

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

**PRELIMINARY DECISION**  
**ADL 421628**  
**BLM No. FF013040 (Parcel B)**

**Proposed Reconveyance of a  
Alaska Native Allotment in the Unorganized Borough**

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

**I. Proposed Action**

*Preliminary Decision: Roselyn Isaac – ADL 421628*

*Attachment A: Public Notice*

*Attachment B: U.S. Survey No. 13712*

*Attachment C: Vicinity & Easement Map*

*Attachment D: Ownership Map*

Proposed Action: The primary proposed action of this Preliminary Decision (PD) of the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) is to voluntarily reconvey to the United States of America, U.S. Survey No. 13712, containing 80.00 acres of wrongfully conveyed state land. See *Attachment C: Vicinity & Easement Map* for a depiction of the project area.

The subject parcel is an Alaska Native allotment, Bureau of Land Management (BLM) Serial No. FF013040 (Parcel B) claimed by Roselyn Isaac (deceased). The claim is being settled in accordance with the Stipulated Procedures for Implementation of Order approved by the Court to implement the decision in Ethel Aguilar v. United States of America, 474 F. Supp. 840 (D. Alaska 1979) (herein cited as Aguilar) and Alaska Statute (AS) 38.05.035(b)(9) *Powers and Duties of the Director*.

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

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

**II. Authority**

This reconveyance is being adjudicated pursuant to AS 38.05.020 *Authority and Duties of the Commissioner*, AS 38.05.035 *Power and Duties of the Director*, AS 38.05.830 *Land Disposal in the Unorganized Borough*, 11 Alaska Administrative Code (AAC) 67.930 *Purpose and Procedure* and the settlement authority of the Attorney General in accordance with Aguilar. The authority to execute this PD has been delegated to the Section Chief, LCS, DMLW, DNR, pursuant to AS 38.05.035(b)(1) *Power and Duties of the Director*.

## **Preliminary Decision**

ADL 421628

Page 2 of 7

### **III. Administrative Record**

The DNR case file - ADL 421628 and BLM case file F013040-B, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Eastern Tanana Area Plan for State Lands (ETAP, adopted August 8, 2015) and associated land classification files; and
- DNR case files: GS 110.

### **IV. Scope of the Proposal**

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

### **V. Location**

Located within DNR's Northern Region, approximately 8 miles West of Tok, the project area is within Section 23, Township 18 North, Range 11 East, Copper River Meridian, within the Unorganized Borough. The project area consists of approximately 80.00 acres identified for reconveyance by this proposed action. See *Attachment C: Vicinity & Easement Map* for a depiction of the project area.

*USGS Map Coverage:* Tanacross B-5

*Borough/Municipality:* Unorganized Borough

*Native Councils and Corporations:* The project area is within the boundaries of the Doyon Regional Corporation. Tok, Tanacross, and Tetlin are within 25 miles of this proposed action and notice will be sent to the Tanacross Incorporated and Tanana Chiefs Conference.

### **VI. Legal Description**

The legal description is U.S. Survey No. 13712, Alaska, containing 80.00 acres, more or less, according to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management, Anchorage, Alaska, on April 4, 2008, and officially filed on August 1, 2008.

### **VII. Title**

The State received title to the land on October 31, 1961 under a Tentative Approval. The State file is GS 110. Title Report 21738 was issued April 26, 2021. No third-party interest were identified. The parcel is subject to the reservations, easements, and exceptions contained in Patent 1234212 dated November 20, 1963.

*Acquisition:* The State filed selection application GS 110 (BLM Serial No. F-024800) for Township 18 North, Range 11 East, Copper River Meridian on February 2, 1960.

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

## **Preliminary Decision**

ADL 421628

Page 3 of 7

reservation for the right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the Act of March 12, 1914 (38 Stat. 305).

### **VIII. Background**

Roselyn Isaac began her use and occupancy of the subject lands in May of 1965 according to documentation in DNR case file ADL 421628. Her native allotment application was reconstructed on September 28, 1990 after it was determined that the Bureau of Indian Affairs (BIA) had lost a set of applications from the Tanacross area. The State filed selection application GS 110 for Township 18 North, Range 11 East, Copper River Meridian on February 2, 1960 and received title by Tentative Approval on October 31, 1961 and Patent on November 20, 1963. BLM surveyed the 80.00-acre parcel and issued plat U.S. Survey No. 13712 in 2008. On December 6, 2004, BLM determined Native Allotment application FF013040 (Parcel B) valid and the State received a request for reconveyance on August 6, 2008.

### **IX. Planning, Classification, and Mineral Orders**

1. *Planning:* The subject parcel is located within the Upper Tanana Region of the Eastern Tanana Area Plan adopted on August 28, 2015, in unit U-21. Recommended land use within this unit includes management for forestry and wildlife habitat and maintaining the natural character of the land while providing for personal economic activities. The plan designates the subject parcel as Forestry and Habitat. These designations convert to classifications of Forest Land and Wildlife Habitat Land.
2. *Land Use Classification:* The State classified the subject parcel as Forest Land and Wildlife Habitat Land under Classification Order CL NC-10-004 based on ETAP, adopted August 28, 2015.
3. *Mineral Order:* The subject parcel is closed to mineral entry under Mineral Order (closing) No. 67.
4. *Local Planning:* This parcel does not exist within any local planning unit.

### **X. Traditional Use Finding**

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

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

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

*Public Access:* This parcel is adjacent to a developed subdivision and can also be accessed via RST 188 Slana-Tanana Crossing Trail (the Eagle Trail). This parcel is primarily accessed by foot and ATV in the summer and by dogsled and snow machine in the winter.

## **Preliminary Decision**

ADL 421628

Page 4 of 7

*Access To and Along Public or Navigable Waters:* In accordance with AS 38.05.127 *Access To Navigable or Public Water*, DNR will determine if a water body is navigable or public and establish easements or rights-of-way as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or rights-of-way under this statute include 11 AAC 51.035 *Determination of Navigable and Public Water*, 11 AAC 51.045 *Easements To and Along Navigable and Public Water*, and 11 AAC 53.450, *Buffer Strips, Reserved Areas, and Public Easements*.

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

Subject to:

- (a) An easement fifty (50) feet in width along each side of the surveyed section line in common with Sections 23 and 14, Township 18 North, Range 11 East, Copper River Meridian, pursuant to AS 19.10.010 *Dedication of Land for Public Highways*, 11 AAC 51.025 *Section Line Easements*, and AS 19.25.010 *Use of Rights-of-way for Utilities*; and
- (b) All other valid existing rights, if any.

### **XII. Reservation of the Mineral Estate**

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

### **XIII. Hazardous Materials and Potential Contaminants**

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

### **XIV. Survey**

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

### **XV. DMLW and Agency Review**

Information and comments received from multiple sections with DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. Agency review was conducted from April 21, 2021 to May 25, 2021. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision (FFD).

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

## Preliminary Decision

ADL 421628

Page 5 of 7

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

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

### XVI. Submittal of Public Comments

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

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

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

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

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

Only persons from whom DNR DMLW LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Upon approval and issuance of a Final Finding and Decision, a copy of the decision will be made available online at <http://landsales.alaska.gov/> or <https://aws.state.ak.us/OnlinePublicNotices/> and sent with an explanation of the appeal process to any party who provides timely written comment.

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

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

### XVII. Discussion and Alternatives

The following alternatives were considered:

#### Alternative 1: Reconvey

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

**Preliminary Decision**

ADL 421628

Page 6 of 7

Alternative 2: Retain

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

In accordance with the Stipulated Procedures for Implementation of Order in Aguilar, BLM reviewed and determined Ms. Isaac's Native Allotment application to be valid on December 6, 2004. Based on documentation within BLM's case file and subsequent comments received from agency review, LCS has found no legal reason for denying this reconveyance subject to public notice and a final decision.

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

Recommendation follows.

**Preliminary Decision**

ADL 421628

Page 7 of 7

**XVIII. Recommendation**

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

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



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

July 12, 2021  
Date

*for* → 

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

July 12, 2021  
Date

## PUBLIC NOTICE

State of Alaska  
Department of Natural Resources (DNR)  
Division of Mining, Land and Water  
Land Conveyance Section  
550 W. 7<sup>th</sup> Ave., Suite 640  
Anchorage, Alaska 99501-3579

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

Applicant: Roselyn Isaac (deceased)  
BLM No.: F-013040 (Parcel B)  
ADL No.: 421628  
Location: Sections 23, T. 18 N., R. 11 E., Copper River Meridian  
Survey: Survey No. 13712, containing 80.00 acres, more or less

The public is invited to comment on the proposals to reconvey the land. Copies of the Preliminary Decision are available from the address above. Comments must be in writing and received at the above physical address, faxed to (907) 269-8916, or submitted by email to [danny.hovancsek@alaska.gov](mailto:danny.hovancsek@alaska.gov) before 4:30 pm, August 12, 2021 in order to ensure consideration and appeal in accordance with 11 AAC 02.010(c). Public comments will be reviewed and considered in the Final Finding and Decision. The final decision will be issued on or about August 19, 2021, or thereafter, and will be sent to any person who commented during the thirty-day comment period. The Final Finding and Decision will provide additional information about the appeal procedures.

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

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

Date of Publication: July 12, 2021










# Attachment C: Vicinity & Easement Map Roselyn Isaac ADL 421628

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



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

### Legend

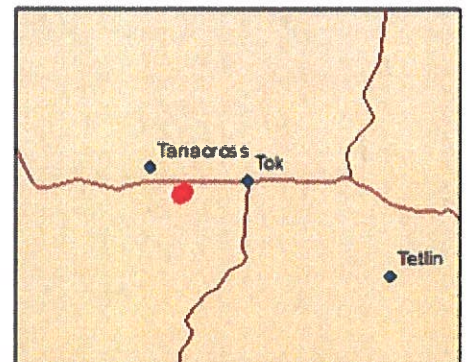
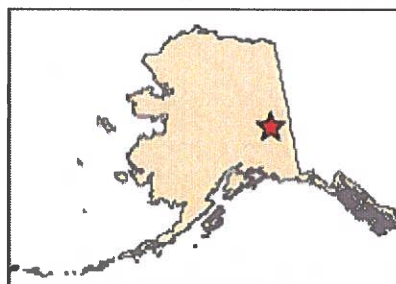
-  Roselyn Isaac Native Allotment
-  50 Foot Section Line Easement
-  Alaska Highway



DLH 5/11/2021

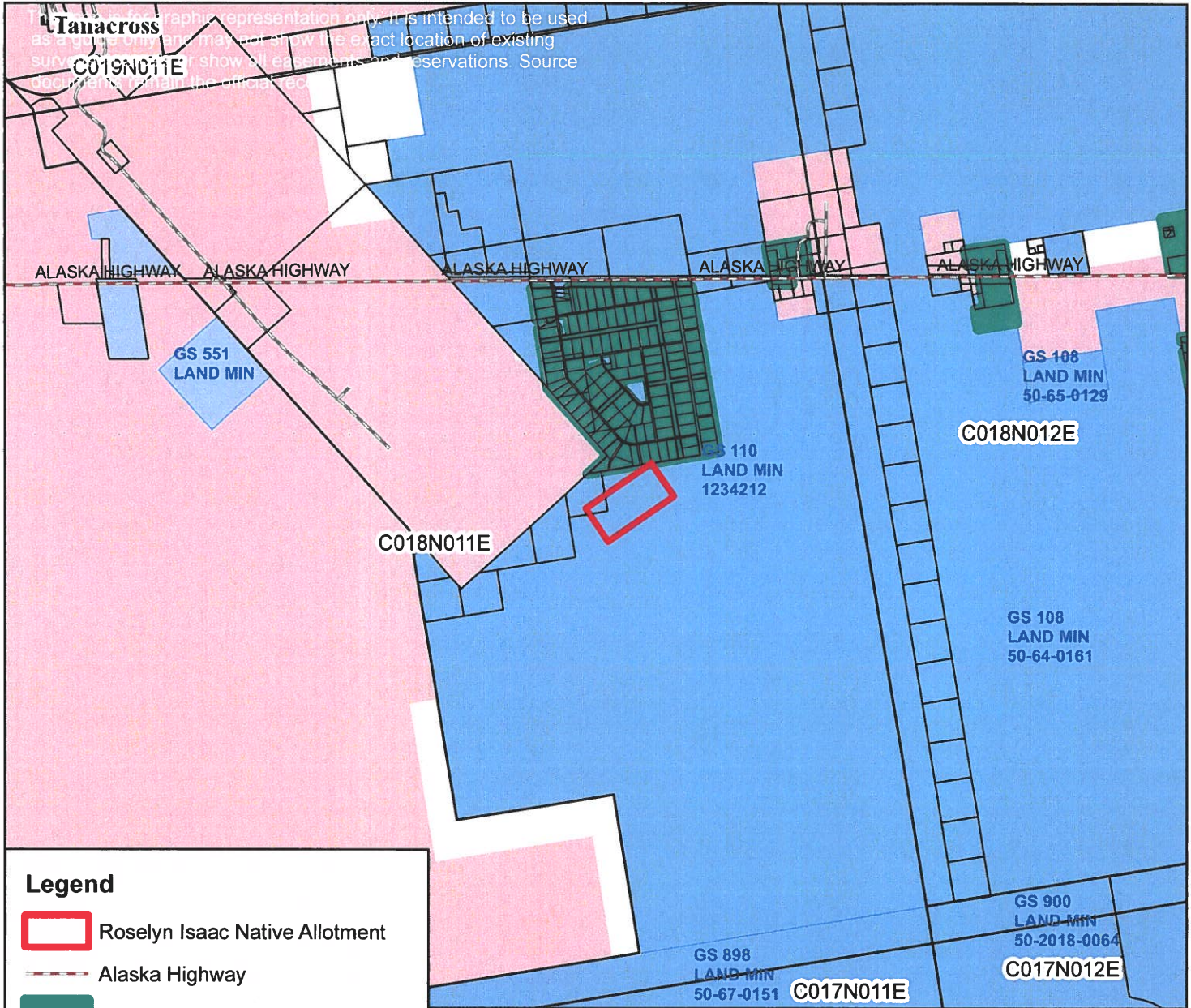
Section 23, Township 18 North,  
Range 11 East, Copper River Meridian

USGS QUAD 1:63,360 Tanacross B-5  
For more information contact:  
Daniel Hovancsek  
Department of Natural Resources  
Division of Mining, Land and Water  
Land Conveyance Section  
Phone: 907-269-8574  
Fax: 907-269-8916  
Email: [danny.hovancsek@alaska.gov](mailto:danny.hovancsek@alaska.gov)





# Attachment D: Ownership Map Roselyn Isaac ADL 421628



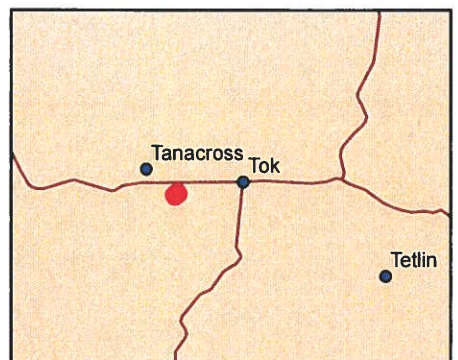
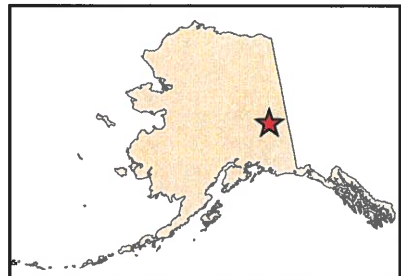
**Legend**

- Roselyn Isaac Native Allotment
- Alaska Highway
- Privately Conveyed Parcels
- State Patented Lands
- State Tentatively Approved Lands
- ANCSA Patented Lands



DLH 5/24/2021

**Section 23, Township 18 North,  
Range 11 East, Copper River Meridian**



USGS QUAD 1:63,360 Tanacross B-5  
 For more information contact:  
 Daniel Hovancsek  
 Department of Natural Resources  
 Division of Mining, Land and Water  
 Land Conveyance Section  
 Phone: 907-269-8574  
 Fax: 907-269-8916  
 Email: danny.hovancsek@alaska.gov

