

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

PRELIMINARY DECISION

**Proposed Land Offering in the Matanuska-Susitna Borough
Diamond Lake South Subdivision – ADL 230393
AS 38.05.035 (e), AS 38.05.045**

**RELATED ACTION:
Proposed Mineral Order (Closing)
AS 38.05.185 and AS 38.05.300**

COMMENT PERIOD ENDS 5:00 PM, TUESDAY, JULY 2, 2013

I. Proposed Actions

Primary Proposed Action: The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW) is to offer for sale State-owned land for private ownership within the identified project area. Surveyed parcels will be offered for sale in a future offering under the methods as described herein.

Attachment A: Vicinity Map

Attachment B: Area Data Summary Table

Attachment C: Public Notice

Located within DNR DMLW's Southcentral Region, approximately 20 air miles north of Anchorage and approximately 2 miles southwest of Big Lake, the project area is within the E½ Section 8, Township 16 North, Range 4 West, Seward Meridian, within the Matanuska-Susitna Borough (MSB). The site is readily accessed via Parks Highway to Big Lake Road, west on West Susitna Parkway, and south on Rains Drive approximately 1.2 miles to the end of the road that stops at the northern boundary of this proposed project. The project area consists of approximately 116 developable acres for disposal by this proposed action southwest of Diamond Lake; portions of the proposed subdivision front on Diamond Lake. The project area is designated settlement by the Southeast Susitna Area Plan (SESAP). See Planning and Classification in Section VI below.

For the purposes of providing land for settlement in the Diamond Lake area, if deemed feasible, DNR may develop a subdivision of no more than 35 parcels varying in size from 1 to 20 acres. Of note, if it is deemed necessary, DNR may consider parcels over 5 acres per the allowances listed in *AS 38.04.020 (h) Land Disposal Bank*. This proposed project area is located within the MSB, and therefore survey, platting, and road construction will be completed to the relevant subdivision standards. The project may be subdivided and offered in phases. See Attachment A: Vicinity Map for depiction of the project area.

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Proposed Related Actions: There is one related action with this proposal.

Mineral Order (Closing): DNR DMLW proposes a mineral order to close the project area to new mineral entry. Refer to the Mineral Order subsection under Section VI of this document for more information on this proposed related action.

This related action will be developed as a separate action; however, approval of the primary and related actions is interdependent in that one action will not proceed without approval of the subsequent action. Public notice of the public comment period for all actions will be conducted concurrently.

Notice of the public comment period will be posted in accordance with *AS 38.05.945 Notice*, for at least 30 consecutive days. The public is invited to comment on the proposed primary and related actions. If commenting on more than one proposed action, separate comments should be submitted for each. See Section VIII Submittal of Public Comments at the end of this document and Attachment C: Public Notice, for details on how to submit a comment for consideration. If after consideration of timely, written comments the proposed actions are approved, the Department will issue a Final Finding and Decision.

II. Method of Sale

DNR proposes to offer for sale the project area as described herein, through a future auction under *AS 38.05.045 Generally [Sale of Land]*. If the parcels do not sell when offered at auction, they may be offered by another method under *AS 38.05.045 Generally [Land for Sale]*.

III. Authority

The State of Alaska, DNR has the authority under *AS 38.05.035 (e) Powers and Duties of the Director* and *AS 38.05.045 Generally [Sale of Land]* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State. The Land Sales and Contract Administration Section (LSCAS) of the DMLW is delegated authority to offer parcels under *AS 38.05.045 Generally [Sale of Land]*.

For related action, *AS 38.05.185 Generally [Mining Rights]* allows for mineral orders.

IV. Administrative Record

The administrative record for the proposed actions consists of the documentation contained in the project file, ADL 230393. Incorporated by reference are the Southeast Susitna Area Plan (SESAP) adopted 2008, the Custom Soil Resource Report of June 11, 2010 for Matanuska-Susitna Valley Area, Alaska, Diamond Lake South (National Cooperative Soil Survey), Alaska Department of Fish and Game (ADF&G) Anadromous Waters Atlas (Tyonek B-1, 11/15/2010), Alaska Division of Forestry (DOF) Interagency Fire Management Plans in Alaska, Matanuska-Susitna Borough Community Wildfire Protection Plan Update – September 2008, and all other file documents pertaining to, contained in, or referenced in the project file.

V. Scope of the Decision

The scope of this proposal, under the statutes described in the preceding Section III Authority of this document is limited and specific to DNR DMLW's proposal to offer State-owned land within the defined portion of the project area for disposal and to conduct the proposed related action

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as described herein. The scope of this proposal does not include the control of post-patent use, and DNR DMLW does not intend to impose deed restrictions for this purpose. The subdivision and offering may be conducted in phases.

VI. Description

Location: The project area is within the DNR DMLW's Southcentral Region, approximately 20 air miles north of Anchorage and approximately 2 miles southwest of Big Lake, within the E $\frac{1}{2}$ Section 8, Township 16 North, Range 4 West, Seward Meridian. The project area consists of approximately 116 acres identified for disposal by this proposed action. See Attachment A: Vicinity Map for a depiction of the approximate location of the project area.

Borough/Municipality: The project area is within the Matanuska-Susitna Borough/Mat-Su Borough (MSB) and subject to the borough's platting and zoning authority. The project area is outside any municipality.

Native Regional and Village Corporations: Cook Inlet Region Inc. is the regional corporation for this project area. Knik Tribal Council and the Native Village of Eklutna are located within 25 miles of the project area. All of these organizations potentially pursue traditional uses within the project area.

Legal Description: N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 8, Township 16 North, Range 4 West, Seward Meridian, located within the Palmer Recording District, Third Judicial District, Alaska.

Title: Information from Title Report No. RPT-230 current as of 3/18/2009 indicates the State of Alaska acquired this property by statehood entitlement under the *Act of July 7, 1958, 72 Stat. 339, as amended* and holds fee title to the land and mineral estate within the project area under Patent 50-69-0039, dated 7/26/1968. The applicable State case file is GS-207. The parcel is subject to the reservations, easements and exceptions contained in the federal patent.

Retention and Access of Mineral Estate: In accordance with *Section 6(i) of the Alaska Statehood Act* and *AS 38.05.125 Reservation [of Rights to Alaska]*, the State retains ownership of the mineral estate that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals, such as gold, copper and silver; and leasable minerals such as oil, gas, coal, ore, minerals, fissionable material, geothermal resources, and fossils.

The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing, and producing these reserved mineral resources. Access reserved to these retained interests is superior to any and all surface uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, *AS 38.05.130 Damages and Posting of Bond* also provides that the surface owner will be compensated for damages resulting from mineral exploration and development.

The State of Alaska retains all Navigable Water Bodies; see Attachment B: Area Data Summary Table.

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Physical Characteristics and Hazards: Attachment B: Area Data Summary Table describes the project area's physical characteristics. In addition, the following paragraphs describe the project area based on internal research and a field inspection conducted by personnel of DNR Survey Section, and LSCAS on May 20, 2010. This is by no means a complete description of the project area, and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect individual parcels prior to purchase to familiarize themselves with the physical characteristics of the land.

The proposed subdivision site is situated on somewhat hilly ground undulating along the southern half of the west side of Diamond Lake, which is stocked by the ADF&G. The lake shoreline lies at approximately 150' elevation in accordance with the ADF&G Diamond Lake Bathymetric Map obtained September 10, 2012, but DMLW Survey Section Conceptual Plan of October 25, 2012 includes 5' contour intervals depicting the shoreline at an unspecified level below 140' elevation and the highest ground point at just over 170' elevation. Most of the site is covered in typical Southcentral mixed birch-spruce (mostly mature birch) forest with commonly associated understory vegetation and ground cover.

Geologic Hazards: There are none identified. Should any geologic hazards be discovered in the future, they will be considered in the project's design and described in the project file and offering materials.

Fire Hazards: The 2010 field inspection revealed no evidence of recent wildfire at or near the proposed project site. The predominantly mature birch forest and associated understory and surrounding marsh vegetation may offer potential fuel for wildfire in unusually dry seasons. The proposed subdivision does not lie within a MSB Fire Service Area as shown on the MSB Fire Service Area website map obtained 9/11/2012.

Fire management options and policies for the area are identified in the Interagency Fire Management Plans in Alaska obtained from the DNR DOF website 2/19/2013. The current fire management option for the project area is "Full Protection" and is very close to the margin of "Critical Protection" as illustrated at Appendix 2 – AK-DOF Fire Protection Designations / Map of the MSB Community Wildfire Protection Plan Update – September 2008. This plan's Appendix 6 – WUI Map also seems to indicate that the project area is near the Wildland Urban Interface depiction (the area or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels [p.31]). The Appendix 2 table states, "Full Protection: Suppression action provided on a wildland fire that threatens uninhabited private property, high-valued natural resource areas, and other high-valued resources areas such as identified cultural and historical sites. The suppression objective is to control the fire at the smallest acreage reasonably possible. The allocation of suppression resources to fires receiving the full protection option is second in priority only to fires threatening a critical protection area."

It is important to note, however, that the DNR DOF warns that DNR 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. The DNR provides all entrants with information regarding

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wildland fire prevention and encourages them to incorporate defensible areas in their land use plans.

Flood Hazard: There is minimal potential for seasonal flooding; no evidence of abnormal erosion of lake shore has been observed. Low-lying areas are marshy and appear so on maps and photos, and subdivision design has taken this factor into account. Interested parties are encouraged to research this issue and inspect the project area prior to applying.

See Attachment B: Area Data Summary Table for more information on the description of the project area.

Background:

- 1968 – Patent 50-69-0039 received via GS-207;
- 1982 – Subject to Willow Sub-Basin Area Plan;
- 1983 – Classified Settlement by CL SC-82-021;
- 1993 – Public Easement ADL 225903 for State of Alaska, Department of Fish and Game fish stocking activities;
- 2005 – Oil and Gas Lease (ADL 390590 expired May 31, 2012);
- 2008 – Subject to Southeast Susitna Area Plan (adopted 2008), designated Settlement by SC-08-001; and
- 2008 – Land sale project initiated (this project, ADL 230393).

History: The project is located just southwest of Big Lake in an area that continues to experience population growth. There are 5 existing subdivisions adjacent to Diamond Lake, one of which (ASLS 2002-27, North Diamond Lake Subd. – Plat 2004-33) was offered as a State land sale disposal in the Spring 2004 Auction #433. Four private subdivisions include Argyle Acres (Plat 84-319) on the east side of the lake; Diamond Lake Subdivision Tract 1 (Plat No. 2001-9) on the east side of the lake; Diamond Lake Subdivision Unit No. 1 (Plat No. 76-7) along the west side of the lake extending from the proposed project northward to West Susitna Parkway; and Diamond Lake Subdivision Unit No. 2 (Plat 81-77) associated with Unit No. 1. North Diamond Lake Subdivision, which was the last know DNR DMLW public land sale in the vicinity, fronts on South Big Lake Road also known as West Susitna Parkway. The above developments consist of lands ranging from 10 – 30 acres and 40+ lots ranging in size from less than an acre to just under 6 acres.

No evidence has been discovered of prior or existing traditional or public use of the proposed project site except for access to sport fishing in Diamond Lake and what appears to be an old seismic line trail transecting potential lots in the southeast corner of section 8. Appropriate access, buffers, and other protections of the environment and public interest are part of the proposed development design, and the proposed subdivision should not significantly interfere with public access and use of the lake or public lands nearby or beyond the proposed action. No authorized or unauthorized structures or activities were observed during DNR field inspection of May 20, 2010. Above ground electric power lines were observed to supply properties in the Diamond Lake Subdivision Unit No. 1, which abuts the north boundary of this proposed project. Natural gas utility service is not yet available to this area. See Easements and Retained Lands within Access To, Within, and Beyond the Project Area subsection of this document for more information.

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Planning and Classification: The project area is within Southeast Susitna Area Plan (SESAP) Big Lake-Houston Region (H), Unit H-24. Settlement (Se) is the current, primary surface use designation for this unit. The area was classified Settlement in 1983 by Classification Order (CL) No. SC-82-021; present classification is found in the SESAP adopted April 2008, by land CL No. SC-08-001.

SESAP Resource Allocation Table, page 3-37, states the Management Intent: “Portions of this unit are appropriate for land disposal during the planning period within upland areas. Development within wetlands and stream courses is to be avoided. A screening buffer between the area of land disposal and current, adjacent residential land uses is to be provided. A recreation public use site is to be retained in state ownership; an AS 38.05.127 [Access to and along Navigable or Public Water] easement affects the lake. DMLW must consult with DOF if a land disposal is under consideration. The unit to the west (H-23) is included within the DOF sustained yield base for the Susitna Valley.”

The proposed subdivision will take into consideration requirements for avoiding development within water areas, provide for appropriate buffers, retain a recreation public use site, and comply with MSB subdivision ordinances. The remaining portion of E½ of Section 8 will be retained in State ownership as ADL 231703. The adjacent unit, H-23 includes the W½ of Section 8 and all of Section 7, which is designated General Use (Gu). H-23 contains only about 60 acres having potential for forest management activities. On February 14, 2013, DOF responded in writing that they had no objection to the proposed disposal. DOF currently has no plans with H-23 but may at some future time. Scattered muskegs surrounding any potential harvest unit would serve as a buffer between such activity and the proposed subdivision.

Area-wide Considerations: The management guidelines in SESAP, Chapter 2-Settlement provide for three settlement categories within the planning area: 1) Seasonal residences for recreation, 2) Year-round residences for community expansion, and 3) Industrial or commercial development. Diamond Lake South subdivision is proposed under category 2.

General Management Intent and Guidelines within Chapter 2, as well as specific Settlement Management Guidelines found on pages 2-26 thru 2-32, will be incorporated into the proposed project process. Some of the factors considered include, but are not limited to, the following: Community, Social, and Aesthetic Values; Protection of Critical Recreational Areas and Environmental Resources; Fiscal Impacts; and Coordination with Local Governments and Landowners. Planning and coordination takes into account phased offerings compatible with local market conditions and local platting authority requirements; access to and around the project includes provision for public parking and accommodation for existing trail access or routing.

Any state land offering includes considering goals for the protection, management, and enhancement of other resources. Design guidelines are followed to incorporate the SESAP principles with a functional application of these management goals and guidelines into the project. Other sections of this document discuss some of these items in more detail.

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H-24, Settlement, in the Big Lake-Houston Region: Specific considerations in The Resource Allocation Table on page 3-37 of the SESAP have been discussed under Planning and Classification section above.

Area Plan Proposal: DNR DMLW proposes no Area Plan Amendment.

Classification Proposal: DNR DMLW proposes no change of Land Classification Order.

Reservation of Mineral Estate: In accordance with Section 6 (i) of the Alaska Statehood Act and *AS 38.05.125 Reservation [of Rights to Alaska]*, 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 Damages and Posting of Bond* and any other applicable statutes and regulations, which provide that the land estate (surface) owner be compensated for damages resulting from mineral exploration and development. Refer to the Mineral Order section of this document for more information on restrictions on use of the mineral estate within the project area.

Mineral Order(s): There is no known mineral order existing for the proposed project area.

Mineral closing orders, where established, close an area to new exploration and development of locatable minerals such as gold, copper, platinum, etc. Such mineral orders do not apply to leasable minerals, including oil and gas leasing, coal leasing, shallow gas leasing, or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

Mining activity would be incompatible with the past, current, and proposed land estate uses for land disposals. To allow new mineral location within the boundaries of the parcels encompassed by this decision could create serious conflicts between land estate and mineral estate users. Area plan mineral estate management policy states that, in general, areas scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land estate and mineral estate users.

Mineral Order Proposal: DNR DMLW proposes a Mineral Order (Closing):

Mineral Order (Closing): DNR DMLW proposes a mineral order to close the project area to new mineral entry. The proposed Mineral Order (Closing) No. 1006 closing the area to new mineral entry would apply only to new mineral location and will not remove valid existing mineral rights. This associated mineral order, if approved, will precede the Final Finding and Decision to approve the land offering.

Public notice for the related action is being conducted concurrently with the notice for the primary action's Preliminary Decision. If approved after consideration of public comment, the related action will be developed as a separate action and accompany the Final Finding and Decision for the primary action. The Final Finding and Decision will be

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dependent upon approval of the related action such that if the related action is not approved, the Final Finding and Decision will not be approved, unless modified. Likewise, DNR DMLW will not process the related action unless proceeding with a Final Finding and Decision.

Local Planning: Where they exist, local zoning and related ordinances govern private land use. The project area is within the MSB, and platting actions are subject to the MSB platting and zoning authority. The proposed subdivision is located within Big Lake Road Service Area #21, and approval of platting and zoning actions, and dedication of rights of way (ROW) will require separate processes and public notices through the MSB. The Matanuska-Susitna Borough Comprehensive Development Plan (2005 Update) and the Big Lake Community Council Area Comprehensive Plan Update (August 2009) will also be considered in the project development process. Local residents have established their desire to maintain and improve the standard of environmental protection and quality of life through the Diamond Lake – Lake Management Plan (April 1999). This document has set quiet hours, limited motorized boating to 10 hp, emphasized that there is no overnight camping allowed, outlined use of ice fishing shacks, etc. All prospective buyers for this proposed land offering should make themselves aware of these and any other federal, state, and local statutes, regulations, or requirements which may impact land ownership.

Coastal Issues: The MSB will receive public notice and an opportunity to comment.

Access To, Within, and Beyond the Project Area: Ground access to the project area is via Parks Highway to Big Lake Road, west on West Susitna Parkway, and south on Rains Drive approximately 1.2 miles to the end of the road that stops at the northern boundary of this proposed project. Diamond Lake itself is roughly a mile in length and would provide access via float plane in the summer and ski equipped plane in the winter.

Subdivision ROW and roads will be designed/constructed to provide for access within and beyond the project boundaries in accordance with MSB's Subdivision Ordinance 43.20.140 and state requirements. A portion of the 50' section-line easement (SLE) on the north side of the East-West section line common to sections 5 & 8 has been vacated by EV-2-20; the 50' SLE on the south side remains for public access to Diamond Lake. The Big Lake Community Council Area Comprehensive Plan Update, August 2009, pages 3-8, 3-15, and 4-5 maps show a recreation trail running straight Northeast-Southwest at the southern tip of Diamond Lake and thence through the southeast $\frac{1}{4}$ of section 8. It would appear that this trail, which can be seen on the aerial photo of Attachment A, would likely need to be located to avoid lots that may be established in that southeast location.

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

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For the purposes of *AS 38.05.127*:

- navigable waters are generally lakes larger than 50 acres in size or streams larger than 50 feet in average width;
- public waters are generally lakes larger than 10 acres in size or streams larger than 10 feet in average width; and
- waters may be determined public or navigable consistent with *AS 38.05.965 (18) Definitions*. There are no known navigable waters within the project area.

For the purposes of reserving access to public or navigable water under the aforementioned statutes and regulations, if a water body is determined to be public or navigable prior to disposal, a continuous easement extending upland from the ordinary high water mark will be reserved within parcels located along said waters. An alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult. If a water body determined to be public is located entirely within a parcel, a public use access easement from the parcel boundary to and along the water body will be reserved and dedicated at the time of field survey. The ADF&G bathymetric map for Diamond Lake, obtained September 10, 2012, indicates it is 139 surface acres in size. Refer to the Easements, Setbacks, and Retained Lands and Agency Comments sections for additional information about public and navigable waters. Also see Attachment B: Area Data Summary Table.

Anadromous Waters: There are no anadromous waters within the project area.

Building Setbacks From Public or Navigable Water: If subdivision is deemed feasible, DNR DMLW proposes to place a note on the final survey plat describing a building setback upland from the ordinary high water (OHW) mark of public and navigable water to protect access, fish and wildlife habitat, and personal property. Except for utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function, structures, and subsurface sewage disposal systems will not be permitted within the building setback. We will continue to develop and apply criteria as needed, and the public is invited to comment. Refer to the Easements, Setbacks, and Retained Lands and Agency Comments sections of this document for additional information.

Easements, Setbacks, and Retained Lands: Parcels may be subject to a variety of easements, setbacks, and retained lands. Easements, setbacks, and retained lands will be identified on the subdivision plat and included in related informational documents. Approval of platting actions will require separate processes and public notices through the MSB. Final width and location of easements and reservations will be determined as part of the platting process.

Parcels and subdivision design may be subject to a variety of reservations or restrictions where appropriate, such as:

- utility easement along ROW boundaries;
- a 50-foot-wide public access easement on each side of surveyed or protracted section lines on State-owned land (*AS 19.10.010*), unless formally vacated;

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- a 50-foot continuous easement upland from the OHW mark of Diamond Lake ((AS 38.05.127, SESAP)
- a 75-foot (SESAP, MSB Comprehensive Plan) building setback from the OHW mark of Diamond Lake
- a minimum 50-foot building setback (SESAP) from wetland areas; and
- a survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a direct line-of-sight easement from the control station to an azimuth mark or other control monument.

Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.

Hazardous Materials and Potential Contaminants: During field inspection on May 20, 2010, DNR staff did not observe any hazardous wastes, spills, or other potential contaminants within the area. There are no known environmental hazards present within the project area, however, the State 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 eventually be found. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land prior to bid or application submittal.

DNR DMLW 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 the high degree of interest from both the legislature and citizens in sale of State-owned land, DNR DMLW is of the opinion that the benefits outweigh the potential risks.

Traditional Use Finding: The project area is located within the MSB, and a traditional use finding is therefore not required per *AS 38.05.830 Land Disposal in the Unorganized Borough*. However, information on current or traditional use is welcomed and can be given during the public comment period. See the Submittal of Public Comments section at the end of this documents and Attachment C: Public Notice for details on how to submit comment.

There are no anticipated significant changes to traditional uses of the land and resources of this area as a result of the proposed action other than a possible increase in the various traditional activities practiced by private-property owners. Impacts on existing resource users will be minimized by retaining a public recreation site, protecting public access to and along the shore of Diamond Lake, and by protecting riparian and shoreline habitat with building setbacks from the lakeshore as directed in the area plan. See also Background and *History* discussion at page 5 above. Additional information on traditional use at this site is welcome during the public comment period, and if this proposal is approved, the information received will be addressed in the Final Finding and Decision.

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Survey, Platting, and Appraisal: Considering multiple factors such as agency and public commentary, physical conditions of the land, and access issues, DNR DMLW proposes to offer the ADL 230393 property for sale. In order to offer the property, a combination of survey, subdivision, and/or plat actions may be required. This proposed project area is located within the MSB, and therefore survey and platting will be completed to the relevant local platting authority subdivision standards.

The MSB's planning requirements provide for separate public notice periods and processes for platting actions within the Borough. These additional opportunities for public comment and involvement occur after Final Finding and Decision if this proposed primary action is approved and the project moves forward.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR DMLW standards will be required within two years of the date fixed for the sale of any parcel developed under this proposed action.

VII. Agency Comments

Agency review was conducted from June 17, 2009 through July 31, 2009. Comments pertinent to this proposed action received during agency review and subsequent follow-up communication have been considered and addressed in the following paragraphs. Additional timely comments received during the Public Notice and public comment period will be considered and addressed in the Final Finding and Decision if the proposal proceeds to that step.

DNR, Office of Oil & Gas comment: Summary: O&G Tract 664, ADL390590, covering the project area, expired effective 5-31-2012, and it does not appear to have received a bid in the last lease sale. Comments also confirmed the principle of reasonable concurrent uses as set out in Article VII, Section 8 of the Alaska Constitution.

DNR DMLW LSCAS Response: It is common process for LSCAS to include standard information in offering brochures about reservations applying to land sales projects. See discussion in this document at Reservation of Mineral Estate in Section VI above.

DNR, Division of Forestry (DOF) comment: The DOF has no objection to the disposal. The adjacent unit, H-23, is designated as General Use and approximately 60 acres has the potential for forest management activities. The muskegs surrounding the potential harvest unit could serve as a buffer between your proposed development and harvest activities. We currently have no plans with H-23 but may at some future time.

DNR DMLW LSCAS Response: DOF comments are welcome.

DMLW Office of History and Archaeology (OHA) comment: Summary: Their review confirmed that OHA has no immediate concerns with the subject project. OHA also pointed out that, while there are no recorded cultural resources within the boundary of the proposed subdivision, should such be discovered during the duration of the project, OHA should be notified in order to evaluate the evidence as specified by *Section 41.35.070[d]*.

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DNR DMLW LSCAS Response: LSCAS concurs with the comments provided and welcomes any opportunity to continue cooperation with OHA.

Department of Fish and Game (ADF&G), Division of Sport Fish Comment: Summary: A survey of the proposed project area and a preliminary plat should be completed before the Preliminary Decision is issued so a better understanding of the proposed subdivision design is known. Southeast Susitna Area Plan (SESAP) requires that a public recreation site be retained in state ownership; ADF&G recommended a 5 acre site with vegetated buffers ultimately be developed for public use, sufficient parking, and adequate access to the lake. Concurrence with AS 38.05.127 to and along easement was stated, and it was recommended to follow MSB's Voluntary Best Management Practices For Development around Waterbodies, including a 75 foot wide buffer, with a preference that setback requirements be incorporated into a subdivision covenant.

DNR DMLW LSCAS Response: LSCAS appreciates the detailed interest and concerns expressed by ADF&G. Most topics presented are incorporated in the study and design process applied to this project, including complying with the SESAP and MSB's local platting authority requirements. Producing a preliminary plat prior to issuing a Preliminary Decision (PD) is not economically efficient or practically feasible. DNR Survey design will take into account the requirements mentioned, including providing for a public recreation site approximately 6 acres in size along with the lake public access corridor. Analysis following public and agency comment may bring forth additional information which in turn could possibly lead to modification of any estimated concept lot location. On-the-ground surveying will ultimately reveal the final details of any proposed conceptual design. Because of these elements, a completed professionally surveyed Preliminary Plat cannot be justified at the pre-Preliminary Decision or Final Finding and Decision phases. Physical development of the required public recreation site to be retained in state ownership is not within the scope of the subdivision project. To incorporate the expense of such construction into the subdivision design and development costs would make the offering less economically feasible. LSCAS concurs with taking measures in project design and development to protect lake shoreline and the general environment, however, the scope of this proposal does not include the control of post-patent use, and DNR DMLW does not intend to impose deed restrictions for this purpose. A 75 foot wide building setback from Diamond Lake will be noted on the plat. All pertinent local, borough, state, and federal regulations must be followed by any landowner. The current Diamond Lake – Lake Management Plan (April 1999) already addresses some of the stated and similar issues, and it would be the responsibility of the private owners to organize their subdivision and establish covenants if desired.

Department of Environmental Conservation (DEC) comment: Summary: DEC submitted a standard bullet list of best management practices desired to be taken into account in the subdivision progress. Their land use planning list included detailed points under the topics of Nonpoint Source Water Pollution Prevention Measures, Management Measures for Erosion and Sediment Control, and Effective Stormwater Site Plan Management Measures along with a "Rationale" discussion of each category.

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Diamond Lake South Subdivision – ADL 230393

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DNR DMLW LSCAS Response: DNR will continue to adhere to appropriate DEC and other regulations regarding subdivision design and development. Contractors working on state subdivision projects will also be required to do so.

Division of Agriculture (DOA) comment: There are some soils within the project area that would be suitable for small scale agriculture, but the division does not object to the proposed disposal for settlement.

DNR DMLW LSCAS Response: LSCAS accepts the comments as offered.

DMLW, Southcentral Region Office, Realty Services Section (SCRO RSS) comments:

Summary: Title reports were done, and no issues were found.

DNR DMLW LSCAS Response: LSCAS accepts the comments as offered.

DNR DMLW Mining Resources Section comments: There are no mineral occurrences or mining claims in the proposed subdivision or in the immediate area.

DNR DMLW LSCAS Response: LSCAS accepts the comments as offered.

Other Agencies: No comments were received from the following agencies or groups that were included in agency review:

- DNR Division of Geological and Geophysical Surveys (DGGS)
- Department of Natural Resources
 - Division of Mining, Land, and Water
 - Resource Assessment and Development Section
 - Public Access Assertion & Defense Section
 - Municipal Entitlements
 - Division of Parks and Outdoor Recreation
 - Mental Health Trust Land Office
- Department of Transportation and Public Facilities
- Joint Pipeline Office

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VIII. Submittal of Public Comments

See Attachment C: Public Notice for specific dates and conditions.

Pursuant to *AS 38.05.945 Notice*, DNR will issue public notice inviting comment on this Preliminary Decision and related action. If commenting on more than one proposed action, separate comments should be submitted for each.

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

The DMLW will consider all timely comments, and if analysis of such comments indicates the need for significant changes to the Preliminary Decision or related action, additional public notice for the affected lands will be given. Reducing the amount of land offered and/or making minor changes to the proposal will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the Preliminary Decision, including any deletions, minor changes, and summary of comments and the DMLW responses, will be issued as a subsequent Final Finding and Decision without further notice. The related action will be developed as a separate action. Approval of the primary and related actions is interdependent. One action will not proceed without approval of the subsequent action.

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

**DEADLINE TO SUBMIT WRITTEN COMMENT IS
5:00 PM, TUESDAY, JULY 2, 2013**

IX. Alternatives and Discussion

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of up to 35 parcels varying in size from 1 to 20 acres, and offer those parcels for sale. The development and offering of the parcels may be phased.

Alternative 2: Do not subdivide the project area prior to offering. Offer the project area as a single, 116 acre parcel.

Alternative 3: (Status Quo) Do not offer this project area for private ownership. Retain the land in State ownership.

Article VIII, Section 1 of the Alaska Constitution states, in part, that. "it is the policy of the State to encourage the settlement of its land..." Furthermore, *AS 38.05.045 Generally [Sale of Land]* has placed this charge with DNR.

Preliminary Decision

Proposed Land Offering in Matanuska-Susitna Borough

Diamond Lake South Subdivision – ADL 230393

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Alternative 1 provides a method for DNR to help meet the obligations laid out in the Constitution and statute. Alternative 1 maximizes public interest. This offering provides an opportunity for the public to obtain land for settlement in a desirable area with proximity to existing ground access and utilities. The subdivision as described will allow DNR DMLW to create a design that will maximize use of the land and provide the public a great opportunity to purchase land within this area at a competitive price thus benefitting buyers and seller as well as protecting public interests.

Alternative 2 does not maximize public interest and is not preferred. Due to the unique amenities of the area, location relative to the communities of Big Lake and Huston, the project area is better suited to subdivision prior to offering. Not subdividing the project area prior to offering will not maximize opportunity for conveyance to private ownership of land that is suitable to settlement. Alternative 2 is not preferred.

Alternative 3 is not preferred. The Legislature and the public have indicated a desire for DNR DMLW to offer State-owned land for private ownership. Retention of this land would inhibit DNR DMLW from meeting its Constitutional and legislative obligations. Not offering the project area would deny Alaskans the opportunity to obtain land in an area that is suited to settlement.

For the aforementioned reasons, Alternative 1 is the preferred alternative.

Recommendation follows.

Preliminary Decision

Proposed Land Offering in Matanuska-Susitna Borough
Diamond Lake South Subdivision – ADL 230393
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X. Recommendation

This Preliminary Decision for the proposed primary and related actions described throughout this document and its attachments is consistent with the overall management intent for State-owned land; potential changes to public resources and the public interest as a result of the proposal are acceptable; these proposed actions appear to be in the best interest of the State. It is hereby recommended to proceed to public notice.

This is a Preliminary Decision, and analysis of subsequent public review may result in changes to the preferred alternative or disapproval of the proposed primary action and the accompanying related action. If the decision is approved, the related action will accompany and precede the Final Finding and Decision.

/s/
Prepared by: John W. Thomas
Natural Resource Specialist II
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

5/9/2013
Date

/s/
Approved by: Kathryn Young
Section Manager
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

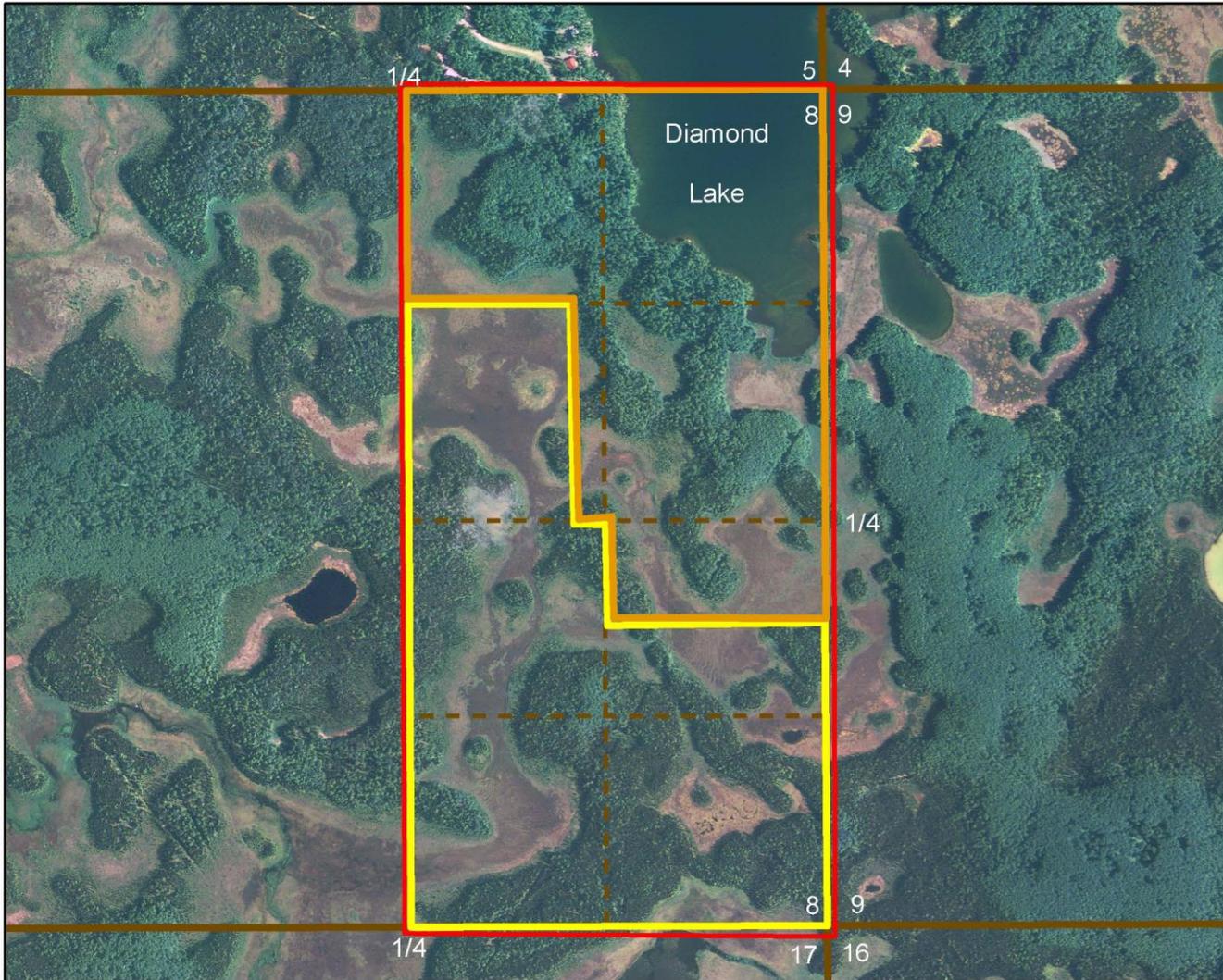
5/13/2013
Date



Diamond Lake South Subdivision ADL 230393

Attachment A: Vicinity Map

Proposed Land Offering in the
 Matanuska-Susitna Borough



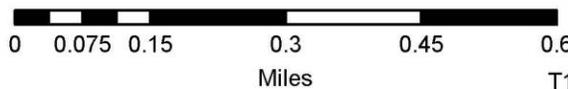
JWT 2/21/2013

Legend

- Unit H-24
- ADL 230393
- ADL 231703
- SECTION LINES
- Aliquot lines

USGS QUAD 1:63,360

Tyonek B-1, C-1 USGS Quad
 For more information contact:
 John W. Thomas, Adjudicator
 Department of Natural Resources
 Division of Mining, Land, and Water
 Land Sales & Contract Administration Section
 Phone 907 269-8591 Fax 907 269-8916
 Email subdivision.sales@alaska.gov



T16N R4W, E1/2 Sec 8, SM



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

ATTACHMENT B: AREA DATA SUMMARY TABLE

Preliminary Decision

**Proposed Land Offering in the Matanuska-Susitna Borough
Diamond Lake South Subdivision – ADL 230393**

Offering Information	
Proposed Number of Parcels	Up to 35 parcels
Proposed Parcel Size	Varying in size from 1 to 20 acres
Proposed Related Actions	Mineral Order (Closing)
Project Area	
Location	Diamond Lake, approximately 2 miles southwest of Big Lake, in the Matanuska-Susitna Borough (MSB) of Southcentral Alaska
Project Area Acreage	116 acres more or less of developable area
USGS Topography Map	USGS Quad Tyonek (B-1), 1:63,360 Series (Topographic)
Legal Description	N½NE¼SE¼, E½E½SW¼NE¼, NW¼NE¼, E½NE¼ Section 8, Township 16 North, Range 4 West, Seward Meridian located within the Palmer Recording District, Third Judicial District, Alaska.
Title	State-owned land, Patent 50-69-0039 under statehood entitlement
Area Plan and Classification	Southeast Susitna Area Plan (SESAP) (April 2008); Big Lake-Houston Region, Management Unit H-24, classified Settlement by SC-08-001
Mineral Orders	None currently existing
Physical Characteristics	
Access	Ground access via Parks Highway to Big Lake Road, west on West Susitna Parkway/S. Big Lake Road, and south on Rains Drive approximately 1.2 miles to the end of the road that stops at the northern boundary of this proposed project. One-mile long Diamond Lake may also offer fly-in access.
Terrain and Major Features	Gently rolling terrain containing a mix of palustrine wetlands and vegetated uplands; some uplands adjoin Diamond Lake which is stocked by ADF&G. Adjacent to existing residential subdivision.
View	Elevated areas offer a broad panorama of surround lands with sweeping views of distant mountains in most all directions.

Attachment B: Area Data Summary Table

Preliminary Decision and its Related Action

Proposed Land Offering in the Matanuska-Susitna Borough

Diamond Lake South Subdivision – ADL 230393

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Climate	January temperature -33 to + 33 F, July temp 42 to 83 F; average annual rainfall 14 inches, snow 48 inches as reported for the community of Big Lake (Department of Commerce, Community, and Economic Development)
Soils	USDA National Resources Conservation Report for Mat-Su Valley, Custom Soil Report for Diamond Lake South: vegetated uplands have Kashwitna and Kichatna silt loam on sloping, moderate to steep sites, and mainly Histosols in flat marshy areas. Known soil concerns will influence the project's design and feasibility, and such features will be described in the project file and offering materials where relevant.
Vegetation	Based on aerial imagery, soil and wetland maps, and ground inspection by LSCAS staff, the project area has a mix of palustrine wetlands and vegetated uplands consisting of primarily mature birch with occasional spruce and aspen trees and associated local understory and marshland plants
Water Source	The entire area utilizes individual wells; water quality is unknown.
Anadromous Waters	None
Local Management Information	
Fire Management Option	Full, however no guarantee property will be spared from harm from a wildland fire, even where the area is designated "Full" fire management option. Project site does not lie within a formal MSB Fire Service Area.
Game Management Unit	ADF&G game management unit 14A Mat-Su Valley, Region 4
Local Authority / Borough	MSB currently exercises authority for planning, platting, taxes, and zoning for the project area,
Flood Zone	The Federal Emergency Management Agency Flood Insurance Rate Map 0200219800C, MSB, (Effective 05/01/1985), locates the entire project area within Zone C, described as "an area of minimal flooding."
Utilities	This area is currently served by Matanuska Electric Association; power lines reach to adjacent subdivision on the north. No natural gas service available in the area at this time.
Waste Disposal	All on-site waste water disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation (DEC). MSB Big Lake Landfill accepts residential solid wastes.
Setbacks, Reserved Areas, Easements, and Conditions	
Improvements	Prior to construction of any structure or waste disposal system, contact the local platting authority/MSB for any permits or for required setbacks from wetland/water bodies, lot lines, and easements.
Building Setbacks	Parcels are subject to a building setback from the ordinary high water mark of Diamond Lake. Water-dependent structures may be allowed within the building setback. MSB subdivision requirements, SESAP guidelines, Diamond Lake – Lake Management Plan, and DMLW riparian protection guidelines will be consulted during the decision and design process to determine specific setbacks and other restrictions.

Attachment B: Area Data Summary Table

Preliminary Decision and its Related Action

Proposed Land Offering in the Matanuska-Susitna Borough

Diamond Lake South Subdivision – ADL 230393

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Public Access and Utility Easements	Parcels may be subject to the following: 50-foot wide section-line easements on north and eastern project boundaries; AS 38.05.127 to-and-along shoreline easement; subdivision public rights of way with abutting parallel utility easements.
Public or Navigable Water Bodies	Diamond Lake. If additional water bodies are deemed public or navigable, DNR DMLW will comply with statutory requirements to provide access to and along said water bodies.
Additional Information	
Native Regional Corporation	Cook Inlet Region Incorporated (CIRI)
Villages and Tribal Councils	Native Village of Eklutna and Knik Tribal Council
Oil and Gas Activity	None known
Mining Activity	None known
Comments	No conflicting uses or anticipated needs regarding state owned lands in the vicinity were discovered. Big Lake community center, about 9.5 miles to the east, is the nearest location that affords services and amenities typical of a rural area. Diamond Lake is about 24 miles via surface ROW to Wasilla and the hub of MSB core area at this time. Diamond Lake – Lake Management Plan imposes daily quiet time from 10pm – 8 am, 10-hp motor limit, no wake zone, and other standards to protect the environment and general quality of the lake area. Wetland conditions are found in and around the project area.

Attachment C: Public Notice

Preliminary Decision and its Related Action
Proposed Land Offering in the Matanuska-Susitna Borough
Diamond Lake South Subdivision – ADL 230393
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ATTACHMENT C: PUBLIC NOTICE

**STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, & WATER
LAND SALES & CONTRACT ADMINISTRATION SECTION**

PUBLIC NOTICE

Preliminary Decision
Diamond Lake South Subdivision – ADL 230393
Mineral Order (Closing)

COMMENT PERIOD ENDS 5:00PM, TUESDAY, JULY 2, 2013

This proposed project includes offering for sale surveyed parcels in a future offering under the method and the related actions as described in the Preliminary Decision document. The project may be subdivided and offered in phases.

Location: Diamond Lake, approximately 2 miles southwest of Big Lake, in the Matanuska-Susitna Borough of Southcentral Alaska

Project size: ~116 acres proposed development area, up to 35 parcels sized from 1 to 20 acres

To obtain the notice, Preliminary Decision, or instructions on submitting comment, or to request auxiliary aids, services, or special accommodations, go to <http://aws.state.ak.us/OnlinePublicNotices/> or <http://dnr.alaska.gov/mlw/landsale/>. For assistance in obtaining the documents by an alternative method, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907.269.8400 (TDD for the hearing impaired: 907.269.8411) or Fairbanks at 907.451.2705 (TDD for the hearing impaired: 907.451.2770), or the Southeast Land Section in Juneau at 907.465.3400 (TDD for the hearing impaired: 907.465.3888), or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, THURSDAY, JUNE 20, 2013.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on these proposed actions for which notice is being conducted concurrently. If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5:00 PM, TUESDAY, JULY 2, 2013.** Only persons from whom DNR DMLW LSCAS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Written comment may be received by fax, email or postal mail. To submit comments or for direct inquiries, contact Land Sales & Contract Administration Section, fax at 907.269-8916, subdivision.sales@alaska.gov. If you have questions, call John Thomas at 907.269-8591.

Attachment C: Public Notice

Preliminary Decision and its Related Action
Proposed Land Offering in the Matanuska-Susitna Borough
Diamond Lake South Subdivision – ADL 230393
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If no significant change is required, the preliminary decision, including any minor changes and a summary of comments and responses, will be issued as the final finding and decision without further notice. A copy of the final finding and decision will be sent to any persons who comments on the preliminary decision.

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