



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Alaska State Office

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Anchorage, Alaska 99513-7504

<http://www.blm.gov/ak>

In Reply Refer To:
2568 (960) P

February 23, 2007

Instruction Memorandum No. AK-2007-023

Expires: 9/30/2008

To: Field Office and Division of Conveyance Management Employees

From: State Director

Subject: Procedures for Alternative Allotments under the Alaska Native Veterans Allotment Act (ANVAA)

Program Area: Alaska Land Transfer; Native Veteran Allotments

Purpose: This Instruction Memorandum establishes alternative allotment processing procedures and describes which lands may be selected as alternative allotments by qualified veteran applicants.

Background: In order to receive an allotment, a Native veteran applicant must first meet the eligibility requirements of [43 C.F.R. 2568.50](#), including adequate proof that qualifying use and occupancy commenced when the land was available for entry. However, even when an applicant has passed all of these tests, there are two scenarios under which he will be unable to receive title to the applied-for land and will be eligible for an alternative allotment: (1) when the original allotment claim cannot be conveyed because it is within one of the prohibited categories listed in [43 C.F.R. 2568.91](#), or (2) when the original allotment claim cannot be conveyed because the Conservation System Unit (CSU) manager has determined that an allotment at the applied-for location is inconsistent with the purposes of the CSU. In either case, the applicant may apply for an alternative allotment.

Basic Steps in the Alternative Allotment Process:

1. Conveyance Management issues decision notifying applicant of eligibility for alternative allotment or CSU manager notifies applicant that original parcel is inconsistent with CSU
2. Field Office (FO) meets with applicant and Realty Service Provider (RSP) for pre-application consultation

3. Applicant identifies proposed alternate allotment that meets regulatory requirements including CSU consistency, if proposed parcel is within a CSU
4. FO examines proposed alternate allotment for the purpose of confirming that parcel meets regulatory requirements, and if so, marks survey point of beginning
5. Applicant files alternative allotment application with Alaska State Office, BLM
6. Conveyance Management approves application by appealable decision and requests survey
7. Cadastral schedules, completes, and approves survey
8. Conveyance Management issues Certificate of Allotment

Detailed Description of Alternative Allotment Process:

1. Decision: Applicant Eligible to Choose Alternative Allotment:

The BLM Alaska State Office, Division of Conveyance Management, Branch of Resolution and Preparation (hereafter AK-962) will review the relevant facts and law to verify that an applicant has satisfied the legal requirements and is eligible to receive an allotment. Specifically, AK-962 will confirm that the applicant would have been eligible for an allotment under the Native Allotment Act of 1906, as that Act was in effect before December 18, 1971. AK-962 will also review the status of the lands applied for in the original application. If AK-962 determines that the applicant is eligible to receive an allotment but the lands originally applied for cannot be conveyed, AK-962 will issue an appealable decision notifying the applicant that he is eligible to choose an alternative allotment. The decision will identify the designated FO contact by name, provide an address and phone number for that individual, and strongly encourage the applicant to contact the designated employee. The FO contact, FO manager, realty service provider and other interested parties will each receive a copy of the decision.

2. Pre-Application Consultation:

The purpose of the pre-application consultation is to familiarize the applicant and RSP with the categories of Federal land that are available for selection as alternative parcels. Except for special cases within CSUs as described below, an applicant who is eligible for an alternative allotment will be allowed to file one alternative allotment application. If for any reason, the lands described in that application cannot be conveyed to him, the application will be rejected. The applicant cannot amend the land description or file for a different parcel.

The pre-application consultation is the opportunity for the applicant and the RSP to work with BLM to identify an alternative allotment and is the recommended course of action. BLM cannot require a pre-application consultation but will make every effort to encourage one. The consultation is

critical, because if an applicant files an alternative allotment application for lands that cannot be conveyed, BLM will reject the alternative allotment application, and the applicant will not be allowed to file for another alternative allotment.

Before the pre-application consultation, the FO contact will review the original application, field report and decision to become familiar with the location of the original allotment claim, the resources on the land, and the applicant's use of the land. If the applicant qualifies for an alternative allotment because the CSU manager has determined the original application was inconsistent with the purpose of the CSU, the BLM FO contact will discuss the issue with the CSU manager to determine which lands within the CSU would not be inconsistent with the purpose of the CSU.

Lands Available for Alternative Allotments:

Title [43 CFR 2568.110](#) describes the categories of federal land from which alternative allotments can be conveyed.

- (a) Lands within an original village withdrawal under Sec. 11(a)(1) of the Alaska Native Claims Settlement Act (ANCSA) that were either not selected or selected but later relinquished or rejected. Generally, these lands can be within any CSU (including a pre-ANCSA refuge), as long as the CSU manager determines that the alternative allotment is not inconsistent with the purpose of the CSU. However, lands in pre-ANCSA parks and lands designated as wilderness are not available for alternative allotments.
- (b) Lands outside of, but touching a boundary of an original village withdrawal under Sec. 11(a)(1) of ANCSA, except for land within a National Park. These lands can be within other CSUs (including a pre-ANCSA refuge) except wilderness, as long as the CSU manager determines that the alternative allotment is not inconsistent with the purpose of the CSU; or
- (c) Vacant, unappropriated, and unreserved lands, including lands withdrawn solely under the authority of Sec. 17(d)(1) of ANCSA. These are BLM-managed, public domain lands -- not CSU lands.

Any alternative allotment within a CSU, regardless of whether the parcel is within or adjacent to a Sec. 11(a)(1) ANCSA withdrawal, must be found consistent with the purpose of the CSU before it can be conveyed.

Lands Not Available for Alternative Allotments:

- (a) Lands no longer in Federal ownership
- (b) Land outside of the ANCSA Region in which the original application was filed
- (c) Lands described in [43 C.F.R. 2568.91](#)
- (d) Non-CSU land valuable for locatable minerals
- (e) CSU land valuable for sand and gravel or locatable minerals
- (f) CSU lands where CSU manager finds alternative allotment inconsistent with the CSU
- (g) Lands presently selected by the State or by a Native corporation (see discussion below)

Some applicants may wish to work with Native corporations and/or the State to obtain relinquishments of present selections or topfilings. While this may be a workable solution in certain instances, the FO contact should advise applicants that there is a risk associated with filing an alternative allotment application for such lands. An application for an alternative allotment that describes lands which are presently selected by the State or by a Native corporation cannot be approved unless and until the selecting entity (or entities) voluntarily relinquishes its selection. If an applicant files for an alternative parcel that is presently selected and the selecting entity is unwilling to relinquish, the alternative application must be rejected, and the allotment applicant will not be allowed to file for another alternative parcel.

If an applicant files for lands selected by a Native corporation that is also topfiled by the State of Alaska but otherwise available, the application can be approved when the Native corporation relinquishes its selection. In this case, BLM will reject the State's topfiling. State of Alaska Sec. 906(e) topfilings have no present segregative effect and may be selected as an alternative allotment if the lands are otherwise available. Although we believe that it is unlikely that the State would prevail if it appealed the rejection of a topfiling in favor of an alternative allotment, we cannot guarantee the outcome of such an appeal. If the State were to prevail, the alternative allotment application would be rejected, and the applicant would not be allowed to select another alternative allotment. In any event, an appeal would delay the conveyance process.

Where possible, applicants should be encouraged to choose alternative allotments from lands which are not selected by any other entity.

Special Considerations for Allotments Determined to be Inconsistent by a CSU Manager:

Applicants eligible for an alternative parcel because the CSU manager has determined an allotment at the applied-for location is inconsistent with the purpose of the CSU may apply for an alternative allotment from available lands described above. In addition, these applicants have the option of working with the CSU manager to identify an alternative allotment anywhere within the non-wilderness portion of the same CSU as their original claim as long as the alternative allotment is within the same ANCSA Region as the original claim, is not a prohibited category identified in [43 C.F.R. 2568.91](#), and is not valuable for sand and gravel or locatable minerals. Again, each alternative allotment application for lands within a CSU must be found not inconsistent before the land can be conveyed.

Because there is a strict regulatory deadline for filing an alternative allotment as a result of an inconsistency determination which cannot be waived by either the CSU manager or the BLM, pre-application consultation with such applicants must take priority over other work. Applicants must submit an application for an alternative allotment to the BLM Alaska State Office within 12 months of receiving a decision from the CSU manager stating the original allotment is inconsistent with the purposes of the CSU. If the applicant requests reconsideration of the original decision and receives a decision from the CSU manager affirming that the original allotment is inconsistent, the applicant must submit an application for an alternative allotment within six months of receiving that decision. If an appellate decision is issued, the applicant must submit an application for an alternative allotment

within three months of the date the appellate decision from the appropriate Federal official becomes final. Whenever AK-962 receives a copy of an inconsistency determination, it will notify the designated FO contact.

An alternative allotment application that is inconsistent with the CSU cannot be conveyed and will be rejected. Applicants whose original parcels were found to be inconsistent with a CSU will have one opportunity to file for an alternative allotment. If that alternative allotment is also found inconsistent, BLM will reject the alternative allotment, and the applicant will not be allowed to amend the land description for his alternative allotment or to file a second alternative allotment application. If the applicant's original allotment was found to be consistent with a CSU or did not describe CSU lands (e.g., the ANCSA corporation or the State of Alaska refused to relinquish), and the applicant's alternative allotment is found inconsistent with a CSU, he will be given one additional opportunity to file for an alternative allotment that either describes lands consistent with the CSU or describes lands outside of a CSU.

At the Pre-Application Consultation, the FO Contact will:

- (a) Explain the categories of land that are available for alternative allotments
- (b) Explain the categories of land that are not available for alternative allotments
- (c) Explain that shore space waivers will not be granted and applications with excessive shore space (more than 160 rods along a navigable water way) will be adjusted at the time of survey and applicants may receive reduced acreage
- (d) Explain that the applicant has one opportunity to file for an alternative parcel and will not be allowed to amend the land description once the application has been filed except in the special case of an applicant whose alternative allotment is found inconsistent with a CSU as described above
- (e) Explain the regulatory deadline for filing an alternative allotment if the original allotment was found inconsistent with a CSU, as applicable, and the importance of filing an alternative allotment as soon as possible
- (f) Interview the applicant to determine whether he has already identified a proposed area or site
- (g) Suggest areas based on applicant's stated preferences

After the Pre-Application Consultation and Identification of Proposed Alternative Allotment:

When the applicant has identified a proposed alternative allotment, the FO contact will assess the land status. The FO contact will also check the lands for locatable mineral/sand and gravel value by using the pre-screened geographic listing provided by AK-940. If the location is not on the pre-screened list, the FO contact will request a mineral screening be done by AK-940. If the proposed alternative allotment appears to meet the regulatory requirements and does not appear to be mineral in character, the FO contact will forward the proposed description to AK-962 for confirmation that the parcel appears to meet the regulatory requirements for an alternative allotment.

If AK-962 confirms that the proposed parcel appears to meet the regulatory requirements, the FO contact will schedule an exam of the proposed parcel with the applicant, or applicant's designated representative, who must be present. The purpose of the exam will be to locate the proposed parcel on the ground; identify any conflicts that would prevent the parcel from being conveyed, e.g., campsites, development, surface indications of mineral character; and establish GPS coordinates and a point of beginning for future survey. These are the same requirements for a typical Native allotment field exam except that the applicant does not need to show any proof of use and occupancy. If the parcel is in a CSU, the CSU manager will be notified when the exam is scheduled and invited to participate if possible.

If the AK-962 and the FO contact agree that the proposed parcel meets all regulatory and statutory requirements for an alternative allotment, the applicant will be advised to immediately file his application with the Alaska State Office, BLM.

3. Alternative Allotment Application Procedures:

The applicant is required to submit a new Alaska Native Veteran Allotment Application, form AK-2561-10¹ (hereafter "form", copy attached). The application must be submitted to the BLM Alaska State Office.² However, there is no need to resubmit the entire application. Blocks 1, 2, and 3 of the form must be completed to identify the applicant and applicant's current residency information. Block 6 of the form must contain the land description of the alternative allotment. A map of the alternative parcel must be included as an addendum to Block 6. Blocks 7 and 8 of the form must be answered as related to the new land description. The remainder of the blocks can be filled with appropriate answers or the reference "see case file No. _____" (serial number assigned to original application).

The application must be signed and dated. The applicant is not required to resubmit the documents previously submitted to substantiate his qualification under the ANVAA, such as proof of military service or Certificate of Indian Blood, since the applicant has already qualified under the Act and has been approved for an allotment.

4. Alternative Allotment Field Work and Adjudication Procedures:

Upon submission of the alternative allotment application to the BLM Alaska State Office, AK-962 will adjudicate the application to verify compliance with ANVAA law and regulation. If the new location has not been field examined, AK-962 will request a field exam from the appropriate field office. Again, use and occupancy information is not necessary for alternative parcels, but positive confirmation of location with the applicant, identification of any third party interests or uses on the land, marking of the site and documenting GPS coordinates is necessary to aid in the subsequent adjudication and survey of the claim. After the field exam report is received by AK-962, processing of the application will continue following standard Native allotment processing procedures.

¹ See 43 C.F.R. §§ 2568.71, 2568.73 and 2568.74

² 43 C.F.R. 2568.71

Approval of the alternative allotment will be by appealable decision with copies served on the land managing agency and parties of record. When the decision becomes final, AK-962 will request survey. When the survey has been completed and approved, AK-962 will issue the Certificate of Allotment.

Action: When AK-962 determines that an applicant qualifies for an alternative allotment, it will notify the applicant by decision that he is eligible to identify an alternative allotment consistent with the criteria in the regulations and these instructions. When the CSU manager determines that an original application is not consistent with the purpose of the CSU, the CSU manager will notify the applicant who will then have 12 months from that date to file for an alternative allotment. Field offices will assist applicants in identifying lands available for alternative allotments. When an alternative allotment application is filed, AK-962 will adjudicate and process the application to completion. This Instruction Memorandum is being given to the BIA and its Realty Service Providers, the U.S. Fish and Wildlife Service, and the National Park Service to provide them with information about the ANVAA alternative parcel process.

Timeframe: Effective immediately.

Budget Impact: None anticipated.

Contact: If you have any questions or need more information, please contact Johanna Munson at 907-271-4523.

Signed by:
Julia Dougan
Acting State Director

Authenticated by:
Maria Rivero-Folmar
Records Specialist

4 Attachments:

- 1 - AK-2561-10 (3 pp.)
- 2 - Alternative Parcel Process (1 p.)
- 3 - Checklist – Veteran Allotment Alternative Parcel (2 pp.)
- 4 - Distribution List (3 pp.)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 1004-0191
Expires: March 31, 2003

**ALASKA NATIVE VETERAN
ALLOTMENT APPLICATION**

Act of May 17, 1906, 34 Stat. 197, 48 USC 357,
as amended; and Sec. 432 of Public Law 105-276

BLM Land Office

BLM Serial Number

Type or print plainly in ink and sign in _____

1. Name: (First Name) (Middle Initial) (Last Name)

2. Address:

City: State: Zip C

Date of Birth: month day year Telephone Number: () area code

3. Were you born in Alaska? Yes _____ No _____
3a. Are you now residing in Alaska? Yes _____ No _____

4. List dates of military service. Beginning: Ending:

5. Branch of Service:

6. Legal description of the occupied lands:

6a. You must attach a map with your application to show where your claimed allotment is located. Use a USGS topographic map (scale 1:250,000 or larger), or a similar quality map.

Map attached Yes _____ No _____

7. To the best of your knowledge, is the land described in question #6 located within a Conservation System Unit (CSU), National Park or National Wildlife Refuge? If the answer is "yes", please list the CSU here.

8. To the best of your knowledge, is the land applied for essentially non-mineral? Yes _____ No _____
(if the answer is no, specify the mineral)

9. Have you applied for any other allotment under the Act of May 17, 1906?
Yes _____ No _____

10. Evidence of Occupancy:

PERIODS OF ACTUAL RESIDENCE ON THE LAND

Calendar Year	Residence began		Residence ended		Reasons for absence from the land
	month	day	month	day	

11. Is the land occupied or improved by any person other than yourself? Yes _____ No _____
 If the answer is "yes", please explain:

12. Improvements

Description of Improvements, if any:	Value of Improvements	When made

13. Fishing, trapping, and other uses of the land

Calendar Year	Type of Use	Use Began		Use Ended		Remarks
		Month	Day	Month	Day	

14. Remarks: Enter here any other information showing your use and occupancy of the land for a period of 5 or more years.

15. You are required to provide proof of qualifying military service.

Copy attached _____

Proof has been requested _____

16. You are required to provide certification that you are an Alaska Native.

Certification attached _____

Certification has been requested _____

I CERTIFY that the statements made herein are true, complete and correct to the best of my knowledge and belief and are made in good faith.

(Date)

(Signature or mark of applicant)

(Signature of witness)

Witness must sign only if applicant endorses application with his mark or thumb print rather than by signature.

(Signature of witness)

Witness must sign only if applicant endorses application with his mark or thumb print rather than by signature.

Paperwork Reduction Act Statement:

The Paperwork Reduction Act of 1995 requires us to inform you that:

BLM will use the information to determine whether or not to issue an Alaska Native Veterans Allotment.

Response to this request is required to obtain a benefit.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

Public reporting burden for this form is estimated to average 28 hours per response, including the time for reviewing the instructions, gathering and maintaining the data, and completing and reviewing the form. Direct comments concerning the burden estimate or any other aspect of this form to: U.S. Department of the Interior, Bureau of Land Management, Bureau Clearance Officer (WO-630), (1004-0191), Mail Stop 401 LS, 1849 C St., NW, Washington, DC 20240.

Privacy Act Statement:

The Privacy Act of 1974 and the regulations at 43 CFR 2.48(d) provide that you be furnished with the following information:

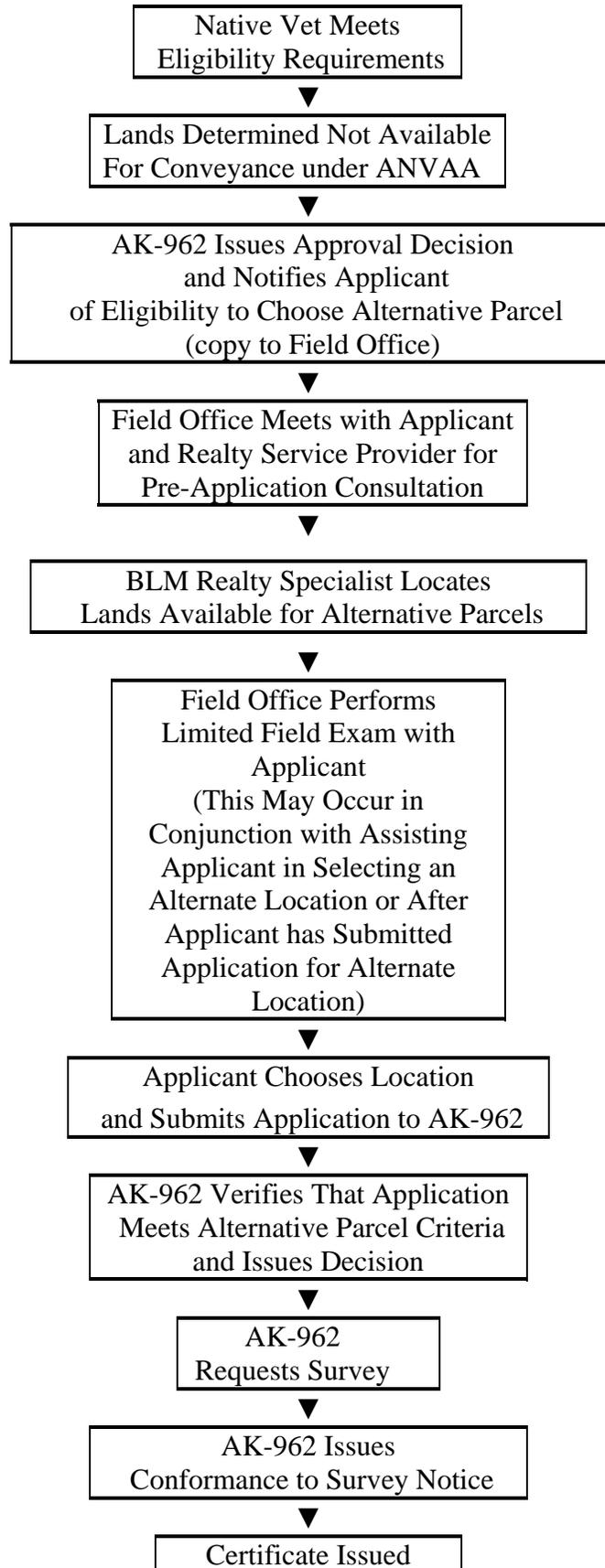
AUTHORITY: Public Law 105-276, 43 U.S.C. 1629(g).

PRINCIPAL PURPOSE: BLM will use the information you provide to process your application and determine if you are eligible to receive an allotment under the Alaska Native Veterans Allotment Act.

ROUTINE USES: BLM will disclose the information according to the release information contained in the regulations at 43 CFR 2.56(d).

EFFECT OF NOT PROVIDING THE INFORMATION: Disclosing the information is necessary to receive a benefit. Not disclosing the information may result in BLM's rejecting your application.

Alternative Parcel Process



Checklist – Veteran Allotment Alternative Parcel

- Decision issued by AK-962 to Veteran Allotment Applicant notifying him that he is approved for a veteran allotment and is eligible to choose an alternate parcel (cc to field office)
- Field Office Realty Specialist reviews original application and field report to determine what land type and uses applicant had originally applied for
- Field Office Realty Specialist identifies lands available for alternative parcels that seem to best match the type and uses of original parcel
- Alternate parcel land is within one of the following categories:
 - (a) an original withdrawal under Sec. 11(a)(1) of ANCSA that were either not selected or selected but later relinquished or rejected. Note: these lands can be within any Conservation System Unit (CSU) except wilderness;
 - (b) adjacent to an original withdrawal under Sec. 11(a)(1), except for land within a National Park. Note: these lands can be within other CSUs except wilderness; or
 - (c) Vacant, unappropriated, and unreserved lands, including lands withdrawn solely under the authority of Sec. 17(d)(1) of ANCSA. Note: these are public domain lands, not CSU lands.
- Preliminary verification that lands are not valuable for locatable minerals.
- Contact BIA Service Provider to discuss alternative parcel process and working with applicant in choosing alternative parcel locations
- Realty Specialist meets with applicant and/or service provider. Ask if the applicant has an alternate location in mind. If not, find out what his objectives are, i.e. does he want to use it for the same uses as his original parcel or does he have some other objective in mind?
- Attempt to determine geographic groups of alternative parcel eligibles so area landowners/CSU managers can provide input on potential alternative parcel locations as a whole, rather than one parcel at a time
- Using information from applicant and previous research of lands available for alternative parcels, provide applicant with potential options
- Contact CSU manager in same CSU as original application and land managers in same Native Region as original application for input on potential alternative parcel locations, to increase probability of success. Attempt to determine geographic groups of alternate parcel eligibles so area land managers and CSU managers can provide input on potential locations as a whole, rather than one parcel at a time
- When applicant has selected an alternate location and Realty Specialist has ensured the location meets alternative parcel criteria (lands within allowable categories and not valuable for locatable minerals), including consultation with AK-962, provide applicant with a blank application and remind applicant that it must be filed with the BLM Alaska State Office. Confirm that the land description used by the applicant is correct.

Checklist – Veteran Allotment Alternative Parcel, Continued

- Upon receipt of application at BLM Alaska State Office, AK-962 will adjudicate application for compliance with the Alaska Native Veteran Allotment Alternative Parcel requirements
- When alternative parcel application has been determined valid a request for a limited field exam will be submitted to field office (no use and occupancy, just verification of location), if exam was not completed in conjunction with assisting applicant in selecting alternate parcel
- Upon receipt of field report, AK-962 will issue decision and request survey
- When survey has been completed and noted, conformance to survey will be issued by AK-962
- Certificate Issued

Distribution List for
Instruction Memorandum
Procedures for Alternative Allotments under the Alaska Native Veterans Allotment Act
(ANVAA)

AK-927

Kathy Mayo – AK-995

Bureau of Indian Affairs
Alaska Regional Office – Realty
3601 C Street, Suite 1100
Anchorage, Alaska 99503-5947

Alaska Legal Services Corporation
Statewide Office
1016 West Sixth Avenue, Suite 200
Anchorage, Alaska 99501-1963

State of Alaska
Department of Natural Resources
Division of Mining, Land and Water
Sandra J. Singer, Realty Services Section
550 West Seventh Avenue, Suite 1050A
Anchorage, Alaska 99501-3579

National Park Service
Alaska Regional Office
Regional Director
240 West Fifth Avenue, Room 114
Anchorage, Alaska 99501-2327

U.S. Fish and Wildlife Service
Division of Realty, Mail Stop 211
Chief, Branch of Operations
1011 East Tudor Road
Anchorage, Alaska 99503

U.S. Fish and Wildlife Service
Refuge Manager
Alaska Maritime National Wildlife Refuge
95 Sterling Highway, Suite 1
Homer, Alaska 99603-8021

U.S. Fish and Wildlife Service
Refuge Manager
Alaska Peninsula/Becharof National Wildlife Refuge
P.O. Box 277
King Salmon, Alaska 99613

Distribution List for
Instruction Memorandum
Procedures for Alternative Allotments under the Alaska Native Veterans Allotment Act
(ANVAA), continued

U.S. Fish and Wildlife Service
Refuge Manager
Arctic National Wildlife Refuge
101 12th Avenue, Box 20
Fairbanks, Alaska 99701

U.S. Fish and Wildlife Service
Refuge Manager
Innoko National Wildlife Refuge
P.O. Box 69
McGrath, Alaska 99627

U.S. Fish and Wildlife Service
Refuge Manager
Izembek National Wildlife Refuge
P.O. Box 127
Cold Bay, Alaska 99571

U.S. Fish and Wildlife Service
Refuge Manager
Kanuti National Wildlife Refuge
101 12th Avenue, Box 11
Fairbanks, Alaska 99701

U.S. Fish and Wildlife Service
Refuge Manager
Kenai National Wildlife Refuge
P.O. Box 2139
Soldotna, Alaska 99669-2139

Kodiak National Wildlife Refuge
Refuge Manager
1390 Buskin River Road
Kodiak, AK 99615

U.S. Fish and Wildlife Service
Refuge Manager
Koyukuk National Wildlife Refuge
P.O. Box 2870/A
Galena, Alaska 99741

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(ANVAA), continued

U.S. Fish and Wildlife Service
Refuge Manager
Koyukuk/Nowitna National Wildlife Refuge
P.O. Box 287/A
Galena, Alaska 99752

U.S. Fish and Wildlife Service
Refuge Manager
Selawik National Wildlife Refuge
P.O. Box 270
Kotzebue, Alaska 99752

U.S. Fish and Wildlife Service
Refuge Manager
Tetlin National Wildlife Refuge
P.O. Box 779
Tok, Alaska 99780

U.S. Fish and Wildlife Service
Refuge Manager
Togiak National Wildlife Refuge
P.O. Box 270
Dillingham, Alaska 99576

U.S. Fish and Wildlife Service
Refuge Manager
Yukon Delta National Wildlife Refuge
P.O. Box 346
Bethel, Alaska 99559

U.S. Fish and Wildlife Service
Refuge Manager
Yukon Flats National Wildlife Refuge
101 12th Avenue, Box 14
Fairbanks, Alaska 99701