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

PRELIMINARY DECISION

Proposed Land Offering
Change of Method of Conveyance for the Sale of 286 Heterogeneous Parcels

AS 38.05.035 (e), AS 38.05.045

I. Proposed Action

The State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water proposes to offer for sale up to 286 parcels of State-owned land for sale, as detailed on Attachment B: Statewide Map of Parcel Locations and Attachment C: List of Parcels. This Preliminary Decision serves as an amendment, update, and complement to prior Final Finding and Decisions for the project areas within which these parcels are located, so as to change the method of conveyance (where needed for uniformity and to conform to current statutes and regulations) and to provide a public notice process so that the State may dispose of these parcels 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 [Sale of Land].

The parcels are located throughout the State and vary in size up to approximately 40 acres. Many of the parcels encompassed by this decision were offered and contracted for sale through previous State land disposal programs, but were subsequently returned to State ownership through relinquishment or by contract termination. The remaining parcels were identified and surveyed either administratively or after a relinquished or terminated lease period under another land disposal program. All of the parcels in this proposal have previously been through a complete decision process that included public notice and review. For more specific information on each parcel, refer to Attachments B and C.

Pursuant to AS 38.05.945 Notice, the public is invited to comment on this proposed action. 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 timely written comment for consideration. The comment period ends at **5:00 PM Tuesday, January 24, 2012**. If, after consideration of timely written comments, this proposed action is approved, the Department will issue a Final Finding and Decision.

There are no associated actions with this proposal.

Attachment A: Public Notice

Attachment B: Statewide Map of Parcel Locations

Attachment C: List of Parcels

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 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. Additionally, 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.

III. Administrative Record

The administrative record for the proposed actions consists of the individual case files for each parcel identified with a separate ADL in Attachment C: List of Parcels, as well as area plans, Preliminary Decisions, and Final Finding and Decisions for each parcel's project area.

IV. Scope of the Decision

The scope of this proposal, under AS 38.05.035 (e) Powers and Duties of the Director, is limited to DNR DMLW's decision to offer the parcels listed in Attachment C: List of Parcels for conveyance into private ownership by way of a public auction or another method under AS 38.05.045.

V. Proposed Amendments

All of the parcels of land encompassed by this proposal have been through previous decision processes, which included public notice and review. This Preliminary Decision serves as an amendment, update, and complement to prior Final Finding and Decisions for the project areas within which these parcels are located, so as to change the method of conveyance (where needed for uniformity and to conform to current statutes and regulations) and to provide a public notice process so that the State may dispose of these parcels in a future public auction. If the parcels do not sell when offered at auction, they may be offered via another method of offering.

The following descriptions summarize the programs under which the parcels may have been offered in the past:

- Public Outcry Auctions: In the 1960s and early 1970s, DNR leased or sold subdivided parcels of land, mostly by public outcry auction.
- Sales of Future Borough Land: From 1964 to 1975, DNR subdivided and sold parcels for land proposed to go to new boroughs to jump start the new borough's income stream.
- Open-to-Entry Program: Between 1968 and 1973, the State's first stake-it-yourself program allowed people to stake, survey, and purchase their own parcel of State-owned land.
- Homesite Program: Started in 1977, the State's first "prove-up" program allowed Alaskans to build a dwelling and occupy the land for a certain number of years. If they completed this, they only paid the State the costs to survey and plat the parcel.

- Lottery Sales: In the late 1970s, DNR was directed by the legislature to sell State-owned land by lottery.
- Remote Parcel Program: In the late 1970s, the open-to-entry staking program was restructured and became the remote parcel program. This program has since been discontinued and the statutes that authorized this program were repealed. Therefore, the possibility of reoffering parcels as originally intended under the remote parcel program is no longer an option.
- Homestead Program: In 1984, this program replaced the remote parcel program. This program allowed larger parcels to be staked and had an agricultural "prove-up" option.
- Long-Term Residential Lease/Preference Right Parcels: Some parcels were originally issued for long-term residential lease with a preference right to purchase. DNR no longer offers this type of residential lease. The lease or land sales contracts affecting parcels reoffered under this proposed action were either relinquished or terminated with cause.
- Remote Recreational Cabin Sites: AS 38.05.600 Remote Recreational Cabin Sites allows DNR DMLW to offer authorizations to select and stake Remote Recreational Cabin Sites in designated areas. Authorizations are awarded through a type of lottery that gives all eligible participants an equal chance at acquiring a staking authorization for an area. DNR DMLW has offered Alaskans the opportunity to stake a parcel of their choice under the Remote Recreational Cabin Sites program since 2001. Occasionally, parcels surveyed under this program return to State ownership through relinquishment or termination.

  Additionally, administrative parcels were identified and created by DNR DMLW staff during Remote Recreational Cabin Sites offerings to:

  - reduce per-parcel survey costs by increasing the number of parcels included in a State-issued survey contract;
  - survey desirable parcels bounded by existing parcels and natural features where the additional parcel does not increase mobilization costs or costs associated with setting additional monuments;
  - complete survey of previously staked parcels when monuments have been set; and
  - maximize the number of parcels allowed under the decision to offer the staking area if the Division does not anticipate a re-offer of the area.

  Sales of parcels under AS 38.05.600 Remote Recreational Cabin Sites and 11 AAC 67.815 (b) Offering Remote Recreational Cabin Sites would require the purchaser to reimburse DNR for the cost of surveying, platting, and appraising the site within 30 days of being notified of a successful purchase, in addition to paying the down payment, which sometimes creates an unrealistic burden upon purchasers and hinders the marketability of the property. The proposed amendment in this Preliminary Decision seeks to eliminate this potentially cumbersome requirement.

VI. Description

Geographic Locations: See Attachment B: Statewide Map of Parcel Locations and Attachment C: List of Parcels for parcel-specific information.

Legal Descriptions: See Attachment C: List of Parcels for parcel-specific information.

Boroughs/Municipalities: See Attachment C: List of Parcels for parcel-specific information.

Native Regional Corporations: Relevant Native Regional Corporations will be notified of this proposal during the statewide public notice process.

Parcel-Specific Data: Due to the varied nature and broad geographic reach of this offering, we will not delineate parcel-specific data for items such as USGS map coverages, Alaska Coastal Districts, topography, geologic hazards, seismic activity, soils, vegetation, fire hazards, flood zones, tides, anadromous waters, and other constraints. Where available, pertinent information will be part of the brochures in which individual parcels are advertised. DNR DMLW strongly encourages any persons interested in purchasing a parcel to first visit the site so that they have a good understanding of the unique features and characteristics of each parcel.

Title: All parcels will have a current title report completed before they are offered for sale. This will ensure that all parcels are free and clear from any cloud on title at the time of offering.

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.

Background: Many of these parcels were previously under contract for purchase, but for a variety of reasons, were terminated or relinquished and returned to State ownership and are now available for reoffer. The remaining parcels were identified through other offerings, such as administratively surveyed parcels from other land disposal programs. Any known anomalies on a parcel will be clearly noted in the brochures.

Planning and Classification: The parcels are spread throughout the State and are classified by, and subject to, a variety of area plans and management units within those plans. See Attachment C: List of Parcels for parcel-specific area plan information. The proposed offering is consistent with area-wide land management policies and general management intent of the area plans and their specific management units. The parcels have been classified as Settlement lands or an equivalent classification according to 11 AAC 55.277 Existing Classifications. See Attachment C for specific land use classifications information.

Mineral Orders: All parcels have been closed to mineral entry via mineral orders. Mineral orders that close an area to mineral entry, where they have been established, close 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. See Attachment C: List of Parcels for specific mineral order information.

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 Findings: For those parcels located within an organized borough, a traditional use finding is not necessary.

For those parcels located within the Unorganized Borough, a traditional use finding is required under AS 38.05.830 Land Disposal in the Unorganized Borough. The proposed disposal and use of these parcels is consistent with past land uses within and around the proposed parcels and all of the land in this proposal has been through a previous, complete notice, review, and decision process. It is anticipated that the sale of these parcels will not change the traditional uses. Should we identify any conflicts through the new public notice process but still find this proposed action to be in the best interests of the State, we will address these issues and proposed mitigation measures in the subsequent Final Finding and Decision.

Access: Access to individual parcels varies. Pertinent access and location information will be part of the brochures in which individual parcels for sale are described. While all parcels have legal access, the access may not be developed and it is the responsibility of the purchaser to investigate the existing and allowable access. DNR DMLW strongly encourages any persons interested in purchasing a parcel to first visit the site so that they have a good understanding of any potential issues concerning the parcel's access.

Easements, Setbacks, and Reserved Areas: Parcels may be subject to a variety of easements, setbacks, and reserved areas. Pertinent information regarding these types of restrictions will be part of the brochures in which individual parcels for sale are described. DNR DMLW strongly encourages any persons interested in purchasing a parcel to visit the site and review all associated documents so that they have a good understanding of any potential issues concerning the parcel.

Reservation of Mineral Estates: In accordance with Section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation, the State, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing, and producing the reserved mineral resources. Exploration and development that could occur would be consistent with AS 38.05.130 Damages and Posting of Bond and 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 section of this document for more information on restrictions on use of the mineral estate within the boundaries of the parcels encompassed by this decision.

Hazardous Materials and Potential Contaminants: 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 parcels encompassed by this Preliminary Decision. However, the State of Alaska makes no representations or 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. Given that this land was specifically designated Settlement for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, DNR DMLW is of the opinion that the benefits outweigh the potential risks.

Surveys: All parcels have been surveyed. See Attachment C: List of Parcels for parcel-specific information.

Appraisals: In accordance with AS 38.05.840 Appraisal, an appraisal meeting Department standards will be required within two years of the date fixed for the sale for each parcel.

VII. Agency Comments

Agency review is being conducted concurrently with the public notice for this Preliminary Decision. If, after consideration of timely written comments, this proposed action is approved, the Department will issue a Final Finding and Decision and address those comments therein.

As discussed throughout this document, all of the parcels encompassed by this proposal have been through previous decision processes, which included a public notice and review. This Preliminary Decision serves as an amendment, update, and complement to prior Final Finding and Decisions for the project areas within which these parcels are located, so as to change the method of conveyance (where needed for uniformity and to conform to current statutes and regulations) and to provide a public notice process, during which agencies may also comment.

VIII. Alternatives and Discussion

DNR DMLW is considering the following alternatives:

- Alternative 1: Offer the parcels for sale under AS 38.05.045 Generally [Sale of Land].
- Alternative 2: Retain the parcels 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. Alternative 1 provides an equitable method for DNR to help meet the obligations laid out in the Constitution and statute. The lands affected by this decision have been deemed appropriate for settlement through a previous public process and DNR is now conducting a new public notice under this proposed action to change the method of conveyance. Additionally these parcels were previously identified as appropriate for sale through past decisions. Retention of these parcels would be contrary to the previous processes that identified these lands as appropriate for settlement and would inhibit DNR DMLW from meeting its Constitutional and legislative obligations. For the aforementioned reasons, Alternative 1 is the preferred alternative. Recommendation follows.

IX. Recommendation

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

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Division of Mining, Land, and Water

12/19/2011
Date

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

12/19/2011
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 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.