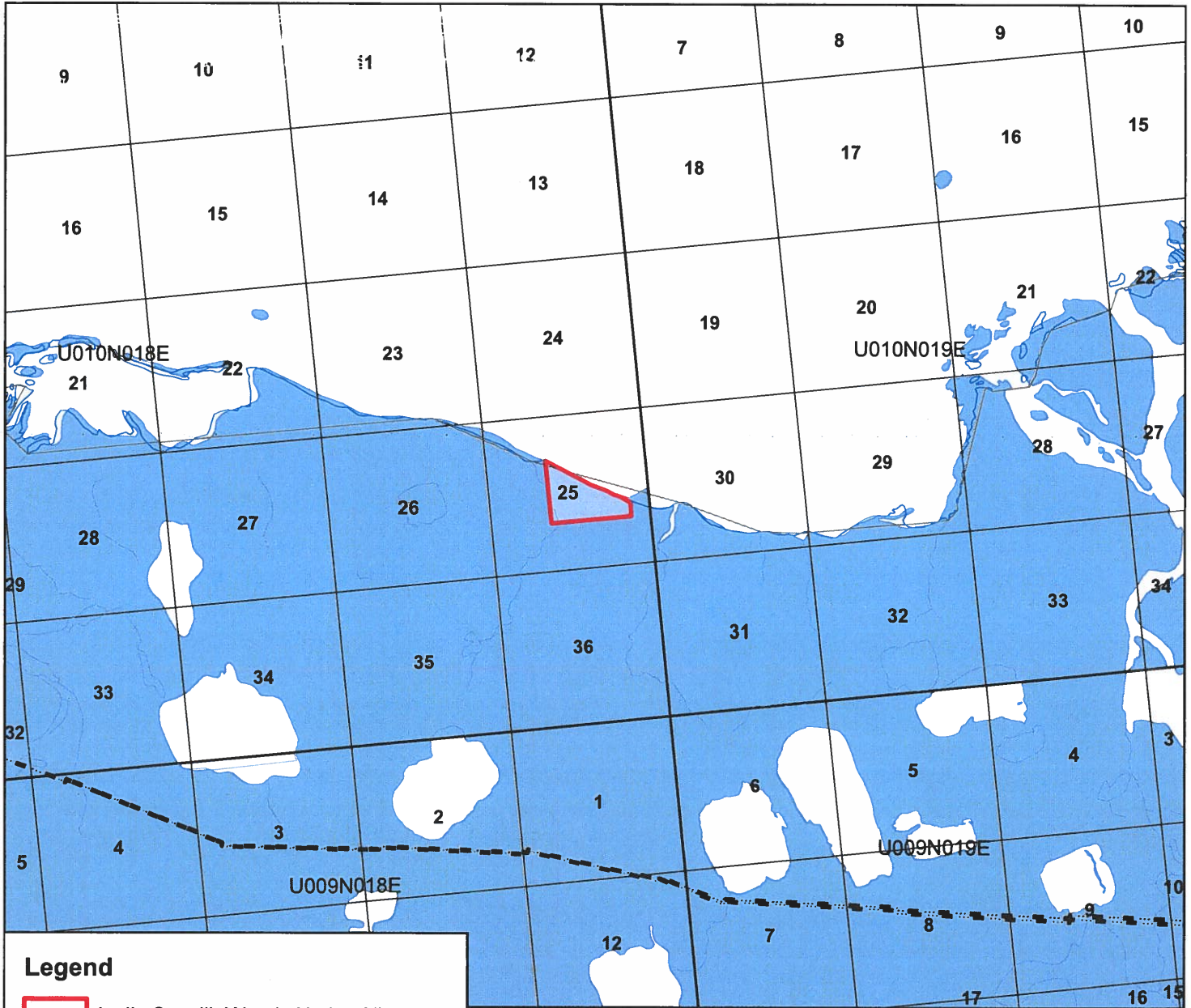
Fax: 907-269-8916

Email: danny.hovancsek@alaska.gov







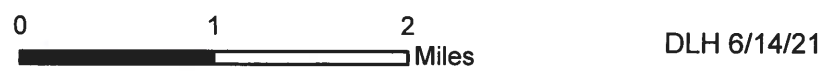


Attachment D: Ownership Map Lydia Sovalik Woods ADL 417596



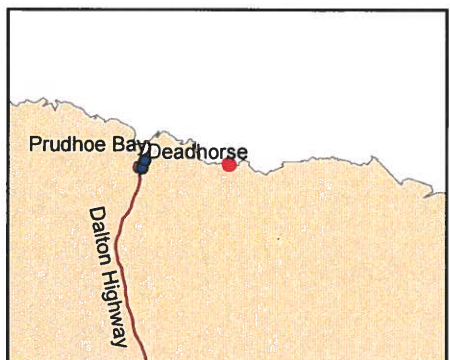
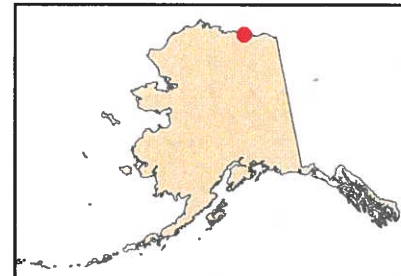
Legend

-  Lydia Sovalik Woods Native Allotment
-  Badami Oil Pipeline
-  State Patented Lands
-  State Tentatively Approved Lands



DLH 6/14/21

**Section 25, Township 10 North,
Range 18 East, Umiat Meridian**



USGS QUAD 1:63,360 Beechey Point A-1
 For more information contact:
 Daniel Hovancsek
 Department of Natural Resources
 Division of Mining, Land and Water
 Land Conveyance Section
 Phone: 907-269-8574
 Fax: 907-269-8916
 Email: danny.hovancsek@alaska.gov

