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

PRELIMINARY DECISION
Proposed Land Offering
Two Ponds Subdivision – ADL 418281
AS 38.05.035 (e), AS 38.05.045

RELATED ACTION(S):
Proposed Amendment to the Tanana Basin Area Plan
AS 38.04.065
Proposed Land Classification Order
AS 38.04.065 and AS 38.05.300
Proposed Special Exception to the Tanana Basin Area Plan
AS 38.05.065

COMMENT PERIOD ENDS 5:00PM, TUESDAY, MAY 15, 2012

I. 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, public auction. 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].

Attachment A: Public Notice
Attachment B: Vicinity Map

Located within the Department's Northern Region, approximately ¾ mile northwest of the Nordale Road crossing of the Chena River, 4 miles northwest of North Pole, the project area is within the N½SE¼ Section 1, Township 1 South, Range 1 East, Fairbanks Meridian. The project area consists of approximately 80 acres identified for disposal by this proposed action. See Attachment B: Vicinity Map for a graphic depiction of the approximate location of the project area.

For the purposes of providing land for settlement in the Fairbanks and North Pole area, if deemed feasible, DNR may develop a subdivision of no more than 35 parcels varying in size, no smaller than 40,000 square feet. This proposed disposal will require an amendment to the Tanana Basin Area Plan (adopted 1985, updated 1991), which currently designates the area as High Value Resource Management with a classification of Resource Management. Amending this area's designation and classification to Settlement would be appropriate as it is no longer an active material site and other land in the vicinity is being used primarily for settlement or agriculture purposes. This proposed project area is located within the Fairbanks North Star Borough and therefore survey, platting, and road construction will be completed to the relevant subdivision standards. The project may be subdivided and offered in phases.

There are three related actions with this proposal: an amendment to the Tanana Basin Area Plan, the related Land Classification Order, and a special exception to the Tanana Basin Area Plan.

> Plan Amendment: DNR DMLW proposes to amend the Tanana Basin Area Plan (adopted 1985, updated 1991) to change the designation for the entirety of the project area from High Value Resource Management to Settlement.
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> Land Classification Order: In relation to the above Area Plan Amendment, DNR DMLW proposes to reclassify the project area in a Land Classification Order from Resource Management to Settlement.
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> Special Exception: DNR DMLW proposes a special exception to the Tanana Basin Area Plan to allow a reduction in width of the building setback from the man-made water bodies within the project area.

Public notice for these related actions is being conducted concurrently with the notice for the primary action's Preliminary Decision. If approved after consideration of public comment, these related actions will be developed as separate actions, accompany the Final Finding and Decision, and be approved prior to approval of the Final Finding and Decision. The Final Finding and Decision for this proposed action will be dependent upon approval of the related actions such that if the related actions are not approved, the Final Finding and Decision will not be approved, unless modified. DNR DMLW will not process the related actions unless proceeding with a Final Finding and Decision. Refer to the Planning and Classification section of this document for more information. Separate comments should be submitted for each action. For more information on these proposed related actions, refer to the Planning and Classification section of this document.

Pursuant to AS 38.05.945 Notice, the public is invited to comment on the proposed primary and related actions. See the Submittal of Public Comments section at the end of this document and Attachment A: Public Notice for details on how to submit a comment for consideration. If commenting on more than one proposed action, separate comments should be submitted for each. If after consideration of timely written comments this proposed action is approved, DNR will issue a Final Finding and Decision.

II. Authority

The State of Alaska, Department of Natural Resources (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 Division of Mining, Land, and Water (DMLW) is delegated authority to offer parcels through public auction under AS 38.05.050 Disposal of Land for Private Ownership and AS 38.05.055 Auction Sale Procedures. If the parcels do not sell when offered at auction, DNR DMLW is authorized to offer the parcels through other methods under AS 38.05.045.

For related actions, AS 38.04.065 Land Use Planning and Classification and AS 38.05.300 Classification of Land allow for amendments and special exceptions to area plans, and for land classifications.

III. Administrative Record

The administrative record for the proposed actions consists of the documentation contained in the project file. Incorporated by reference is the area plan, the Custom Soil Resource Report for the Greater Fairbanks Area Alaska (National Cooperative Soil Survey), and the following DNR case files relating to access easements, a right-of-way lease, a former material site, a right-of-way, and a trespass road, as discussed throughout this document: ADL 63370, ADL 63574, ADL 403079, ADL 403607, ADL 403936, ADL 415791, and ADL 416794.

IV. Scope of the Decision

The scope of this proposal, under the statutes described in the Authority section of this document, is limited and specific to DNR DMLW's proposal to offer State-owned land within the defined project area for disposal through a future, public auction or another method under AS 38.05.045 Generally [Sale of Land], and to the proposed related actions 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, except as required to comply with statutes and regulations as described herein. The subdivision and offering may be conducted in phases.

V. Description

Location: The proposed project area is located approximately 4 miles north of the City of North Pole and approximately 1 mile west of the intersection of Andromeda Drive and Nordale Road. See Attachment B: Vicinity Map for a graphic depiction of the approximate location of the project area.

USGS Map Coverage: USGS Quad Fairbanks D-1

Boroughs/Municipalities: The project area is within the Fairbanks North Star Borough and they will receive notice and an opportunity to comment.

Native Regional and Village Corporations: The project area is within the boundaries of the Doyon, Limited Regional Corporation. Doyon, Limited Regional Corporation will receive notice and an opportunity to comment. There are no village corporations within 25 miles of the proposed project area.

Coastal Issues: The Fairbanks North Star Borough will receive notice and an opportunity to comment.

Legal Description: The N½SE¼ of Section 1, Township 1 South, Range1 East, Fairbanks Meridian, located within the Fairbanks Recording District, Fourth Judicial District, Alaska.

Title: Information from Corrected Title Report No. 1854, current as of August 11, 2010 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 1234508, dated January 2, 1964. The above-described land was acquired under special entitlement, Mental Health Grant. The applicable State case file is MH-26.

Retained Interests: In accordance with AS 38.05.125 Reservation of Mineral Rights to Alaska, the State retains ownership of oil, gas, coal, ore, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it sells. 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. Under common law, this access reservation is superior to any and all surface uses. The State may also lease these 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.

Physical Characteristics: The following paragraphs describe the project area's physical characteristics. If this proposed project is approved and 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.

Topography: The project area is generally flat with slopes generally less than 2%. There are two large ponds within the project area. The larger pond, generally centered along the southerly boundary of the project area, is approximately 13.3 acres. The smaller pond, located in the northeast portion of the project area, is approximately 6.7 acres. Some small hills exist around the southerly pond as remnants of the former gravel extraction operation. Elevation within the project area is approximately 460 feet above sea level.

Geologic Hazards: According to DNR, Division of Geological and Geophysical Surveys, there is a potential for discontinuous permafrost with low ice content to be present in area. There are no other known geologic hazards within the area. Should any additional 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.

Soils: Soils in the area identified by Custom Soil Resource Report for the Greater Fairbanks Area Alaska (National Cooperative Soil Survey) indicate that the dominant soil types within the project area are Jarvis-Salchaket complex and Jarvis fine sandy loams. These soil types are typified by fine sandy loams, stratified silt loam to fine sand, and very gravely loam at greater depths. A large portion of the project area is characterized as gravel pits and some wetlands appear to be present in the northwest corner of the project area. According to DNR, Division of Geological and Geophysical Surveys, discontinuous permafrost with low ice content is likely to be present in this area.

Vegetation: Vegetation is primarily a mixture of 30-year-old re-growth aspen, cottonwood, and birch, with some spruce scattered in the understory.

Fire Hazards: Field inspections in May and August 2010 and September 2011 indicate that the vegetation within the project area is predominately hardwoods with some white spruce in the understory. DNR, Division of Forestry commented that the Fire Program concerns are fairly minimal in the project area. The project area is located within the North Star Volunteer Fire Department, Fire Service Area.

Flood Zone: The project area is located within Flood Zone X. Flood Zone X is defined as: protected from the 100 year flood by levee, dike, or other structures subject to possible

failure or overtopping during larger floods. The relevant Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map is Community Panel Number 025009 0201 G.

Background: The project area was identified as a potential settlement area/subdivision project in 2008. The area was formerly used as a material site by the Department of Transportation and Public Facilities (DOT) beginning in 1982, identified as MS 650-019-2 (ADL 403936). The material sale expired April 30, 2010 and the site was last used for gravel extraction in 2000 for 122 cubic yards of material. The material site is currently open, but upon approval of a Final Finding & Decision for the primary action, the material site will be closed.

The Trans-Alaska Pipeline System (TAPS) and the associated 100-foot-wide right-of-way (ROW) lease (ADL 63574), crosses the northeast corner of the project area in a northwest to southeast direction. The TAPS ROW lease will be retained in State ownership. The associated pipeline access road (59-APL/AMS-3) is a surveyed, constructed road composed of two easements (ADL 63370 and ADL 403079). ADL 63370 is a 100-foot public easement issued to DOT for access from Nordale Road to the former material site (ADL 403936), for which the first ¾ mile generally corresponds to portion dedicated as Andromeda Drive. ADL 403079 is a private, non-exclusive easement issued to Alyeska Pipeline Service Company as the TAPS access road from ADL 63370 to the TAPS lease ROW. Refer to the Access To, Within, and Beyond the Project Area subsection for more information.

There is currently a trespass road (ADL 416794) within the proposed project area. This road was identified as a trespass in 2002 and has been in use by local residents to access private property beyond the subdivision. DNR DMLW does not intend to preserve this trespass road and the final route through the subdivision will be designed in accordance with FNSB platting requirements to provide dedicated, legal access to the parcels.

There is a private non-exclusive ROW in interim authorization status to GCI Fiber Communication Company (ADL 415791). This easement is entirely within the TAPS ROW and easements for the TAPS lease ROWs (including Andromeda Drive).

Separate from the aforementioned inactive material site (ADL 403936), there is an active gravel extraction operation immediately adjacent to the south of the project area. The offering brochure and related materials will alert potential buyers that this operation exists and its operations may contribute to noise, dust, and increased heavy equipment activity and traffic in the area.

Utilities are not currently present within the project area. Power is available within approximately 1,000 feet of the southeast corner of the project area. If deemed feasible, DNR DMLW may extend utilities to and through the subdivision prior to sale.

There have been no prior State land disposals within the project area, although there have been a few scattered disposals nearby in the past.

Planning and Classification: The project area is within Tanana Basin Area Plan (TBAP) Management Unit 1W Little Chena, Subunit 1W4. High Value Resource Management is the current, primary surface use designation for this Subunit. The area is classified Resource Management through Classification Order (CL) NC-90-002. Under the current designation,

TBAP identifies land disposals as a prohibited use in Subunit 1W4. Due to the quality of the land in the proposed project area and statewide demand for settlement land, DNR DMLW proposes to amend TBAP and reclassify the project area as Settlement.

Areawide Considerations: The management guidelines in TBAP Chapter 2-Settlement provide that generally, the minimum lot size for lands with an average slope of 0-12% should be 1 acre (43,560 square feet). Within the Fairbanks North Star Borough (FNSB), both zoning and subdivision ordinances require a minimum lot size of 40,000 square feet (0.92 acres). DNR DMLW proposes to vary from the 1-acre recommendation in TBAP to allow for a minimum parcel size of 40,000 square feet within this project. The 40,000 square-foot minimum lot size meets the general intent of TBAP, allows for some flexibility in subdivision design, and meets the platting requirements of the FNSB.

Management guidelines in TBAP Chapter 2-Lakeshore Management provide that where lakefront property is conveyed into private ownership, a minimum public access easement of 50 feet will be reserved along the shoreline, and a minimum building setback of 100 feet will be required. The two ponds within the project area are man-made water bodies and it is likely that a large portion of the lakeshore will be retained in public ownership due to the nature of the shores' topography, soils, and lack of vegetation. The ponds do not currently contain any naturally-occurring, resident or anadromous fishes, and the ponds themselves are not prone to heavy recreational use. Given this unique set of circumstances, DNR DMLW proposes to seek a special exemption from this TBAP management guideline to allow for a building setback of less than the 100 feet identified in the management guidelines. This final width of this building setback will be 50-100 feet upland from the ordinary high water mark, will be established as part of the design and platting process, and will be included on the final plat. The placement of septic systems in proximity to water bodies is under the jurisdiction of the Department of Environmental Conservation (DEC), and authorization is required prior to the construction, installation or operation of such systems. We are aware that the State of Alaska, Department of Fish and Game (DFG) plans to begin stocking the larger, 13-acre pond in the southern portion of the project area. DFG plans to stock the lake with rainbow trout and grayling catchable annually by the Ruth Burnett Hatchery. This may change the nature of the recreational activities in the area but the reduced width of the building setback, in conjunction with a public access easement, will still provide protection for habitat and recreational values along the water bodies.

A small portion in the northwest corner of the project area (approximately 5 acres) appears to contain wetlands. Management guidelines within TBAP Chapter 2-Wetlands provide that wetlands less than 40 acres with no outlet will be evaluated on a case-by-case basis. DNR DMLW may retain in State ownership those wetlands within the northwest portion of the project area. In order to protect the habitat and recreational value of the adjacent wetlands, DNR DMLW may impose a 50-foot building setback adjacent to the retained wetland area as appropriate.

Unit 1W (Little Chena): Under the current designation, TBAP identifies land disposals as a prohibited surface use in Subunit 1W4 within Unit 1W. As the proposed project area is not yet designated for settlement, there are no specific guidelines on appropriate design, density, or overall development of the project for disposal. The management intent provides that Subunit 1W4 may have some potential for agriculture and will be managed for multiple

uses until reevaluated and the plan amended. The management intent for Unit 1W indicates that the management unit receives much recreational use due to the close proximity to the urban community of Fairbanks. Field inspections on May 25, 2010 revealed multiple trails within the project area, including the trespass road ADL 416794. Subdivision design will dedicate access to and through the project area. The dedication of access through the area and the reservation of easements through AS 38.05.127 Access To Navigable or Public Water will provide access for recreational purposes. See the Access to, Within, and Beyond the Project Area subsection of this document for more information.

Area Plan Proposals: There are three related actions with this proposal involving TBAP: an Amendment to TBAP, a related Land Classification Order, and a Special Exception to the TBAP as described in the following paragraphs.

Plan Amendment: DNR DMLW proposes to amend the Tanana Basin Area Plan (adopted 1985, updated 1991) to change the designation for the entirety of the project area from High Value Resource Management to Settlement.

Land Classification Order: In relation to the above Area Plan Amendment, DNR DMLW proposes to reclassify the project area in a Land Classification Order from Resource Management to Settlement.

Special Exception: DNR DMLW proposes a special exception to the Tanana Basin Area Plan to allow a reduction in width of the building setback from the man-made water bodies within the project area

These related actions will be developed as separate actions, accompany the Final Finding and Decision, and be approved prior to approval of the Final Finding and Decision. Public notice for these related actions is being conducted concurrently with the primary action's Preliminary Decision. The Final Finding and Decision for this proposed action will be dependent upon approval of the related actions such that if the related actions are not approved, the Final Finding and Decision will not be approved, unless modified. Likewise, DNR DMLW will not process the related actions unless proceeding with a Final Finding and Decision. Separate comments should be submitted for each action.

Mineral Order(s): The proposed project area is currently closed to mineral entry through Mineral Closing Order (MCO) 38 and its associated amendment MCO 38A01. The title report for the project area indicates that in addition to MCO 38, MCO 57, and MCO 67 and its associated amendment MCO 67A03 also apply to the project area. The mineral orders MCO 57 and MCO 67 closed to mineral entry all State-patented and tentatively-approved lands within a greater area and did not change the mineral status of MCO 38 or its amendment MCO 38A01.

Mineral closing orders, where they have been established, closed that 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 surface owner will be compensated for damages resulting from exploration and development.

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

Traditional Use Finding: The project area is located within the Fairbanks North Star Borough (FNSB) and a traditional use finding is therefore not required per AS 38.05.830 Land Disposal in the Unorganized Borough. The FNSB's planning requirements provide for separate public notice periods and processes for platting actions within the Borough. These additional opportunities to public involvement occur after Final Finding & Decision, if this proposed primary action is approved and the project moves forward.

Local Planning: Where they exist, local zoning and related ordinances govern any land use restrictions, as with other private land. The project area is within the FNSB and subject to the FNSB platting and zoning authority. This area is included in the FNSB Regional Comprehensive Plan 2005, and is also affected by the 1991 Fairbanks North Star Borough Comprehensive Road Plan. The project area is currently zoned GU-1. Approval of platting and zoning actions, and dedication of right-of-ways will require separate processes and public notices through the Fairbanks North Star Borough.

Access to, Within, and Beyond the Project Area: Access to the project area is from Nordale Road and then approximately ¾ mile westerly along Andromeda Drive, continuing westerly along ADL 63370, thence southwesterly along the Trans-Alaska Pipeline System (TAPS) access road (59-APL/AMS-3 and associated easements). According to Plat No. 2006-199, Andromeda Drive extends west from Nordale Road as a 100-foot-wide, dedicated ROW, extending approximately ¾ mile west from Nordale Road and lying north of the east-west ¼ section line of Township 1 South, Range 2 East, Section 6, Fairbanks Meridian. The remainder of the road continuing from Andromeda Drive for approximately 940 feet farther west to the section line (between Township 1 South, Range 2 East, Section 6, Fairbanks Meridian and Township 1 South, Range 1 East, Section 1, Fairbanks Meridian on the east boundary of the project area) has not yet been dedicated. This undedicated remainder (ADL 63370) crosses University of Alaska (UA) lands to meet the 100-foot-wide TAPS access road (ADL 403079), which runs through the northeastern corner of the project area. A small portion of this TAPS access road (a radius of approximately 100 feet within the southeast corner of the NE ¼ of Township 1 South, Range 1 East, Section 1, Fairbanks Meridian) is within Mental Health Trust (MHT) lands, which lie adjacent to the project area's northern boundary. As part of the subdivision design and platting process, DNR DMLW may vacate all or a portion of ADL 63370 and ADL 403079 within the project area, as needed for dedication of a right-of-way within the project area.

Access within and through the project area will be via easements and dedicated right-of-ways. DNR DMLW intends to dedicate the undedicated remainder of ADL 63370 west of Andromeda Drive, as well as the pipeline access road (ADL 403079 (59-APL/AMS-3,)) to provide access to and within the project area. The dedication of those portions within UA and MHT lands may require a separate action from each of these land management agencies. In addition, DNR DMLW is coordinating with State Pipeline Coordinators Office (SPCO) and Alyeska Pipeline

Service Company (APSC) to secure and design access across the TAPS access road at the end of ADL 403079. To this end, DNR DMLW has received conceptual approval to cross the pipeline in this location and will continue to work with SPCO and ASPC.

The TAPS crossing at this location was formerly used as access associated with the material extraction operation (ADL 403936) within the project area and received traffic from heavily-laden trucks. The active gravel extraction operation immediately south of the project area currently uses the TAPS access road (ADL 403079), a constructed road within ADL 63574 (the TAPS lease) and a separate crossing located near the intersection of the TAPS access road and the section-line easement on the east boundary of the project area. This route also appears to be used to access private property to the south of the project area although it is not currently an authorized crossing.

The Chena Reserve Subdivision (recorded in the Fairbanks Recording District on December 27, 1982 as Plat No. 82-202) has identified an easement 50 feet in width as "Alternate Temporary Access" within the project area. This easement appears to be platted in error, without State approval. Access within the project area may use a portion of this identified route but DNR DMLW may vacate portions of this route as they differ from the dedicated right-of-ways as established through this subdivision.

There exists a 100-foot public access easement (ADL 403607) centered along the western and northern boundaries of the project area. Access along this easement has not yet been constructed and it does not provide practical access to lands beyond the project area due to wetlands and overall poor land quality in this location. The westerly 50 feet of this easement lies adjacent to and outside the project area's western boundary, within a neighboring, privately-held agricultural parcel (ADL 403021). This portion of the easement is coincident with a 50-foot road and utility easement running along the eastern boundary of the agricultural parcel. The portion of the easement adjacent to and outside the project area's northern boundary lies within MHT lands and crosses the TAPS lease near the project area's northeast corner. In order to minimize crossing points and consolidate access across the TAPS lease to a single, authorized point, DNR DMLW may vacate all or a portion of ADL 403607.

Additional access to the project area is via Bate Street, a constructed road dedicated up to the southwest corner of the project area. Bate Street is a minimally constructed 50 foot wide dedicated ROW, as described in the Chena Reserve Subdivision (recorded in the Fairbanks Recording District as Plat No. 83-138). Another easement, ADL 402722 is a public access easement 100 feet in width and ⅜ mile in length through the SW ¼ of Section 1 outside the project area. This easement appears to connect with Bates Street and ADL 403607 at the southwest corner of the project area.

There is currently a constructed trespass road through the project area (ADL 416794). The road has apparently been in use by at least one local land owner for access to private property across the material site in lieu of legal, constructed access along dedicated ROWs. This trespass road begins at the terminus of the pipeline access road (ADL 403079) and runs westerly through the project area, generally along the northerly shore of the southerly pond, and connects with the southwest corner of the project area and the aforementioned public access easement ADL 402722. At one point, access to this road was blocked via an earthen berm by the State of Alaska, Department of Transportation and Public Facilities in an attempt to

discourage unauthorized activities within the former material site. This berm was allegedly destroyed by a local land owner in an effort to continue the unauthorized use of the road. DNR DMLW does not intend to preserve this unauthorized road, but rather provide access through the project area via legal, dedicated ROWs.

The FNSB has proposed a future major collector road through the 1991 Fairbanks North Star Borough Comprehensive Road Plan to be routed along the easterly and southerly boundaries of the project area. There is a section-line easement 50 feet in width along the eastern boundary of the project area. This section-line easement and proposed major collector crosses a portion of the TAPS lease. In order to consolidate access across the TAPS to a single point, DNR DMLW does not intend to develop or dedicate access across the TAPS in this location in addition to the previously discussed location, and may vacate this easement if appropriate. Future development or dedication along this easement would require a separate action through the FNSB platting authority and the FNSB would need to acquire of the remaining width necessary for the full width of the collector. A portion of this section-line easement south of the TAPS may be incorporated into subdivision design as dedicated road access.

The project area is within the platting authority of the FNSB. Approval of platting actions and dedication of right-of-ways will require separate processes and public notices through the Fairbanks North Star Borough.

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 will 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 38.05.027, generally lakes larger than 50 acres in size or streams larger than 50 feet in average width are considered navigable and lakes larger than 10 acres in size or streams larger than 10 feet in average width are considered public. In addition, waters may be determined public or navigable consistent with AS 38.05.965 (18) Definitions [General Provisions]. 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 waters determined to be public or navigable. 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.

The larger pond along the southerly boundary of the project area appears to be approximately 13 acres in size and meets the criteria for public water under 11 AAC 51.035. The northerly pond within the project area appears to be approximately 7 acres in size. As both water bodies are reasonably suitable for public use and utility in accordance with AS 38.05.965 and the applicable authorities above, DNR DMLW has administratively determined both ponds to be public water for the purpose of providing access, and thus we

will provide for continued public access to these ponds as described earlier in this section. Refer to the Easements, Setbacks, and Retained Lands and Agency Comments sections for additional information. No navigable or anadromous waters have been identified 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 on a proposed plat note. Refer to the Easements, Setbacks, and Retained Lands and Agency Comments sections 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 Fairbanks North Star Borough. Final width and location of easements and reservations will be determined as part of the platting process.

Parcels may be subject to a variety of reservations where appropriate, such as:

- a public access and utility easement along interior parcel boundaries;
- an easement centered on any surveyed or protracted section lines;
- an easement reserved to the pipeline service company for maintenance and operation of the pipeline;
- a 50 foot continuous easement upland from the ordinary high water mark of public or navigable water bodies;
- a building setback from the ordinary high water mark of public or navigable water bodies;
- a building setback 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.

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 surface owner be compensated

for damages resulting from mineral exploration and development. Refer to the Mineral Order(s) section of this document for more information on restrictions on use of the mineral estate within the project area.

Hazardous Materials and Potential Contaminants: During field inspections in May and August 2010 and September 2011, we observed multiple abandoned vehicles within the project area, which may be removed in the development of this subdivision. Staff did not identify any hazardous wastes, spills, or other potential contaminants within the area, however, the area has apparently been used for multiple unauthorized activities, such as dumping and/or burning of debris, target practice, and other activities that have contributed to the collection of refuse in the area. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land. 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 be eventually found.

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.

Survey, Platting, and Appraisal: Depending on agency and public commentary, physical conditions of the land, and access issues, DNR DMLW proposes to survey up to 35 parcels varying in size, no smaller than 40,000 square feet. This proposed project area is located within FNSB and therefore survey and platting will be completed to the relevant Borough 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.

VI. Agency Comments

Agency review was conducted from July 27, 2010 through August 31, 2010, concurrently with other separate, proposed projects. Comments pertinent to this proposed action received during agency review have been considered and we will address them in the following paragraphs. Additional 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 Forestry (DOF) provided the following general comment:

> DOF indicated that of primary concern was consideration of “high volume hazardous forest fuels” when identifying land sale projects. DOF also indicated that land disposals in these types of areas place land owners at an increased risk from wildland fires, and can place a long-term financial burden on the State. DOF also noted the importance of multiple ingress and egress routes within a land disposal.

DNR DMLW LSCAS Response: DNR DMLW acknowledges the disposal of State-owned land may occur in areas with high volumes of hazardous forest fuels. Although potential for wildland fire is generally high in Interior Alaska, vegetation within the Two Ponds Subdivision project area consists primarily of hardwoods and stands of mixed hardwoods and spruce, which DOF states reduces the wildland fire risk. DNR DMLW will consider ingress and egress routes as part of the subdivision design and survey. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Refer to the Fire Hazards section of this document for more information.

DOF provided the following comment specific to the project area:

DOF noted that the proposed Two Ponds Subdivision is located in a riparian area along the Chena River and adjacent to the oil pipeline and that Forestry Resources and Fire Program concerns are fairly minimal here.

DNR DMLW LSCAS Response: DNR DMLW concurs that fire concerns are minimal, and notes that the project area is within the North Star Volunteer Fire Department fire service area.

DNR, Division of Geological and Geophysical Surveys (DGGS) Comment: Discontinuous permafrost with low ice content is likely to be present in this area.

DNR DMLW LSCAS Response: DMLW recognizes that land conditions and building sites may vary within the project area. Interested parties are highly encouraged to inspect individual parcels prior to purchase.

DNR, Joint Pipeline Office, State Pipeline Coordinator's Office (SPCO) comment: SPCO indicated that ADL 63574 is a lease issued for the Trans-Alaska Pipeline System for a pipeline right-of-way and is 100 feet in width in this location. SPCO indicated that the actual pipe is located below ground in this location, approximately 25 feet from the western edge of the TAPS right-of way and 75 feet from the eastern edge, SPCO requested that the ROW remain in State ownership. SPCO indicated that an additional buffer from the buried pipeline may be necessary for the maintenance of the pipe, staging of machinery, and storage of material. SPCO suggests that the buffer extend to 100 feet from the physical pipe, and be retained in State ownership.

DNR DMLW LSCAS Response: DNR DMLW has been and will continue coordinating with SPCO and Alyeska Pipeline Service Company (APSC) for the design and development of this proposed subdivision. DNR DMLW does not intend to dispose of State-owned land within the TAPS lease, but instead survey the project area and retain the leased area in State ownership. Per discussions with APSC, DNR DMLW may incorporate the buffer areas into subdivision design and dispose of those lands subject to an easement to the pipeline service company for the maintenance and operation of the pipeline. Final language of the reservation and design of affected parcels will be coordinated with SPCO and APSC.

SPCO Comment: SPCO noted that the 59-APL/AMS-3 is a constructed and surveyed, 100-foot-wide pipeline access road, connecting Nordale Road to the pipeline lease, and is comprised of two easements (ADL 63370 and ADL 403079). SPCO noted that ADL 63370 is a public easement issued to DOT for access to the former material site and that a portion of the

easement is not platted. SPCO also noted that ADL 403079 is a private non-exclusive ROW issued to Alyeska Pipeline Service Company (APSC) and that a portion of the easement is on MHT lands. SPCO requested that the entirety of the access road be platted in conjunction with the survey of the proposed subdivision.

DNR DMLW LSCAS Response: DNR DMLW intends to plat and dedicate access to and within the subdivision. As portions of ADL 63370 are on UA lands and portions of ADL 403079 are on MHT lands, DNR DMLW will continue coordinating with these agencies to dedicate and plat this access.

SPCO Comment: SPCO noted that ADL 403607 is a public easement 100 feet in width that is neither surveyed nor constructed. SPCO recommended that this easement not be constructed where it would directly cross the TAPS and indicated that much of the ROW may not be feasibly constructed due to the proximity to wetlands and the northerly pond.

DNR DMLW LSCAS Response: DNR DMLW concurs that ADL 403607 is not likely suitable for construction. In an effort to consolidate access across the TAPS, DNR DMLW may vacate all or a portion of this easement. The northerly 50 feet of this easement is on MHT lands. DNR DMLW will continue to coordinate with MHT and incorporate these considerations into the proposed subdivision design.

SPCO Comment: SPCO requested that DNR DMLW coordinate with SPCO and APSC to locate, approve, and construct access to and through the proposed subdivision so as to minimize impact to the TAPS. SPCO noted that SPCO and APSC will have to give concurrence of the location of any access roads across TAPS and any changes to the TAPS ROW. Additionally, SPCO noted that APSC will have to review and approve engineered drawings for road construction at the TAPS intersection. SPCO recommended that DNR DMLW coordinate with APSC early in the process to consider creating a single perpendicular intersection with the TAPS, eliminating unauthorized access along the TAPS, and relocating gates to prevent future unauthorized access.

DNR DMLW LSCAS Response: DNR DMLW has received conceptual approval for subdivision access from APSC and will continue to coordinate with SPCO and APSC for subdivision design.

DNR, DMLW, Northern Region Land Section (NRO Lands) Comment: NRO Lands indicated that the material pit ADL 403936 has been nearly unused for over 20 years and has no objection to the proposed action. NRO Lands noted that the last extractions from the pit were in 1987, 122cy in 2000, and small limited material sales to individuals in 1988. NRO Lands also indicated that the DOT material sale expired April 30, 2010, but does not appear to be closed.

DNR DMLW LSCAS Response: DNR DMLW will work with NRO Lands to close ADL 403936 prior to disposal under this proposal.

Department of Fish and Game (DFG), Division of Sport Fish Comment: DFG has no concerns with this parcel being reclassified as Settlement. DFG would like DNR to be aware that the large, 13-acre pond, called Nordale #2, located within the parcel is currently scheduled to be

stocked with rainbow trout and grayling catchable annually by the Ruth Burnett Hatchery. DFG requests that several parcels remain undeveloped and available for public access to the lake. DFG suggests subdivision plans include a 100-foot building setback from the lake and 50-foot wide shoreline easement to provide public access along the lake.

DNR DMLW LSCAS Response: Subdivision design will incorporate tracts of land to be retained in public ownership as appropriate. Parcels will be subject to upland public access easements in accordance with AS 38.05.127 Access to Navigable or Public Water and associated regulations. Parcels will also be subject to a building setback in accordance with the management intent of the TBAP. Given the unique nature of the ponds, DNR DMLW may reduce the building setback along the ponds to less than 100 feet. This final width of this building setback will be 50-100 feet upland from the ordinary high water mark, will be established as part of the design and platting process, and will be included on the final plat. Refer to the Planning and Classification section for more information.

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

- Department of Environmental Conservation
- Department of Natural Resources
    - Division of Agriculture
    - Division of Mining, Land, and Water
        - Mining Section
        - Resource Assessment and Development Section
        - Municipal Entitlements
        - Reality Services
    - Division of Oil and Gas
    - Division of Parks and Outdoor Recreation
    - Mental Health Trust Land Office
- Department of Transportation and Public Facilities
- Fairbanks Soil and Water Conservation District
- Alaska Railroad Corporation

VII. 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, no smaller than 40,000 square feet each, and offer those parcels for sale at public auction. The development and offering of these parcels may be phased.
- Alternative 2: Do not subdivide the project area prior to offering. Offer the project area a single, 80-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 has placed this charge with the commissioner of DNR. In turn, the authority to sell has been delegated down to DMLW Land Sales and Contract Administration Section (LSCAS). 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 of up to 35 parcels 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 communities of Fairbanks and North Pole, the contiguous-quality acreage, and the interest in retaining third-party interests, the project area is better suited to subdivision prior to offering. Subdividing the project area and offering through public auction will maximize 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.

VIII. Recommendation

This Preliminary Decision for the proposed primary and any related actions described throughout this document and its attachments are 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 actions altogether. If the decision is approved, an Area Plan Amendment, Land Classification Order, and Special Exception to the Area Plan will accompany and precede the Final Finding and Decision.

/s/ March 30, 2012

Prepared by Tim Shilling
Natural Resource Manager I
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

Date

/s/ March 30, 2012

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

Date

Submittal of Public Comments

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

Pursuant to AS 38.05.945 Notice, a public notice inviting comment on this Preliminary Decision will be published in newspapers in statewide circulation and newspapers of general circulation in the vicinity of the land offering. Notices will be mailed to parties known or likely to be affected by the action; relevant postmasters of permanent settlements; relevant municipalities if the land is within the boundaries of a municipality; relevant regional corporations if the land is within their corporation boundary; relevant village corporations if the land is within 25 miles of the village for which the corporation was established; and relevant soil and water conservation districts. Finally, the notice will be posted on the State of Alaska Public Notice website at http://notes.state.ak.us/pn/.

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 Department Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

DNR 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, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to the proposed action will not be considered significant changes requiring additional public notice.

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

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

ATTACHMENT A: PUBLIC NOTICE

to the
Preliminary Decision

for
Proposed Land Offering in an Organized Borough
Two Ponds Subdivision – ADL 418281
AS 38.05.035 (e), AS 38.05.045

and its
Proposed Related Actions:

Amendment to the Tanana Basin Area Plan
AS 38.04.065
Proposed Land Classification Order
AS 38.04.065 and AS 38.05.300
Special Exception to the Tanana Basin Area Plan
AS 38.05.065

COMMENT PERIOD ENDS 5:00 PM, TUESDAY, MAY 15, 2012

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales and Contract Administration Section (LSCAS) proposes 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, public auction. 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].

Located within the Department's Northern Region, approximately ¾ mile northwest of the Nordale Road crossing of the Chena River, 4 miles northwest of North Pole, the project area is within Section 1, Township 1 South, Range 1 East, Fairbanks Meridian, in USGS Quad Fairbanks D-1. The project area consists of approximately 80 acres identified for disposal by this proposed action. This offering may be conducted in phases. For complete details on these proposals and a map, refer to the Preliminary Decision.

There are three related actions with this proposal: an amendment to the Tanana Basin Area Plan, the related Land Classification Order, and a special exception to the Tanana Basin Area Plan. If approved after consideration of public comment, these related actions will be developed as separate actions, 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.

Additional information on these proposed primary and related actions is available at DNR DMLW's Northern Region Office at 3700 Airport Way, Fairbanks Alaska 99709. For direct inquiries, contact Tim Shilling by phone at 907.451.2734 or email DNR DMLW LSCAS at subdivision.sales@alaska.gov. To request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage by phone at 907.269.8400, TDD at 907.269.8411, or email at dnr.pic@alaska.gov; in Fairbanks by phone at 907.451.2705, TDD at 907.451.2770, or email at fbx-pic@alaska.gov; or in Juneau by phone at 907.465.3400, TDD at 907.465.3888, or email at sero@alaska.gov.

Pursuant to AS 38.05.945 Notice, information will be published in statewide newspapers and posted online at http://dnr.alaska.gov/mlw/landsale/. The public is invited to submit comment on these proposed actions by fax to 907.451.2751; by mail to DNR DMLW LSCAS, Attention: Subdivision Land Sales Program c/o DNR DMLW Northern Region Office at 3700 Airport Way, Fairbanks, Alaska 99709; or by email to subdivision.sales@alaska.gov. If commenting on more than one proposed action, separate comments should be submitted for each. The comment period ends at **5:00 PM Tuesday, May 15, 2012**.

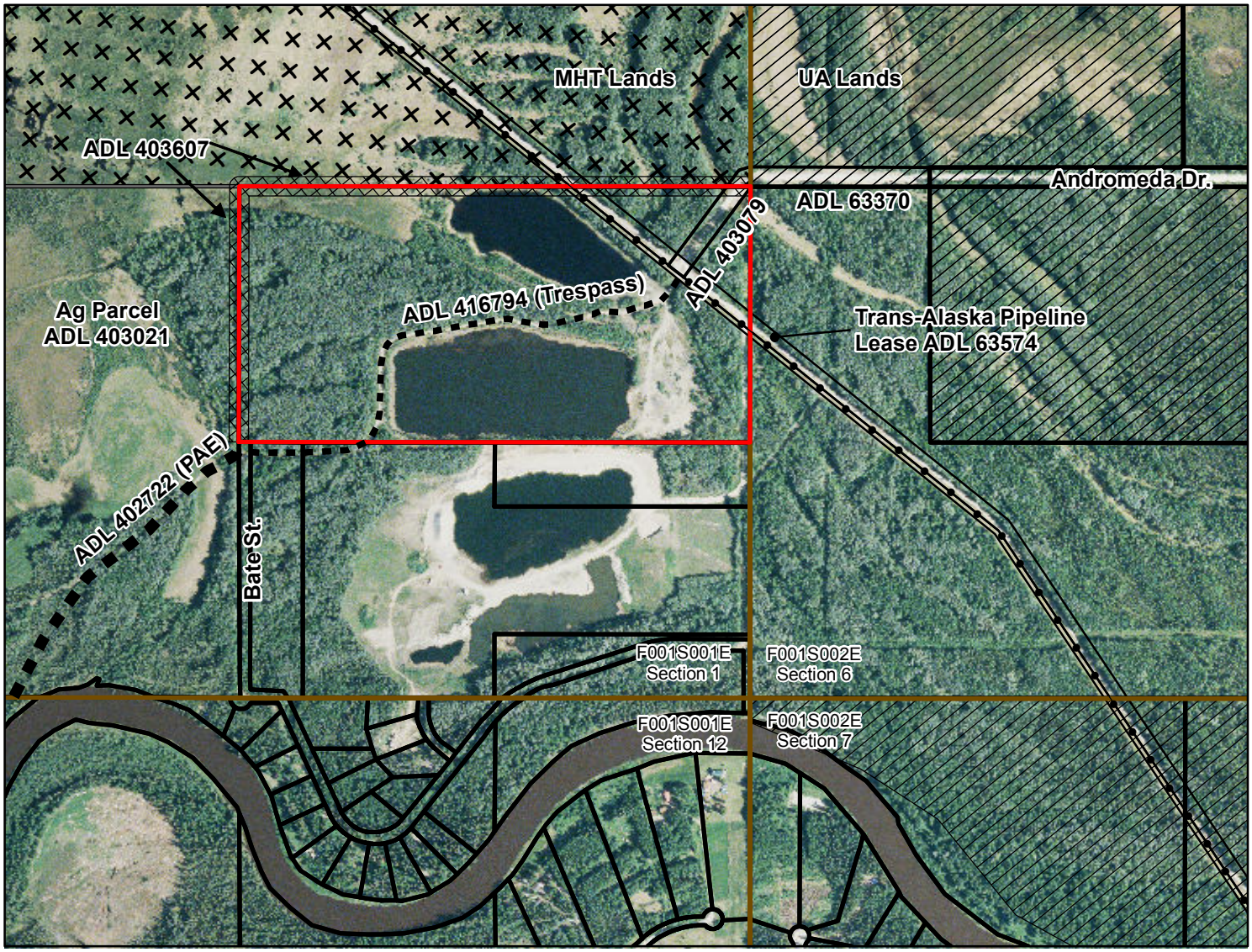
DNR DMLW will consider all timely comments. If timely written comments received in response to this notice indicate the need for significant changes to the Preliminary Decision, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to the proposed action will not be considered significant changes requiring additional public notice.

If the proposed action is approved and no significant change is required, the Preliminary Decision, including any deletions, minor changes, and summary of comments and Division responses, will be issued as a subsequent Final Finding and Decision without further notice. To recognize a party's eligibility to appeal a Final Finding and Decision, DNR DMLW LSCAS must receive timely written comment on the Preliminary Decision as set forth herein. 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 to any party who provides timely written comment.

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

Attachment B: Vicinity Map

Preliminary Decision - Proposed Land Offering
Two Ponds Subdivision - ADL 418281



TAS 03/22/2012

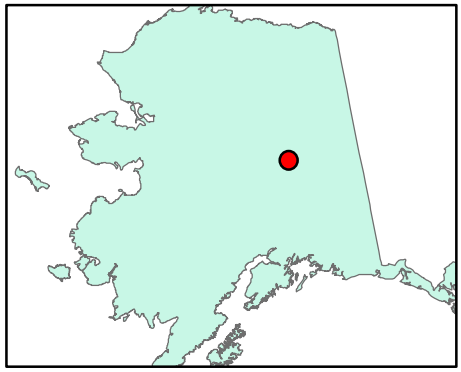
Legend

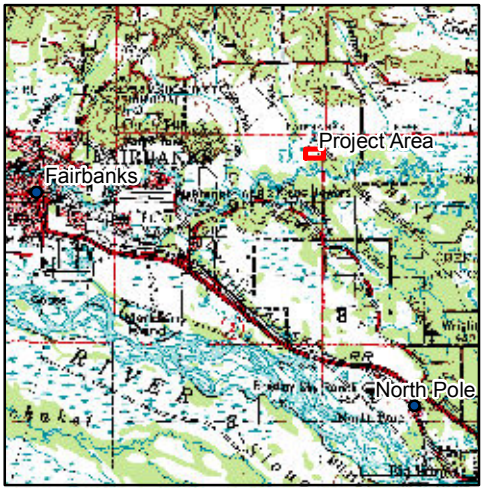
- Project Area
- UA Land
- MHT Land
- ADL 403607
- ADL 402722
- ADL 416794
- ADL 415791
- Pipeline

0 0.25 0.5 Miles

N1/2SE1/4 Section 1, Township 1 South, Range 1 East, Fairbanks Meridian, AK

N





USGS QUAD 1:63,360
Fairbanks D-1

For more information contact:
Timothy Shilling
DNR Division of Mining, Land and Water
3700 Airport Way
Fairbanks, AK 99709
Phone (907)451-2734
Fax (907)451-2751
Email timothy.shilling@alaska.gov

This map is for graphic representation only. It is intended to be used as a guide only, and may not show the the exact location of all existing easements, reservations, or third party interests.