

STATEHOOD ENTITLEMENT

COMPREHENSIVE OVERVIEW AND OUTLOOK BRIEFING – 2/19/2015

Purpose

In the context of the Statehood land entitlement, to provide a summary of the State of Alaska's land entitlement history, processes, and remaining entitlement.

Background – History and Process

Under the 1959 Alaska Statehood Act, the federal government provided Alaska with an approximately 100 million acre land entitlement – lands that would be taken into state ownership to provide a self-sufficient economic base for the State.

The Statehood Act's entitlement provisions were amended through several pieces of subsequent federal legislation that extended, expanded, modified, limited, or otherwise affected the State's entitlement, including:

- The 1971 Alaska Native Claims Settlement Act (ANCSA);
- The 1979 Cook Inlet Region, Inc. (CIRI) Land Exchange;
- The 1980 Alaska National Interest Lands Conservation Act (ANILCA);
- The 2004 Alaska Land Transfer Acceleration Act (ALTAA).

Under these laws, the State's entitlement was finalized at **105.9 million acres** and the State was given until January 3, 1994, to submit their final list of “selected” lands to the U.S. Department of Interior (DOI)'s Bureau of Land Management (BLM).

Lands that are selected may, at the State's request, be adjudicated by BLM for tentative approval for transfer and then patented to the State or directly patented to the State. Once BLM provides tentative approval, management authority vests in the State, but the land still has to be surveyed pursuant to the Statehood Act prior to the issuance of the final patent.¹ While there is cost and administrative work associated with the adjudication, the primary federal expense associated with resolution of the State's entitlement going forward is expected surveying costs.

ANILCA also gave the State the right to make “top-filings” on certain parcels. A top-filing is effectively a contingent selection – where the underlying land is subject to a federal restriction or withdrawal² that prevents the land's adjudication as an entitlement selection – but, in the event the restriction is lifted, a state selection automatically attaches to the land. It is thus a future interest in a selection for the State, but not considered an actual selection until the relevant withdrawal is lifted. The State's ability to make “top-filings” has also closed.³

¹ There are several technical issues raised by these steps – one is that a formally surveyed set of patented parcels typically includes less land than the amount estimated at the tentatively approved stage – because meanderable waters, inholdings, and other small pieces are accounted for and “surveyed out” when preparing the patent. Typically this variation is around 5% - where 100 acres of tentatively approved lands, when surveyed, is found to be 95 acres for purposes of issuing the patents and debiting the State's entitlement. While a very imprecise number, the State could potentially see 1.8 million acres of surveyed-out acreage from the 36 million acres that are currently tentatively approved – 1.8 million acres that will be available to request adjudication of additional selections.

² There is an immense variety of federal actions and process that may create what is termed a “withdrawal.” Two common executive branch actions that create withdrawals are Public Land Orders (PLOs) issued by the Department of the Interior (DOI) and Executive Orders (EOs) issued by the President.

³ No additional lands may be added to those selected or top-filed. The existing claims may only be adjudicated and transferred to the State, or relinquished by the State.

Background – Current Status

As of January of 2015, the vast majority of the State's entitlement has been transferred into State control. Of the 105.9 million acre total entitlement, the State has received ~ 100.5 million acres (with ~35.6 million acres tentatively approved and ~64.9 million acres finally surveyed and patented). This leaves **~5.4 million** acres of remaining entitlement that has not yet been fulfilled by the federal government.

The State currently has ~10.9 million acres of selections from which to receive these ~5.4 million acres of entitlement, as well as ~10.2 million acres of top-filings that may eventually become selections in the future should the applicable withdrawals be lifted.

Theoretically all of these top-filings can convert to state selections and be eligible for transfer. Thus the total scope of lands the State is evaluating for potential adjudication and transfer include both the ~10.9 million acres that currently are under a valid state selection and the ~10.2 million acres subject to the "top-filings," for a total of ~21.1 million acres.⁴

⁴ Subject to the possible increases from survey acreage changes as detailed in note 1. While a very imprecise number, the State could potentially see 1.8 million acres of surveyed-out acreage from the 36 million acres that are currently tentatively approved – 1.8 million acres that will be available to request adjudication of additional selections.