

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

**PRELIMINARY DECISION**

of a  
**Proposed Land Offering in the Unorganized Borough  
Sage Subdivision – ADL 231046**  
*AS 38.05.035 (e), AS 38.05.045*

and its  
**RELATED ACTION:**  
**Proposed Amendment to the Copper River Basin Area Plan**  
*AS 38.04.065*

**COMMENT PERIOD ENDS 4:00PM, THURSDAY, AUGUST 22, 2013**

**I. Proposed Action(s)**

Primary Proposed Action(s): 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 the DNR's Southcentral Region, approximately 6 miles west of McCarthy, 127 miles southeast of Glennallen via the McCarthy Road, and 235 miles east of Anchorage, the project area is within the W1/2 Section 31, Sections 28-30, Sections 32-33, Township 5 South, Range 13 East, Copper River Meridian, within the Unorganized Borough. The project area consists of approximately 3,454 acres, of which no more than 900 acres are identified for disposal by this proposed action. See Attachment A: Vicinity Map for a graphic depiction of the approximate location of the project area.

For the purposes of providing land for settlement in the McCarthy area, if deemed feasible, DNR may develop a subdivision of no more than 300 parcels varying in size from 2 to 15 acres, with development phased over time. A maximum of 900 acres will be offered. The allowances listed in *AS 38.04.020 (h) Land Disposal Bank* will allow parcels over 5 acres in size to be considered for this offering. This proposed project area is located within the Unorganized Borough and therefore survey, platting, and road construction will be completed to the relevant State standards. The project may be subdivided and offered in phases.

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

*Area Plan Amendment:* DNR proposes to amend the Copper River Basin Area Plan (CBAP, adopted 1986) to delete the requirement to offer a certain number of acres within the management unit before 1996 and a certain number of acres after 1996. No land within this management unit has been offered to date, so an amendment will allow the original intent of up to 900 acres of land to be sold within the project area. Refer to the Planning and Classification subsection of this document for more information on this proposed related action.

This related action will be developed separately.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal. Public notice of the public comment period for all actions will be conducted concurrently. 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 proposal is approved, DNR will issue a Final Finding and Decision.

## **II. Method**

DNR proposes to offer for sale land within the project area as described herein, through a future offering 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]*.

Offerings are noticed and administered by the DNR DMLW Land Sales and Contract Administration Section's Marketing and Sales Administration Team. DNR DMLW will announce an offering pursuant to *AS 38.05.945 Notice*. Public notice describes availability of land sale brochures, which usually advertise several previously surveyed parcels offered simultaneously across the state; provide conditions of the offering; describe the costs involved; and note appraised values and minimum bids. Participants submit bids certifying eligibility to participate in a public auction in an attempt to win a maximum of one parcel per offering in the subdivision of their choice. This method maximizes opportunity for eligible Alaska residents while providing for a means of return of and on the State's investment in development of the parcels. If the parcels do not sell when offered at auction, they may be offered by another method under *AS 38.05.045*.

## **III. Authority**

DNR DMLW 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. In addition, if it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020 (h) Land Disposal Bank*.

For related actions, *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally [Mining Rights]* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

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## **IV. Administrative Record**

The project file constitutes the administrative record for this action. Also incorporated by reference are:

- Copper River Basin Area Plan for State Lands (CBAP, adopted 1986) and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan* (amended October 1998);
- 1979 *Exploratory Soil Survey of Alaska*; and
- DNR case files relating to an Interagency Land Management Agreement (ILMA) with the Division of Forestry, a University Trust disposal, and an RS2477 Trail: ADL 228606, ADL 229365, and RST 372.

## **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 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: Located approximately 6 miles west of McCarthy, 127 miles southeast of Glennallen via the McCarthy Road, and 235 miles east of Anchorage, within the Unorganized Borough. See Attachment A: Vicinity Map for a graphic depiction of the approximate location of the project area. See Attachment B: Area Data Summary Table for additional information.

*Borough/Municipality:* The project area is within the Unorganized Borough and is subject to the State of Alaska platting and zoning authority.

*Native Regional and Village Corporations:* Ahtna, Inc. is the regional corporation for the project area. As no villages are located within 25 miles of the project area, courtesy notification will be distributed to village corporations and councils in Chitina and Copper Center, whom potentially pursue traditional uses within the project area.

Legal Description: The project area is located within the W1/2 Section 31, Sections 28-30, Sections 32-33, Township 5 South, Range 13 East, Copper River Meridian, located within the Chitina Recording District, Third Judicial District, Alaska.

Title: Information from Title Report No. 3601, current as of May 16, 2012 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 1230044, dated December 14, 1962. The applicable State case file is GS 147. 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

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for all minerals, including both locatable minerals, such as gold, copper and silver; and non-locatable 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.

*Navigable Waters:* Per *AS 38.05.126 (b) Navigable and Public Waters*, “the State has full power and control of all of the navigable or public water of the state, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the state.” This trust is in accordance with the principles of the Public Trust Doctrine, which are included in *Article VIII, Section 14 of the Alaska Constitution* and protected in *the United States Constitution*. It is vested in the title to this land, is not transferable, and the State’s title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made and access will be reserved per *AS 38.05.127 Access To and Along Public and Navigable Water*. For more information, see [Access To, Within, and Beyond Project Area](#) subsection of this document.

The Bureau of Land Management has not made a navigability determination for waters within the affected townships for title purposes. There are no waters determined navigable within the project area. Refer to the [Access To, Within, and Beyond Project Area and Setbacks, Reserved Areas, and Easements](#) subsections of this document for additional information, found on pages 9-11.

Where they exist within the project area, known private parcels and State third-party interests will be depicted on maps in land sales brochures.

[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 Land Sales and Contract Administration (LSCAS) staff with the assistance of DNR Survey staff on August 10, 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.

*Geologic Hazards:* There is potential for seasonal flooding and erosion of parcels adjacent to streams. There is also potential for discontinuous, ice-rich permafrost to be present in area soils.

*Fire Hazards:* Land near Long Lake (west of the project area) burned as recently as 2002. Bureau of Land Management (BLM) data also indicates that a small portion of the project area burned in 2011 (less than one acre).

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Potential for wildland fire is high in Interior Alaska. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. DNR provides all entrants with information regarding wildland fire prevention and encourages them to locate parcels in defensible areas such as hardwood stands with access to water.

Fire management options and policies for the area are identified in the Alaska Interagency Wildfire Management Plan available from the Department of Natural Resources (DNR) Division of Forestry. The current fire management option for most of the project area is “Full.” The 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.” It is important to note, however, that the DNR Division of Forestry warns that DNR Division of Mining, Land, and Water 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.

*Flood Hazard:* Flood Information Rate Maps are not available for the project area. Potential for flooding hazards within the project is unknown. Should flooding hazards be identified during site investigation, DNR DMLW will consider reserving areas prone to excessive flooding.

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

Background: A disposal occurred in 1963 immediately adjacent to and east of the proposed project area. The “1963 McCarthy Area Disposal” was a disposal of parcels ranging from 37 to 292 acres. Very little information on this disposal is available, except that over 2,800 acres of land were sold. Many of the lots purchased have since been subdivided by private landowners. Lots within Fireweed Mountain Subdivision approximately 1 mile west of the project area were first offered in 1983. The subdivision consists of 41 lots totaling 235 acres. All 41 lots were offered at the 1983 Auction. Various parcels within the subdivision have returned to the state over the years and were reoffered at subsequent auctions.

The Division of Forestry has an ILMA (ADL 228606) within the project area. Corners for the 5-acre parcel will be set as part of the survey of this subdivision. The subdivision should not interfere with the purpose or function of the ILMA, as the State will retain a buffer from the road and the ILMA location.

A meeting with local residents of the McCarthy area in 2010 indicated that this area may be used for the collection of firewood. Because a maximum of only 900 acres within the 3,454 acre project area will be offered at this time, there will still be land available on which to collect firewood. Some portions of the remaining state land will also be surveyed as tracts to be retained in state ownership for traditional uses. McCarthy area residents also expressed concerns about wildlife habitat near to and north of the pond in Sections 28 and 29. The subdivision design will take these concerns into consideration, and tracts may be retained for wildlife corridors.

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Utilities are not currently available in the McCarthy area. Buffers of state land will be reserved along the edge of the McCarthy Road right-of-way. Reservation of utility easements will be an allowable use within the buffers, subject to approval by the DNR DMLW Southcentral Region Office.

Access to the subdivision will be from the McCarthy Road via platted rights-of-way. Rights-of-way may be brushed. The Denali to Wrangell – St. Elias Management Plan indicates that access from the McCarthy Road should be minimized to retain the rustic character of the road. DNR DMLW will take this into consideration in the final subdivision design process.

Planning and Classification: The project area is within the Copper River Basin Area Plan (CBAP) Region Long Lake/Fireweed Mountain, Unit 24D. Settlement is the current, primary surface use designation for this unit. The area is classified Settlement through Classification Order No. (CL) SC-86-030.

A review of the area plan's guidelines included an evaluation of Chapter 2 Areawide Land Management Policies regarding Fish and Wildlife Habitat; Forestry; Public Access; Recreation, Cultural and Scenic Resources; Settlement; Stream Corridors and Instream Flow; Trail Management; Transportation; and Wetlands Management, and LSCAS will incorporate these considerations into the development of the project. Lands to be retained in public ownership, conditions, and reservations will be indicated in the land sale brochure and maps.

The proposed offering will be consistent with area-wide land management policies and general management intent of the CBAP and specific management unit if the proposed related action is approved in accordance with *AS 38.04.065 Land Use Planning and Classification*. The land is currently classified settlement. The management intent states that up to 900 acres of land can be sold within this management unit and that a buffer should be retained between this land offering and privately-owned lands east of the project area. Management Guidelines also include a requirement to phase the land offering and to maintain scenic views from the McCarthy Road. The proposed area plan amendment will delete all references in the plan to only allowing a certain amount of land to be sold before and after 1996. Without an amendment only 450 acres of land would be allowed to be sold within this management unit because it is after 1996, even though no land was sold within this management unit prior to that time. Therefore, this amendment will allow the original intent of up to 900 acres of land to be sold within the management unit. Other references without specific dates to phasing will be retained.

*AS 38.04.065 (b) Requirements:* The factors identified in this section of statute have been considered in this plan amendment and the proposed action is consistent with that portion of statute.

*Area-wide Considerations:* The management guidelines in CBAP Chapter 2-Settlement provide that subdivisions in certain areas, including Management Unit 24, should be phased over time. This section also states that land offerings along scenic roads will be designed so as to minimize their impact on these scenic views. The management guidelines in CBAP Chapter 2-Wetlands Management stipulate that Class I and Class II wetlands be retained in public ownership. Class I wetlands are defined as wetlands larger than 100 acres and wetlands of any size that have a locatable stream outlet. Class II wetlands are

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defined as wetlands between 40 and 100 acres in size and that do not have a stream outlet. This section stipulates that buffers 100 feet in width should be retained adjacent to Class I wetlands. Buffers of 60 feet are to be retained adjacent to Class II wetlands. Class III wetlands, defined as wetlands that are less than 40 acres in size with no outlet, do not require buffers and may be sold into private ownership.

*Unit/Region 24D:* Up to 900 acres of land can be sold within this subunit. The plan currently states that only half of this offering can occur within the first ten years of the plan (1986-1996); the remaining land can be sold after 1996. This was intended to minimize the impact on local residents and resources. Stipulations also state that a buffer should be retained between the land offering and private lands east of the project area. The area plan stipulates that land that is not offered for settlement should be retained in state ownership for forestry and recreation purposes. CBAP stipulates that McCarthy area residents be notified as part of the land offering design process, including notice by radio or posting at prominent locations within the community. DNR is also required to provide notice to the Superintendent of Wrangell – St. Elias National Park for use of state lands that may significantly impact the park. The plan also states that the land offering be phased and that purchasers be prohibited from subdividing lots until their contract is paid off. CBAP stipulates that land uses be set back from the McCarthy Road and natural vegetation retained along the road to protect views and rustic character. Adjudicators are advised to refer to the Denali to Wrangell – St. Elias Management Plan. The area plan also stipulates that the trail that runs towards the Lakina River within Section 29, Township 6 South, Range 13 East, Copper River Meridian be retained in state ownership.

*Area Plan Proposal:* DNR proposes the following related actions:

*Area Plan Amendment:* DNR proposes to amend the Copper River Basin Area Plan (CBAP, adopted 1986). DNR proposes to amend the plan to delete the parenthetical statement following Fireweed Mountain II on page 2-30 in the chart listing settlement areas and potential net acres. This area plan amendment will delete the statement “(500 acres delayed until after 1996).” The area plan amendment will also delete the statement on page 3-160 of the plan under the “Management Subunit 24D – Fireweed Mountain Land Offering.” section that states, “Only half (450 acres) of this offering may occur during the first 10 years of the plan (before 1996) in order to minimize the impact on local residents and resources.” Also on page 3-160 under the “Land Offering – Phasing.” section the following statement will be deleted: “450 acres will be offering in the next 10 years and an additional 450 acres can be offered after 1996.” Without an amendment only 450 acres of land would be allowed to be sold within this management unit because it is after 1996, even though no land was sold within this management unit prior to that time. Therefore, this amendment will allow the original intent of up to 900 acres of land to be sold within the management unit. Other references without specific dates to phasing will be retained.

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

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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 owner be compensated for damages resulting from mineral exploration and development.

*Mineral Activity and Order(s)*: No mineral activity has been identified on these lands. The project area is already closed to mineral entry under Mineral Order No. 1118.

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 non-locatable 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.

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.

The project area is also subject to the following management plan: Denali to Wrangell – St. Elias, Assessment and Management of Scenic Resources along the Highways between Denali and Wrangell – St. Elias National Parks (hereinafter referred to as the Denali to Wrangell – St. Elias Management Plan). The western half of the project area falls within Management Unit 29: Lakina River and Long Lake. Within this management unit, the plan calls for a 50 foot wide greenbelt for privately owned lands along the road and states that permanent structures should be limited within this green belt. The plan also states that the first 25 feet of existing land cover should be retained and only selective clearing should be allowed in the remaining 25 feet of the greenbelt. The plan states that 100 foot wide greenbelts should be utilized on publicly-owned lands along the road. No clearing of vegetation or disturbance should occur within this strip, except for access roads. The plan states that access roads should be kept to a minimum and should service as many parcels as possible. The eastern half of the project area falls within Management Unit 30: Roads End – McCarthy. The plan states that residential development should be dispersed and should be not visible from the road for the most part. The plan reiterates the use of greenbelts for privately and publicly-owned lands, as well as minimization of access roads, for this management unit. LSCAS intends to follow these stipulations in the proposed project design.

Local Planning: The project area is located within the Unorganized Borough, and DNR is therefore the platting authority. There is no local planning authority.

Coastal Issues: The project area is not within the zone of coastal influence.

Access To, Within, and Beyond the Project Area: Access to the project area is via the McCarthy Road. Access to lots will be via platted rights-of-way, which may be brushed. Any access points will be outside the boundaries of the Division of Forestry ILMA. DNR DMLW will strive to

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maintain access to portions of the project area that will not be subdivided at this time. Existing trails within the project area will be protected by rights-of-way, by surveying them out within tracts during the survey stage, or by altering subdivision design to protect existing access.

*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 right-of-ways as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or right-of-ways 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*.

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*.

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. Refer to the *Easements, Setbacks, and Retained Lands* and **Agency Comments** sections for additional information.

There are no known navigable or public water bodies within the project area. If any water bodies are deemed public or navigable, DNR DMLW will comply with statutory requirements to provide access to and along said water bodies.

There are no known anadromous streams within the project area. Should any streams be identified throughout the design phase, DNR DMLW will evaluate the appropriateness of buffers for such water bodies.

*Building Setbacks From Public or Navigable Water:* 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. Structures and sewage disposal systems are not permitted within the building setback. Exceptions to this restriction include 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. DNR will continue to develop and apply criteria for water protection as needed and the public is invited to

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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.

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

- a 10-foot utility easement along interior parcel boundaries;
- a 50-foot-wide public access easement on each side of surveyed or protracted section lines on State-owned land, unless formally vacated;
- a 50-foot continuous easement upland from the ordinary high water mark of public or navigable water bodies;
- a 100-foot building setback from the ordinary high water mark of public or navigable water bodies;
- a 5' survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a 5' radius around the control monument, and as applicable, a 5' direct line-of-sight easement from the control station to an azimuth mark or other control monument;
- 60-foot subdivision rights-of-way (ROW) or public access easements;
- a 100-foot right-of-way for the McCarthy Road; and
- CBAP reservations and buffers required along private lands, the McCarthy Road, trails and wetlands are found in Chapter 2, pages 2-53 through 2-54 and Chapter 3, page 3-160. For this project, the following will be used:
  - a minimum 50-foot buffer from the private lands east of the project area;
  - a minimum 50-foot buffer adjacent to the edge of the McCarthy Road right-of-way;
  - a 100-foot right-of-way for RST 372;
  - a 100-foot buffer from Class I wetland areas;
  - a 60-foot buffer from Class II wetlands areas; and
  - Class I and Class II wetlands will be retained in state ownership. If discovered, Class III wetlands may be sold.

Reservation of utility easements is an allowable use within any buffers or tracts adjacent to the McCarthy Road right-of-way, subject to approval by the DMLW Southcentral Region Office. Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.

Hazardous Materials and Potential Contaminants: During field inspections in August 2010 staff did not observe any hazardous wastes, spills, or other potential contaminants within the area.

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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 Unorganized Borough and a traditional use finding is therefore required per *AS 38.05.830 Land Disposal in the Unorganized Borough*.

A meeting with local residents in November 2010 indicated that there are traditional firewood harvest areas within the project area, which may be affected by this disposal. In addition, traffic levels on the McCarthy Road may be impacted by this decision. Impacts on existing resource users will be minimized by protecting public access along the McCarthy Road, RST 372 and other historic trails within the project area. Over 2,500 acres of land within the 3,454 acre project area will still be available for these traditional activities and uses.

Any changes to traditional uses of the land and resources of this area as a result of the proposed action are not expected to be significant, other than a probable increase in the various traditional activities practiced by private-property owners. Additional information on traditional use is welcome during the public comment period and, if this proposal is approved, information received will be addressed in the Final Finding and Decision. See Section VIII **Submittal of Public Comments** at the end of this document and Attachment C: Public Notice for details on how to submit comment.

Survey, Platting, and Appraisal: After consideration and evaluation of agency and public commentary, physical conditions of the land, and access issues, DNR DMLW proposes to offer the property for sale within the project area. In order to offer the property, a combination of survey, subdivision, or plat may be required. This proposed project area is located within the Unorganized Borough, and therefore survey and platting will be completed to the relevant State subdivision standards.

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.

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## **VII. Agency Comments**

Agency review was conducted from Thursday, May 23, 2013 through Friday, June 14, 2013. Comments pertinent to this proposed action received during agency review have been considered and addressed in the following paragraphs. Additional timely comments received during the Public Notice period will be considered and addressed in the Final Finding and Decision if the proposal proceeds to that step.

### DNR, Division of Mining, Land and Water, Easements Unit (Easements) Comment:

Easements recommended that specific utility easements be reserved adjacent to, rather than within, exterior boundaries of any dedicated public access routes. They also recommended that consideration be given to the future need to locate service lines along the McCarthy Road by establishing a utility corridor or stating within the decision that utility easements are an allowable use within tracts of land adjacent to the road, per Southcentral Region Office approval.

DNR DMLW LSCAS Response: Thank you for your comments. DNR DMLW will indicate that utility easements are an allowable use within buffers or tracts adjacent to the McCarthy Road right-of-way, per Southcentral Region Office approval, via this decision.

Department of Fish and Game, Division of Sport Fish (DFG) Comment: DFG noted that this disposal would likely result in an increase in recreational uses in the McCarthy area. They indicated concern that the resulting increase in waste could lead to more bear-human interactions. They recommended that a landfill or waste transfer site be considered during the design phase of the subdivision. DFG also recommended an additional 100-foot building setback or buffer be reserved along both sides of RST 372 to allow for public use and to protect private landowners from any potential trespass issues.

DNR DMLW LSCAS Response: Thank you for your comments. If McCarthy area residents are interested in obtaining a lease for a landfill or waste transfer site they should contact the DNR DMLW Southcentral Region Office for information on how to apply. As part of the process, the Department of Environmental Conservation must be involved in identifying a location for a site, among other requirements. In regards to RST 372, LSCAS will follow the CBAP requirement (see Chapter 2: Trail Management, page 2-51) to reserve a 100-foot wide buffer for this trail, 50 feet on either side of the centerline.

DNR, Division of Geological and Geophysical Surveys (DGGS) Comment: DGGS indicated that there are no mineral occurrences within the subdivision project area. They indicated that there is a remote chance of undiscovered mineralization in bedrock under the northern part of the subdivision based on other mineralization near the project area. They also indicated the presence of anomalous arsenic in a mineral occurrence north of the subdivision, suggesting a possibility of elevated levels of trace metals in groundwater originating from this area. DGGS did not see either of these possibilities as significant issues for the project area. They stated that there is discontinuous permafrost within the project area, underlain by glacial ice-stagnation deposits. In some areas this may be underlain by glaciolacustrine deposits, which have high contents of fine-grained silt and clay. They also stated that the Nizina and Chitina Rivers are suspected glacier outburst flood courses. Because most of the project area is 200-300 feet above river level (with some areas in

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Section 33 within 100 feet of river level), it is unlikely that such flooding would be on a magnitude large enough to affect the project area.

DNR DMLW LSCAS Response: Thank you for this information. Please note that the project area has already been closed to mineral entry via Mineral Order 1118 (MO 1118).

DNR, Division of Oil and Gas (DOG) Comment: DOG stated that there are currently no authorizations or pending applications for exploration licenses or oil and gas leases within the vicinity of the proposed subdivision. DOG recommended that “LSCAS make potential bidders aware the State reserves oil, gas, coal, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it sells in accordance with Section 6(i) of the Alaska Statehood Act and Alaska Statute 38.05.125. The State also reserves the right to enter the land for the purposes of exploring for, developing, and producing these mineral resources, and the proposed mineral order closing the area to mineral entry will not apply to these mineral resources.”

DNR DMLW LSCAS Response: Thank you for this information. LSCAS will make potential bidders aware of this information via the annual auction brochure.

DNR, Division of Mining, Land and Water, Public Access & Assertion Defense (PAAD) Comment: PAAD requested 100-foot width protections for both the McCarthy Road and RST 372.

DNR DMLW LSCAS Response: We concur. Both RST 372 and the McCarthy Road will be protected by 100-foot rights-of-way.

DNR, Division of Mining, Land and Water, Realty Services Section (RSS) Comment: Realty Services asked that an updated title report be requested.

DNR DMLW LSCAS Response: Thank you for your comment. An updated title report will be requested sometime prior to final plat approval.

Other Agencies: The following agencies or groups submitted statements of non-objection:

- State Pipeline Coordinator’s Office
- Department of Natural Resources
  - Division of Mining, Land and Water
    - Municipal Entitlements
    - Southcentral Region Office Leasing
  - Mental Health Trust Land Office (MHTLO)

The following agencies or groups were included in agency review, but did not submit comments:

- Department of Commerce, Community & Economic Development (DCCED)
- Department of Environmental Conservation (DEC)
- Department of Natural Resources (DNR)

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- Division of Agriculture
- Division of Forestry
- Division of Mining, Land and Water (DMLW)
  - Mining Section
  - Resource Assessment and Development Section (RADS)
  - Water Section
- Division of Oil and Gas
- Division of Parks and Outdoor Recreation (DPOR)
- Alaska Railroad Road Corporation (ARRC)

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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 actions, if any. 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.

DMLW 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 or related actions, if any, additional public notice for the affected lands will be given. Reducing the amount of land offered and 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 DMLW responses, will be issued as a subsequent Final Finding and Decision without further notice. The related actions, if any, will be developed separately. Approval of the primary and related actions is dependent upon one another. One action will not proceed without approval of the subsequent actions.

Only persons from whom 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  
4:00 PM, THURSDAY, AUGUST 22, 2013**

### **IX. Alternatives and Discussion**

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of up to 300 parcels varying in size, and offer those parcels for sale. The development and offering of these parcels may be phased.

Alternative 2: Do not subdivide the project area prior to offering. Offer a single, 900-acre parcel within the project area.

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

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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.

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. The subdivision as described will allow DNR DMLW to create a design that will maximize use of the land and provide the public a greater opportunity to purchase land within this area.

Alternative 2 does not maximize public interest and is not preferred. Due to the unique amenities of the area, location relative to the community of McCarthy, the project area is better suited to subdivision prior to offering. Subdividing the project area prior to offering will maximize the opportunity for conveyance to private ownership. 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 many 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.

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**X. Recommendation**

This Preliminary Decision for the proposed primary and any 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; and 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 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 any Final Finding and Decision issued.

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

July 1, 2013  
Date

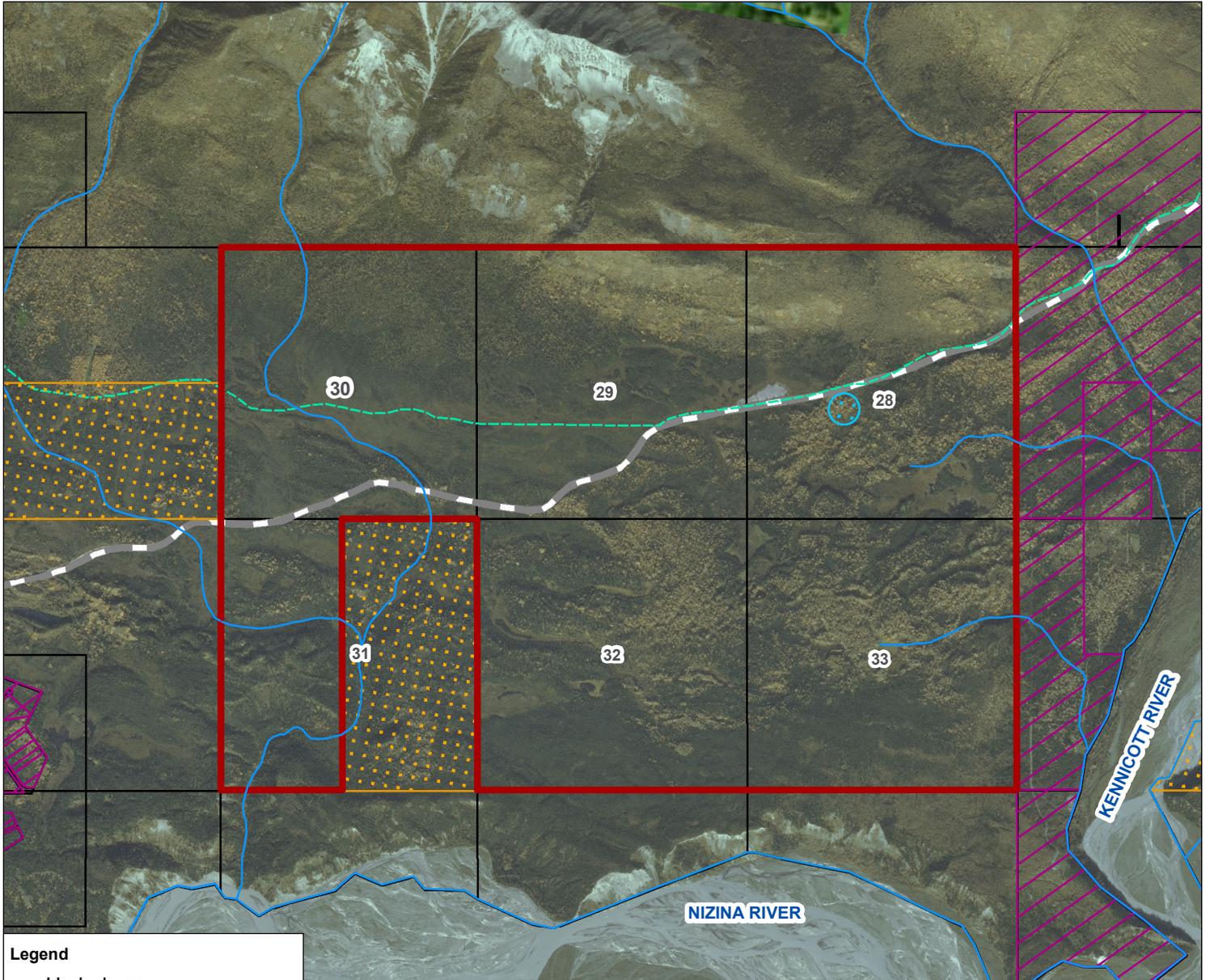
/s/  
Approved by: Kathryn Young  
Section Manager  
Land Sales and Contract Administration Section  
Division of Mining, Land, and Water  
Department of Natural Resources  
State of Alaska

July 1, 2013  
Date



# Attachment A: Vicinity Map

to the Preliminary Decision for a  
Proposed Land Offering in the Unorganized Borough  
Sage Subdivision - ADL 231046

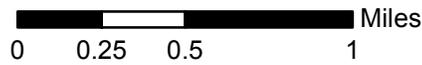


LFR 06/17/2013

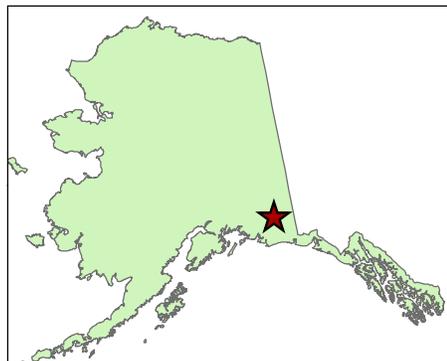
W1/2 Section 31, Sections 28-30 and 32-33, Township 5 South, Range 13 East, Copper River Meridian

**Legend**

- Hydrology
- Project Area
- Land Disposal - Conveyed
- University Trust
- Forestry ILMA
- RST 372
- McCarthy Road
- Survey Boundary



**USGS QUAD 1:63,360**  
 McCarthy B-6  
 For more information contact:  
 Lauren Rouen  
 DNR Division of Mining, Land, and Water  
 Land Sales and Contract Administration Section  
 550 W. 7th Ave, Ste 640  
 Anchorage, AK 99501  
 Phone 907.269.8851  
 Fax 907.269.8916  
 Email [subdivision.sales@alaska.gov](mailto:subdivision.sales@alaska.gov)



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

**ATTACHMENT B: AREA DATA SUMMARY TABLE**

to the  
**Preliminary Decision**

for a  
**Proposed Land Offering in an Unorganized Borough  
Sage Subdivision – ADL 231046**

<b>Offering Information</b>	
<b>Proposed Number of Parcels</b>	Up to 300 parcels
<b>Proposed Parcel Size</b>	Varying in size from 2 to 15 acres
<b>Proposed Related Actions</b>	Plan Amendment to delete the requirement to offer a certain number of acres before 1996 and a certain number of acres after 1996.
<b>Project Area</b>	
<b>Location</b>	The project area is located approximately 6 miles west of McCarthy, 127 miles southeast of Glennallen via the McCarthy Road, and 235 miles east of Anchorage
<b>Project Area Acreage</b>	3,454 acres. Up to 900 acres will be sold.
<b>USGS Topography Map</b>	USGS Quad McCarthy B-6
<b>Legal Description</b>	The entirety of Sections 28-30 and 32-33, and W1/2 Section 31, within Township 5 South, Range 13 East, Copper River Meridian
<b>Title</b>	Patented State-owned land
<b>Area Plan and Classification</b>	Copper River Basin Area Plan (CBAP) (adopted 1986), Management Unit/Region 24D. Lands are classified Settlement.
<b>Mineral Orders</b>	MO 1118
<b>Physical Characteristics</b>	
<b>Access</b>	Access to the project area is via the McCarthy Road.
<b>Terrain and Major Features</b>	South of the highway, the terrain is mostly flat to gently sloping and begins to slope down more steeply as it approaches the Nizina River in the very southeast corner of the project area. The western portion of the subdivision is somewhat hilly. North of the highway the land is mostly flat to gently sloping. On the eastern side of the project area it then slopes steeply up to a ridge.
<b>View</b>	Wrangell-St. Elias National Park, Nizina River.
<b>Climate</b>	Temperature extremes range from -58°F to 91°F. Annual snowfall averages 52 inches, with total precipitation of 12 inches per year.

**Attachment B: Area Data Summary Table**

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<b>Soils</b>	<p>The US Department of Agriculture, Natural Resources Conservation Service exploratory soil survey of Alaska from 1979 describes soils in the area as loamy with nearly level to roaming association to very gravelly with hilly to steep association.</p> <p>A Division of Geological and Geophysical Surveys (DGGS) report from 1985 indicates that the project area is within the zone of discontinuous permafrost and is underlain primarily by glacial ice-stagnation deposits, which are generally composed of sand and gravel with some finer grained components. The area is underlain in part by glaciolacustrine deposits, which may have high concentrations of fine-grained silt and clay.</p> <p>Wetlands exist within the project area. The State will follow area plan guidelines and consider retaining wetland areas for protection. 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.</p>
<b>Vegetation</b>	A mix of brush, coniferous and deciduous trees.
<b>Water Source</b>	Small streams within the project area. Nizina and Kennicott Rivers. Water quality is unknown.
<b>Anadromous Waters</b>	None. Should additional streams be identified throughout the design phase, DNR DMLW will evaluate the appropriateness of buffers for such water bodies.
<b>Local Management Information</b>	
<b>Fire Management Option</b>	Full fire management option.
<b>Game Management Unit</b>	Game Management Unit 11. No state restricted areas. See <a href="http://www.adfg.alaska.gov">www.adfg.alaska.gov</a> for more information.
<b>Local Authority</b>	The project area is within the Unorganized Borough and subject to the State of Alaska platting authority.
<b>Flood Zone</b>	Flood Information Rate Maps are not available for the project area.
<b>Utilities</b>	No known services exist within the project area.
<b>Waste Disposal</b>	All on-site waste water disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.
<b>Setbacks, Reserved Areas, Easements, and Conditions</b>	
<b>Improvements</b>	Prior to construction of any structure or waste disposal system, contact the Department of Environmental Conservation for any permits or for required setbacks from water bodies, lot lines, and easements.
<b>Building Setbacks</b>	Parcels are subject to a 100-foot building setback from the ordinary high water mark of water bodies determined to be public or navigable. Water-dependent structures may be allowed within the building setback. Area plan guidelines and DMLW riparian protection guidelines will be consulted during the decision process to determine additional setbacks and other restrictions.

**Attachment B: Area Data Summary Table**

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<b>Public Access and Utility Easements</b>	<p>Parcels may be subject to the following:</p> <ul style="list-style-type: none"> <li>• a 10-foot utility easement along interior parcel boundaries;</li> <li>• a 50-foot-wide public access easement on each side of surveyed or protracted section lines on State-owned land, unless formally vacated;</li> <li>• a 50-foot continuous easement upland from the ordinary high water mark of public or navigable water bodies;</li> <li>• a 100-foot building setback from the ordinary high water mark of public or navigable water bodies;</li> <li>• a 5' survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a 5' radius around the control monument, and as applicable, a 5' direct line-of-sight easement from the control station to an azimuth mark or other control monument;</li> <li>• 60-foot subdivision rights-of-way (ROW) or public access easements;</li> <li>• a 100-foot right-of-way for the McCarthy Road; and</li> <li>• CBAP buffers required along private lands, the McCarthy Road, trails and wetlands are found in Chapter 2, pages 2-53 through 2-54 and Chapter 3, page 3-160. For this project, the following will be used:       <ul style="list-style-type: none"> <li>○ a minimum 50-foot buffer from the private lands east of the project area;</li> <li>○ a minimum 50-foot buffer adjacent to the edge of the McCarthy Road right-of-way;</li> <li>○ a 100-foot right-of-way for RST 372;</li> <li>○ a 100-foot buffer from Class I wetland areas;</li> <li>○ a 60-foot buffer from Class II wetlands areas; and</li> <li>○ Class I and Class II wetlands will be retained in state ownership. If discovered, Class III wetlands may be sold.</li> </ul> </li> </ul>
<b>Public or Navigable Water Bodies</b>	None. 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.
<b>Additional Information</b>	
<b>Native Regional Corporations</b>	Ahtna, Inc.
<b>Villages and Tribal Councils</b>	None. The Native Village of Chitina is the nearest native village, approximately 45 miles from the project area; hence, they will be notified of this project area. The native village and native association in Copper Center will also be notified of this decision.

**Attachment B: Area Data Summary Table**  
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<b>Oil and Gas Activity</b>	None known.
<b>Mining Activity</b>	None known.
<b>Comments</b>	<p>The Division of Forestry has a 5-acre ILMA (ADL 228606) within the proposed subdivision project area for a public education and fire prevention center. The subdivision should not interfere with the purpose or function of the ILMA, as the State will maintain a buffer from the road and the ILMA location.</p> <p>The historic trails and old rail bed will be tracted out of proposed lots. A buffer between the McCarthy Road and the proposed subdivision will be tracted out to maintain aesthetics from the McCarthy Road, per the Denali to Wrangell - St. Elias Management Plan.</p>

## **ATTACHMENT C: PUBLIC NOTICE**

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

#### **PUBLIC NOTICE**

Requesting input for  
a Proposed Land Offering:  
**Sage Subdivision – ADL 231046**  
a Preliminary Decision and its Proposed Related Action:  
Amendment to the Copper River Basin Area Plan

#### **OPEN HOUSE**

7:00 pm, Tuesday, July 23, 2013  
Tony Zak's Community Center  
McCarthy, AK

#### **COMMENT PERIOD ENDS 4:00PM, THURSDAY, AUGUST 22, 2013**

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

Located within the DNR's Southcentral Region, approximately 6 miles west of McCarthy, 127 miles southeast of Glennallen via the McCarthy Road, and 235 miles east of Anchorage, the project area is within the W1/2 Section 31, Sections 28-30, Sections 32-33, Township 5 South, Range 13 East, Copper River Meridian, within the Unorganized Borough. The project area consists of approximately 3,454 acres, of which 900 acres are identified for disposal by this proposed action. Development will be phased over time. Public input is requested for this proposed subdivision.

Project size: 900 acres maximum development area, up to 300 parcels sized from 2 to 15 acres, with development phased over time.

There is one related action with this proposal: an Area Plan Amendment to the Copper River Basin Area Plan (CBAP). If approved after consideration of public comment, this related action will be developed as a separate action, accompany the Final Finding and Decision, and be approved prior to approval of the Final Finding and Decision. Public notice is being conducted concurrently with the primary action's Preliminary Decision.

**A public Open House will be held Tuesday, July 23, 2013 at 7:00 pm at Tony Zak's Community Center in McCarthy.**

To obtain the notice, Preliminary Decision, or instructions on submitting comment, go to <http://dnr.alaska.gov/mlw/landsale/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work

**Attachment C: Public Notice**

to the Preliminary Decision and its Related Action  
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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 Office 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, August 15, 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 4:00PM, THURSDAY, AUGUST 22, 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 Lauren Rouen, 550 W. 7<sup>th</sup> Avenue, Suite 640, Anchorage, AK 99501, fax at 907.269.8916, [subdivision.sales@alaska.gov](mailto:subdivision.sales@alaska.gov). If you have questions, call Lauren Rouen at 907.269.8851.

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 timely on the preliminary decision.

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