

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

**Noncompetitive Conveyance to Public and Charitable Use Applicant,
City of Wasilla**

**FINAL FINDING AND DECISION – AS 38.05.810(a)
ADL 231845**

This Final Finding and Decision is intended to complement and update the Preliminary Decision for ADL 231845 issued on January 21, 2014. Documents pertinent to this Final Finding and Decision are:

- Attachment I: Summary of Public Comments and Division Responses
- Attachment II: Preliminary Decision

Proposed Action:

The Department of Natural Resources (Department), Division of Mining, Land and Water (Division), has received an application from the city of Wasilla, pursuant to Alaska Statute 38.05.810(a). Public and charitable use, for the conveyance of the state's limited interest in an access easement issued originally by a private property owner to the state for operation and maintenance of the Lake Lucile Dam in Wasilla. The Preliminary Decision recommended approval of a non-competitive conveyance of the subject limited easement interest to the applicant. The easement is located on portions of Lots 20, 21 and 22 of Buena Vista Subdivision, filed as Plat #56 in the Palmer Recording District in 1958, adjacent to and underlying Lucile Lake and Lucile Creek within the city of Wasilla in the Matanuska-Susitna Borough. The easement is further located in the SE1/4SW1/4 of Section 8, Township 17 North, Range 1 West, Seward Meridian.

Authority:

The applicable authority includes, but is not limited to, the following Alaska Statute (AS):
Alaska Statute 38.05.810(a). Public and charitable use

Public Notice and Responses:

Comments received pursuant to AS 38.05.945 Notice and the Division's responses to those comments can be found in Attachment I to this Final Finding and Decision. Three comments were received during public notice; of these, one commenter expressed no position, one commenter supported the proposed conveyance and one commenter objected to the proposed conveyance.

Discussion:

The Division is required by statute [AS 38.05.035(e)] to find that the proposed conveyance is in the best interest of the state. In reaching this determination, the Division considers input from state agencies, local governments and affected parties. Affected parties include nearby property owners of record. The state also considers

local land use plans. The Preliminary Decision issued in this case was a recommendation to convey the subject limited easement interest to the applicant, the city of Wasilla. This recommendation was based on the support of the Alaska Department of Fish and Game, the city of Wasilla, provisions of the City of Wasilla Comprehensive Plan and the state's determination that the conveyance was in the best interests of the applicant and the state. No valid public purpose was found for retaining the easement in state ownership. Operation and maintenance of the dam is a public safety issue which in this instance is best addressed at the local level.

Concerns have been expressed that the scope of the use of the easement could be broadened once it is conveyed to the applicant. The state only held a very limited interest in the easement and cannot convey a broader range of rights than it originally possessed. The easement can only be used for the limited purposes set out in the original grant and reiterated in this decision.

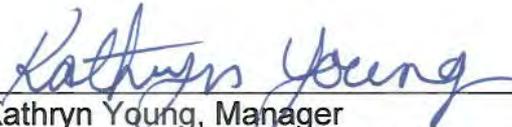
Reversionary Interest:

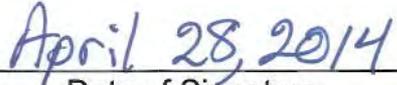
The Preliminary Decision recommended that the Commissioner waive the reversionary interest pursuant to AS 38.05.810(g). Accompanying this decision is a signed Waiver of Reversionary Interest. Authority to sign the Waiver of Reversionary Interest has been delegated to the Director of the Division of Mining, Land and Water.

Final Finding and Decision:

This Final Finding and Decision approves the conveyance of the state's limited interest in the easement as recommended by the Preliminary Decision. To clarify the intent and substance of the Preliminary Decision, the subject easement is strictly limited to use by the city of Wasilla for necessary operation and maintenance of the Lake Lucile Dam. The easement is not a public easement and is not to be used by the public for any reason. The easement is not to be increased in size, relocated nor improved beyond what is absolutely necessary for the purposes expressed herein.

Recommend Approval:


Kathryn Young, Manager
Land Sales and Contract Administration Section
Division of Mining, Land and Water


Date of Signature

Approval:

The findings presented above have been reviewed and considered. Public notice has been accomplished according to AS 38.05.945 and the comments received have been considered and summarized – see Attachment 1. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. It is the finding of the Director of the Division of Mining Land and Water that it is in the best interest of the state to proceed with this conveyance under the authority of AS 38.05.810(a).


Brent Goodrum, Director
Division of Mining, Land and Water


Date of Signature

Appeal Provision:

A person affected by this decision who provided timely written comment on this decision may appeal it, in accordance with 11 AAC 02. An appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov.

If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any Public Information Center of the Department of Natural Resources.

Attachment I

PUBLIC NOTICE for the Noncompetitive Conveyance to Public and Charitable Use Applicant, City of Wasilla

FINAL FINDING AND DECISION – AS 38.05.810(a) ADL 231845

Notice provided under AS 38.05.945: A public notice announcing the Preliminary Decision for the proposed noncompetitive conveyance along with the solicitation for public comment was published and distributed in compliance with the above statute in the following manner:

- Posted on the State of Alaska Online Public Notice from January 21, 2013 through March 4, 2014;
- Mailed, with a request to post for 30 days, to six postmasters (Wasilla (4), Houston and Big Lake) per AS 38.05.945(c)(4);
- Mailed, with a request to post for 30 days, to three public libraries (Big Lake, Wasilla and Palmer) per AS 38.05.945(b)(3)(C);
- Mailed to one regional corporation and 2 village corporations per AS 38.05.945(c)(2)-(3); and
- Mailed to area legislators (2), nearby property owners (153), village councils (2) and local government officials (4) per AS 38.05.945(b)(3)(D).

Comments Received: Three written comments were properly submitted during the public notice period. The comments are presented below; some comments are summarized while others are repeated in their entirety as appropriate. The Division's responses follow each comment.

1) **Matanuska-Susitna Borough:** The borough noted the dam is located within an identified flood hazard zone and future development would require a borough Flood Hazard Development Permit.

Response: Thank you for the comment. The state duly notes the borough's requirement.

2) **Commenter:** The commenter expressed support for the proposed conveyance.

Response: Thank you for your response.

3) **Commenter:** This commenter objected to the proposed conveyance. The following statements were made by the commenter, followed by the Division's response. Where

appropriate, some of the commenter's statements are directly quoted, otherwise they are summarized.

- a) "The original Grant of Right-of-Way (copy attached) provides for a very limited and specific use of the right-of-way." This statement was followed by an excerpt from the Grant of Right-of-Way: "This conveyance is made with the express provisions that, this grant of right-of-way shall be limited exclusively to those land and water uses pertaining to and necessary for projects undertaken by the Alaska Department of Fish and Game, its agents and assigns."

Response: Agreed. The easement interest held by the state is very limited in scope as set forth in the grant. Nothing in the state's decision to convey the subject easement interest changes the scope of the easement. This decision on page 2 specifically states "The subject easement is strictly limited to use by the city of Wasilla for necessary operation and maintenance of the Lake Lucile dam. The easement is not to be increased in size, relocated nor improved beyond what is absolutely necessary for the purposes expressed herein."

- b) The right-of-way was only to be used to access, repair and maintain the small dam across Lucile Creek, the only project undertaken by the Department of Fish and Game, as was the case when the dam was initially constructed in the 1960's and rebuilt in 2013.

Response: To our knowledge that statement is correct. The easement was not used for any other purposes by the Department of Fish and Game.

- c) "It has been rumored that the City of Wasilla would like to provide a public access point on the end of Lake Lucile". This access point would be in the vicinity of privately owned lots and would result in an "increase in traffic, garbage, and potential destruction of property, underage drinking and partying, potential violence, fire hazard, cutting of trees and other undesirable trespasses would increase exponentially if said right-of-way passes to the City of Wasilla." The commenter claims this would effectively be a taking of the underlying privately owned lots.

Response: We are not in a position to respond to allegations of rumors. However, all of the perceived negative consequences of the easement being conveyed to the city of Wasilla are dependent on the right-of-way becoming public. As stated above and in the body of this Final Finding and Decision, the easement cannot become public.

- d) The deleterious conditions listed above would materially affect the quiet enjoyment of a neighboring lot.

Response: See the response in c) above.

- e) "It could increase the amount of watercraft traffic during the summer months, and snow machine and motor vehicle traffic during the winter months. These things would have an adverse environmental impact upon...." the privately owned properties underlying the easement.

Response: See the response in c) above.

- f) The city of Wasilla and the owner of the underlying properties were not able to reach agreement on a permanent easement for the Lake Lucile Dam. The commenter states "The City of Wasilla wanted to expand the right-of-way for more than the limited purpose which the right-of-way was established in the first place, to access and maintain the dam." The commenter noted the underlying property owner did not object to accessing the easement to rebuild the dam in 2013.

Response: The inability of the city and underlying property owner to reach agreement on a permanent easement was directly responsible for the state's decision to convey the limited easement interest it holds. Ideally this would have been resolved by the underlying property owner and the city of Wasilla. There is no valid public purpose to be served by the state retaining an access easement to a locally owned dam for which the operation and maintenance responsibilities rest with the owner of the dam, which is the sole purpose of this limited easement. The Certificate of Approval to Operate a Dam issued by the Department on January 13, 2014 to the city of Wasilla set forth the operation and maintenance responsibilities of the city with respect to the Lake Lucile Dam. Ownership of the access easement by an entity other than the city of Wasilla would not be efficient or cost effective and does not constitute sound public policy.

- g) "The newly rebuilt dam was of sheet pile construction and is small in size and will not need any maintenance and/or repair in the ordinary course of things. It is believed that there is no instrumentation on it or anything else that might require regular servicing." The commenter further notes that the underlying property owner "has no objection to the use of the right-of-way for this purpose, which is the original purpose of the right-of-way."

Response: The easement will be used when necessary to discharge the city's operation and maintenance responsibilities. The key considerations here are: 1) only the city can use the easement; and 2) the easement can only be used for the very limited purposes set out in the original grant and this decision approving the conveyance of the easement to the city. Furthermore, instrumentation such as stream gages may be installed on or near the dam to monitor water flow and levels. The determination as to the necessity for maintenance and repair is best made by professionals in the relevant disciplines. It is reasonable to expect that maintenance and possibly reconstruction will be required at some point in the long-term life of the dam.

- h) "There is nothing on the dam mechanically to operate or maintain. There is no gate or electrical generation equipment."

Response: See the response to comment g) above. The commenter is correct in the assertion that there is no gate nor is there electrical generation equipment. If stream flow instrumentation were installed, for example, periodic inspection and routine maintenance would be required.

- i) The statement is made that retaining the easement in state ownership will ensure "that no expansion will occur", whereas if the easement is conveyed to the city there will be "no such assurance.....as prior negotiations with the City in this regard have proven fruitless."

Response: We are not in a position to comment on negotiations to which the state was not a party. Use of the easement is constrained by the language of the original grant and this decision. The nature of the easement and the uses to which it can be put are narrowly defined and very restrictive.

- j) The commenter repeats the assertion that there will be "an expanded use of the right-of-way for additional public purposes that were not intended in the original right-of-way." The commenter continues that "If adequate written assurance were made that the use of the right-of-way could not and would not be expanded" then the commenter "may approve the transfer."

Response: This Final Finding and Decision clearly states the limitations on use of the easement. The easement cannot be a public easement; it can only be used by the city of Wasilla in accordance with what the clear language of this decision authorizes. The state holds a very limited interest in the easement; it cannot grant broader rights than it holds.

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

**Proposed Noncompetitive Public and Charitable Use Conveyance to Applicant,
City of Wasilla**

**PRELIMINARY DECISION – AS 38.05.810(a)
ADL 231845**

Proposed Action, Non-competitive Conveyance: The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), has received an application for a disposal of state interest in a state-owned easement located in Section 8, Township 17 North, Range 1 West, Seward Meridian. The easement was issued in 1963 by the underlying private property owner to the State of Alaska Department of Fish and Game for the purposes of access to Lake Lucile and Lucile Creek exclusively for “those land and water uses pertaining to and necessary for projects undertaken by the Alaska Department of Fish and Game.” This easement was used by the state to construct a dam in the late 1960s. The city of Wasilla wishes to assume management responsibility for the dam at Lake Lucile and has applied to the Department of Natural Resources to acquire this easement interest pursuant to AS 38.05.810(a)(1) Public and charitable use. The Department of Fish and Game concurs with this proposed transfer of the easement interest. The land underlying the easement is state-owned lakebed and privately owned uplands. See Attachment A.

The public is invited to comment on this Preliminary Decision of the proposed non-competitive conveyance. **The deadline for comments is 5:00 PM Tuesday, March 4, 2014;** see page 8 for information on how to submit comments on this Preliminary Decision.

Related Action: The department proposes to waive the reversionary interest per AS 38.05.810(g), as further described below.

Authority: The applicable authorities include, but are not limited to, the following sections of Alaska Statute (AS):

AS 38.05.810(a) and AS 38.05.810(g). Public and charitable use

Administrative Record: The administrative record for the proposed action consists of the following case file: ADL 231845. Also incorporated by reference is LSH 50.

Scope of the Decision: The scope of this decision is limited to determining if the applicant and the subject easement qualify under the public and charitable use statute, if it is in the state's best interest to dispose of the subject easement and if it is in the

state's best interest to dispose of the easement to the current applicant (city of Wasilla) pursuant to AS 38.05.810(a) Public and charitable use.

AS 38.05.810(a) authorizes the state to dispose of state land or resources for "less than the appraised value as determined by the director and approved by the commissioner to be fair and proper and in the best interest of the public..." The state has determined this access easement is a state resource. The department is proposing to dispose of a very limited state interest. Accordingly, the department proposes that it is in the state's best interest to convey this easement interest to the applicant for no consideration.

AS 38.05.810(g) requires the state retain a reversionary interest in a disposal for a public or charitable use under AS 38.05.810(a) unless this reversionary interest is waived by the commissioner on a finding that a waiver is in the state's best interest. In this case, the department proposes to waive the reversionary interest as it is in the state's best interest to do so.

Proposed Related Action: The following associated action will occur concurrently with the Final Finding & Decision: waiver of the reversionary interest.

Description:

Location: The easement is located in the SE1/4SW1/4 of Section 8, Township 17 North, Range 1 West, Seward Meridian. The location is further described as portions of Lots 20, 21 and 22 of Buena Vista Subdivision, filed as Plat #56 in the Palmer Recording District in 1958, adjacent to and underlying Lucile Lake and Lucile Creek within the city of Wasilla in the Matanuska-Susitna Borough. Actual physical access to the dam is by a road and trail situated north of and roughly parallel to Lucile Creek. The road, trail and dam are within the subject easement. Legal access to the easement is from Lake Lucile and from a platted right-of-way fronting Lots 20, 21 and 22. See Attachment A.

Geographic Features: Lots 20, 21 and 22 front on Lake Lucile. Available borough aerial imagery shows Lots 20 and 21 to be undeveloped with considerable tree coverage. Lot 22 is partially cleared and undeveloped. Lucile Creek flows from Lake Lucile through Lots 20, 21 and 22 northwesterly then to the southwest. Lake Lucile dam is situated on Lot 20. See Attachment A.

Potential Flood Hazard: The Flood Hazard Boundary Maps prepared by the Federal Emergency Management Agency designate Lake Lucile and Lucile Creek in the vicinity of the easement as Zone A-Special Flood Hazard Area subject to inundation by the 1% annual chance flood. See Flood Insurance Rate Maps (FIRMs) 02170C8060 and 02170C8080.

Municipality/Borough: The subject easement is located within the city of Wasilla in the Matanuska-Susitna Borough.

Native Regional/Village Corporations/Councils: The Native regional corporation is Cook Inlet Region, Inc. There is no Native village corporation nor is there a local traditional governing body for Natives in the vicinity of the subject easement.

USGS Map Coverage: The subject easement is located on USGS Quad Anchorage C-7 SW.

Legal Description: The legal description of the easement as contained in the Grant of Right-of-Way issued to the state is:

"Portions of Lots 20, 21 and 22 adjacent to, and underlying Lucile Lake, and Lucile Creek flowing through Buena Vista Subdivision located in Government Lot 4 which is a part of the SE1/4 of SW1//4 of Section 8, T17N, R1W, S.M,"

Title:

Acquisition Authority/Title Status: The state acquired an easement interest with issuance of the Grant of Right-of-Way by the underlying property owner to the state of Alaska dated March 6, 1963. The applicable state case file is LSH 50.

Title Restrictions: Not applicable to this decision.

State Retained Interest: Not applicable to this decision.

Native Interest: The subject easement is within the boundaries of Cook Inlet Region, Inc. There are no Native interests identified with this easement.

School Trust Land: Not applicable to this decision.

Other Conflicts or Pending Interest: There are no third party interests of record that affect the subject easement.

Background: Property at the junction of Lake Lucile and Lucile Creek (Government Lot 4, SE1/4 SW1/4 of Section 8, Township 17 North, Range 1 West, Seward Meridian) was deeded by the federal government to Mr. Courtney Fleming on September 29, 1949. A portion of this property was subdivided in 1955 as Buena Vista Subdivision (filed June 6, 1958 as Plat #56, Palmer Recording District). Lots 20, 21 and 22 of Buena Vista Subdivision were conveyed to Allan and Jean Steel in 1958. The Steels issued a Grant of Right-of-Way to the state of Alaska, Department of Fish and Game, on March 6, 1963, recorded at Book 45, Page 286 of the Deed Books in the Historic Records of the Palmer Recording District. This grant was described as "Portions of Lots 20, 21 and 22 adjacent to, and underlying Lucile Lake, and Lucile Creek flowing through Buena Vista Subdivision...". The grant was "limited exclusively to those land and water uses pertaining to and necessary for projects undertaken by the Alaska Department of Fish and Game." In the latter part of the 1960s the Alaska Department of Fish and Game (ADF&G) constructed a dam on Lot 20.

In May of 2011 the DNR DMLW, Dam Safety and Construction Unit, determined the dam was not safe. Negotiations ensued between the city of Wasilla and the state wherein the city agreed to assume ownership of the dam if the state provided funding to the city to rehabilitate the dam to meet state standards. The city received funding in July, 2012; DNR issued a Certificate of Approval to Modify a Dam on October 23, 2012. The dam has been rebuilt by the city of Wasilla; construction was completed in June, 2013. The state issued a Certificate of Approval to Operate a Dam to the city of Wasilla on January 13, 2014.

The Certificate of Approval to Modify a Dam required that the city and owner of the property underlying the easement agree to a permanent easement for access to the dam for operation and maintenance and for the dam itself. For reasons beyond the state's control such an agreement could not be reached. The state therefore is proposing to convey its easement interest to the city of Wasilla to ensure the city can properly and efficiently operate and maintain the dam.

Actual physical access to the dam is by a road and trail situated north of and roughly parallel to Lucile Creek. The road, trail and dam are within the subject easement. Legal access to the easement is from Lake Lucile and from a platted right-of-way fronting Lots 20, 21 and 22.

Planning, Classification and Mineral Orders:

DNR Area and Management Plans: Not applicable to this decision.

Land Classification: Not applicable to this decision.

Coastal Issues: The subject easement is located within the Matanuska-Susitna Borough. The department will notify the Matanuska-Susitna Borough's coastal management program of this proposed action.

Riparian Area: Not applicable to this decision.

Mineral Order: Not applicable to this decision.

Local Planning: The city of Wasilla Comprehensive Plan was adopted by the Wasilla City Council on June 13, 2011. The plan acknowledges the importance to the city of the outstanding natural features present within the city, including numerous water features. The plan specifically notes the high values of Wasilla Lake and Lake Lucille. In the Community Assets section of the comprehensive plan, Goal 4 states: "Preserve and enhance the City's unique community assets." Objective 4.3 states: "Protect the City's natural resources, including Wasilla Lake and Lake Lucille." Objective 4.4 states: "Enhance access to natural areas", and Action 4.4.2 further states: "Work with landowners and other partners to enhance resident's access to Cottonwood Creek, Lucille Lake and Wasilla Lake, and to create a connected trail system that features overlooks and interpretive materials pertaining to these important community resources." Clearly Lake Lucille is viewed by the city of Wasilla as an extremely

important community asset. Rebuilding the Lake Lucile dam and safely operating and maintaining it are critical to achieving the pertinent goal and objectives of the comprehensive plan with respect to Lake Lucile.

Easements and Access: Access to the subject easement is from Lake Lucile and from a platted right-of-way fronting Lots 20, 21 and 22.

Access To and Along Public or Navigable Water: Not applicable to this decision.

Traditional Use Findings: A traditional use finding is not necessary because the subject easement is located within an organized borough.

Reservation of Mineral Estate: Not applicable to this decision.

Hazardous Materials and Potential Contaminants: Not applicable to this decision.

Performance Guaranties and Insurance: Not applicable to this decision.

Survey: Not applicable to this decision.

Compensation/Appraisal: Given the very limited nature of the state interest proposed for conveyance it has been determined to be in the state's best interest to convey the easement for no consideration.

Agency Review: Agency review was conducted from January 3 through January 17, 2014 on this proposed conveyance. No adverse comments were received nor were any issues raised.

Related Action: As noted above, AS 38.05.810(g) requires the state retain a reversionary interest in a disposal for a public or charitable use under AS 38.05.810(a) unless this reversionary interest is waived by the commissioner on a finding that a waiver is in the state's best interest. In this case, the department proposes to waive the reversionary interest as it is in the state's best interest to do so.

Conveying the easement interest with the reverter provision serves neither the best interests of the state nor the city of Wasilla. The city owns the dam and the easement is vital to the city's efficient operation and maintenance of the dam. Should the city obtain an alternative means of access to the dam and no longer need a portion of the easement as the primary means of access, exercising the reverter would not serve any useful public purpose as the dam is also within the easement. Continued city ownership of this easement provides a secondary access route.

Discussion: The city of Wasilla has submitted an application to the state of Alaska for the conveyance of an easement interest held by the state at the Lake Lucile damsite. The easement was originally issued in 1963 by the underlying private property owner to the Alaska Department of Fish and Game for access to the damsite for construction,

operation and maintenance purposes. In 2011, the dam was determined by the department to be in critical condition and in need of reconstruction to meet state safety standards. The city of Wasilla reached an agreement with the state wherein the city would assume ownership of the dam if the state funded construction of a new dam. Funding was secured in 2012 and the dam was completely rebuilt; construction was completed in 2013.

The department issued a Certificate of Approval to Modify a Dam on October 23, 2012. A condition of this Certificate required the city and private property owner agree to a permanent easement for operation and maintenance of the dam. However, an agreement could not be reached. Therefore, the state is proposing to convey its easement interest to the city of Wasilla for no consideration and to waive the reverter requirement.

Alternatives: The following alternatives were considered:

Alternative 1: Convey

Convey the easement interest as proposed in this decision. If determined to be in the best interest of the state, AS 38.05.810(a)(1) allows the state to convey a state resource to a political subdivision. Conveyance of the subject easement will meet an identified local public need and further stated goals and objectives of the city of Wasilla. City ownership of the easement is critical to the city's continued safe operation of the Lake Lucile dam. Retaining the easement in state ownership is not cost effective nor does it effectively meet local needs. The Department of Fish and Game supports the conveyance of the easement to the city. This alternative is clearly in the best interest of the state and is the preferred alternative.

Alternative 2: Retain

Retaining the easement in state ownership will require the state's continued management of the easement for access to a locally-owned facility for operation and maintenance purposes. Local ownership of the easement is a more effective means of achieving local goals than continued state ownership. This alternative is much less favorable than conveyance and is not preferred.

Recommendation: The proposed action, Alternative 1, is believed to be in the overall best interest of the state and is consistent with the requirements of AS 38.05.810(a). Alternative 1 meets an established community need and places management of the easement where it properly belongs-at the local level.

Stipulations: not applicable to this decision.

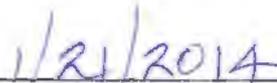
Proposed Action Approved for Public Review:

The proposed action may be in the best interests of the state and the Preliminary Decision is hereby approved to proceed to Public Notice in accordance with AS 38.05.945.

Prepared by:

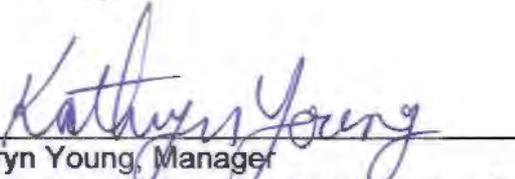


Ed Busch, Natural Resource Specialist III
Land Sales and Contract Administration Section
Division of Mining, Land and Water

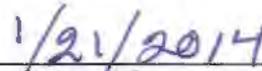


Date of Signature

Concurred by:



Kathryn Young, Manager
Land Sales and Contract Administration Section
Division of Mining, Land and Water



Date of Signature

Submittal of Public Comments: Pursuant to AS 38.05.945, the public is invited to comment on the proposed action in the Preliminary Decision and on the related, associated action to waive the reverter provision. Copies of the Preliminary Decision and the related action are available at the following locations:

1. Division of Mining, Land and Water, Land Sales and Contract Administration Section, 550 West 7th Avenue, Suite 640, Anchorage, AK 99501-3576;
2. The Department's Public Information Centers in Anchorage and Fairbanks, and the Southeast Land Office in Juneau;
3. The Department's website at www.dnr.alaska.gov/mlw/landsale/; or
4. by contacting Ed Busch by phone at (907) 269-8469, by email at edward.busch@alaska.gov, or by fax at (907) 269-8916.

Comments must be received in writing by the Division of Mining, Land and Water, Land Sales and Contract Administration Section, at the above address, by 5:00 PM Tuesday, March 4, 2014 in order to ensure consideration. All written timely responses will be considered. Written comments may be submitted by electronic mail, regular mail or facsimile.

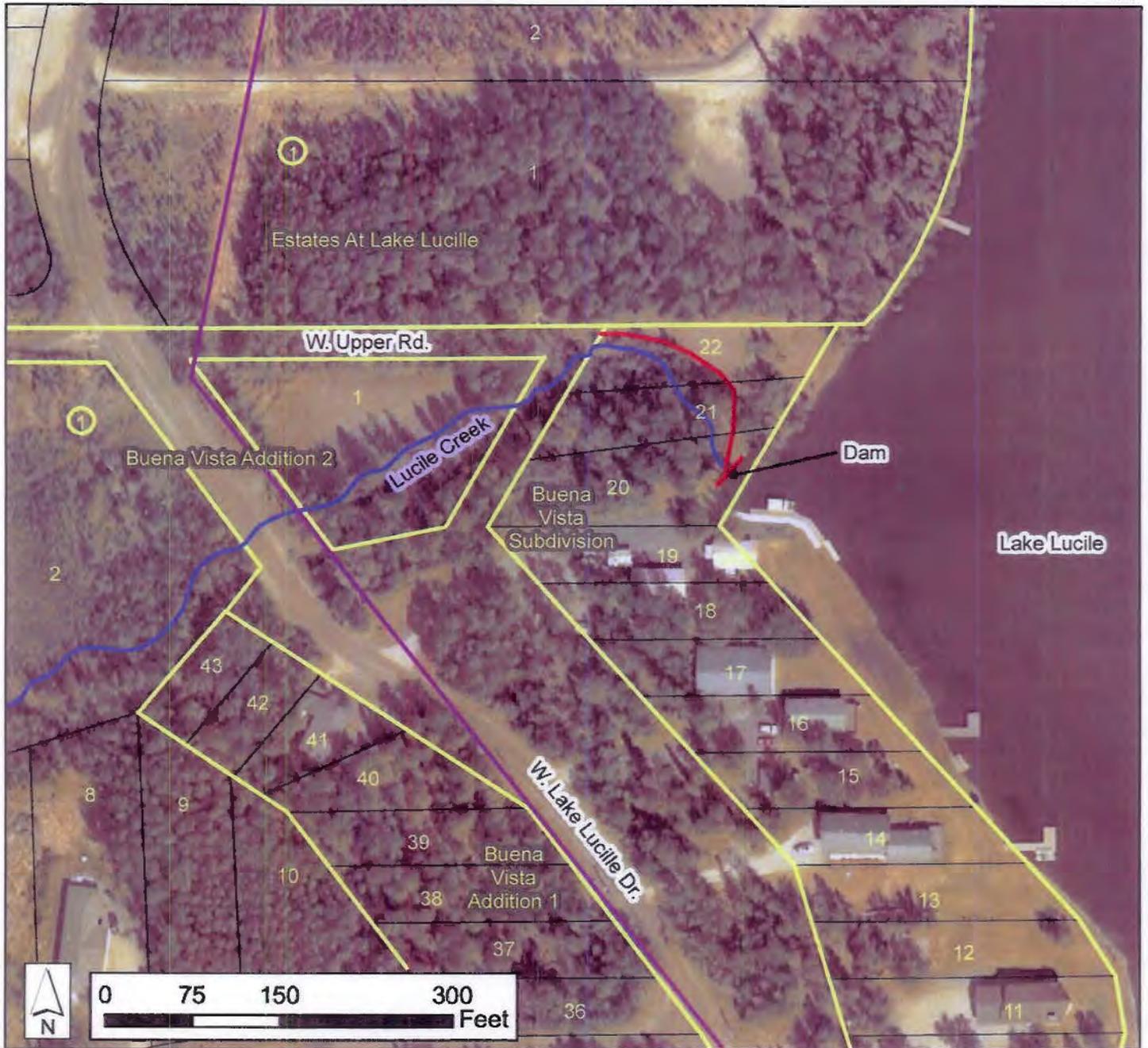
Only persons who submit written comments during the public notice period will be eligible to file an administrative appeal of the Final Finding and Decision.

The state is prepared to accommodate individuals with disabilities who wish to participate in this review by providing auxiliary aids, services, or special modifications. Individuals who may need such assistance should contact the Department's Public Information Center in Anchorage between the hours of 10:00 am and 5:00 pm, Monday through Friday, at (907) 269-8400 by telephone or by TDD at (907) 269-8411; please call no later than Monday, February 24, 2014.

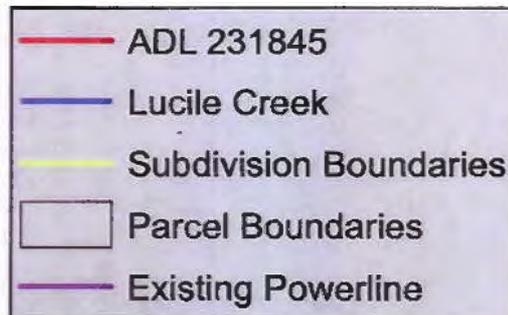


Attachment A: ADL 231845

City of Wasilla
Public & Charitable Use - AS 38.05.810(a)



Seward Meridian T17N, R1W, Section 8



This map is for graphic representation only.
The locations of Lucile Creek, ADL 231845
and Powerline shown are approximate.

Map produced by
L. Quirk 1/16/2014

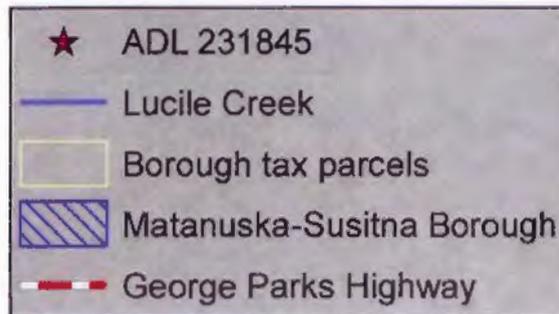
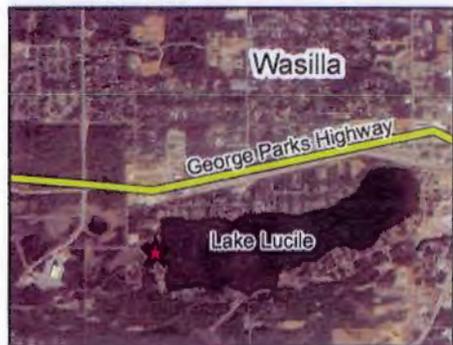


Attachment B: Area Land Status - ADL 231845

City of Wasilla - Lake Lucile Damsite Access Easement
Public & Charitable Use - AS 38.05.810(a)



Seward Meridian T17N, R1W, Section 8



Note:
All parcels privately owned unless otherwise indicated

Map produced by
L. Quirk 1/2/2014

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



Waiver of Reversionary Interest
AS 38.05.810(g)
ADL 231845

Proposed Action:

The city of Wasilla has submitted an application for the conveyance of a state-owned easement interest at the Lake Lucile damsite pursuant to AS 38.05.810(a)(1). This easement was originally granted in 1963 by the underlying private property owner to the Alaska Department of Fish and Game to permit access to the dam for operating and maintenance purposes. The purpose of this document is to waive the reversionary interest for this conveyance pursuant to AS 38.05.810(g) and determine that the waiver is in the public interest.

Legal Description:

The legal description of the easement as contained in the Grant of Right-of-Way is:

“Portions of Lots 20, 21 and 22 adjacent to, and underlying Lucile Lake, and Lucile Creek flowing through Buena Vista Subdivision located in Government Lot 4 which is a part of the SE1/4 of SW1//4 if Section 8, T17N, R1W, S.M.”

Discussion:

The city of Wasilla has submitted an application to the state of Alaska for the conveyance of an easement interest held by the state at the Lake Lucile damsite. The easement was originally issued in 1963 by the underlying private property owner to the Alaska Department of Fish and Game for access to the damsite for operation and maintenance purposes. In 2011, the dam was determined by the department to be in critical condition and in need of reconstruction to meet state safety standards. The city of Wasilla reached an agreement with the state wherein the city would assume ownership of the dam if the state funded construction of a new dam. Funding was secured in 2012 and the dam was completely rebuilt; construction was completed in 2013.

The department issued a Certificate of Approval to Modify a Dam on October 23, 2012. A condition of this Certificate required the city and private property owner agree to a permanent easement for operation and maintenance of the dam. Physical access to the dam is by a road and trail located to the north of and roughly parallel to Lucile Creek. The road, trail and dam are within the easement. For reasons beyond the state's control such an agreement could not be reached. Therefore, the state is

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proposing to convey its easement interest to the city of Wasilla. Retaining the easement in state ownership is not cost effective nor does it meet local needs. Conveying the easement interest with the reverter provision is also not in the public interest as doing so serves neither the public nor the city of Wasilla. Should the city obtain an alternative means of access to the dam and no longer need a portion of the easement, exercising the reverter would not serve any useful purpose. Retaining the easement in city ownership provides a secondary means of access should one be needed.

The easement is not a public easement. Use of the easement is restricted to the city of Wasilla for the limited purposes as set out in the original grant and the decision approving the conveyance of the limited easement interest to the city of Wasilla. Exercising the reverter provision does little to serve the purpose for which the easement was granted in the first place. Since the easement is not a public easement there is no public purpose to be served by retaining the reversionary interest.

AS 38.05.810(g) stipulates "The commissioner shall retain a reversionary interest on each sale or other disposal granted under (a) or (e) of this section. The commissioner may waive the reversionary interest on a written determination that the waiver is in the public interest..."

Accordingly, the Final Finding and Decision issued May ^{6th}, 2014 recommended that the reversionary interest be waived as authorized by AS 38.05.810(g).

Determination:

The director, as delegated by the commissioner, has determined it is in the public interest to waive the reversionary interest for the conveyance of the easement interest in ADL 231845.

A handwritten signature in blue ink, appearing to read "Brent Goodrum", is written over a horizontal line.

Brent Goodrum, Director
Division of Mining, Land and Water
Alaska Department of Natural Resources

6 MAY 2014

Date of Signature