

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

**PRELIMINARY DECISION**

**ADL 415636, ADL 415639, ADL 415797, ADL 415800 through ADL 415805,  
ADL 415808 through ADL 415812, 417601, ADL 417602 and ADL 417991**

**CONVEYANCE OF LAND UNDER 29.65.030  
DENALI BOROUGH MUNICIPAL SELECTIONS**

**Proposed Action**

The Alaska Department of Natural Resources, Mining, Land and Water (DNR) proposes to convey approximately 24,821 acres of state-owned land to the Denali Borough (DB) and reject and retain in state ownership approximately 18,500 acres for public access and fish and wildlife resource protection purposes. The land is located approximately 110 miles south of Fairbanks, primarily on the Parks Highway between Anderson and Cantwell. This land is managed by the state under the Tanana Basin Area Plan (TBAP). The borough will use this land as a resource base for infrastructure development including public purpose facilities, land disposal for community expansion, and commercial and recreation facilities.

This decision also clarifies the Final Finding and Decision dated June 26, 2000, approving land to the DB in the Montana Creek and Yanert areas. This decision provides a detailed description of what was intended to be approved and approves additional land in each area selected by the borough.

In order to convey portions of the borough's selections, the Tanana Basin Area Plan (TBAP) must be amended to change certain plan designations into conveyable classifications. An amendment and land classification order will be processed concurrent with this decision process to reclassify those parcels found appropriate for conveyance to the DB as referenced in the plan amendment.

The public is invited to comment on this Preliminary Decision and concurrent plan amendment action. Separate comments should be submitted for each action. The deadline for comments is July 31, 2008. Following the comment deadline, all written responses will be considered and this decision may be modified. See the section titled *Public Notice, Decision and Appeal Procedures* at the end of this decision for details on how to submit comments.

**Authority**

AS 29.65, General Grant Land (aka Municipal Entitlement Program) and AS 38.05.035(e), Powers and Duties of the Director (state's written best interest finding). The director has delegated to the Section Chief, Resource Assessment and Development Section authority to approve proposed and final decisions as indicated in the Division of Mining, Land and Water Delegations and Redelegations dated September 9, 2004.

### **Administrative Record**

Department of Natural Resources case files ADLs 415636, 415639, 415797, 415800 through 415805, 415808 through 415812, 417601, 417602 and 417991 comprise the administrative record used as the basis for this decision.

### **Scope of Decision**

The scope of administrative review, under AS 38.05.03(e)(1-2), for this proposed land transfer is limited to the decision to transfer title from the state to the DB towards satisfaction of their land entitlement. The scope of this review does not take into account any future development, or the effects of such, that may occur after transfer of title.

### **Description**

Location: The selections are located near Anderson, Healy, Cantwell and Denali National Park.  
Borough/Municipality: Denali Borough.  
Regional Native Corporations: Doyon Limited and Ahtna Inc.  
Village Corporation: None.  
Coastal District: None.

### **Legal Description/Title**

A general legal description and land title status for each parcel is presented below. Detailed legal descriptions can be found near the end of this decision under the section titled *Discussion and Recommendations*.

#### **Anderson: ADL 415639**

(USGS Quadrangle: Fairbanks B-5)

Borough Selection	State Title	Date Title Received	State Selection File
T7S, R8W, FM Sec. 12	Patent 50-94-0241	August 3, 1994	CG 100
<i>Third Party Interests:</i> None.			

#### **Brown's Court: ADL 415797**

(USGS Quadrangle: Fairbanks A-5)

Borough Selection	State Title	Date Title Received	State Selection File
T8S, R8W, FM Sec.7	Patent 50-80-0137	August 15, 1980	GS 505
<i>Third Party Interests:</i>			
ADL 20529, Utility Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 30788, Utility Easement, 100 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 412566, Public Easement, 100 feet wide, issued to Department of Natural Resources, Division of Mining, Land and Water, (DNR, DMLW).			
ADL 418268, Utility Easement Application, 30 feet wide, from GCI Fiber Communication			

Co., Inc. from Willow to Fairbanks.
RST 119, Kobi-Bonnifield Trail to Tatlanika Creek (RS2477).
<i>Other:</i>
ADL 414908, Trespass, illegal garbage dump with possible hazardous material.

**Rex Bridge: ADL 417991**

(USGS Quadrangle: Fairbanks A-5)

Borough Selection	State Title	Date Title Received	State Selection File
T8S, R9W, FM Sec. 23	Tentative Approval	April 1, 1980	GS 690
T8S, R9W, FM Secs. 26 & 35	Tentative Approval	October 1, 1962	GS 690
<i>Third Party Interests:</i>			
ADL 30788, Utility Easement, 100 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 417021, Utility Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc., expires 11/30/2008.			
ADL 415388, Public Easement, issued to DOTPF for an embankment at the Birch Creek highway crossing.			
ADL 418268, Utility Easement Application, 30 feet wide, from GCI Fiber Communication Co., Inc. from Willow to Fairbanks.			

**West: ADL 417601**

(USGS Quadrangle: Fairbanks A-5 and A-6)

Borough Selection	State Title	Date Title Received	State Selection File
T10S, R10W, FM Secs. 14-16, 21, 22-23 & 26-28	Patent 50-88-0231	July 28, 1988	GS 3641
<i>Third Party Interests:</i> None.			

**East: ADL 415805**

(USGS Quadrangle: Fairbanks A-3)

Borough Selection	State Title	Date Title Received	State Selection File
T8S, R4W, FM Secs. 13, 14, 23 & 24	Tentative Approval	August 26, 1974	GS 2206
<i>Third Party Interests:</i>			
LAS 24686, Permit, issued to Alaska Department of Fish & Game for prescribed burn, expires 6/29/2010.			
RST 119, Kobe-Bonnifield Trail to Tatlanika Creek (RS 2477).			

(USGS Quadrangle: Fairbanks A-2)

Borough Selection	State Title	Date Title Received	State Selection File
T9S, R1W, FM Secs. 2-5	Tentative Approval	August 22, 1974	GS 2202
<i>Third Party Interests:</i> None.			

(USGS Quadrangle: Fairbanks A-3)

Borough Selection	State Title	Date Title Received	State Selection File
T10S, R4W, FM Sec. 24	Tentative Approval	August 22, 1974	GS 2202
Third Party Interests: None.			

**Slate Creek: ADL 415800**

(USGS Quadrangle: Healy D-5)

Borough Selection	State Title	Date Title Received	State Selection File
T11S, R8W, FM Secs. 9, 16, 21, 27, 28 & 34	Patent 50-05-0328	August 5, 2005	GS 687
<i>Third Party Interests:</i>			
ADL 30788, Utility Easement, 100 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 410653, Public Easement, 100 feet wide, issued to John L. Elmore for access road.			
ADL 412368, Public Easement, 60 feet wide, issued to David B. Dalton.			
ADL 413763, Public Easement, 25 feet wide, issued to Scott S. Stowell for access road.			
ADL 415777, Material Sale Renewal Application, from Department of Transportation and Public Facilities (DOTPF).			
ADL 417021, Utility Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 417702, Utility Easement, 20 feet wide, issued to Matanuska Telephone Assoc. for telecommunication line.			
ADL 418026, Public Easement Application, from Michelle L. Vlah for driveway.			
ADL 418268, Utility Easement Application, 30 feet wide, from GCI Fiber Communication Co., Inc. from Willow to Fairbanks.			
LAS 19739, Permit Renewal Application, from University of Alaska Fairbanks for forestry research plots.			

**Panguingue A: ADL 415809 & ADL 415810**

(USGS Quadrangle: Healy D-5)

Borough Selection	State Title	Date Title Received	State Selection File
T12S, R9W, FM Secs. 11, 13 & 14	Tentative Approval	April 19, 1966	GS 1488
<i>Third Party Interests:</i>			
ADL 400070, Public Easement (known as Stampede Road), 100 feet wide, issued to DOTPF.			
LAS 24220, Permit, issued to University of Florida for scientific research, expires 6/30/08.			
RST 340, Lignite-Stampede-Kantishna via Clearwater Trail (RS2477).			
RST 344, Lignite-Kantishna Trail (RS2477).			

Borough Selection	State Title	Date Title Received	State Selection File
T12S, R8W FM Sec. 18	Patent 50-85-0526	May 25, 1984	GS 756
<i>Third Party Interests:</i>			
ADL 400070, Public Easement (known as Stampede Road), 100 feet wide, issued to DOTPF.			
ADL 401881, Public Easement, 60 feet wide, issued to DNR, DMLW for public access.			
RST 340, Lignite-Stampede-Kantishna via Clearwater Trail (RS2477).			
RST 344, Lignite-Kantishna Trail (RS2477)			

**Panguingue B: ADL 415809**

(USGS Quadrangle: Healy D-5)

Borough Selection	State Title	Date Title Received	State Selection File
T12S, R8W, FM Secs. 1, 2, 10, 11 & 12	Patent 50-84-0526	May 25, 1984	GS 765
<i>Third Party Interests:</i>			
ADL 30788, Utility Easement, 100 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 50661, Utility Easement, 20 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 56969, Utility Easement, 30 feet wide, issued to Berle E. Mercer for utility lines.			
ADL 59603, Public Easement, 22 feet wide, issued to DOTPF for public access.			
ADL 400070, Public Easement (known as Stampede Road), 100 feet wide, issued to DOTPF.			
ADL 401881, Public Easement, 60 feet wide, issued to DNR, DMLW for public access.			
ADL 408885, Material Sale, issued to DOTPF for gravel, expires 12/31/10.			
ADL 410763, Utility Easement, 15 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 414712, Public Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 416618, Material Sale (Mile 1.7 Stamped Rd), issued to DOTPF, expires 5/20/11.			
ADL 417021, Utility Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 417023, Land Sale Application, for purchase of State Land from Baxter E. Mercer.			
ADL 418268, Utility Easement Application, 30 feet wide, from GCI Fiber Communication Co., Inc. from Willow to Fairbanks.			
LAS 20704, Permit, issued to Berle E. Mercer for grazing and harvesting hay, expires 9/29/10. (Pending Lease Application filed under ADL 415964).			
LAS 24549, Permit, issued to Coke W. Wallace for grazing, expires 10/11/11.			
RST 340, Lignite-Stampede-Kantishna via Clearwater Trail (RS 2477).			
RST 344, Lignite-Kantishna Trail (RS 2477).			

**Healy: ADL 417602**

(USGS Quadrangle: Healy D-5)

Borough Selection	State Title	Date Title Received	State Selection File
T12S, R8W, FM Secs. 11, 12, 13 & 14	Patent 50-84-0526	May 25, 1984	GS 765
<i>Third Party Interests:</i>			
ADL 30788, Utility Easement, 100 feet wide, issued to Golden Valley Electric Assoc., Inc.			

ADL 50661, Utility Easement, 20 feet wide issued to Golden Valley Electric Assoc., Inc.
ADL 414756, Private Easement, 50 feet wide, issued to Montine C. Evans.
ADL 417021, Public Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.
ADL 418268, Utility Easement Application, 30 feet wide, from GCI Fiber Communication Co., Inc. from Willow to Fairbanks.

**Otto Lake: ADL 415801**

(USGS Quadrangle: Healy D-5)

Borough Selection	State Title	Date Title Received	State Selection File
T12S, R8W, FM Secs. 26, 27 & 35	Patent 50-67-0241 Sec. 26	October 26, 1966	GS 765
	Patent 50-84-0526 Sec. 27	May 25, 1984	
	Patent 50-01-0113 Sec. 35	January 24, 2001	
<i>Third Party Interests:</i>			
ADL 417390, Lease Application, from Frank H. Talerico for project expansion.			
ADL 417430, Easement Application, from Frank H. Talerico for access road.			
RST 709, Healy-Diamond Coal Mine Dirt Road (RS2477).			

**Nenana Canyon: ADL 415636**

(USGS Quadrangle: Healy D-4)

Borough Selection	State Title	Date Title Received	State Selection File
T13S, R7W, FM Secs. 5-9, 16, 21, 22, 27 & 28	Tentative Approval Secs. 7,16, 21, 22, 27 & 28	May 2, 1966	GS 1491
	Tentative Approval Secs. 5, 6, 8 & 9	May 9, 1996	
<i>Third Party Interests:</i>			
ADL 57381, Utility Easement, 40 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 408717, Material Sale, issued to DOTPF, expires 12/31/09.			
ADL 414919, Lease, issued to CBK Inc. for RV Park, ASLS 94-97, expires 7/31/30.			
ADL 416740, Utility Easement Application, 5 feet wide, from Matanuska Telephone Assoc., Inc.			
ADL 417514, Utility Easement Application, 30 feet wide, from Golden Valley Electric Assoc., Inc.			
LAS 23315, Permit, 50 feet wide, issued to Brian Cook for driveway.			
LAS 25888, Permit, issued to the Alaska Railroad Corp. for winter access to Moody Tunnel, expires 4/30/09.			
LAS 26510, Permit, issued to DOTPF for drilling test holes on Material Sale, expires 11/9/12.			
LAS 26747, Permit, issued to DCCED Alaska Industrial Development Export Authority, for an air monitoring station at Bison Gulch, expires 2/28/13.			

**Montana Creek: ADL 415802 & 415804**

(USGS Quadrangle: Healy C-4 & D-4)

Borough Selection	State Title	Date Title Received	State Selection File
T13S, R7W FM Secs. 34 & 35	Tentative Approval	May 2, 1966	GS 1491
<i>Third Party Interests:</i>			
ADL 416400, Private Easement, of variable width, issued to Denali Properties, LLC-Aramark Grande Denali Lodge for road, parking area and discharge pipe, expires 3/8/36.			
ADL 415618, Private Easement, 5 feet wide, issued to Michael Crofoot for water line, expires 8/31/24.			

(USGS Quadrangle: Healy C-4)

Borough Selection	State Title	Date Title Received	State Selection File
T14S, R6W FM Secs. 6 & 18	Patent 50-2005-0397	August 26, 2005	GS 1506
<i>Third Party Interests:</i>			
ADL 213063, Public Easement, 400 feet wide, issued to DCCED Alaska Energy Authority for Electric Power Transmission Line, Willow-Healy Intertie.			

(USGS Quadrangle: Healy C-4)

Borough Selection	State Title	Date Title Received	State Selection File
T14S, R7W FM Secs. 1, 2, 3, 10, 11, 12, 13, 14 & 15	Patent 50-85-0295	March 29, 1985	GS 1507
<i>Third Party Interests:</i>			
ADL 213063, Public Easement, 400 feet wide, issued to DCCED Alaska Energy Authority for Electric Power Transmission Line, Willow-Healy Intertie.			

**Yanert: ADL 415803 & ADL 415811**

(USGS Quadrangle: Healy C-4)

Borough Selection	State Title	Date Title Received	State Selection File
T14S, R6W FM Secs. 31-35	Patent 50-2005-0396 Patent 50-2005-0397	August 26, 2005 August 26, 2005	GS 1506
<i>Third Party Interests:</i>			
ADL 213063, Public Easement, 400 feet wide, issued to DCCED Alaska Energy Authority for Electric Power Transmission Line, Willow-Healy Intertie.			

**Yanert B: ADL 415803**

(USGS Quadrangle: Healy C-4)

Borough Selection	State Title	Date Title Received	State Selection File
T14S, R7W FM Sec. 36	Patent 50-85-0295	March 29, 1985	GS 1507
<i>Third Party Interests:</i>			
ADL 74265, Utility Easement Application, 10 feet wide, from Matanuska Telephone Assoc. Inc.			
ADL 400671, Public Easement, variable width, issued to Stephen E. Jones.			
ADL 415109, Utility Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.			
ADL 417576, Land Sale Nomination, for offering of State Land from Nancy and Steve Jones.			

**Nenana River 1: ADL 415812**

(USGS Quadrangle: Healy B-4)

Borough Selection	State Title	Date Title Received	State Selection File
T17S, R6W FM Sec. 12	Tentative Approval	December 30, 1982	GS 1512
<i>Third Party Interests:</i> None.			

**Background**

The DB was granted a general grant land entitlement of 49,789 acres pursuant to AS 29.65.030. The borough's original land selections were received by the Department of Natural Resources on June 10, 1996. Lands determined to be appropriate for conveyance at that time were adjudicated, resulting in the borough receiving approximately 20,485 acres of their entitlement, with approximately 29,304 acres yet to be fulfilled. The balance of the borough's land selections have been on hold pending reclassification and revision of the TBAP since much of the land the borough selected has a classification that does not allow for conveyance under the municipal entitlement program. This was due to the TBAP being adopted in 1985 and updated in 1991 before the borough was eligible to make their land selections and the plan did not take into account the need to provide conveyable land. Accordingly, a plan amendment must occur in order for these selections to be conveyable under AS 29.65. Only those lands determined appropriate for conveyance will be reclassified.

**Planning and Classification**

The municipal selections are within TBAP Management Subregion 4, the Parks Highway and West Alaska Range, which is one of the most accessible subregions in the basin. The area is bisected by the highway and the railroad and there are many trails, roads and rivers which extend into the backcountry. The majority of the borough selections are affected by classifications that are non conveyable to a municipality under AS 29.65. Therefore, the TBAP is being amended concurrent with this decision in order to process those selections determined appropriate for conveyance. Those selections determined to be inappropriate for conveyance will not be reclassified and will remain in state ownership. The table below identifies the classification of



each parcel and if a change in classification is necessary. The plan amendment can be viewed at: <http://www.dnr.state.ak.us/mlw/planning/areaplans/>.

**TBAP Management Unit and Classification Table**

<b>Selection Name (ADL)</b>	<b>Region and Management Unit</b>	<b>Current Classification</b>	<b>New Management Unit</b>	<b>Proposed Classification</b>	<b>Total Acres</b>
Anderson (ADL 415639)	4F4	RMG	No Change	No Change	80.00
Browns Court (ADL 415797)	4F2 4F3	PUR WHB AGR STL	4F5	STL	521.00
Rex Bridge (ADL 417991)	4F2 4R1	PUR WHB PUR WHB	4F6 4R6	PUR	559.00
West (ADL 417601)	4G2 4G1	WHB RMG	4G3 No change	RMG No Change	5,760.00
East (ADL 415805)	4L1 4Q2 4P1	PUR WHB WHB MIN WHB	4L2 4Q4 4P3	RMG	5,760.00
Slate Creek (ADL 415800)	4F1b	STL	No Change	No Change	959.00
Slate Creek (ADL 415800)	4F2	PUR WHB	4F7	PUR	405.00
Panguingue A (ADL 415809)	4E1	PUR WHB	4E2	PUR	1,565.00
Panguingue B (ADL 415809)	4F2	PUR WHB	4F8	PUR	2,465.00
Healy (ADL 417602)	4F2	PUR WHB	4F9	PUR	731.00
Otto Lake (ADL 415801)	4E1 4F1	PUR WHB STL	4E3 No Change	STL No Change	1,501.00
Nenana Canyon (ADL 415636)	4F2 4R3 4R2 4C2 4D1	PUR WHB PUR WHB PUR WHB PUR WHB MIN WHB	4F10 4R7 4R7 4C3 4D4	PUR	1737.00
Montana Creek (ADL 415802)	4C2	PUR WHB	4C4	PUR	460.00
Yanert (ADL 415803, ADL 415811)	4C2 4C1	PUR WHB STL	4C5 No Change	PUR No Change	2,240.00
Yanert B (ADL 415803)	4R4 4C1	PUR WHB STL	4R8 No Change	PUR No Change	38.00
Nenana River 1 (ADL 415812)	4B1	PUR WHB	4B2	PUR	80.00

## **Mineral Orders**

Mineral Closing Order's 65, 203, 376, 377, 426 and 510 have been identified within the project areas. These orders have no effect on the proposed conveyance of lands addressed in this decision as the mineral estate will be reserved to the state pursuant to AS 38.05.125.

## **Alaska Coastal Management Program (ACMP)**

Conveyance of state land to a borough under AS 29.65 does not require an ACMP consistency review. This action is listed in the Categorically Consistent Approvals section of the Classification of State Agency Approvals (aka "ABC List") with the ACMP (see the A List – Categorically Consistent Determinations section of the List of Expedited Consistency Reviews and State Authorizations Subject to the ACMP (May 26, 2004)).

## **Access**

Most of the selected areas are near the Parks Highway or other local roads and are accessible by vehicle. The more remote areas are accessible by plane, boat, all terrain vehicle and snowmachine. The Alaska Railroad follows the highway and provides transportation for passengers as well as cargo.

A 50-foot wide easement each side of all surveyed and protracted section lines will be reserved in accordance with AS 19.10.010 and 11 AAC 51.025.

Public access to and along navigable and public waters will be reserved in accordance with AS 38.05.127 and 11 AAC 51.045. The 'to' easement required under AS 38.05.127 for public and navigable waters will be provided by section line easement. If the section line easements prove to be physically impractical, an alternative route will be established at the time of survey with the approval of DNR.

## **Navigable and Public Waters**

Navigable and public waters are determined in accordance with AS 38.05.127 and 11 AAC 51.035 and are defined as follows unless otherwise determined by a state or federal navigability determination.

*Navigable waters* are waterbodies at least 50 acres in size or waterways at least 50 feet in width from ordinary high water mark to ordinary high water mark. The commissioner may determine a waterbody smaller than 50 acres in size or a waterway smaller than 50 feet in width is navigable.

*Public Waters* are waterbodies at least 10 acres but less than 50 acres in size and waterways at least 10 feet but less than 50 feet in width from ordinary high water mark to ordinary high water mark. The commissioner may determine that a water body smaller than 10 acres in size or a waterway smaller than 10 feet in width is public.

Generally, water bodies less than 10 acres in size or waterways less than 10 feet in width are considered neither navigable nor public, unless previously determined otherwise.

The following selection areas contain navigable and/or public waters.

ADL 415639 (Anderson)

- Unnamed stream near east boundary – Public Water

ADL 417991 (Rex Bridge)

- Nenana River – Navigable Water
- Birch Creek – Public Water

ADL 417601 (West)

- 2 Unnamed streams with N2 of Sec. 16 (eastern stream flows into Sec. 15) – Public Water
- Unnamed tributary stream to Teklanika River within N2 of Sec. 21 – Public Water
- Unnamed tributary stream to Teklanika River that flows through Secs. 26-28 – Public Water

ADL 415805 (East)

T8S, R4W, FM

- Fish Creek within Secs. 13 and 24 – Public Water
- 3 unnamed streams that flow through Secs. 14 and 23 – Public Water
- 2 unnamed tributary streams to Fish Creek within Sec. 24 – Public Water

T9S, R1W, FM

- Unnamed stream that flows through the N2 of Secs. 2 & 3 – Public Water
- Unnamed stream that flows through Secs. 4 and 5 – Public Water
- Unnamed stream in N2 of Sec. 5 – Public Water

T10S, R4W, FM

- Unnamed tributary stream to Tatlanika Creek – Public Water

ADL 415800 (Slate Creek)

- Slate Creek – Public Water
- Unnamed tributary to Slate Creek within N2 of Sec. 9 – Public Water
- Little Panguingue Creek – Public Water
- Panguingue Creek – Public Water

ADL 415809 & 415810 (Panguingue A)

- Eightmile Lake – Navigable
- Unnamed tributary connecting Eightmile Lake and Fish Creek – Public Water
- Unnamed tributary to Fish Creek within Sec. 14 – Public Water
- Unnamed tributary stream of Eightmile on south side – Public Water
- 2 unnamed tributaries to Panguingue Creek within Sec. 18 – Public Water

ADL 417602 (Healy)

- Dry Creek – Public Water

ADL 415801 (Otto Lake)

- Dry Creek and its tributary – Public Water

ADL 415636 (Nenana Canyon)

- Antler Creek – Public Water
- Bison Gulch – Public Water
- Coyote Creek – Public Water
- Dragonfly Creek – Public Water
- Eagle Creek – Public Water
- Fox Creek – Public Water
- Grizzly Creek – Public Water
- Hornet Creek – Public Water
- Iceworm Gulch – Public Water

ADL 415802 & 415804 (Montana Creek)

- Kingfisher Creek – Public Water
- Lynx Creek – Public Water
- Unnamed tributary to Montana Creek within Sec. 1, T13S, R7W, FM – Public Water
- Unnamed tributary to Nenana River that flows through Secs. 11 & 12, T13S, R7W, FM and Sec. 7, T13S, R6W, FM – Public Water
- Unnamed tributary to Nenana River with Sec. 18, T13S, R6W, FM – Public Water

ADL 415803 & 415811 (Yanert & Yanert B)

- Unnamed lake in NE4 of Sec. 32 (not depicted on selection map – refer to USGS topographic map) – Public Water
- Revine Creek – Public Water
- Unnamed stream within W2 of Sec. 35 – Public Water

ADL 415812 (Nenana River 1)

- Bruskasna Creek – Public Water

The following selection areas contain no navigable or public waters.

- ADL 415797 (Browns Court)
- ADL 415809 (Panguingue B)

### **Anadromous Waters**

It is the policy of the state to protect the habitat of anadromous fish waters identified by the Alaska Department of Fish and Game (ADF&G). These waters are identified with a stream code number from the Fish Distribution Database maintained by the ADF&G. Parcels adjacent to anadromous water will be subject to a 100 foot wide easement of essentially undisturbed land and vegetation located upland of and adjoining the ordinary high water mark. The following two areas contain anadromous waters.

#### ADL 417991 (Rex Bridge)

- Nenana River (*stream code 334-40-11000-2490-3200*)

#### ADL 415800 (Slate Creek)

- Panguingue Creek (*stream code 334-40-11000-2490-3200-0475*)

### **Reservation of Mineral Estate**

In accordance with section 6(i) of the Alaska Statehood Act and AS 38.05.125, the State 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 minerals. Exploration and development, if any, which could occur, would be consistent with AS 38.05.013 and other applicable states and regulations.

### **Hazardous Materials and Potential Contaminants**

It is DNR's management responsibility to protect the overall public interest if there is a reasonable expectation that hazardous contamination exists on land being disposed of. No hazardous materials or contamination from hazardous materials are known to exist on the land proposed for conveyance with the exception of a portion of the Browns Court and the entirety of the Suntrana selections. Conveyance of these two sites is being postponed until it is determined what type and level of contamination may exist. Environmental risk associated with the remainder of the selections proposed for conveyance should be minimal or nonexistent.

### **Survey and Appraisal**

Survey: A survey determination will be requested upon a final decision to convey. The borough will be required to survey at borough expense any land determined to be unsurveyed.

Appraisal: The land will be conveyed to the borough at no cost and therefore an appraisal is unnecessary.

### **Unauthorized Use**

Some lands proposed for conveyance may be subject to unauthorized use. The state has researched its land records and finds no unauthorized use other than a possible site in Browns Court which is being postponed until a field inspection is conducted. This decision makes no provision concerning any unauthorized use, whether identified herein or unknown to DNR.

### **Form and Width Requirement**

As specified in AS 29.65.070(c), municipal selections must normally be compact in form and length not exceeding approximately four times its width. This requirement can be waived based on land use or other criteria further defined in statute. The Rex Bridge selection does not meet these criteria of statute and has been reduced in size to bring it into compliance. The Yanert selection as applied for by the borough does not violate the compactness and length criteria. However, after considering the management objectives of the TBAP and ADF&G concerns to manage the area for public recreation, wildlife habitat, and access considerations, a large portion of this selection will be rejected along the Yanert River corridor, thus creating a violation of the form and width requirement. To achieve the land use goal and mitigate ADF&G concerns this decision finds that it is appropriate to waive the form and width requirement of statute for the Yanert selection.

### **Disposition of Leases, Permits and Applications**

Administration of active leases, permits, and easements will be transferred to the borough at such time when the Final Finding and Decision has been issued and takes effect. Applications that have not been adjudicated will be closed and the applicant advised to apply to the borough to obtain authorization to occupy borough land.

### **State Agency Comments**

Notice of the proposed municipal conveyances covered by this decision was distributed for agency review on April 20, 2007. The following comments were received:

*Comments of Division of Forestry (DOF):* They have no interest or comment on the selection.

*Comments of Mental Health Trust Land Office:* No comment.

*Comments of the Division of Oil and Gas (DOG):* The division has no objections to the proposed conveyances provided it is made clear that the state retains the mineral estate and the associated access to the surface for purposes of exploring for, developing and producing the reserved minerals.

DOG also advised that they recently issued a preliminary best interest finding for oil and gas exploration in the Healy Basin. This action may affect borough land selections in T11S, R8W and T12S, R7, 8 and 9W, FM. Further information is available at: <http://www.dog.dnr.state.ak.us/oil/products/publications/healy/healy.htm>. Also, they indicate that the southern end of the Nenana Basin Exploration License Area is located within Denali Borough boundaries in T7S, R10 and 11W, FM. While no borough selections appear to be affected, seismic testing has been permitted in this area and there may be further exploration activity in the future.

*DNR Response:* Under AS 38.05.125 all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils are reserved to the State of Alaska and its successors. This reservation includes the right of reasonable access to the land surface for purposes of exploring for, developing and producing the reserved minerals. Under common law, this access reservation is superior to any and all surface uses. Surface owners are entitled only to damages resulting from surface access by the mineral owner or lessee, in accordance with AS 38.05.130, and do not have the legal ability to deny reasonable access.

Oil and gas exploration activity in the Healy and Nenana Basins is hereby acknowledged and the borough is so advised.

*Comments of DNR Div. Geological & Geophysical Surveys (DGGS):*

*DGGS Comment re East (ADL 415805):* This selection is located in the Bonnifield Mining District. The southernmost parcel of the three parcels in this selection is located within the Nenana Coalfield. The coalfield contains near-surface coal resources similar to those mined at Usibelli.

*DNR Response to East (ADL 415805):* The southernmost parcel, Section 24, T10S, R4W, FM, is too far from existing infrastructure for the coal resources to become economic in the near future (information provide by DNR Mining Section).

*DGGS Comment re Nenana Canyon (ADL 415636):* There is a placer gold prospect located within this selection. The prospect is near the junction of Antler Creek and Nenana River; the amount of work and production is unknown.

*DNR Response to Nenana Canyon (ADL 415636):* The confluence of Antler Creek and Nenana River is located within the Alaska Railroad right-of-way in the NW4 of Section 5, T13S, R7W, FM. The exact location of the mineral prospect has not been determined. There are no mining claims in Section 5 or nearby. The Alaska Railroad right-of-way and land lying east of the right-of-way between the railroad and the Nenana River will be excluded from this conveyance.

*DGGS Comment re Yanert (ADL 415811):* There is a gold placer prospect located within this selection on Yanert Fork (river) approximately 2.5 miles above its confluence with Nenana River; the amount of work and production is unknown.

*DNR Response to Yanert (ADL 415811):* This decision proposes to reject a portion of the Yanert selection. The area proposed to be rejected includes the placer prospect.

*DGGS Comment re Nenana River 1 (ADL 415812):* There is a group of mining claims located within this selection. The claims are located in Section 7, T17S, R6W, FM, on the north side of the Nenana River near its junction with Jack River.

*DNR Response to Nenana River 1 (ADL 415812):* The mining claims in Section 7 cover a limestone quarry that is owned/operated by the Alaska Limestone Company. Section 7 has been relinquished by the borough and is no longer part of the borough's selection in this area.

*Comments of the DNR Northern Region Office, Lands Section (NRO):*

*NRO Comment re Riparian Buffers:* Riparian easements (buffers) 200 feet wide should be retained in state ownership along all navigable waterbodies for purposes of public recreation, wildlife habitat, migration corridors and river bank protection.

*DNR Response to Riparian Buffers:* DNR will not require 200-foot wide buffers along all navigable waters unless an overriding public interest warrants state retention. As a matter of practice 200-foot wide buffers are only imposed on highly recreational waters such as the Nenana River where it has been recommended for designation as a State Recreation River. Those portions of the Nenana River will be state retained. All other selections proposed for conveyance in this decision adjacent to navigable waters will be made subject to the standard 50-foot wide easement as required by AS 38.05.127. Additionally, all waters officially designated as anadromous by ADF&G will be made subject to a 100-foot wide easement of essentially undisturbed land. Said easements will not be retained in state ownership but made subject to in order to avoid subsequent management conflicts.

*NRO Comment re Public Access Easements:* Many of the smaller creeks provide potential pedestrian access to state and federal lands behind borough selected lands and should be protected with 50-foot public access easements. In addition, easements should be retained for all RS 2477 and "ADL" trails.

*DNR Response to Public Access Easements:* DNR will reserve 50-foot public access easements on all waters determined to be public. RS 2477 trails will be made subject to a 100-foot wide easement and any issued "ADL" trails will be made subject to in the conveyance.

*NRO Comment re the Nenana River Corridor:* All land within the Nenana River Corridor should be retained in state ownership. The TBAP proposes the Nenana River corridor for a state



recreation river designation. The opportunity to accomplish this desirable public purpose should be maintained.

*DNR Response to the Nenana River Corridor:* Some Denali Borough land selections include lands that lie within the Nenana River corridor. The area plan recognizes land within the corridor can be considered for transfer to a municipality (TBAP, pp. 3-153, 4-2) through an entitlement decision. A corridor along the Nenana River will be retained in state ownership for all selection areas with the exception of Rex Bridge. The Rex Bridge selection will be made subject to a 100-foot wide easement along the ordinary high water mark of the Nenana River as this portion of the river was not recommended for retention by TBAP. Imposition of a 100-foot wide easement will protect riparian habitat.

*NRO Comment re DOTPF Material Sites:* Certain material sites are necessary for state retention as they provided needed gravel for continued maintenance of the George Parks Highway. NRO recommends that ADL 408717 (Nenana Canyon) and ADL 416618 (Panguingue A – Mile 5.2 site) be retained with expanded boundaries. ADL 408739 (Slate Creek) should also be state retained.

*DNR Response to DOTPF Material Sites:* The three material sites identified will be state retained. Additional state lands will also be retained adjacent to the Nenana Canyon (ADL 408717) and Panguingue Mile 5.2 site (ADL 416618) sites for expansion consideration as shown on the accompanying selection maps.

*NRO Comment re Nenana Canyon (ADL 415636):* The following areas should be retained in state ownership: 1) land between the railroad and the Nenana River in Section 9, T13S, R7W, FM; and, 2) land between the George Parks Highway and the Nenana River in the “Nenana Canyon B” selection [Sections 9, 16, 21 and 22, T13S, R7W, FM]. These areas provide views of Denali National Park, the Nenana River and its canyon. It is mainly undeveloped land before reaching the private development just outside the Park entrance and should be state retained to protect the viewshed.

*DNR Response to Nenana Canyon (ADL 415636):* The narrow strips of land between the railroad and the river and between the highway and the river will be excluded from conveyance and retained in state ownership for protection of the viewshed.

*NRO Comment re Montana Creek (ADL 415802/415804):* Recommends state retention of a 200-foot wide easement on both sides of Montana Creek for riparian management and public access.

*DNR Response to Montana Creek (ADL 415802/415804):* DNR concurs that a corridor on both sides of Montana Creek should be state retained to serve as public access and a wildlife migration corridor. However, a 100-foot wide corridor on each side of the river is considered adequate for these purposes.

*NRO Comment re Yanert & Yanert B (ADL 415803/415811):* Recommends state retention of a 200-foot wide riparian easement on both sides of the Yanert Fork within the Yanert selection.

*DNR Response to Yanert & Yanert B (ADL 415803/415811):* A corridor on both sides of the Yanert River will be excluded and retained in state ownership to protect the recreational and habitat values of the area as shown on the accompanying selection map.

*Comments of the Dept. of Transportation and Public Facilities (DOTPF):*

*DOTPF Comments re ADL 417991 (Rex Bridge):* Commented on two material sites. They have no objection to MS 37-2-099-2 (ADL 408884) being conveyed provided the conveyance is made subject to the existing material sale contract. MS 37-2-101-2 (ADL 24642) can also be conveyed with no reservation of the contract as the pit is not needed.

*DNR Response to ADL 417199 (Rex Bridge):* MS 37-2-099-2 (ADL 408884) is not within the selection area. MS 37-2-101-2 (ADL 24642) will be conveyed to the borough as the site has been closed by the NRO based on DOTPF's comment that the pit is no longer needed.

*DOTPF Comments re ADL 415800 (Slate Creek):* Commented on four material sites. They have no objection to MS 37-2-120-2 (ADL 408741) and MS 37-2-122-2 (ADL 408740) being conveyed provided the conveyance is made subject to the existing material sale contracts. They requested that MS 37-2-143-2 (ADL 415777) and MS 37-2-125-2 (ADL 408739) be excluded from conveyance and state retained. They also requested that DNR allow for the expansion of MS 37-2-125-2 (ADL 408739) to at least two times its present size.

*DNR Response to ADL 415800 (Slate Creek):* Material sites MS 37-2-120-2 (ADL 408741) and MS 37-2-122-2 (ADL 408740) have not been selected by the borough and are not under consideration for conveyance. MS 37-2-143-2 (ADL 415777) and MS 37-2-125-2 (ADL 408739) will be excluded from conveyance; however, we do not agree that rejecting a portion of the borough's selection for potential expansion of material site (MS 37-2-125-2 - ADL 408739) is appropriate. To do so would affect the borough's selection and is not warranted because there are three other nearby sites available to DOTPF.

*DOTPF Comments re ADL 415809 (Panguingue A & B):* Commented on three material sites. They have no objections to MS 638-009-2 (ADL 416618) and MS 37-2-128-2 (ADL 408885) being conveyed provided the conveyance is made subject to the existing material sale contracts. They also requested that MS 638-010-2 (ADL 416618 - Mile 5.2 pit) be excluded from conveyance and state retained and that they be allowed to expand the pit.

*DNR Response to ADL 415810 (Panguingue A & B):* Conveyance of this selection will be made subject to MS 638-009-2 (ADL 416618 – Mile 1.7 site) and MS 37-2-128-2 (ADL 408885). Because MS 638-010-2 (ADL 416618 - Mile 5.2 site) is an important site for maintenance of Stampede Road, DNR will exclude this site from the conveyance along with additional adjacent land for potential expansion as shown on the accompanying selection map.

*DOTPF Comments re ADL 415636 (Nenana Canyon):* Requested that DNR exclude and retain in state ownership MS 37-2-010-2 (ADL 408717) and allow for its expansion. Material from this site will be used for the Parks Highway MP 240-262 project. DOTPF also confirmed that the Hornet Creek Pad located at MP 240 of the Parks Highway is within the highway right-of-way and is managed by them under public easement ADL 46509 issued by DNR in 1970. Therefore, this property is not available for selection by the Denali Borough.

*DNR Response to ADL 415636 (Nenana Canyon):* Because MS 37-2-010-2 (ADL 408717) is an important site used for Parks Highway projects, DNR will exclude this site from conveyance along with additional adjacent land for potential expansion as shown on the accompanying selection map. The area to be excluded from conveyance has been scaled back as it unreasonable impacts the borough's selection. DNR concurs the Hornet Creek Pad is not available for selection and the borough is so advised through this decision.

*DOTPF Comments re ADL 415803 (Yanert B):* Requests that MS 522-051-2 (ADL 408733) be excluded from conveyance and state retained. They also requested that DNR allow for the expansion of the site.

*DNR Response to ADL 415803 (Yanert B):* This material site is not part of the borough's selection. This material site was addressed in an earlier decision in June of 2000 and was rejected for conveyance to the borough. This site is surrounded by private property.

*Comments of the Department of Fish and Game (ADG&G):*

*ADF&G General Comment:* Public access easements should be preserved or established along section lines, trails and water bodies prior to conveyance. Also, riparian buffers should be established or retained in state ownership along anadromous water bodies.

*DNR Response to General Comment:* DNR will reserve easements for sections lines, trails where an easement has been established, and along waters determined to be navigable or public. Conveyances that contain anadromous waters as identified by the ADF&G Fish Distribution database will be subject to a 100-foot wide easement of essentially undisturbed land and vegetation located upland of and adjoining the ordinary high water mark.

*ADF&G Comment Re Browns Court (ADL 415797):* This selection includes the majority of Section 8, T8S, R8W, FM. An airstrip is identified on the status plats and USGS maps within the NW corner of the subject selection, extending into Sections 7 and 5. ADF&G does not have specific information regarding the ownership and use of this airstrip. If the strip is used by the public to access hunting, fishing, wildlife photography or other non-consumptive uses of fish and wildlife then public access and use of the airstrip should be reserved. Also, the Kobi-Bonnifield Trail (RST 119) and easement ADL 412566 provide access in the area. These easements should be maintained and described in the conveyance documents.

*DNR Response to Browns Court (ADL 415797)*: This selection consists of land in Section 7 and not Section 8. The land in Section 8 is owned by Denali Borough under a prior municipal land conveyance, and the land in Section 5 is under private ownership. The referenced airstrip, where it is situated in this selection (Section 7), is not an authorized use of state land. Public use of this airstrip is unknown. DNR will not reserve public access to this airstrip. The Kobi-Bonnifield Trail and easement ADL 412566 will be made subject to in the conveyance.

*ADF&G Comment Re Rex Bridge (ADL 417991)*: ADF&G commented on the following five issues:

- 1) The Nenana River flows along the eastern edge of the selection and has been catalogued as being anadromous. The Nenana River is an important recreational river and heavily used by the public and access should be protected.
- 2) The TBAP recommends that a state campground and access to the Nenana River be developed in this area and that Department of Parks and Outdoor Recreation (DPOR) conduct a feasibility assessment.
- 3) This selection appears to exceed the 4:1 rule [AS 29.65.070(c)].
- 4) There is an existing DOTPF public right-of-way at Birch Creek but the nature of the right-of-way is unclear.
- 5) There also appears to be a trail running generally north-south through this selection between the road and the river.

*DNR Response to Rex Bridge (ADL 417991)*: 1) DNR agrees that the Nenana River is an important recreational river used by the public and that access should be protected. An easement will be imposed along the Nenana River as indicted in the DNR's general comment response above.

- 2) The TBAP recommends that a state campground with developed access to the river be considered; but gave DOPOR a timeframe of November 1992 to complete the assessment. That assessment has not occurred. The conveyance of this area to the borough does not preclude the development of a primitive campground. In addition, the TBAP recognizes municipal conveyances may be appropriate in this area.
- 3) In reference to the 4 to 1 rule, this decision rejects that portion of the selection in Section 23. This rejection will reconfigure the selection to a more compact form consistent with the 4 to 1 rule.
- 4) DOTPF right-of-way (ADL 415388) will be made subject to in the proposed conveyance. The right-of-way is for an embankment located at the Birch Creek highway crossing.

5) The possible trail, visible on aerial photography, could not be found on any available map or plat. Its origin is unknown and does not appear to provide access to the river. DNR will not reserve a public access easement on this trail.

*ADF&G Comment re West (ADL 417601):* Initially commented the area should be state retained as the general area has important wildlife resources and is prime habitat and winter range for the McKinley caribou herd. As a result of these concerns the borough reduced its selection. Additional review found that the caribou herd may use this area, but it is not their prime habitat. If the West selection is conveyed, ADF&G recommends the borough give wildlife management priority. They also recommend section line easements be reserved to support future access to the area.

*DNR Response to West (ADL 417601):* The borough is advised by this decision that consideration should be given to wildlife resources. Section line easements will be reserved.

*ADF&G Comment re East (ADL 415805):* No fish and wildlife concerns were identified. The Kobi-Bonnifield Trail (RST 119) and the Bonnifield Trail (RST 462) pass through the selections. Trail easements should be established for these trails. In addition, another trail runs north-south from the Kobi-Bonnifield Trail that appears to end at Tatlanika Creek but may continue upstream to mining claims in the upper drainage. If the trail passes through these selections a trail easement should be established.

*DNR Response to East (ADL 415805):* The Kobi-Bonnifield Trail (RST 119) will be made subject to in the conveyance. No provision will be made for the Bonnifield Trail (RST 462) as it does not lie within any of the parcel boundaries. In addition, DNR will not reserve an easement on the trail that runs north-south from the Kobi-Bonnifield Trail as the existence and use of the trail is unknown.

*ADF&G Comment re Slate Creek (ADL 415800):* Both Panguingue and Little Panguingue Creeks have been identified as being anadromous fish waters. Slate Creek also flows through the selection area but fish resource data is not available. Given the terrain and proximity to the Nenana River, anadromous and resident fish resources are likely present. ADF&G recommends buffers are established along these streams. In addition, established easements and sections line easements should be reserved.

*DNR Response to Slate Creek (ADL 415800):* A 100-foot wide easement will be imposed on both sides of Panguingue Creek. This easement will not be imposed on Little Panguingue Creek or Slate Creek as they are not identified as being anadromous per ADF&G's fish distribution database. They will be subject to a 50-foot wide easement pursuant to AS 38.05.127.

*ADF&G Comment re Panguingue A (ADL 415809/415810):* Recommends state retention of this selection for the following reasons:

- 1) Recreation is the primary use of the area in addition to being prime habitat for caribou, moose, grizzly bear and other furbearers.
- 2) Eightmile Lake is part of the stocked lakes program so access to the lake is a requirement of maintaining the program.
- 3) Panguingue Creek and its tributaries should be retained in public ownership and managed to include buffers similar to those in nearby subdivisions.
- 4) Stampede Road, two RST's and an easement for the road pass through the selection.

*DNR Response to Panguingue A (ADL 415809/415810):* DNR considers this selection appropriate for conveyance.

- 1) The size of the borough's selection has been reduced substantially from its original extent in order to accommodate habitat and recreation concerns.
- 2) Access to Eightmile Lake is available via section line or along stream easements as no road access exists to the lakeshore.
- 3) Panguingue Creek and its tributaries are not identified as being anadromous in this area per ADF&G's fish distribution database. In addition, Panguingue Creek does not reach the selection area. Easements will be imposed along the tributaries pursuant to AS 38.05.127.
- 4) An Easement will be imposed for Stampede Road which may coincide with the RST's.

*ADF&G Comment re Panguingue B (ADL 415809):* Lignite Springs Creek, K-Dog Creek and Unnamed Creek #4079 are anadromous. These streams and their headwater springs should be protected by state retained buffers. Panguingue Creek and its tributaries should be retained in public ownership and managed to include buffers similar to those in nearby subdivisions. In addition, several RS 2477 trails, public road and rights-of-way exist along the Stampede Road that should be protected and reserved in the conveyance.

*DNR Response to Panguingue B (ADL 415809):* These streams do not reach the borough's Panguingue B selection. An Easement will be imposed for Stampede Road which may coincide with the RST's.

*ADF&G Comment re Healy (ADL 417602):* ADF&G did not identify any fish and wildlife or access related concerns with transferring this parcel to the borough.

*ADF&G Comment re Otto Lake (ADL 415801):* ADF&G did not identify any fish and wildlife concerns with this selection. Two forks of the Healy-Diamond Coal Mine Dirt Road (RST 709) and several offshoot trails pass into and appear to end in section 35. Access easements should be established to provide access through these parcels to state lands beyond the selections.

*DNR Response to Otto Lake (ADL 415801):* The Healy-Diamond Coal Mine Dirt Road (RST 709) will be made subject to in the conveyance. Section line and stream easements may provide access to state land beyond the selection area.

*ADF&G Comment re Nenana Canyon (ADL 415636):* The Nenana River corridor provides prime habitat for moose, grizzly bear, black bear and various species of birds of prey. It is one of the most important recreation areas in the state north of the Denali National Park and Preserve and is a highly used area for public recreation on the Nenana River and surrounding area. This selection should be retained in state ownership because of its high recreational and habitat value and should be managed for existing public recreation and habitat purposes.

*DNR Response to Nenana Canyon (ADL 415636):* The Denali Borough has relinquished a portion of its original selection in this area. DNR will further reject those portions of this selection to protect recreation values, riparian habitat, and material resources. The remaining portion of the selection is considered appropriate for conveyance.

*ADF&G Comment re Montana Creek (ADL 415802/415804):* These selections around the Denali National Park and Preserve entrance are some of the most highly used areas for recreational activities. Because of the high recreation and habitat values, ADF&G recommends retaining lands along the Nenana River in state ownership.

*DNR Response to Montana Creek (ADL 415802/415804):* The selections along the Nenana River and Montana Creek corridor will be rejected and retained in state ownership.

*ADF&G Comment re Yanert & Yanert B (ADL 415803/415811):* The Nenana River corridor provides prime habitat for moose, grizzly bear, black bear and various species of birds of prey and is an important recreation area. The lower Yanert River valley is important winter range for the Yanert caribou herd and important raptor habitat exists along the Yanert and Nenana Rivers. In addition, the Yanert River valley is an important hunting area and access to state lands east of the Parks Highway. Within this selection, lands along the Nenana River and the Yanert Fork within Sections 19-22 and 25-30 [F14S6W] should be retained in state ownership because of their high recreation and habitat value. The borough's selections within Sections 32-35 are the least likely to cause an impact; however, there may be a trail that leads up the Revine Creek valley that should be protected. Additionally, dedicated access should be provided from the Parks Highway through these selections to the Yanert River.

*DNR Response to Yanert & Yanert B (ADL 415803/415811):* DNR concurs that a portion of the selection provides prime habitat and is an important recreational and scenic area that warrants state retention. Lands along the Nenana River and Yanert Fork will be rejected and retained in state ownership within Sections 19-22, 25-30 and the N2N2 of Section 35, T14S, R6W, F.M and Section 36, T14S, R7W, FM as portrayed on the accompanying selection maps.

No mapping or information exists for the trail mentioned in the Revine Creek valley; therefore, DNR will not reserve an easement for it. The borough may establish an easement if they find it is warranted.

In reference to access being reserved from the Parks Highway to the Yanert River, access will be available through state land being retained within Section 36, T14S, R7W, FM. Additionally, section line easements will be reserved.

*ADF&G Comment re Nenana River 1 (ADL 415812):* The Nenana River corridor provides prime habitat for wildlife and is one of the most important recreation areas in the state. Conveyance of this land would extend a non-state land use pattern upstream along the Nenana River and potentially prevent public access between the Nenana River and state lands north and south of the selection. Additionally, this selection appears to exceed the 4:1 rule [AS 29.65.070(c)]. Because of the high recreational and habitat values of the Nenana River corridor ADF&G recommends retaining the lands in this selection in state ownership. ADF&G did not identify any problem with conveying the parcel overlooking Bruskasna Creek.

*DNR Response to Nenana River 1 (ADL 415812):* DNR concurs that the Nenana River provides prime habitat and is an important recreational and scenic area that warrants state retention. That portion of the borough's selection in Section 12 overlooking Bruskasna Creek is considered appropriate for conveyance.

## **Discussion and Alternatives**

The DB was granted a general grant land entitlement of 49,789 acres pursuant to AS 29.65.030. To date approximately 20,485 acres have been approved for conveyance to the borough leaving approximately 27,304 acres still due. The borough selected the majority of their lands in June 1996 and subsequently modified them resulting in the selection areas addressed in this decision. Most of these selections are affected by non-conveyable land classifications that do not allow for conveyance under the municipal entitlement program as the TBAP was adopted and subsequently updated prior to the borough's land selections. As a result the plan did not take into consideration the need to provide land for community development as intended by the Municipal Entitlement law. To not process an amendment to the TBAP would force the DB to make their selections in remote areas not conducive to community use and development.

The selections have been reviewed and the resources of the areas evaluated to determine the highest and best use. Many of the selections have been determined to have multiple uses related to public recreation, resource management or settlement. Other selection areas have been determined to have significant values for habitat and access protection. To facilitate the borough's selections a separate, concurrent plan amendment accompanies this decision. The amendment has determined that certain lands that are primarily dual classified as public recreation/wildlife habitat are appropriate for reclassification into a conveyable category for conveyance to the borough. For these selections the TBAP will be amended. In other instances reclassification of the borough's selections into conveyable categories is not considered



appropriate and the borough's selections will be rejected as no change to the plan is recommended.

The following alternatives were considered:

1. Reject the borough's selections in their entirety. This action would deny the DB ownership of land suitable for community development and local economic growth. It also would be inconsistent with statute (AS 29.65) that requires the state to provide land to local governments. This alternative is not preferred.
2. Approve the borough's selections in their entirety subject to existing third party interests. This action would result in land being transferred to the DB to benefit community development and local economic growth; however, it would not protect the state/public interest in certain areas for access and the protection of fish and wildlife resources. This alternative is not preferred.
3. Approve a portion of the borough's selections subject to existing third party interests and reject those portions of the selections that provide prime habitat, are important recreational and scenic areas, and protect public access to these resources. In addition, postpone certain areas that are affected by possible hazardous materials. This action would provide suitable land for conveyance to the borough and contribute toward the satisfaction of their remaining land entitlement. This is the preferred alternative subject to the amendment of the TBAP and the following stipulations:
  - Valid existing rights, including reservations, easements, and exception 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.
  - Reservation of a 50-foot wide easement on each side of all surveyed and protracted section lines in accordance with AS 19.10.010 and 11 AAC 51.025.
  - All RST rights-of-way (RST 2477) shall be subject to a 100-foot wide easement.
  - Reservation of a continuous public access easement 50 feet wide, upland of and adjoining the ordinary high water mark (OHWM) of waterbodies and waterways identified as public or navigable water pursuant to AS 38.05.127 and 11 AAC 51.035.
  - Reservation of a continuous 100-foot wide easement of land and vegetation, to be undisturbed except as necessary to fulfill the purposes stated herein, which easement shall be located upland of and adjoining the ordinary high water mark of all banks of anadromous waters that shall be maintained and preserved for the

purposes of public access and recreation as well as the protection of riparian habitat and water quality.

- Reservation of the mineral estate pursuant to section 6(i) of the Alaska Statehood Act and AS 38.05.125, and reasonably necessary access to the mineral estate in accordance with AS 38.05.130.
- The net chargeable acreage for this conveyance will be credited toward fulfillment of the borough's land entitlement under AS 29.65.
- Land management authority and administration of *issued permits, easements and leases* will transfer to DB at such time as the final finding and decision takes effect. Lease rental monies will be prorated as of the effective date of the final finding and decision.

### **Borough Selections Proposed for Conveyance**

#### **Anderson - ADL 415639**

##### T07S, R08W, FM

Sec. 12: SE4NE4 and N2SE4 lying east of the Parks Highway.

Containing approximately 80 acres.

Subject to:

- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of the unnamed stream in accordance with AS 38.05.127 and 11 AAC 51.045.

#### **Brown's Court - ADL 415979**

##### T08S, R08W, FM

Sec. 7: All, excluding that portion of Tract A-1-A lying south of the Parks Highway and Tract A-3 of ASLS 85-257; Tracts B1 and B4 of State Cadastral Supplemental Plat of Sections 7 and 18, and the Parks Highway.

Containing approximately 481 acres.

Subject to:

- ADL 20529, Utility Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 30788, Utility Easement, 100 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 412566, Public Easement, 100 feet wide, issued to DNR, DMLW.

- ADL 418268, Utility Easement Application, 30 feet wide, from GCI Communications Co., Inc. from Willow to Fairbanks.
- RST 119, Kobi-Bonnifield Trail to Tatlanika Creek (RS2477).

**Rex Bridge - ADL 417991**

T08S, R09W, FM

Sec. 26: Lots 2, 3, 6 and 7.

Sec. 35: Lots 2, 3, 4 and 5, W2W2, SE4SW4, SW4SE4 excluding the Parks Highway.

Containing approximately 559 acres.

Subject to:

- ADL 30788, Utility Easement, 100 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 417021, Utility Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc. Exp. 11/30/2008.
- ADL 415388, Public Easement, issued to DOTPF for an embankment at the Birch Creek highway crossing.
- ADL 418268, Utility Easement Application, 30 feet wide, from GCI Fiber Communications Co., Inc. from Willow to Fairbanks.
- Reservation of a continuous public easement 50-foot wide, upland of and adjoining the ordinary high water mark of the Nenana River and Birch Creek in accordance with AS 38.05.127 and 11 AAC 51.045.
- Reservation of a continuous 100-foot wide easement of land and vegetation, to be undisturbed except as necessary to fulfill the purposes stated herein, which easement shall be located upland of and adjoining the ordinary high water mark of the Nenana River that shall be maintained and preserved for the purpose of public access and recreation as well as the protection of riparian habitat and water quality.

**West - ADL 417601**

T10S, R10W, FM

Secs. 14-16, 21-23, 26-28: All.

Containing approximately 5,760 acres.

Subject to:

- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of the unnamed public waters listed in the *Navigable, Public and Anadromous Waters* section of this decision in accordance with AS 38.05.127 and 11 AAC 51.045.

**East - ADL 415805**

T08S, R04W, FM

Secs. 13, 14, 23 and 24: All.

Containing 2,560 acres, more or less.

Subject to:

- LAS 24686, Permit, issued to Alaska Department of Fish and Game for prescribed burn.
- RST 119, Kobe-Bonnifield Trail to Tatlanika Creek (RS2477).
- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of Fish Creek and the unnamed public waters listed in the *Navigable, Public and Anadromous Waters* section of this decision in accordance with AS 38.05.127 and 11 AAC 51.045.

T09S, R01W, FM

Secs. 2-5: All.

Containing approximately 2,560 acres, more or less.

Subject to:

- Reservation of a continuous public access easement 50-foot wide, upland and adjoining the ordinary high water mark of the unnamed public waters listed in the *Navigable, Public and Anadromous Waters* section of this decision in accordance with AS 38.05.127 and 11 AAC 51.045.

T10S, R04W, FM

Sec. 24: All.

Containing approximately 640 acres.

Subject to:

- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of the unnamed public waters listed in the *Navigable, Public and Anadromous Waters* section of this decision in accordance with AS 38.05.127 and 11 AAC 51.045.

Total East Selection area contains approximately 5,760 acres.

**Slate Creek - ADL 415800**

T11S, R08W, FM

- Sec. 9: N2 lying west of the Parks Highway excluding ADL 49350, USS 5866, and Tract B of ASLS 85-122; and the SE1/4 lying west of the Parks Highway excluding ADL 49350 and USS 5866.
- Sec. 16: E2 lying west of the Parks Highway excluding Tracts A and B of ASLS 85-121 and ADL 49350.
- Sec. 21: E2 lying west of the Parks Highway excluding ASLS 86-56, ASLS 85-120, ASLS 88-164, ASLS 87-367, ASLS 89-130, ADL 408741 and ADL 49350.
- Sec. 27: All excluding the Parks Highway, ADL 49350, ADL 408739, ADL 408740, ASLS 91-97, ASLS 87-327 and ASLS 90-135.
- Sec. 28: NE4 lying west of the Parks Highway excluding ASLS 89-130, ASLS 85-118, ASLS 87-327, ASLS 91-97 and ADL 408740.
- Sec. 34: E2 excluding the Parks Highway, ADL 49350, ADL 415777, Tracts A, B and C of ASLS 83-168 and ASLS 92-69.

Containing approximately 1,364 acres.

Subject to:

- ADL 30788, Utility Easement, 100 feet wide issued to Golden Valley Electric Assoc., Inc.
- ADL 410653, Public Easement, 100 feet wide, issued to John L. Elmore for access road.
- ADL 412368, Public Easement, 60 feet wide, issued to David B. Dalton for access road.
- ADL 413763, Public Easement, 25 feet wide, issued to Scott S. Stowell for access road.
- ADL 415777, Material Sale Renewal Application, from DOTPF.
- ADL 417021, Utility Easement, 30 feet wide issued to Golden Valley Electric Assoc., Inc.
- ADL 417702, Utility Easement, 20 feet wide, issued to Matanuska Telephone Assoc., Inc. for telecommunication line.
- ADL 418026, Public Easement Application, from Michelle L. Vlah for driveway.
- ADL 418268, Utility Easement Application, 30 feet wide, from GCI Fiber Communication Co., Inc. from Willow to Fairbanks.
- LAS 19739, Permit Renewal Application, from University of Alaska Fairbanks for forestry research plots.
- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of Slate Creek, Panguingue Creek, Little Panguingue Creek and the unnamed tributary stream to Slate Creek within the N2 of Sec. 9 in accordance with AS 38.05.127 and 11 AAC 51.045.
- Reservation of a continuous 100-foot wide easement of land and vegetation, to be undisturbed except as necessary to fulfill the purposes stated herein, which easement shall be located upland of and adjoining the ordinary high water mark of both banks of

Panguingue Creek that shall be maintained and preserved for the purpose of public access and recreation as well as the protection of riparian habitat and water quality.

**Panguingue A - ADLs 415809 & 415810**

T12S, R09W, FM

Sec. 11: All excluding Tracts A and B of ASLS 78-159, Tracts A and B of ASLS 76-190, ASLS 80-66, Tracts A and B of ASLS 78-76, ASLS 73-19, ASLS 73-90, and the bed of Eightmile Lake.

Sec. 13: N2.

Sec. 14: NW4, E2 excluding ASLS 77-152.

Containing approximately 1,274 acres.

T12S, R08W, FM

Sec. 18: Tracts A, B, W2E2NW4, E2NE4, and that portion of the E2E2NW4 and W2NE4 lying south of the north boundary of Stampede Road.

Containing approximately 291 acres.

Subject to:

- ADL 400070, Public Easement (Stampede Road), 100 feet wide, issued to DOTPF.
- ADL 401881, Public Easement, 60 feet wide, issued to DNR, DMLW for public access.
- LAS 24220, Permit, issued to University of Florida for scientific research, expires 6/30/2008.
- RST 340, Lignite-Stampede-Kantishna via Clearwater Trail (RS2477).
- RST 344 Lignite-Kantishna Trail (RS2477).
- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of Eightmile Lake and the unnamed public waters listed in the *Navigable, Public and Anadromous Waters* section of this decision in accordance with AS 38.05.127 and 11 AAC 51.045.

Total Panguingue A Selection area contains approximately 1,565 acres.

**Panguingue B - ADL 415809**

T12S, R08W, FM

Sec. 1: Lots 3 and 4, S2NW4 and S2 excluding the Parks Highway.

Sec. 2: Tracts A, B, C and D excluding the Parks Highway.

Sec. 10: All.

Sec. 11: Tracts A, B and C excluding the Parks Highway.

Sec. 12: N2 excluding the Parks Highway.

Containing approximately 2,465 acres.

**Subject to:**

- ADL 30788, Utility Easement, 100 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 50661, Utility Easement, 20 feet in width to Golden Valley Electric Association, Inc.
- ADL 56969, Utility Easement, 30 feet wide, issued to Berle E Mercer for utility lines.
- ADL 59603, Public Easement, 22 feet wide, issued to DOTPF for access.
- ADL 400070, Public Easement, (known as Stampede Road), 100 feet wide, issued to DOTPF.
- ADL 401881, Public Easement, 60 feet wide, issued to DNR, DMLW for public access.
- ADL 408885, Material Sale, issued to DOTPF for gravel.
- ADL 410763, Utility Easement, 15 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 414712, Public Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 416618, Material Sale, (Mi. 1.7 Stampede Road), issued to DOTPF
- ADL 417021, Public Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 417023, Land Sale Application, for purchase of State Land from Baxter E. Mercer.
- ADL 418268, Utility Easement Application, 30 feet wide, from GCI Fiber Communication Co., Inc. from Willow to Fairbanks.
- LAS 20704, Permit, issued to Berle E. Mercer for grazing and harvesting Hay (Pending Lease Application filed under ADL 415964).
- LAS 24549, Permit, issued to Coke W. Wallace for grazing, Section 10.
- RST 340, Lignite-Stampede-Kantishna via Clearwater Trail (RS 2477).
- RST 344, Lignite-Kantishna Trail (RS 2477).

**Healy - ADL 417602**

T12S, R08W, FM

Sec. 11: Tract D.

Sec. 12: S2 excluding the Parks Highway, ADL 65667, ASLS 86-135, and Tracts F3 and F4 of EPF 22-21.

Sec. 13: NW4NW4NW4, and those portions of the S2SW4NW4 and NW4SW4 lying west of the right bank of Dry Creek.

Sec. 14: Tr. B and Tr. D excluding ASLS 91-138 and Tracts A and B of ASLS 86-225.

Containing approximately 731 acres.

**Subject to:**

- ADL 30788, Utility Easement, 100 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 50661, Utility Easement, 20 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 414756, Private Easement, 50 feet wide, issued to Montine C. Evans.
- ADL 417021, Utility Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 418268, Utility Easement Application, 30 feet wide, from GCI Fiber Communication Co., Inc. from Willow to Fairbanks.
- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of Dry Creek in accordance with AS 38.05.127 and 11 AAC 51.045.

**Otto Lake - ADL 415801**

T12S, R08W, FM

Sec. 26: W2 excluding ASLS 86-134.

Sec. 27: Tracts A, B, C and D excluding Tracts A, B, C and D of ASLS 72-79, ASLS 91-167, ASLS 85-193, and ASLS 74-23.

Sec. 35: All excluding NENE.

Containing approximately 1,501 acres.

**Subject to:**

- ADL 417390, Lease Application, from Frank H. Talerico for project expansion.
- ADL 417430, Easement Application, from Frank H. Talerico for access road.
- RST 709, Healy-Diamond Coal Mine Road (RS2477).
- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of Dry Creek and its tributary in accordance with AS 38.05.127 and 11 AAC 51.045.

**Nenana Canyon - ADL 415636**

T13S, R07W, FM

Sec. 5: All state land west of the ARR (USS 9052) excluding the Parks Highway.

Sec. 6: All state land west of the ARR (USS 9052) excluding USS 5605, the Parks Highway and that portion of the NW4 and W2NE4 lying east of the Parks Highway.

Sec. 7: NE4NE4.

Sec. 8: Lots 2, 3, 4, 5 and that portion of the N2 lying west of the ARR (USS 9052) excluding the Parks Hwy. and ADL 48811.

Sec. 9: W2SE4, that portion of the SW4 lying east of the Parks Highway and ADL 46509; and that portion of the SW4NW4 lying west of the ARR and excluding the Parks Highway.

Sec. 16: All state land east of the Parks Highway and ADLs 46509 and 57079.



Sec. 21: All state land east of the Parks Highway and ADLs 46509 and 57079.

Sec. 22: W2W2.

Sec. 27: NW4NW4.

Sec. 28: That portion of the NE4NE4 lying east of the Parks Highway and ADL 46509 and ADL 57079.

Containing approximately 1,737 acres.

**Subject to:**

- ADL 57381, Utility Easement, 40 feet wide, issued to Golden Valley Electric Assoc., Inc.
- ADL 408717, Material Sale, issued to DOTPF, expires 12/31/09.
- ADL 414919, Lease, issued to CBK Inc. for RV Park, ASLS 94-97.
- ADL 416740, Utility Easement Application, from Matanuska Telephone Assoc., Inc.
- ADL 417514, Utility Easement Application, 30 feet wide, from Golden Valley Electric Assoc., Inc.
- LAS 23315, Permit, 50 feet wide, issued to Brian Cook for driveway.
- LAS 25888, Permit, issued to the Alaska Railroad Corp. for winter access to the Moody Tunnel, expires 4/30/09.
- LAS 26510, Permit, issued to DOTPF for drilling test holes in Material Sale.
- LAS 26747, Permit, issued to DCCED Alaska Industrial Development Export Authority, for an air monitoring station at Bison Gulch (Previously GVEA LAS 23615).
- Reservation of a continuous public easement 50-foot wide, upland of land adjoining the ordinary high water mark of Antler Creek, Bison Gulch, Coyote Creek, Dragonfly Creek, Eagle Creek, Fox Creek, Grizzly Creek, Hornet Creek and Iceworm Gulch in accordance with AS 38.05.127 and 11 AAC 51.045.

**Montana Creek (New Selections) - ADL 415804**

T13S, R07W, FM

Sec. 34: S2 east of USS 5545.

Sec. 35: S2.

Containing approximately 460 acres

**Subject to:**

- ADL 416400, Private Easement, of variable width, issued to Denali Properties, LLC-Aramark Grande Denali Lodge for road, parking area and discharge pipe, expires 3/8/36.
- ADL 415618, Private Easement, 5 feet wide, issued to Michael Crofoot for water line, expires 8/31/24.
- Reservation of a continuous public easement 50-foot wide, upland of land adjoining the ordinary high water mark of Kingfisher Creek and Lynx Creek in accordance with AS 38.05.127 and 11 AAC 51.045.

**Yanert - ADLs 415803 & ADL 415811**

T14S, R06W, FM

Sec. 31: NE4 and USS 12132.

Sec. 32: N2N2.

Sec. 33: All.

Sec. 34: All.

Sec. 35: S2N2 and S2.

Containing approximately 2,240 acres.

**Subject to:**

- ADL 213063, Public Easement, 400 feet wide, issued to DCCED Alaska Energy Authority for Electric Power Transmission Line, Willow-Healy Intertie.
- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of the Revine Creek and the unnamed public waters as listed in the *Navigable, Public and Anadromous Public Waters* section of this decision in accordance with AS 38.05.127 and 11 AAC 51.045.

**Yanert B - ADL 415803**

T14S, R07W, FM

Sec. 36: Tract B of ASLS 83-194; and that portion of Lot 3 of USS 5566 lying south of the Old Denali Highway, setback 300 feet from the ordinary high water mark of the Nenana River and excluding the Parks Highway.

Containing 22 acres, more or less.

**Subject to:**

- ADL 415109, Utility Easement, 30 feet wide, issued to Golden Valley Electric Assoc., Inc.

**Nenana River 1 - ADL 415812**

T17S, R06W, FM

Sec. 12: S2SE4.

Containing 80 acres, more or less.

**Subject to:**

- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of Bruskasna Creek in accordance with AS 38.05.127 and 11 AAC 51.

*Total acreage proposed for approval is approximately 24,805 acres.*

**Borough Selections Proposed for Rejection**

**Rex Bridge - ADL 417991**

The following lot in the Rex Bridge selection is being rejected and state retained to conform to the form and width requirement specified in AS 29.65.070(c).

T08S, R09W, FM  
Sec. 23: Lot 7.

Containing approximately 295.00 acres.

**West - ADL 417601**

The following areas within the West selection are being rejected and state retained as this decision has determined that the current classifications remain valid. The area is important due to habitat considerations.

T10S, R10W, FM  
Secs. 1, 2, 8-13, 17, 20, 24, 25 and 29: All.

Containing approximately 8,320 acres.

**Panguingue A - ADL 415809**

The following area within the Panguingue A selection is being rejected and retained as it contains a material site (ADL 416618 – Mile 5.2) used by DOTPF for the maintenance of public roads.

T12S, R08W, FM  
Sec. 18: That portion of the E2E2NW4 and W2NE4 lying north of Stampede Road.

Containing approximately 25 acres.

### **Nenana Canyon - ADL 415636**

The following areas within the Nenana Canyon selection are being rejected and state retained as the current classifications are appropriate and remain valid. The area provides scenic views of Denali National Park, the Nenana River and the canyon warranting protection of the view shed. In addition, a DOTPF material site on the northern end is being retained for maintenance of public roads in the area.

#### T13S, R07W, FM

- Sec. 5: All state land lying between the ARR and the Nenana River.
- Sec. 6: That portion of the NW4 and W2NE4 lying east of the Parks Highway; and all state land lying east of the ARR within the NE4.
- Sec. 8: Lots 6, 7, and all state land lying between the Nenana River and the ARR.
- Sec. 9: All state land west of the Parks Highway.
- Sec. 16: All state land lying between the Nenana River and the Parks Highway.
- Sec. 21: All state land lying between the Nenana River and the Parks Highway.

Containing approximately 229 acres, more or less.

### **Montana Creek - ADLs 415802 & 415804**

The following areas within the Montana Creek selection are being rejected and state retained as the current classifications are appropriate and remain valid. The rejected areas comprise the highly scenic and recreational Nenana River corridor and a corridor along Montana Creek. Montana Creek provides access to the back country, serves as a migration corridor and is important due to habitat considerations.

#### T14S, R06W, FM

- Sec. 6: The bed of Montana Creek and a setback 100 feet upland of and along the ordinary high water mark of each bank.
- Sec. 18: S2SW4 lying north of the Nenana River.

Containing approximately 76 acres.

#### T14S, R07W, FM

- Sec. 1: The bed of Montana Creek and a setback 100 feet upland of and along the ordinary high water mark of each bank.
- Sec. 2: W2W2 and the bed of Montana Creek and a setback 100 feet upland of and along the ordinary high water mark of each bank within the E2W2 and E2.
- Sec. 3: All state land east of the Nenana River.
- Sec. 10: All state land east of the Nenana River.
- Sec. 11: W2W2 east of the Nenana River.
- Sec. 13: All state land east of the Nenana River excluding E2NE4.
- Sec. 14: All state land north of the Nenana River.

Sec. 15: All state land east of the Nenana River.

Containing 1,024 acres, more or less.

Total rejected acreage in Montana Creek Selection area contains approximately 1,100 acres.

**Yanert - ADL 415811**

The following selection is being rejected and state retained as the current classification is appropriate and remains valid. The area is important due to habitat considerations.

T14S, R06W, FM

Sec. 19: All state land east of the Nenana River.

Secs. 20-22: All.

Sec. 25: S2.

Sec. 26: S2.

Secs. 27-29: All.

Sec. 30: All state land east of the Nenana River.

Sec. 35: N2N2

Containing approximately 4,960 acres.

**Yanert B - ADL 415803**

The following selection is being rejected and state retained as the current classification is appropriate and remains valid. The selection is next to the Nenana River and will be retained to protect the scenic and recreation values afforded by it.

T14S, R07W, FM (Sec. 36)

That portion of Lot 3 of USS 5566 within 300 feet of the ordinary high water mark of the Nenana River; and

All of the remaining portion of municipal selection ADL 415803 situated in Section 36, Township 14 South, Range 7 West, Fairbanks Meridian, Alaska, lying east of the George Parks Highway Old Alignment excluding a parcel of land more particularly described as follows:

Commencing at the northeast corner of Section 36; Thence south along the east boundary line of Section 36 to a point on said boundary line lying N 90° E of Corner No. 2 of USS 5565 Lot 2, said point being the TRUE POINT OF BEGINNING;  
Thence west to a point lying N 0° E of Corner No. 7 of ASLS 90-319;  
Thence south to Corner No. 7 of ASLS 90-319;  
Thence southeasterly along line C7-C8 to Corner No. 8 of ASLS 90-319, said corner lying on the north boundary line of USS 5565 Lot 3;

Thence in a clockwise direction along the boundary of USS 5565 Lot 3 to Corner No. 4 of USS 5565 Lot 3, said corner being coincident with Corner No. 1 of USS 5565 Lot 4, and lying on the east boundary line of Stezoma Road right-of-way ADL 400671;  
Thence southeasterly along the boundary line common to USS 5565 Lot 4 and Stezoma Road right-of-way ADL 400671 to corner No. 4 of USS 5565 Lot 4;  
Thence southeasterly along the east boundary line of Stezoma Road right-of-way ADL 400671 to a point lying on the east boundary line of Section 36;  
Thence north along the east boundary line of Section 36 to the TRUE POINT OF BEGINNING.

Containing approximately 92 acres.

### **Nenana River 1 - ADL 415812**

The following selection is being rejected and state retained as the current classification is appropriate and remains valid. The area is important due to habitat considerations. Also, the selection contains the scenic Nenana River corridor which provides recreational activities for floating and boating.

#### T17S, R06W, FM

Sec. 13: W2.

Secs. 14-18: All.

Containing approximately 3,479 acres.

*Total acreage proposed to be rejected and retained by the state is approximately 18,500 acres.*

### ***Borough Selections Proposed to be Postponed***

The decision to convey land in the following selection area is postponed as the lands have been identified as containing a possible illegal garbage dump which may contain hazardous material. This portion of the Browns Court selection will be adjudicated at a later date after the site is evaluated and remediated if necessary.

### **Brown's Court - ADL 415979**

#### T08S, R08W, FM

Sec. 7: Tract B1 of State Cadastral Supplemental Plat of Sections 7 and 18 and that portion of Tract A-1-A of ASLS 85-257 lying south of the Parks Highway.

Containing 40 acres, more or less.

The decision to convey land in the Suntrana selection is postponed as the lands have been identified as containing possible PCB contamination. This selection will be adjudicated at a later date when a determination of the exact level of contamination is tested and the site remediated if necessary.

**Suntrana - ADL 415808**

T12S, R07W, FM

Sec. 24: SW4NE4SW4SW4, N2SE4SW4SW4, SE4SE4SW4SW4, SW4NW4SE4SW4 and W2SW4SE4SW4 excluding USS 9053 (ARR)

Sec. 25: NE4NE4NW4NW4 and NW4NW4NE4NW4.

Containing 20 acres, more or less.

*Total acreage postponed is approximately 60 acres, more or less.*

***Clarification of Land Approved in Final Decision Dated June 26, 2000***

On June 26, 2000, a Final Finding and Decision was issued to the borough approving the conveyance of land in the Montana Creek selection area less an undetermined corridor adjacent to the Nenana River and Montana Creek for habitat protection. These corridors were intended to be state retained as they provide prime habitat for moose, grizzly bear and various species of birds of prey. In addition, the Nenana River is known for its high scenic and recreational values. The TBAP was silent to the width of the corridors and the June decision approved all state land classified settlement based on the area plan maps. Approving the conveyance this way created ambiguity in defining the approved parcel boundaries. The use of plan maps for describing land is inadequate for conveyance purposes as they are not drawn at a scale to provide the level of detail required. This decision clarifies the intent of the June 2000 decision and provides a detailed legal description for the land intended for approval for conveyance to the borough and rejects land within the Nenana River and Montana Creek corridors as described in the section titled *Borough Selections Proposed for Rejection* above.

**Montana Creek - ADLs 415802 & 415804**

***Old Legal Description (June 2000)***

T14S, R06W, FM

Sec. 6: All state land classified settlement.

Sec. 7: All.

Sec. 18: All state land classified settlement.

Containing approximately 1,554 acres

T14S, R07W, FM

Secs. 1, 2, and 10-13: All state land classified settlement.

Containing 2,065 acres, more or less.

Total Montana Selection area per the June 2000 decision contains approximately 3,619 acres.

***Revised Legal Description***

T14S, R06W, FM

Sec. 6: All, excluding the bed of Montana Creek and a setback 100 feet upland of and along the ordinary high water mark of each bank.

Sec. 7: All.

Sec. 18: N2, SE4, N2SW4.

Containing approximately 1,748 acres.

T14S, R7W, FM

Sec. 1: All, excluding the bed of Montana Creek and a setback 100 feet upland of and along the ordinary high water mark of each bank.

Sec. 2: E2W2, E2 excluding the bed of Montana Creek and a setback 100 feet upland of and along the ordinary high water mark of each bank.

Sec. 11: E2W2, E2.

Sec. 12: All.

Sec. 13: E2NE4.

Containing approximately 2,274 acres.

Subject to:

- ADL 213063, Public Easement, 400 feet wide, issued to DCCED Alaska Energy Authority for Electric Power Transmission Line, Willow-Healy Intertie.
- Reservation of a continuous public access easement 50-foot wide, upland of and adjoining the ordinary high water mark of the unnamed public waters as listed in the *Navigable, Public and Anadromous Public Waters* section of this decision in accordance with AS 38.05.127 and 11 AAC 51.045.

Total Montana Selection area as revised contains approximately 4,022 acres.

**Yanert B - ADL 415803**

As in the Montana Creek selection, a portion of the Yanert B selection was also based on area plan maps in the June 2000 Final Finding and Decision. Again, area plan maps should only be used to depict general boundaries and are not intended to serve as a basis for legal descriptions because of the scale at which they are prepared. Parcel boundaries must be more precisely



defined for the purpose of a written decision. This decision clarifies the intent of the June 2000 decision by refining the legal boundary descriptions using previously surveyed reference points. Two additional selection parcels are referenced and included in this description, as they are adjacent to the area in question and are also being approved for conveyance to the borough at this time. A general depiction of these actions is shown on the Yanert B map.

***Old Legal Description (June 2000)***

T14S, R07W, FM

Sec. 36: That portion of the E2NE4 and NE4SE4 which is classified settlement excluding USS 5564, ASLS 90-319 and ASLS 83-194.

Containing approximately 10 acres.

***Revised Legal Description***

*(The legal description below provides a clarification of what was contained in the June 2000 decision and approves an additional area of approximately 16 acres as depicted on the Yanert B map.)*

T14S, R07W, FM (Sec. 36)

A parcel of land situated in Section 36, Township 14 South, Range 7 West, Fairbanks Meridian, Alaska, more particularly described as follows:

Commencing at the northeast corner of Section 36; Thence south along the east boundary line of Section 36 to a point on said boundary line lying N 90° E of Corner No. 2 of USS 5565 Lot 2, said point being the TRUE POINT OF BEGINNING;  
Thence west to a point lying N 0° E of Corner No. 7 of ASLS 90-319;  
Thence south to Corner No. 7 of ASLS 90-319;  
Thence southeasterly along line C7-C8 to Corner No. 8 of ASLS 90-319, said corner lying on the north boundary line of USS 5565 Lot 3;  
Thence in a clockwise direction along the boundary of USS 5565 Lot 3 to Corner No. 4 of USS 5565 Lot 3, said corner being coincident with Corner No. 1 of USS 5565 Lot 4, and lying on the east boundary line of Stezoma Road right-of-way ADL 400671;  
Thence southeasterly along the boundary line common to USS 5565 Lot 4 and Stezoma Road right-of-way ADL 400671 to corner No. 4 of USS 5565 Lot 4;  
Thence southeasterly along the east boundary line of Stezoma Road right-of-way ADL 400671 to a point lying on the east boundary line of Section 36;  
Thence north along the east boundary line of Section 36 to the TRUE POINT OF BEGINNING.

Containing approximately 26 acres.

Subject to:


- ADL 74265, Utility Easement Application, 10 feet wide, from Matanuska Telephone Assoc., Inc.
- ADL 400671, Public Easement, of variable width, issued to Stephen E Jones.
- ADL 417576, Land Sale Nomination, for offering of State Land from Nancy and Steve Jones.

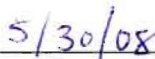
*Additional acreage approved under the Clarification Section is approximately 16 acres.*

### **Recommendation**

Land conveyed to a municipality under AS 29.65 becomes part of the municipality's "land base." The municipality may then use its land base to support community and economic development. Additionally the land serves as a recreation resource. It is recommended that Alternative 3 proceed to public notice as discussed in the section titled *Discussion and Alternatives* above. It is further recommended that the boundary clarifications for Montana Creek and Yanert selections be adopted.

The facts of the case, presented above, have been reviewed and considered. I find that the proposed actions, recommended above, may be in the state's best interest and are approved to proceed to public notice. The transfer of state land is contingent upon the amendment to the TBAP to reclassify those lands considered appropriate for conveyance to the borough.

  
\_\_\_\_\_  
Bruce Phelps, Chief  
Resource Assessment and Development Section

  
\_\_\_\_\_  
Date

## **Public Notice, Decision and Appeal Procedure**

A public notice inviting comment, on this preliminary decision and concurrent plan amendment will be published in the Anchorage Daily News and the Fairbanks News Miner per AS 38.05.945(b)(3). The Postmaster in Anderson (99744), Cantwell (99729), Healy (99743) and Denali National Park (99755) will be requested to post the public notice per AS 38.05.945(b)(3)(B). Public Notice on the Internet will be posted on the State's web page under *Notices* and under DNR's public notice site: <http://www.dnr.state.ak.us/pic/publicnote.cfm>. Additionally, notice will be sent to the Denali Borough.

A copy of the Preliminary Decision document and plan amendment is available from the Division of Mining, Land and Water Resource Assessment and Development Section (RADS), Attention: Merry Johnson, 550 W 7<sup>th</sup> Avenue, Suite 1050, Anchorage, AK 99501-3579; telephone 1-907-269-8129; fax 1-907-269-8915; email [merry.johnson@alaska.gov](mailto:merry.johnson@alaska.gov). The public is invited to comment on the decision and plan amendment to transfer ownership of state land to the Denali Borough. Separate comments should be submitted for each action. Any comments must be received in writing or email by Merry Johnson at the Division of Mining, Land and Water, Resource Assessment and Development Section, at the above address on or before 5:00p.m., July 31, 2008 in order to ensure consideration.

Following the comment deadline, all written responses will be considered and this decision may be modified to incorporate public comments. Only persons who comment during the public comment period will be eligible to file an administrative appeal of the final finding and decision. A copy of the final finding and decision will be sent to any person who comments on the preliminary decision. The final finding and decision will include appeal instructions.

The Department of Natural Resources 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 department's Public Information Center in Anchorage between the hours of 10:00 a.m. and 5:00 p.m., M-F, at TDD# 1-907-269-8411.

The right is reserved to waive technical defects in this document.

Attachments: Maps