

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

**FINAL FINDING AND DECISION**

**Proposed Land Offering  
Kobe North Agricultural Project  
AS 38.05.035(e)**

This Final Finding and Decision supplements the Preliminary Decision dated 3/29/2011 for the proposed action, which is incorporated herein, except as amended, changed, or deleted by this Final Finding and Decision.

Attachment 1: Preliminary Decision

**I. Recommended Action:**

The Department of Natural Resources (DNR), Division of Agriculture (DAg) in cooperation with the Division of Mining, Land and Water (DMLW) recommends conveying into private ownership, via sealed bid auction, no more than 9 parcels comprising up to approximately 4100 acres of state-land within the Kobe North Agriculture Project (ADL 418491), located near Milepost 275 of the Parks Highway, approximately 75 miles south of Fairbanks. The project area is composed of Sections 4-9 and the NE1/4 of Section 16, Township 8 South, Range 9 West; Fairbanks Meridian.

Parcels approved for sale by this decision may be offered for sale over the course of several auctions.

**II. Authority:**

The Department of Natural Resources has the authority under Alaska Statute 38.05.035(e) to sell state land for private ownership if determined to be in the best interest of the state.

**Alaska Statute (AS) 38.04.005** – Public and Private Land Use Policy,  
**AS 38.05.035** – Powers and Duties of the Director,  
**AS 38.05.045** – General Provisions for the Sale of State Land,  
**AS 38.05.050** – Disposal of Land for Private Ownership,  
**AS 38.05.055** – Procedures for Sale by Auction,  
**AS 38.05.321** – Restrictions on Disposal of Agricultural Land,  
**AS 38.05.945** – Requirement for Notice

### **III. Public Notice and Response to Comments:**

Pursuant to AS 38.05.945 public notice inviting comments was published in the Fairbanks Daily News-Miner and the Anchorage Daily News on April 3, 2011. Notices were mailed to the Denali Borough per AS 38.05.945(c)(1). Notices were also sent to the Nenana Native Association, Toghothele Corporation, and Doyon, Ltd per AS 38.05.945(c) (2)-(3).

Additionally, notices were sent to the postmasters in Nenana, Healy, and Anderson as well as the libraries in Anderson, Nenana, and Healy with a request to post the notices for 30 days. Notices were also sent to the City of Nenana, City of Anderson, University of Alaska Land Management, and the Fairbanks Soil and Water Conservation District. The notice was posted on the Division of Agriculture's web page and the DMLW land sale page. The original public notice stated that comments were to be received by 4:00 pm May 13, 2011 and could be submitted by mail, email or fax. Towards the end of the comment period it was noticed that the notice was not posted on the DNR public notice web site as indicated in the Preliminary Decision. A new public notice was posted on the DNR public notice site and Division of Mining, Land and Water land sale website on May 13, 2011. The new notice stated that the new deadline for comments was June 13, 2011. The new notice was distributed to the Denali Borough and at gathering spots along the Parks highway from Nenana to Healy.

Four written comments and one phone call were received in a timely manner.

#### **Written Comments:**

**Issue 1:** Wants the Division to identify the parcels as being in the Denali Borough in case people want to go there for more information.

DNR Response: The fact that the parcels are within the Denali Borough will certainly be noted in the brochure. In addition when DNR issued the second public notice on May 13, language was added highlighting the fact that the parcels were in the Denali Borough.

**Issue 2:** The roads near the project are maintained by the local residents and the sale will increase traffic and damage the roads even more than they are now. The state should either not have the sale or provide for the maintenance of the roads.

DNR Response: DNR, Division of Agriculture's mission is to encourage development of an agriculture industry in Alaska and that involves making land available to the private sector for development. DNR does not have the funds to develop roads for each land sale project it offers throughout the state. DNR land offerings would be severely restricted if road construction/maintenance were a requirement for disposal. The roads have been maintained by local residents and this sale would add to the community available to help with that maintenance. In addition the access to the Kobe North parcels would be along Rochester Way and would not use the roads currently used by the Kobe residents and should therefore have no impact on their roads.

DNR believes that the benefit of offering these parcels for sale offsets the potential downside of increased traffic on area roads without state maintenance.

**Issue 3:** The land is not suitable for agricultural development and the parcels are too large.

DNR Response: The project is being considered for disposal because several requests, including one official land nomination application, were received from farmers by DA<sub>g</sub> requesting that the land in Kobe North finally be made available and that they be sold in 640-acre tracts. The land is classified for Agricultural use in the Tanana Basin Area Plan and the Division of Agriculture's Fairbanks staff have inspected the project many times over the course of several years and feel that this land offers suitable cropland for development. Offering large parcels is the best option because the project does contain some wetlands and areas of surface gravel, which makes selling smaller parcels unsuitable. Offering large parcels allows the buyer to get more useable cropland per parcel to justify the cost of developing the land as well as providing gravel for use in developing access, with DNR permission, to the farmstead.

**Issue 4:** Chemicals and pesticides, as well as noise and smells, from Kobe North will adversely affect the surrounding subdivision lot owners. There is also concern about the potential fire hazard arising for the agricultural use of the land and requests no burning of anything from March to October. The commenter would like a ¼ mile buffer of trees be mandatory between the agriculture parcels and Anderson subdivision to “buffer noise and sights and smells.”

DNR Response: Chemical and pesticide use is tightly controlled by the Department of Environmental Conservation through the issuance of permits and training requirements. In addition the buyers will have to have an approved farm conservation plan in place as per AS 38.05.321, which should address issues such as run-off and aerial spraying. The use of pesticides is an accepted part of normal agricultural practices and DNR has determined that the benefits of pesticide use on private agriculture land outweigh the potential damage that may occur from its potential misuse.

Permits for open burning during the fire season are the jurisdiction of the Division of Forestry and any special needs required for agriculture lands will be addressed during the adjudication of the permit. The fire season is set by the legislature and any requests for changes, e.g. when permits are required, should be addressed to them. DNR has determined that while farmers may have need of open burning, e.g. to remove berms, the risk of the burns getting out of control are mitigated by strict stipulations in the permits issued by the Division of Forestry.

Requiring a ¼-mile buffer of trees along the border between the agricultural parcels and Anderson subdivision to the north would remove 160-acres from each parcel bordering the subdivision of potential farmland from development and severely reduce the farm development options available to the farmer. This would be contrary to the purpose of DNR offering agricultural land for sale in the state. The parcels are being offered as large tracts because the cropland available on the parcels is not uniformly distributed. Larger parcels are needed to ensure that sufficient cropland is available per parcel to make development feasible and removing such a large portion from potential development would mitigate the reason for offering larger parcels to begin with. DNR does acknowledge that “sights and sounds and smells” may arise from agricultural development and may have some affect on the neighbors. The Alaska Legislature addressed this issue in AS 09.45.235, which states that these sensations arising from agriculture development cannot be considered a private nuisance if the farmer has a plan developed and implemented in cooperation with the local soil and water conservation district. All agricultural land sold by the state, including these parcels, are required by AS 38.05.321 to be operated according to a farm conservation plan developed with the assistance of the local soil and

water conservation district and approved by DAg. Mitigating the effects of farming operations on neighbors may be addressed during the development of the individual's farm conservation plan.

**Issue 5:** Kobe resident understands the requirements for farming in this area and has the necessary equipment and is interested in approximately 1000 acres. If agriculture is the land use mandate then please give the project the "green light."

DNR Response: The land in Kobe North is designated for agricultural use in the Tanana Basin Area Plan and DNR, via this decision, plans on offering this land for sale for agricultural use.

**Oral Comments:**

One individual provided oral comments over the phone during the public comment period to Division of Agriculture staff and chose not to provide them in writing when asked by the staff if she wished to do so. Since these verbal comments do not comply with the Preliminary Decision to submit written comments by mail, email or fax, or with the requirement of AS 38.05.035(i) to submit written comments, this person is ineligible to appeal this Final Finding and Decision.

However, DNR will respond to this person's concerns. Most of the concerns are addressed in the above issues, i.e. area road condition, suitability of land for agriculture purpose. In addition to these concerns the commenter expressed concern that Non-U.S. citizens can buy state agriculture land.

DNR Response: This proposed agricultural sale is governed by AS 38.05.055, Sale of state land by public auction. That statute specifically excludes bidders for agricultural land from the requirement that they must be Alaska residents in order to be eligible to participate in the auction. The statute is silent on the issue of U.S. citizenship.

At one time DNR did have a regulation, 11 AAC 67.172, which contained a requirement that all buyers of state agricultural land must be Alaska residents and U.S. citizens. That regulation was annulled by an act of the Alaska Legislature in 1997. DNR must comply with the laws as currently written. Accordingly, DNR has no authority by statute or regulation to restrict non-Alaska residents or non-U.S. citizens from participating in the auction of the state agricultural land that is being proposed for sale as the Kobe North Agriculture Project by this Final Finding and Decision.

**IV. Modification to Decision and/or Additional Information**

DNR response to Alaska Department of Fish and Game's (ADF&G) comment received during the agency review process stated that there were two RST 2477 trails in the project and access to and along these trails should not be blocked by any development or users. The DNR response was: "DAG intends to coordinate with the DMLW to fix the location of the Kobi-McGrath (RST 345) trail along section lines around the project area." Upon further conversations with the Division of Mining, Land and Water this response was viewed as limiting the options available for dealing with RST 345 and as such DNR's response to ADF&G comment regarding the trails in the area received during agency review and included in the Preliminary Decision is amended by this Final Finding and Decision to read:

DNR Response: That portion of the Rex –Roosevelt trail (RST 491) within the project area will be surveyed and retained in state ownership. Landowners adjacent to RST 491 and RST 345 cannot block or in any way restrict access along these easements.

**V. Final Finding and Decision:**

This action is consistent with the overall management intent for state land and is in the state's best interest. By offering the proposed project area at sealed bid auction, the state can provide Alaskans the opportunity for private ownership of land and can generate revenue for the state and promote Alaska's agriculture industry.

The finding presented above has been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945. The case files have been found to be complete and the requirements of all applicable statutes have been satisfied. It is the finding of the Division of Mining, Land and Water that it is in the State's best interest to proceed with this conveyance under the authority of AS 38.04 and 38.05.

Concur: Franci Havemeister 8/16/2011  
Franci Havemeister, Director Date  
Division of Agriculture

Approved: Brent Goodrum 8/19/2011  
Brent Goodrum, Director Date  
Division of Mining, Land and Water

**Reconsideration Provision**

A person affected by this decision who provided timely written comments or public testimony on this decision may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received within 20 calendar days after the date of “issuance” of this decision, as defined in 11 AAC 02.040 (c) and (d) and may be mailed or delivered to Daniel S. Sullivan, Commissioner, Department of Natural Resources, 550 W. 7<sup>th</sup> Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1.907.269.9818; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov).

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31<sup>st</sup> day after issuance. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of appeal to the Superior Court. The decision may then be appealed to the Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

**Attachment 1**

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

**PRELIMINARY DECISION**

**Proposed Agriculture Land Offering  
Kobe North ADL 418491  
Northern Region  
AS 38.05.035(e)**

**I. Proposed Action:**

The Department of Natural Resources (DNR), Division of Agriculture (DAG) in cooperation with the Division of Mining, Land, and Water (DMLW) proposes to convey into private ownership, via sealed bid auction, no more than 9 parcels comprising up to approximately 4100 acres of state-land within the Kobe North Agriculture Project (ADL 418491). Located near Milepost 275 of the Parks Highway, approximately 75 miles south of Fairbanks, the project area is composed of Sections 4-9 and the NE1/4 of Section 16, Township 8 South, Range 9 West; Fairbanks Meridian. The project area is managed under the Tanana Basin Area Plan (TBAP) and is designated Agriculture/Settlement. The Division of Agriculture has determined that the soils in the project area are suitable for agriculture. If this proposed action is approved, parcels may be offered as part of a future Agricultural Land auction.

All lands sold will be subject to perpetual agriculture covenants per AS 38.05.321. The minimum bid for each parcel will be set at the appraised fair market value. Bidders will be required to provide a deposit of no less 5% of their bid amount. The state will refund the deposit to unsuccessful bidders. Brochures advertising the offering will be published and distributed throughout interior Alaska and made available online. Parcels will vary in size up to approximately 680 acres. However final size and configuration of each parcel will be determined after final project design and survey, which will include consideration of existing easements within the project area.

Attachment A: Project Map

Attachment B: Soils Map

Attachment C: Public Notice

Attachment D: Conditions and Reservations

The public is invited to comment on this Preliminary Decision. The deadline for comment is 4:00 PM May 13, 2011; see Section **VI. Public Notice** and Attachment C: Public Notice for details on how and where to send comments.

**II. Authority:**

The Department of Natural Resources has the authority under Alaska Statute 38.05.035(e) to sell state land for private ownership if determined to be in the best interest of the state.

**Alaska Statute (AS) 38.04.005** – Public and Private Land Use Policy,

**AS 38.05.035** – Powers and Duties of the Director,

**AS 38.05.045** – General Provisions for the Sale of State Land,

**AS 38.05.050** – Disposal of Land for Private Ownership,

**AS 38.05.055** – Procedures for Sale by Auction,

**AS 38.05.321** – Restrictions of Disposal of Agricultural Land,

**AS 38.05.945** – Requirement for Notice

**III. Administrative Record:**

The Administrative record consists of: Kobe North Project file (ADL 418491); ADL 417591- easement application for staging area within Section 8; project files for RST 345, RST 343, & RST 491. Also incorporated by reference are the Tanana Basin Area Plan (TBAP), updated 1991 and the Natural Resource Conservation Services' Greater Nenana soils map.

**IV. Scope:**

The scope of this decision is limited to DNR's proposed decision to convey approximately 4100 acres of State agricultural land described in the legal description section of this document. All parcels offered for sale are subject to agricultural covenants as per AS 38.05.321. Parcels may be subject to a clearing requirement. The amount of clearing required, if any, will be listed in the offering brochure.

There are no associated actions with this proposal.

**V. Description:**

***Location Geographic:***

The project area is located in interior Alaska, 75 miles south of Fairbanks, approximately 2.2 miles west of mile 275 Parks Highway near the Coghill (Rex) Bridge.

***Municipality:***

The Project area is within the Denali Borough.

***Alaska Coastal District:***

The project area is located outside any coastal zone.

***Native Region Corporations:***

The project area is located within the Doyon, Ltd. Native Regional Corporation boundary. Toghothele Corporation is the village corporation for the village of Nenana, located within 25 miles of the project area.

***USGS Map Coverage:***

Project area is located within USGS Fairbanks Quadrangles A-5 & B-5; scale = 1:63,360

***Legal Description:***

Township 8 South, Range 9 West, Fairbanks Meridian, Alaska

Section 4: All - excepting the acreage for dedicated Right-of-Way for Rochester Way  
Containing 646 acres More or Less

Section 5: All.  
Containing 649.694 Acres, More or Less

Section 6: All.  
Containing 677.163 Acres, More Or Less

Section 7: All.  
Containing 666.512 Acres, More Or Less

Section 8: W1/2, NE1/4, N1/2SE1/4, SW1/4SE1/4, N1/2SE1/4SE1/4  
Containing 620 Acres More Or Less

Section 9: All.  
Containing 641.230 Acres, More Or Less

Section 16: NE1/4  
Containing 160 acres More or Less

According To The Alaska State Cadastral Survey Of Sections 4-9, 16-21, & 27-30, A Portion Of Tract "A", T. 8 S., R. 9 W., F.M., Alaska Plat Filed In The Nenana Recording District On December 17, 1985, As Plat 85-24.

***Land Title:***

According to Title Reports RPT-1849 (current as of 8/20/2010) and RPT-199 (current as of 5/5/2009) the State of Alaska holds fee title to the land and mineral estate within the project area.

- General Purpose Grant- Statehood entitlement under the Act of July 7, 1958, 72 Stat. 339, as amended. The State received Tentative Approval to the land and mineral estates under this entitlement on 4/1/80. The applicable State case file is GS-690.

*Other Constraints:* From the aforementioned title report, excepted and reserved from conveyance:

- a right-of-way for the construction of railroads, telegraph, and telephone lines in accordance with the Act of March 12, 1914, 38 Stat. 305, 48 USC Sec. 305; and
- a right-of-way for ditches or canals constructed by the authority of the U.S. in accordance with the Act of August 30, 1890, 26 Stat. 391; 43 USC 945.

***Geophysical Attributes:*** The following paragraphs describe the subject's geophysical attributes.

*Topography:* The project area is characterized by a gentle northwest-facing slope of less than 1%. Elevation within the project area is approximately 600 to 700 feet above sea level.

*Soils:* See Attachment "B" for soils map. Field inspections have shown soils to be a minimum of 12" deep and composed mainly of Nenana-Sawmill Creek complex and Donnelly Silt loam complex.

*Vegetation:* Vegetation is primarily a mixture of spruce and aspen with an understory consisting of low shrubs and feathermoss.

*Fire Hazards:* The current fire management option for most of the project area is "Full". The fire management policy on areas with the "Full" management option reads, "Fires occurring within or immediately threatening this designation will receive aggressive initial attack dependent upon the availability of suppression resources." Fire management options and policies for the area are identified in the Alaska Interagency Wildfire Management Plan available from the DNR Division of Forestry. It is important to note, however, that the DNR Division of Forestry has warned that DMLW inform participants there is no guarantee their property will be spared from harm from a wildland fire, even if the area is designated "Full" fire management option. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations.

*Flood Zone:* There are no FEMA Flood maps available for this area but floods do not appear to be a concern for the project area. Interested parties are highly encouraged to inspect individual parcels prior to purchase.

## ***Background***

None of the parcels have been offered for disposal by the state before. This project is adjacent to the original Kobe Agriculture project. The first sale in Kobe was an agricultural homestead offering in 1986 (Lottery # 15) where 23 parcels were sold. Eight of these parcels came back to the state and were reconfigured into 16 agricultural parcels and offering for sale in 1995 at Auction # 389. All 16 parcels were sold but two came back to the state and were sold in 2010. To date all of the original Kobe parcels, 2200 acres, are in private hands.

When the Tanana Basin Area Plan was revised in 1991 it called for Kobe to be developed in phases, however other agricultural projects took precedence and the development of Kobe North was set aside. During the last few years the Division of Agriculture's Fairbanks office had received many requests and comments that Kobe North be offered for sale. This included a 2009 land nomination submission that requested we offer either sections 6 and 7 or 4 and 9 as section-sized parcels for agricultural use. Several other farmers have mentioned they would like to see Kobe North offered as large parcels because there are no other locations in the state that can offer 600+ acre farms in the near future. They point out that this land would be good for hay production and Healy has a strong market for hay because of all the dog teams and horses used for commercial tours in the area. The farmers know that the Division will not likely be able to offer 600+ acre

farms at least until the Nenana-Totchaket project comes on line, which will take several years. The Denali Borough and the city of Nenana have expressed support for the sale of Kobe North as well.

The Division of Agriculture conducted numerous site inspections from 2008 to 2010. As a result of these inspections the soil in the project was determined to be well suited to agricultural use. All of the soil samples taken showed the soil to be at least 12" deep. The soil was found suitable for growing hay, winter hearty vegetables, or for pasturing animals.

***Planning and Classification***

The project area is located within Tanana Basin Area Plan (TBAP) Management Unit 4F – Parks Highway Corridor; Subunit 4F3. Lands within this unit are classified Agriculture/Settlement under Classification Order (CL) NC-90-002. The primary use is for agriculture.

The management intent of area plan Management Unit 4F states that lands within this subunit (4F3) “may be sold fee simple (for settlement) if soils are not suitable for agriculture.” The Division of Agriculture has determined that the soils in this subunit are suitable for agriculture. The proposed action is consistent with area-wide management policies and general management intent of TBAP and the management unit.

***Mineral Closing Order:***

The project area is currently subject to Mineral Closing Order (MCO) No. 426. Mineral closing orders, where they have been established, close the area to exploration and development of locatable minerals such as gold, copper, platinum, etc. Mineral closing orders do not apply to leasable minerals including oil and gas leasing, coal leasing, shallow gas leasing, or exploration licensing, nor do they preclude reasonable surface access to these resources. However, Alaska law also provides that the surface owner will be compensated for damages resulting from exploration and development (AS 38.05.130).

***Municipal Zoning and Comprehensive Plans:***

The project area is located within the Denali Borough, which currently does not have an adopted zoning ordinance. Division of Agriculture staff gave a presentation on the project to the Denali Planning Commission on February 15, 2011. No issues were raised by the planning commission at the meeting. The Denali Borough is currently drafting a comprehensive plan.

***Traditional Use Finding (AS 38.05.830):***

The project area is within an organized borough and does not require a Traditional Use Finding under AS 38.05.830.

***Access:***

***Access to and Beyond:***

The project has cleared section line easements on all sides. These section line easements can be reached by turning west off the Parks Highway at Milepost 275.5 then turning north on Rochester Way for approximately 3 miles. The section line easements range in condition from dirt roads suitable for highway vehicles to trails requiring an off-road vehicle or ATV for travel. Rochester Way continues past the project area into a subdivision just north of the

project area. DAG intends to survey and dedicate that portion of Rochester Way through section 4 consistent with ASLS 80-120 and ASLS 79-158.

In addition to the section line easements, three RS 2477 easements cross the project area. RST 345 (Kobe-McGrath Trail), runs east-west through the middle of sections 7-9. This trail was not found during several field inspections on the ground or by an aerial inspection of the project area. DAG intends to coordinate with the DMLW to fix the location of the Kobi-McGrath Trail (RST 345) along section lines around the project area. The Kobi-McGrath Trail is not locatable within the project area. This will move the trail from its present unidentified route to section lines easements where access currently exists.

According to the state's records RST 343, Kobe-Kantishna Trail, and RST 491, Rex-Roosevelt Trail, are coincident through section 16, essentially having one trail with two easements. The trail is a narrow trail generally used for horse riders in the area. The Rex-Roosevelt Trail (RST 491) and Kobi-Kantishna Trail (RST 343) will be surveyed in their present locations through section 16 and retained in State ownership.

Parcels will be subject to an easement 50-foot either side of section lines. A 50' public access and utility easement will be reserved along parcels borders where a section line easement is not present.

***Waters Determined Public or Navigable:***

No public or navigable waterbodies are present within these parcels.

***Access to and Along Public Water (AS 38.05.127, 11 AAC 51.035, 11 AAC 51.045):***

No public or navigable waterbodies are present within these parcels.

***Reservation of Mineral Estate:*** In accordance with Section 6 (i) of the Alaska Statehood Act and AS 38.05.125 Reservation, the State, in this decision, 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 mineral resources. Exploration and development that could occur would be consistent with AS 38.05.130 and other applicable statutes and regulations that provide that the surface owner be compensated for damages resulting from mineral exploration and development.

***Hazardous Materials and Potential Contaminants:*** Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land. The State of Alaska makes no representations and no warranties, express nor implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances be eventually found.

During field inspections an abandoned home site was discovered. The remains consisted of a collapsed trailer and motorcycle parts and various assorted debris. No sign hazardous materials were observed on site. DNR recognizes there are potential environmental risks when previously vacant land is occupied. Many of the activities increasing these potential risks are regulated by other agencies, such as the regulation of septic system installation by the State of Alaska, Department of Environmental Conservation. Given that this land was specifically designated for

agriculture/settlement for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, DNR is of the opinion that the benefits outweigh the potential risks.

**Environmental Risk Assessment:**

Potential risks associated with transfer of vacant public land into private hands for potential development include, but are not limited to, potential surface and groundwater contamination, increased risk of soil pollution, and increased risk of erosion. Many of the activities increasing these potential risks are regulated by other agencies, such as regulation of septic system installation and pesticide/herbicide use by the Alaska Department of Environmental Conservation, however, the Department of Natural Resources cannot guarantee private landowners will comply with these regulations and standards, nor can the Department guarantee the new landowners will follow any best management practices that may apply to activities performed upon their property. The risks are not project specific; rather they are present whenever vacant land is developed. These parcels will, however, be subject to adherence to a State Farm Conservation Plan, which must be approved before a contract will be issued. The State Farm Conservation Plan is generally the result of the landowner working closely with the Natural Resource Conservation Service and /or the local Soil and Water Conservation District and is designed to help protect the land from unwise land practices.

The Department recognizes there are environmental risks associated with the potential development when vacant public land is transferred into private ownership. However these risks are present any time vacant land is developed regardless of who the owner is and how title to the land was acquired. Given that this land was specifically designated settlement/agriculture to allow for transfer into private ownership and development, and the high degree of interest from both the legislature and citizens in transferring state land into private ownership, the Department proposes that the benefits outweigh the risks.

**Clearing and Development Requirements:**

Clearing and development requirements will be based on 25% of cropland as defined below.

For the purpose of determining required development “Cropland” is defined as land that:

- after being cleared is capable of producing, at a minimum, such commercial crops as grasses for seed, grain for cereal, or frost hardy vegetables;
- is arable and at least 97 percent free of surface stoniness (stones greater than three inches); with slopes less than 12 percent;
- has mineral soil depths over aggregate or sand measuring at least 10”;
- is capable of draining satisfactorily following conversion to farm land;
- not subject to frequent flooding.

***Survey and Appraisal:***

The project area is considered surveyed based on Alaska Cadastral Survey Of Sections 4-9, 16-21, & 27-30, A Portion of Tract “A”, T.8S., R9W., F.M., Alaska Plat Filed In The Nenana Recording District On December 17, 1985, As Plat 85-24.

Rochester Way crosses the NE corner of Section 4 for 1425’ and will not be part of any conveyance. Section 4 will not be offered for sale until Rochester Way has been surveyed.

The DNR, Division of Mining, Land and Water has applied for a 20-acre easement within the S1/2SE1/4SE1/4 of Section 8 for a staging area for the Clear Sky Remote recreation site. This 20-acre proposed easement will be excluded from this sale as its use would conflict with the land's use for agricultural purposes.

Fair market appraisals for all parcels will be completed in prior to sale. The minimum bid for each parcel will be set at the appraised fair market value.

## **VI. Agency Comments:**

An agency review was conducted from August 3, 2010 through August 20, 2010.

### 1. ADF&G, Access Defense, Sport Fish – Region 5

- a. Sales should be subject to guideline and management policies in TBAP

DAG Response: All lands subject to this decision are governed by management intent and guidelines provided in TBAP.

- b. There are two RS 2477 trails, the Kobi-McGrath Trail and the Rex-Roosevelt Trail, near these selections. Access to and along these trails should not be blocked by any development or users.

DAG Response: That portion of the Rex –Roosevelt trail (RST 491) within the project area will be surveyed and retained in state ownership. DAG intends to coordinate with the DMLW to fix the location of the Kobi-McGrath (RST 345) trail along section lines around the project area. The Kobi-McGrath is not locatable within the project area. This will move the trail from its present unidentified route to section lines where physical and practical access currently exists. The parcels currently crossed by these trails will not be offered for sale until this process has been completed. Landowners adjacent to these easements cannot block or in any way restrict access along these easements.

- c. A minimum buffer of 100' should be reserved around any wetlands or streams

DAG Response: Reserving a buffer around wetland would defeat the purpose of the state offering the land for agricultural purposes. The wetland can be farmed with a permit from the Corp of Engineers and indeed the Food Security Act provides for farming Alaska Exempt Wetlands, which are wetlands that when cleared will drain and become tillable acreage. The Division of Agriculture does not propose including a buffer around existing wetlands. There are no streams in the area.

ADF&G Fire and Habitat Management Coordinator also suggested:

1. Adequate access for fire equipment to get in and out, preferably more than one route
2. Locate and construct homes and other structures so that they are defensible,
3. Fuel breaks and fuel treatments to slow fire advance and give firefighters time to react.

DAG Response: All parcels will have road or trail access on four sides providing multiple ingress and egress routes. The DAG is offering these lands for the purpose of agricultural development, which will require the removal of large swathes of timber especially around homes sites. These clearings should provide a fire break. Landowners with structures are

encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Refer to the Fire Hazards section of this document for more information.

2. U.S. Army Corp of Engineers, Alaska District, Regulatory Division, Fairbanks Field Office  
The USACE has issued a positive JD (Jurisdictional Determination) for the project area stating that it contains waters of the United States, including wetlands, under the Corp of Engineers' regulatory jurisdiction and therefore Department of Army authorization is required to place dredge and/or fill material into waters of the U.S., including wetlands.

DAG Response: The Division of Agriculture has consulted with the Corp and used its wetland information in determining tillable acres within the parcels and as a factor in conducting appraisals. DAG will make all buyers aware of the presence of wetlands within the project area and make available information on who to contact for more detailed information concerning wetland use of agricultural land.

**Alternatives:**

The following alternatives were considered:

1. Do not offer the parcels at this time and retain the land in public ownership.

This option is not preferred because there is a demand for farm land in Alaska and these parcels hold no special qualities meriting retention in public ownership.

2. Offer the land for sale through another land disposal program or offer as a lease.

This option is not preferred because:

- a. TBAP states that if the land is suitable for Agriculture, it should be offered as such.
- b. There is substantial amount of unsold subdivision lots for sale in the immediate area.
- c. A lease of suitable agricultural land would not serve the states interest because a farmer may be reluctant to invest the necessary capital to farm such land if he could only lease it. There is no special condition associated with this land that would prompt the state to retain ownership of it.

3. Offer for sale approximately 4100 acres of agricultural land subject to perpetual covenants running with the land that restricts or limits the use of the lands for agricultural purposes in a sealed bid auction.

This is the preferred option because it meets the management intent of the TBAP that states if land is suitable for agriculture and classified as such, the best interest would be served by using it for agriculture. This option serves to promote the agriculture industry in the state and the interest of the citizens by allowing more food products to be produced locally and thereby reducing dependence of imported foodstuffs. This is in the best interest of the state.

**VI. Public Notice:**

Pursuant to AS 38.05.945, the public is invited to comment on this Preliminary Finding and Decision, which proposes to sell agricultural land in the Northern Region. Legal notice will be published in the Anchorage Daily News and Fairbanks Daily News Miner. Public notices will also be posted at local post offices in the general vicinity of the proposed area. Nearby Village Corporations will receive notices. The notice will also be posted on the State of Alaska Public Notice web page at <http://www.dnr.alaska.gov/pic/pubnotfrm.htm>.

Pursuant to AS 38.05.946, a municipality or corporation statutorily entitled to receive notice under AS 38.05.945, may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the commissioner (or a representative) shall attend the hearing. The commissioner has discretion whether to hold a public hearing.

DNR DAG will consider all timely comments. If timely written comments received in response to this notice indicate 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 the proposed action will not be considered significant changes requiring additional public notice.

If the proposed action is approved and no significant change is required, the Preliminary Decision, including any deletions, minor changes, and summary of comments and Division responses, will be issued as a subsequent Final Finding and Decision without further notice. To recognize a party's eligibility to appeal a Final Finding and Decision, DAG must receive timely written comment on the Preliminary Decision as set forth in Attachment C: Public Notice. Upon approval and issuance of a Final Finding and Decision, a copy of the decision will be made available online at <http://dnr.alaska.gov/mlw/landsale/> and sent with an explanation of the appeal process to any party who provides timely written comment.

**To be eligible to appeal, a person must comment in writing during the public comment period.**

If you have any questions concerning this proposed action, please contact:

Dan Proulx  
1648 S. Cushman, Ste. 201  
Fairbanks, AK 99701

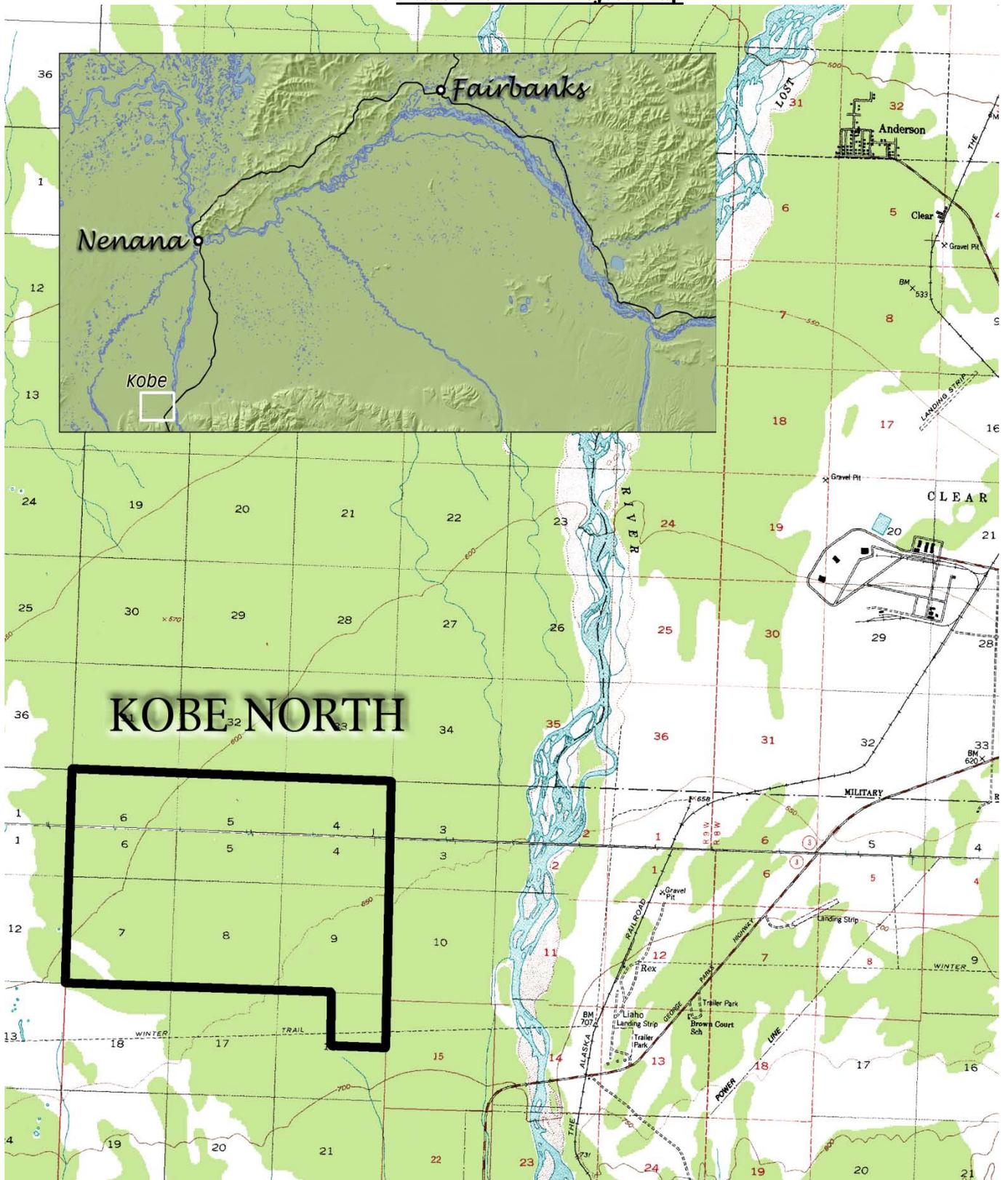
(907) 374-3716

Dan.Proulx@alaska.gov or fax (907) 328-1951.

Individuals with disabilities who may need auxiliary aids, services, or special modification should contact the Fairbanks Public Information Center between the hours of 10:00 a.m. and 5:00 p.m. M-F at (907) 451-2705, e-mail: [fbx-pic@dnr.state.ak.us](mailto:fbx-pic@dnr.state.ak.us), TDD: (907) 451-2770

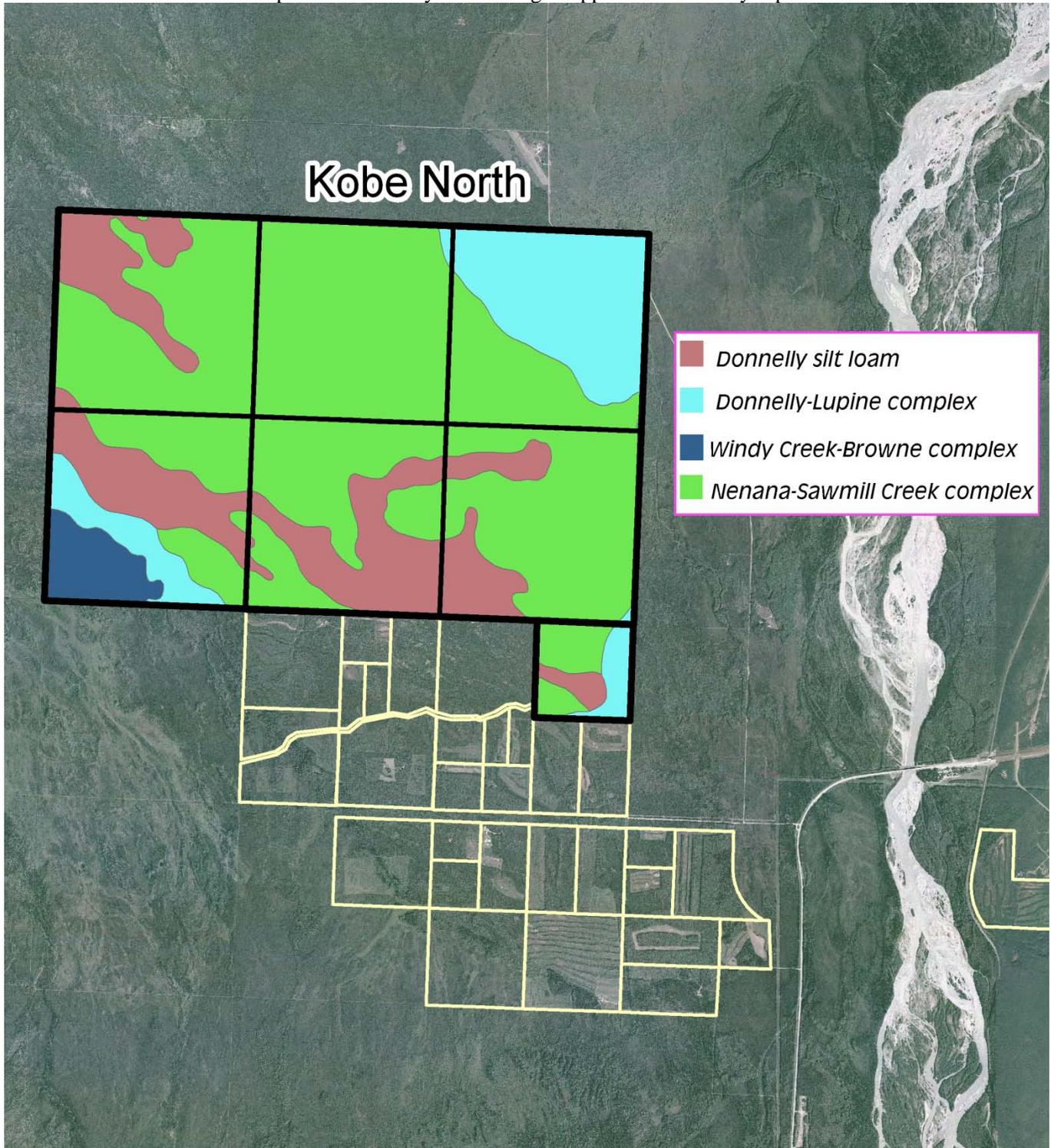


**Attachment A – Project Map**



**Attachment B – Soils Map**

Soil information the Natural Resources Conservation Service – Web soil survey - Greater Nenana Soil Map  
<http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>



**Attachment C**

**State of Alaska  
Department of Natural Resources  
Division of Agriculture & Division of Mining, Land and Water**

**Public Notice  
Preliminary Findings and Decisions  
Proposed State Agricultural Land Sale – AS 38.05.035(e)  
Kobe North Agricultural Parcels**

The Alaska Department of Natural Resources, Division of Agriculture (DNR/DAG) in cooperation with the Division of Mining, Land, and Water proposes to offer approximately 4100 acres of State agricultural land. The land will be offered for sale in a sealed bid auction. This state land has not been previously offered for sale. Minimum purchase price will be established at the appraised fair market value for each parcel.

Kobe North Agriculture Project is located near Milepost 275 of the Parks Highway, ~75 miles south of Fairbanks, the project area is composed of Sections 4-9 and the NE1/4 of Section 16, Township 8 South, Range 9 West; Fairbanks Meridian. The Department of Natural Resources proposes to exclude from the sale the S1/2SE1/4SE1/4 of Section 8 and the ROW crossing the NE corner of Section 4. The project is located in USGS Fairbanks Quadrangles A-5 & B-5. Copies of the preliminary decision and maps are available at the DNR/DAG office in Fairbanks and online at [www.dnr.alaska.gov/mlw/landsale](http://www.dnr.alaska.gov/mlw/landsale).

Pursuant to AS 38.05.945 Notice, the public is invited to comment on this proposed action. Comments on this proposal may be submitted by mail to Division of Agriculture, Attention: Daniel Proulx, Division of Agriculture, 1648 S. Cushman Ste 201, Fairbanks AK 99701; by email to [Dan.Proulx@alaska.gov](mailto:Dan.Proulx@alaska.gov); or by fax to (907) 328-1951. The comment period ends at **4:00 PM May 13, 2011**.

For more information please contact Daniel Proulx at (907) 374-3716, or email [Dan.Proulx@alaska.gov](mailto:Dan.Proulx@alaska.gov).

If public comments in response to this notice indicate the need for significant changes in the above decision, additional public notice for the proposed sale will be given about mid May 2011. DNR reserves the right to modify the number of proposed parcels from this offering at any time. Deleting a parcel from the final offering will not be considered a significant change to this decision. If no significant change is required, the Preliminary Finding and Decision, including any deletions, minor changes, and a summary of public comments, will be issued as the Final Finding and Decision of the Department of Natural Resources without further notice. A copy of the final decision will be sent to any person who submitted timely comments on the proposed decision and will be available at the above address. The final decision will set out the applicable process for appealing the decision under AS 38.05.035(i)-(m). To be eligible to appeal, a person must submit a timely comment during the public comment period.

If these recommendations are approved, the state will publish a brochure that will be distributed in nearby communities and be advertised in a statewide newspaper. The brochure will contain information about available parcels and how to participate in the auction. You may contact one of DNR's Public Information Centers for information on how to get a brochure or visit the web at [www.dnr.alaska.gov/mlw/landsale](http://www.dnr.alaska.gov/mlw/landsale) for current land offering information.

Individuals with disabilities who may need auxiliary aids, services, or special modifications should contact the Public Information Center (PIC) in Fairbanks, between 10:00 a.m. and 5:00 p.m. Monday through Friday, at (907) 451-2705, or TTY (907) 451-2770, or email: [fbx-pic@dnr.state.ak.us](mailto:fbx-pic@dnr.state.ak.us).

DNR reserves the right to waive technical defects in this publication.

**Attachment D**  
Conditions and Reservations

SUBJECT to valid existing rights, including reservations, easements, and exceptions 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.

SUBJECT to a public access and utility easement, 50 feet wide, on all lot lines where a section line is not present.

SUBJECT to a perpetual covenant under AS 38.05.321(a)(1) that restricts or limits the use of the land for agricultural purposes.

SUBJECT to a perpetual covenant under AS 38.05.321(a) (2) establishing restrictions on further subdivision of this tract.

SUBJECT to a farm development requirement requiring acreage to be cleared and broken. The amount of acreage required to be cleared will depend on several factors and will be noted in the brochure. The land must be cleared and broken (i.e. clearing of native vegetation, including stumps, roots and debris and initially tilled, generally requiring heavy breaking implement, that leaves the ground broken and worked to a point where it is ready for further tillage or seeding with standard farm equipment) within five years of issuance of the sale contract. The area under berms will not be counted toward the clearing requirement. Cropland acres that are improved to a cleared and broken condition must be maintained in that condition throughout the term of the sale contract. The patent will not be issued until the development requirement is met and will not be issued if the cleared and broken land has not been maintained in that condition.

Purchaser should contact the Alaska Department of Natural Resources/Division of Forestry and the Alaska Department of Environmental Conservation (DEC) prior to any burning to ascertain if a permit is required.

Purchaser should contact the USDA/NRCS, for the delineation of wetlands, prior to clearing, road building or other activities that may result in the placement of dredged or fill material into wetlands.

Purchaser is responsible for providing a water and sewer systems if they are desired. The state does not provide percolation tests, wells, and other soil or water determinations. It is the responsibility of the purchaser to meet Alaska DEC requirements for sewage disposal.

Purchaser must monitor the parcel for plants on the State's list of noxious weeds and take prompt and effective eradication measures against any such plants. Failure to fulfill these responsibilities will make the purchaser subject to state pest control regulations 11 AAC 34.100-400.

The sale of this parcel under the agriculture program, the state does not give or imply any warranty as to the lands fitness, use or suitability, or whether public utilities or services will be provided.

Farm Conservation Plan. A contract shall not be executed by the seller until an acceptable Farm Conservation Plan has been approved by the seller pursuant to the provisions of 11 AAC 67.177-.180. Upon execution of a contract by the seller, the approved conservation plan becomes incorporated by reference in the sale contract and shall become a covenant and condition binding upon the purchaser as a term of the contract.