

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

FINAL FINDING AND DECISION

of a
Reconveyance of Alaska Native Allotment Case File FF017959
ADL 421586

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) for ADL 421586 issued on April 21, 2021.

I. Recommended Action

On April 21, 2021, the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) proposed to voluntarily reconvey to the United States of America approximately 95.55 acres of wrongfully conveyed State land located within Section 12, Township 30 North, Range 41 West, Seward Meridian in the Mount McKinley Recording District. The parcel is described as Lot 2, U.S. Survey No. 7296 and is claimed by Marian Norback (deceased) as her Native Allotment. There are no changes to the stipulations outlined in the attached PD.

II. Authority

This reconveyance is being adjudicated pursuant to Alaska Statute (AS) 38.05.020 *Authority and Duties of the Commissioner*, AS 38.05.035 *Power and Duties of the Director*, AS 38.05.830 *Land Disposal in the Unorganized Borough*, 11 Alaska Administrative Code (AAC) 67.930 *Purpose and Procedure*, and the settlement authority of the Attorney General in accordance with the Stipulated Procedures for Implementation of Order, *Aguilar v. United States* 474 F. Supp. 840 (D. Alaska 1979), (herein cited as *Aguilar*). The authority to execute this Final Finding and Decision has been delegated to the Section Chief, LCS, DMLW, DNR, pursuant to AS 38.05.035(b)(1) *Power and Duties of the Director*.

III. Public Notice

Pursuant to AS 38.05.945 *Notice*, a public notice announcing the PD for the proposed Native Allotment reconveyance along with the solicitation for public comment was published and distributed in compliance with the above statute in the following manner:

- Posted under State of Alaska Online Public Notice from April 21, 2021 to May 25, 2021;
- Mailed, with a request to post for 30 days, to postmasters in Takotna and McGrath per AS 38.05.945(c)(4) *Notice*;
- Mailed to the regional and village corporations per AS 38.05.945(c)(2)-(3) *Notice*; and
- Mailed to the heirs of Marian Norback (allottee), Tanana Chiefs Conference, MTNT Ltd., Doyon Ltd., Alaska Legal Services Corporation, Bureau of Land Management, and Bureau of Indian Affairs.

The public notice stated that written comments must be received by 5:00 PM Tuesday, May 25, 2021 in order to ensure consideration and eligibility to appeal. For more information, refer to the attached PD.

IV. Comments Received

No written comments were received during the public comment period.

V. Modifications to Decision and Stipulations

The recommended action has not been modified from the original proposed action of described in the PD of April 21, 2021. It is in the best interest of the State of Alaska to reconvey the land to the United States subject to the reservations, exceptions, and restrictions, as stated below. This will allow the heirs to 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. The State of Alaska may proceed with reconveyance of Lot 2, U.S. Survey No. 7296, to the United States of America subject to the following easements, reservations, exceptions, and restrictive covenants:

Subject to:

- a) An easement fifty (50) feet in width for public access, upland, abutting, and running in common with the ordinary high-water mark along both sides of Fourth of July Creek bisecting Lot 2, U.S. Survey No. 7296, 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*;
- b) An easement fifty (50) feet in width along the west side of the protracted township line in common with Township 30 North, Range 41 West, Seward Meridian and Township 30 North, 40 West, Seward Meridian pursuant to *AS 19.10.010 Dedication of Land for Public Highways, 11 AAC 51.025 Section Line Easements, and AS 19.25.010 Use of Rights-of-way for Utilities*;
- c) A right-of-way easement fifty (50) feet in width along each side of the centerline of the RST 201, Takotna-Flat Winter Trail (via Moose Creek) pursuant to *AS 38.04.050 Access to Private Use Areas, 11 AAC 51.015 Standards for Public Easements, AS 19.10.015 Establishment of Highway Widths; and*
- d) All other valid existing rights, if any.


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

The following condition will be contained in the conveyance document and pertains to this reconveyance. The following interest will merge with the title once the land is conveyed back to the United States:

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


VI. Final Finding and Decision

LCS recommends proceeding with the proposed action as described in the Preliminary Decision. This action is undertaken under relevant authorities. Public notice has been accomplished in accordance with AS 38.05.945 Notice, and comments received were considered. The case file has been found to be complete and the requirements of all applicable statutes, regulations, and court orders have been satisfied.



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

Under the authority of the applicable statutes and Aguilar, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended action as described and referenced herein.

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

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Appeal Provision

A person affected by this decision who provided timely written comments on this decision may appeal it, in accordance with *11 AAC 02 Appeals*. Any appeal must be received within 20 calendar days after the date of issuance of this decision, as defined in *11 AAC 02.040(c) and (d) Timely Filing*, and may be delivered to the Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 907-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Under *11 AAC 02.030 Filing an Appeal*, appeals and requests for reconsideration filed under *11 AAC 02 Appeals* must be accompanied by the fee established in *11 AAC 05.160(d)(1)(F) Other, or General, Land Management Where Not Otherwise Established*, which has been set at \$200 under the provisions of *11 AAC 05.160(a)-(b) Other, or General, Land Management Where Not Otherwise Established*. If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the Department on the 31st day after issuance. An eligible person must first appeal this decision in accordance with *11 AAC 02 Appeals* before appealing this decision to Superior Court (*11 AAC 02.020(a)-(b) Finality of a Decision for Purposes to Appeal to Court*). A copy of *11 AAC 02 Appeals* may be obtained from any regional information office of the Department of Natural Resources.