



# United States Department of the Interior



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ALASKA STATE OFFICE  
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AA-2520 (2561)  
Parcel A  
(968) AGJ/MM

JUL 05 1989

## DECISION

John Billum, Jr. : AA-2520, Parcel A  
 Box 11 : Native Allotment Application  
 Chitina, Alaska 99566 :

### Native Allotment Application Approved

On November 24, 1967, the Bureau of Indian Affairs (BIA) filed Native allotment application AA-2520 and evidence of use and occupancy on behalf of John Billum, Jr. The application was filed under the provisions of the Act of May 17, 1906, as amended, 43 U.S.C. 270-1 to 270-3 (1970), which was repealed with a savings provision by the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971, 43 U.S.C. 1617. The application, which was before the Department on November 17, 1967, indicates use and occupancy since October 10, 1967 for 40.00 acres of surveyed land located within:

Lot 1, U.S. Survey No. 6092, Alaska, located approximately 22 miles southwesterly of McCarthy, Alaska.

Since the claim is within Wrangell-St. Elias National Park and Preserve, the application was not legislatively approved and must be adjudicated because Sec. 905(a)(4) of the Alaska National Interest Lands Conservation Act (ANILCA) of December 2, 1980, 43 U.S.C. 1634, provides that:

Where an allotment application describes land within the boundaries of a unit of the National Park System established on or before the effective date of this Act and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act . . . the application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, the Alaska Native Claims Settlement Act, and other applicable law.

The applicant's evidence of use and occupancy for Parcel A states that he used and occupied the land "just about every weekend" and during leave time each hunting season, October 10 to November 10, 1967 and August 20 to September 30, 1968 through 1973. Mr. Billum stated that he hunted rabbits, spruce hen, sheep and moose and that he erected a cabin and cut brush on the property August 15, 1973. He further stated that his sons trapped on the land each November 10 to March 10, 1968 through 1973. A field examination conducted May 31, 1974, verified the existence of a cabin, tent frame, fireplace, and spring used for water on the parcel, as well as good potential for hunting, fishing and berry picking. The field examiner spoke with Robert Marshall whose Native allotment parcel (AA-2521) adjoins that of the parcel in question. Mr. Marshall verified that the applicant had used the land in the traditional Native way since 1961 to the exclusion of others. According to village records, the applicant was born January 14, 1914; thus, he was 53 years old at the time of his claimed use and occupancy, October 10, 1967.

The case file contains no contradictory evidence and there are no conflicting applications on the land. Therefore, the weight of evidence supports the applicant's claim of five years independent and substantial use and occupancy, potentially exclusive of others.

Based upon the foregoing facts and conclusions, this office has determined that at the time the claim was initiated, the lands were vacant, unappropriated and unreserved and the applicant has satisfied the use and occupancy requirements of the Act of May 17, 1906, as amended. Therefore, Native allotment application AA-2520, Parcel A is hereby approved as to the land described above.

All applications approved pursuant to the Act of May 17, 1906, are subject to the provisions of the Act of March 8, 1922, as amended, 43 U.S.C. 270-11 and 270-12. It has been determined that the above-described lands are without value for minerals; therefore, none shall be reserved to the United States.

The Certificate of Allotment will reserve the following to the United States:

A right-of-way for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890, 43 U.S.C. 945.

This allotment shall be subject to:

An easement for highway purposes, extending fifty (50) feet each side of the centerline of the Chitina-McCarthy Road and transferred to the State of Alaska pursuant to the quitclaim deed dated June 30, 1959, and executed by the Secretary of Commerce pursuant to the authority of the Alaska Omnibus Act, Pub. L. 86-70, 73 Stat. 141.

Any questions the applicant may have regarding future use relative to Parcel A of the Native allotment application should be directed to the Bureau of Indian Affairs at the following address.

Bureau of Indian Affairs  
Anchorage Agency, Realty  
1675 C Street  
Anchorage, Alaska 99501-5198

An appeal from this decision may be taken to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the enclosed regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E. The appellant has the burden of showing that the decision appealed from is in error.

If an appeal is taken, the notice of appeal must be filed with the Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599, within 30 days of the receipt of this decision. Do not send the appeal directly to the Board. The appeal and case history file will be sent to the Board from this office. The regulations also require the appellant to serve a copy of the notice of appeal, statement of reasons, written arguments or briefs on the Regional Solicitor, Alaska Region, U.S. Department of the Interior, 222 West Eighth Avenue, #34, Anchorage, Alaska 99513-7584. To avoid summary dismissal of the appeal, there must be strict compliance with the regulations. Form 1842-1 is enclosed for additional information.

If an appeal is filed, each party named in the heading of this decision must be served. In addition the following agencies must also be served:

Bureau of Indian Affairs  
Anchorage Agency, Realty  
1675 C Street  
Anchorage, Alaska 99501-5198

State of Alaska  
Department of Natural Resources  
Division of Land and Water Management  
State Interest Determinations Unit  
P.O. Box 107005  
Anchorage, Alaska 99510-7005

**/s/ Ramona Chinn**

Ramona Chinn  
Chief, Branch of Cook Inlet  
and Ahtna Adjudication

Enclosures:  
Form 1842-1  
Appeal Regulations  
Map of area(s)

Copy furnished to:

Bureau of Indian Affairs (CM-RRR)  
Anchorage Agency, Realty  
1675 C Street  
Anchorage, Alaska 99501-5198  
(w/cy of enclosures)

State of Alaska (CM-RRR)  
Department of Natural Resources  
Division of Land and Water Management  
State Interest Determinations Unit  
P.O. Box 107005  
Anchorage, Alaska 99510-7005  
(w/cy of field report)

Bureau of Indian Affairs  
Alaska Title Services Center (ATSC)  
1675 C Street  
Anchorage, Alaska 99501-5198  
(certified true copy)

Bureau of Indian Affairs (CM-RRR)  
Attn: Native Allotment Coordinator  
1675 C Street  
Anchorage, Alaska 99501-5198

State of Alaska  
Department of Transportation  
and Public Facilities  
Central Region  
Pouch 6900  
Anchorage, Alaska 99502

AHTNA, Inc. (CM-RRR)  
Roy S Ewan, President  
P.O. Box 649  
Glennallen, Alaska 99588

National Park Service (CM-RRR)  
Associate Director for Operations  
Wrangell-St. Elias National Park and Preserve  
2525 Gambell Street  
Anchorage, Alaska 99503