

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

Proposed Public & Charitable Non-competitive Sale to City of Kenai

**PRELIMINARY DECISION – AS 38.05.810(a)
ADL 231036**

**AND PROPOSED RELATED ORDERS
Proposed Land Classification Order – AS 38.05.300**

Proposed Action, Non-competitive Sale: The Department of Natural Resources (Department), Division of Mining, Land and Water (Division) has received an application to purchase an interest in state land pursuant to Alaska Statute 38.05.810(a), Public and charitable use, for a future municipal well site and for protection of the Beaver Creek watershed. The proposed decision will allow the parcel to be sold through a non-competitive sale to the applicant, the City of Kenai. The parcel is located within the municipal boundaries of the City of Kenai and abuts the Kenai Spur Highway. The legal description for the parcel is that portion of the Southeast ¼ of Section 36, Township 6 North, Range 11 West, Seward Meridian located north of Kenai Spur Highway, excluding ASLS 76-118 and Beaver Creek Alaska Subdivision (EPF 3-9), containing approximately 29.41 acres. The parcel is approximately 29.41 acres in size. The final acreage and legal description will be determined by survey. See Attachments A and B.

In order to complete the sale properly, the Department also proposes to reclassify this parcel of State land from Resource Management to Settlement pursuant to AS 38.05.300.

The public is invited to comment on this Preliminary Decision of the non-competitive sale and the proposed land classification order. The deadline for comments is 5 pm on Friday, August 3; see page 15 for details on how to submit comments on this Preliminary Decision.

Authority: The applicable authority includes, but is not limited to, the following Alaska Statutes (AS):

AS 38.05.810(a). Public and charitable use

Administrative Record: The administrative record for the proposed actions consists of the following case file: ADL 231036. Also incorporated by reference are SCH-17 (State

Conveyance File), Classification Order SC-99-002, Kenai Area Plan adopted January 7, 2000, Kenai River Comprehensive Management Plan adopted December 1997, Kenai Peninsula Borough Comprehensive Plan adopted June 2005, City of Kenai Land Use Plan adopted November 2003, ADLs 201376 and 201377 (Municipal Entitlements), ADLs 72801 and 203864 (Public & Charitable Use Sales), ADL 51055 (Right-of-Way Easement), ADL 80086 (Utility Easement), ADL 224182 (Utility Easement), ADL 60551 (Oil and Gas Lease), and ADL 200641 (Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area).

Scope of the Decision: The scope of this decision is limited to determining if the applicant and the subject parcel qualify under the public and charitable use statute, if it is in the state's best interest to dispose of the subject parcel, and if it is in the state's best interest to dispose of the parcel to the current applicant (City of Kenai) under AS 38.05.810(a). Public and charitable use.

The proposed decision will allow this parcel to be sold through a noncompetitive sale to the applicant. This action complies with the general recommendations of the Kenai Area Plan. The purchase price for the parcel will be set at the appraised fair market value.

The applicant is responsible for bearing the costs of the public notice, survey and appraisal. Restrictions regarding land use are the responsibility of the local zoning authority (City of Kenai and/or the Kenai Peninsula Borough). However, pursuant to state statute, the Division will impose deed restrictions to control post-patent use. AS 38.05.810(g) requires the state retain a reversionary interest in lands conveyed for a public or charitable use under AS 38.05.810(a). Accordingly, the state patent issued will contain a reversionary clause wherein title will revert to the State of Alaska should the parcel cease to be used for a public and charitable use. A draft of the reversionary clause is below:

- Pursuant to AS 38.05.810(g), if the Grantor determines that the Grantee, or the Grantee's successors in interest, has used, or are using, the property for other than public purposes the Grantor may declare a forfeiture of this conveyance and title hereby conveyed shall thereupon revert to the State of Alaska.

The final version of this restriction will be in the Final Finding and Decision and will be listed in the State Patent.

Proposed Related Orders: The following associated action will occur concurrent with the Final Finding & Decision: to reclassify the subject parcel from Resource Management to Settlement.

Description:

Location: The subject parcel is located north of the Kenai Spur Highway at Beaver Loop Road. The parcel is east of Beaver Creek Alaska Subdivision. Municipal entitlement lands conveyed to the Kenai Peninsula Borough are adjacent to the parcel to the north and northeast. The parcel is adjacent to another City of Kenai parcel along its western boundary, ADL 72801, a current municipal well site.

Geographic Features: The parcel is partially wooded and contains flood prone areas and wetlands. Beaver Creek, an anadromous stream, runs through the southeastern portion of the parcel.

Potential Flood Hazard: The subject parcel is within flood zone A according to FEMA Flood Insurance Rate Map 020012 2035. An "A" indicates a high risk area, "with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such an area, no depths or base flood elevations are shown within these zones."

Municipality/Borough: The subject parcel is located within the municipal boundaries of the City of Kenai and within the Kenai Peninsula Borough.

Native Regional/Village Corporations/Councils: The Native regional corporation is Cook Inlet Region, Inc. (CIRI). The village corporation for the Kenai area is Kenai Native Association, Inc. The Kenai area traditional council is Kenaitze Indian Tribe.

USGS Map Coverage: The subject parcel is located on USGS Quad Kenai C-3 SW and Kenai C-4 SE.

Legal Description: The unsurveyed description of the parcel is that portion of the SE ¼ of Section 36, T6N, R11W, SM located north of Kenai Spur Highway, excluding ASLS 76-118 and Beaver Creek Alaska Subdivision (EPF 3-9), containing approximately 29.41 acres. The final acreage and legal description will be established by survey.

Title:

Acquisition Authority: Title report RPT-2898 was completed for the subject parcel and is current as of October 12, 2011. The State of Alaska received title to the subject parcel through a School Grant pursuant to its statehood entitlement under the Alaska Statehood Act of July 7, 1958, P.L. 85-508, 72 Stat. 339, as amended. On June 27, 1962 the State received Federal Patent No. 1227505 to the land and mineral estate for the subject parcel. The subsurface estate was later relinquished to the federal government for conveyance to Cook Inlet Region, Inc. pursuant to the Cook Inlet Land

Exchange. The applicable State selection file is SCH-17. The federal case file is AA-051771.

Title status: This is state land conveyed by Federal Patent number 1227505 issued June 27, 1962.

Title Restrictions: The parcel is subject to the reservations, easements, and exceptions contained in the federal patent.

State Retained Interest: Not applicable to this decision.

Native interest: The subject parcel is within the boundaries of Cook Inlet Region, Inc. (CIRI). CIRI owns the subsurface estate of this parcel in accordance with the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area (ADL 200641, hereinafter Cook Inlet Land Exchange). The subsurface estate was originally conveyed to the state, but under the Cook Inlet Land Exchange the estate was conveyed back to the federal government for conveyance to Cook Inlet Region, Inc. Because of limited available lands within this region, the subsurface estate was conveyed to the regional corporation to reach their entitlement under the Alaska Native Claims Settlement Act (ANCSA).

School Trust Land: The parcel was conveyed to the State from the U.S. Government by a School Land Grant, and is therefore former School Trust Land. Disposal of this parcel is subject to Department Order (DO) 143, which requires that School Trust lands be disposed of for at least the appraised fair market value. The proceeds from the disposal will be deposited into a DNR trust account established as a result of the school trust litigation. Notice of this proposed disposal will be provided to the plaintiffs in the school trust litigation in accordance with DO 143 as part of the public notice process that follows the signing of this Preliminary Decision.

Other Conflicts or Pending Interest: There are third party interests that affect the subject area as follows:

- The subsurface of the subject parcel was conveyed to Cook Inlet Region, Inc. pursuant to the Cook Inlet Land Exchange (ADL 200641).
- An oil and gas lease (ADL 60551) conveyed to Cook Inlet Region, Inc. pursuant to the Cook Inlet Land Exchange.

Background:

The subject parcel was patented to the State under the Statehood Act in 1962. As part of the Cook Inlet Land Exchange (ADL 200641), the subsurface estate for Section 36, T6N, R11W, SM was issued January 23, 1980 to the United States by a deed of title. This conveyance was made subject to ADL 60551 (Oil and Gas Lease). By a decision issued by the State of Alaska in July 1980, this lease was transferred to Cook Inlet Region, Inc. because the subsurface estate had already been conveyed to the federal government. This decision defines subsurface estate as "including all oils, gases, coal, ores, minerals, fissionable materials, fossils and geothermal resources." Federal patent number 50-80-0066 was issued in March 1984 conveying the subsurface estate to Cook Inlet Region, Inc. pursuant to the Cook Inlet Land Exchange (ADL 200641).

Beaver Creek is identified as an anadromous stream (Anadromous Waters Catalog # 244-30-10010-2025) in the Department of Fish & Game Anadromous Waters Atlas in Quad Kenai C-3 and Kenai C-4. The creek is listed as important to the spawning and rearing of coho, chinook, Dolly Varden and sockeye salmon.

The subject parcel is adjacent to Beaver Creek Alaska Subdivision. Lots in this state subdivision were first made available in Auction #18 in May 1961. Lots were available for 55 year leases, except for a select number that were only available for sale. Lots have been reoffered in a number of auctions since, along with other lots in the subdivision not originally offered. Selected lots in Blocks B and C were reoffered for lease in Auction #74 in November 1963. In June 1965, two commercially classified lots were offered for lease in Auction #104. In addition, lots were offered for sale and lease in Auction #137 in June 1967 for commercial and residential purposes. 52 lots were offered for lease in November 1978 in the first open-to-entry program offering (Auction #239). The leases had a term of five years, renewable for one additional term, and could be converted to sale at any time. Unsold parcels were subsequently available for sale over-the-counter. A large number of lots were also offered in Auction #425 in 2002, and other lots were subsequently offered in Auction #432 (2003), Auction #435 (2005) and Auction #460 (2009). Of the lots in this subdivision, approximately $\frac{3}{4}$ of the lots have been sold or are under contract to purchase, and the remainder are still owned by the state.

There is a history of state disposals in the area. Land immediately adjacent to the subject parcel to the south and west was purchased from the state by the City of Kenai in 1980 (ADL 72801). This land was purchased for the construction and maintenance of a well site to provide water services to local residents. The City of Kenai also purchased lands just south of the Kenai Spur Highway from this parcel, for which patent was issued in 1981 (ADL 203864). Attachments A and B indicate these disposals. Other

surrounding lands were conveyed directly from the federal government to private owners.

Land to the southwest of the parcel in the adjacent section (ADL 19472) was patented to the City of Kenai in 1964 under AS 38.05.347 (repealed in 1976) after the city's incorporation in 1962, for municipal entitlement. Land to the north and northeast of the parcel was patented to the Kenai Peninsula Borough by municipal entitlement in 2007. See Attachment B.

Reservations for Beaver Creek exist for other parcels in the immediate area. An easement was established for the area along Beaver Creek 100 feet upland of the ordinary high water mark on both banks of the creek for the purposes of public access and fish and wildlife habitat protection in the conveyance of ADL 203864. A 400 foot wide corridor embracing Beaver Creek was reserved from the conveyance of the surface estate to the Kenai Peninsula Borough for the purposes of public access and fish and wildlife habitat in accordance with the Amended Final Finding and Decision issued January 21, 1985. The result of this reservation is a State of Alaska owned parcel in Section 31 (see Attachments A and B: "State of Alaska creek retention"). These reservations were made at the request of the Alaska Department of Fish and Game in accordance with the Kenai River Comprehensive Management Plan adopted in 1986; however, no explanation is given for the different widths reserved for the other conveyances. No reservations for Beaver Creek exist for City of Kenai municipal entitlement parcels under ADL 19472. The Kenai River Comprehensive Management Plan that calls for reservations along the stream corridor was not in existence at the time that these municipal entitlements were patented in 1964. Other surrounding lands for which no reservation was made for Beaver Creek were conveyed directly from the federal government to private ownership (See Attachments A and B).

In 2010, the City of Kenai submitted an application (ADL 231036) for that portion of the SE ¼ of Section 36, T6N, R11W, SM lying north of Kenai Spur Highway, excluding ASLS 76-118 and Beaver Creek Alaska Subdivision (EPF 3-9), containing approximately 29.41 acres. Intended use of the land is for the placement of additional wellheads on the parcel and protection of the watershed around these wellheads and the current wellhead on ADL 72801, a parcel adjacent to the parcel in question.

Planning, Classification and Mineral Orders:

DNR Land Use Plan: The subject parcel is located within the Kenai Area Plan, Region 5, Unit 481. The designated land use within this management unit includes General Use. Land designated General Use may be conveyed to municipalities, as set out in Chapter 3, Page 5 of the plan. The management intent states that the corridor should

be maintained or subject to a management buffer along the creek if the parcel is conveyed out of state ownership. Table 2.4 on Page 54, Chapter 2 of the Kenai Area Plan calls for building setbacks of 100 feet along anadromous streams: where feasible and prudent and for non-water dependent uses only.

This portion of Beaver Creek is also included in the Kenai River Comprehensive Management Plan, Map E and Table 4-5. Recommendation 4.5.4.5.2 of the plan indicates that “a buffer should be retained in State or Borough ownership or the land should be subject to a vegetated conservation easement of 200 feet for fish and wildlife purposes.”

Land Classification: The subject parcel was classified Resource Management on January 7, 2000 under Land Classification Order SC-99-002, pursuant to the Kenai Area Plan, 2000.

Land Classification Order: If approved by the Commissioner, the land classification order will be amended to reclassify the subject parcel from Resource Management to Settlement. This action only affects the subject parcel. If the Department approves the proposed sale, the land classification order will accompany the Final Finding and Decision. The land classification is a separate action, occurring concurrent with the signing of the Final Finding and Decision.

Alaska Coastal Issues: The subject parcel is located within the the Kenai Peninsula Borough Coastal Management District. The department will notify the Kenai Peninsula Borough coastal management coordinator of this proposed action as part of the public notice.

Mineral Order: Not applicable to this decision; the subsurface estate is owned by Cook Inlet Region, Inc.

Local Planning: The Kenai Peninsula Borough Comprehensive Plan, adopted June 2005, calls for a 50 foot habitat protection zone along anadromous creeks and streams. This setback requirement was codified in borough code at Chapter 21.18. The City of Kenai Comprehensive Plan, adopted November 2003, designated the subject parcel as Rural Residential. The adjacent well site previously conveyed to the City of Kenai is designated Conservation/Open Space. The plan is currently being updated, and these two parcels are proposed to be redesignated to “Institutional” land, which is intended to provide “an area in which government and tax exempt institutions can offer social and cultural amenities to the citizens of the community. The primary use is public, non-profit, and quasi-public uses including government offices and facilities, schools, churches,

and other community-service oriented facilities.” The city expects to complete revisions to the plan in 2012.

Easements and Setbacks: Current public easements on the property include the following, which the property will be made subject to:

- ADL 51055: a right-of-way 100 feet in width and 4,325 in length issued to the City of Kenai for an access road to a gravel pit site, also known as Shotgun Drive.
- ADL 80086: a public utility easement 20 feet in width issued to Homer Electric Association for an overhead electric distribution line.
- ADL 224182: a public utility easement 20 feet in width to be issued to Homer Electric Association for an overhead electric distribution line.
- A section line easement exists within this parcel: The easement extends from the section line on the parcel’s eastern boundary 50 feet into the parcel. Adjacent to the parcel boundary, there is also a section line easement extending out 33 feet on the eastern side of the section line. See Attachment A.

Beaver Creek runs through this parcel. The parcel will be subject to the following additional easements because of the creek:

- A public access easement of 50 feet from the ordinary high water mark along both sides of the creek, consistent with AS 38.05.127. As noted above, this easement is in compliance with the Kenai Peninsula Borough Comprehensive Plan requirements.
- A vegetated conservation easement of 200 feet on either side of Beaver Creek and measured from ordinary high water for the purpose of riparian protection per the Kenai River Comprehensive Management Plan and the Kenai Area Plan. The only allowable improvements within the 200-foot easement are those necessary for a municipal well(s).
- A building setback 100 feet in width on either side of Beaver Creek per the Kenai Area Plan. The only allowable improvements within the 100-foot building setback are those necessary for a municipal well(s).

ADL 51055, ADL 80086, and ADL 224182 will need to be surveyed as part of the required survey of the parcel. There appears to be unauthorized access occurring within the southeast portion of the parcel along an unapproved apparent extension of Bound Brook Drive. Improvements will have to be surveyed and proper authorization established by a public access easement (to be established by platting access 60 feet in width as part of the survey) or by utilization of the nearby section line easement. A final determination on how to address this issue will be made in the Final Finding and Decision, based on comments received during the Public Notice period.

Access: Access to the parcel is from the Kenai Spur Highway and Shotgun Drive (ADL 51055).

Access To and Along Public or Navigable Water: Beaver Creek runs through this parcel. The parcel will be subject to a public access easement of 50 feet from the ordinary high water mark along both sides of the creek, consistent with AS 38.05.127.

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

Reservation of Mineral Estate: Not applicable to this decision; the subsurface estate is owned by Cook Inlet Region, Inc.

Hazardous Materials and Potential Contaminants: There is no known contamination of, or hazardous materials on, the subject parcel. The Department recognizes there are potential environmental risks associated with development that may occur when public land is transferred into private ownership. The need to offer quality and accessible land to the public outweighs this risk.

The State of Alaska makes no representations and no warranties, express or implied, as to the presence or absence of hazardous substances, hazardous wastes, contaminants, or pollutants on the land proposed here for conveyance. The State of Alaska does not assume any liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants nor for the remediation of the site should such substances ever be identified. The subject land is sold on an "as is" basis and in the condition as of the date of sale.

Performance Guaranties and Insurance: Not applicable to this decision.

Survey: Preliminary Survey Determination #2011-3 dated December 23, 2011 from the Division's Survey Section determined the parcel to be unsurveyed. Following DNR

approval of the proposed sale of the subject parcel, the applicant will be required to complete an Alaska State Land Survey to state standards at the applicant's expense. The survey must be approved by the Department and the Kenai Peninsula Borough and filed in the appropriate recording district.

Compensation/Appraisal: The parcel will be disposed of at fair market value. AS 38.05.810(a) allows for purchase of land for public and charitable use at less than fair market value. However, the subject parcel is School Trust Land and therefore must be sold at appraised fair market value pursuant to Department Order 143. The valuation date of the appraisal will be set as the date of issuance of an approved Final Finding and Decision or subsequent Amended Final Finding and Decision (if needed). At the appropriate time, the Division will notify the applicant to begin the appraisal process and will provide a list of approved appraisers. The applicant's appraiser is required to contact the Division's Appraisal Unit for appraisal instructions in advance of the appraisal. The applicant bears the cost of appraisal.

Agency Review: Division Review was conducted from January 20 to February 6, 2012. No comments were received. Agency review was conducted from February 16 to March 8, 2012. The Department of Transportation and Public Facilities asked for the legal description to make sure the parcel excluded the road right-of-way. We were provided with the right-of-way drawings for reference. The Department of Fish and Game asked that a 200-foot conservation easement be reserved on either side of the creek, with a 100-foot building setback for structures on either side of the creek, as recommended in the Kenai Area Plan and Kenai River Comprehensive Management Plan. No other comments were received. Comments received during the Public Notice period will be considered and addressed in the Final Finding and Decision.

Discussion: The Department's Division of Parks and Outdoor Recreation Office of History and Archaeology (OHA) believed that archaeological resources might be present on this site. A site investigation was conducted on May 30 and 31, 2012 pursuant to the DMLW/OHA Memorandum of Understanding established in July 2007. Archaeological Survey Unit Short Report 2012-5 detailing the findings was received on June 13, 2012, which indicates that there are no cultural resources on the parcel.

Alternatives: The following alternatives were considered.

Alternative 1: Sell the parcel as proposed in this decision. If it is in the best interest of the public, AS 38.05.810(a)(1) allows a political subdivision of the state to purchase State land for a public and charitable use. Conveyance of the parcel would provide watershed protection for the City of Kenai's current wellhead and allow them to expand and construct additional wellheads. This would provide additional water resources for

the city and is the preferred alternative. This alternative is dependent on the reclassification of this parcel of state land. This document will accompany the Final Finding and Decision.

Alternative 2: Sell a different parcel to the city to develop additional wellheads. This would not provide the watershed protection measures for future municipal wells or for the existing well on the adjacent parcel that the city is seeking with this purchase. This alternative is not preferred.

Alternative 3: Lease the parcel to the city for a public and charitable use. This would not meet the city's long-term needs and would result in the state owning a municipal well and associated facilities at the expiration of the lease. Leasing the parcel would not generate the same amount of revenue for the state as a sale. This alternative is not preferred.

Alternative 4: Sell the subject parcel under a different disposal program and a different settlement use, such as residential. Disposing of the subject parcel to facilitate more intensive development would potentially jeopardize protection of Beaver Creek and would not comply with local planning objectives. This alternative would fail to meet the applicant's need for watershed protection and development of future municipal wells. This alternative is not preferred.

Alternative 5: The Department will take no action and retain the subject parcel. The applicant would be unable to develop additional wellheads on the parcel for public water resources. The City of Kenai Comprehensive Plan, for which an update is expected to be completed in 2012, proposes that the parcel be classified institutional. This classification is for lands to be used by the public, non-profits and other facilities that provide community services. State retention would not further the city's goals for meeting future municipal water needs. This alternative 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 is consistent with the Kenai Area Plan and provides accessible, quality land for public and charitable use. Transferring this parcel to private ownership complies with the objectives of the Kenai Area Plan.

After public notice, the subsequent review process may result in changes to the preferred alternative, or a decision to stop the action. A Final Finding and Decision will address any significant issues or concerns raised during the public review process.

The state does not guarantee the condition or usefulness of the subject parcel. The land is offered “as is” with no guarantees, expressed or implied, as to its suitability for any planned or potential use, or as to the availability of any public or private services.

Stipulations: The applicant will be required to complete the following actions.

1. Within 60 days from the date of issuance of the Final Finding and Decision, the applicant must submit to the Department the following:
 - a. Reimbursement of the cost of publishing the public notice in the Anchorage Daily News and the Peninsula Clarion. Public notice costs must be paid before the state will authorize the applicant to proceed to the next stage in the process.
2. Within six months from the date of notice that the Department has issued the notice to proceed to survey, the applicant must hire a surveyor and the surveyor must apply for Survey Instructions from the Department.
3. Within two years after issuance of the Survey Instructions, the applicant must submit a completed survey to the Department for review. The applicant must have the survey approved by the Kenai Peninsula Borough as set forth in the Survey Instructions.
4. Within two years from the date the Department has issued a notice to proceed to appraisal, the applicant must hire an appraiser and the appraiser must submit to the Department a completed fair market value appraisal in accordance with appraisal instructions issued by the Department.
5. Upon approval of the appraisal by the Department, a notice to proceed to purchase will be issued to the applicant. Within the time period specified in this notice, the applicant must submit to the Department the following:
 - a. A completed Declaration of Intent Form and \$100 document handling fee and
 - b. Payoff amount or minimum 5% deposit for the issuance of a contract for sale.

The Department proposes to reserve a public access easement of 50 feet from the ordinary high water mark, according to AS 38.05.127, a building setback of 100 feet,

and a management easement of 200 feet pursuant to the Kenai Area Plan and the Kenai River Comprehensive Management Plan. The only allowable improvements within the 200-foot management easement and the 100-foot building setback are those necessary for a municipal well(s). All easements and setbacks are measured from ordinary high water on each side of Beaver Creek.

If the applicant fails to complete any of the above mentioned stipulations within the time limits specified, an Amended Final Finding and Decision and further public notice may be required prior to the completion of the purchase unless the delay and extenuating circumstances are pre-approved by the Department. The effective date of the appraisal will be adjusted to the date of issuance of the Amended Final Finding and Decision. The applicant is responsible for submitting an updated appraisal and for any additional appraisal and public notice costs.

Failure on the part of the applicant to make a good faith effort to comply with the stipulations and terms of the Final Finding and Decision or an Amended Final Finding and Decision may result in the closure of the public and charitable use purchase case unless the delay and extenuating circumstances are approved in advance by the Department.

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:



Lauren Rouen, Natural Resource Specialist II
Land Sales and Contract Administration Section
Division of Mining, Land and Water

6/26/2012

Date of Signature

Recommend Approval by:



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

6/26/2012

Date of Signature

Submittal of Public Comments: Pursuant to AS 38.05.945, the public is invited to comment on the proposed action. Copies of this Preliminary Decision may be obtained from:

1. the Division of Mining, Land and Water, Land Sales and Contract Administration Section, 550 West 7th Avenue, Suite 640, Anchorage, AK 99501;
2. the Department's Public Information Centers in Juneau, Fairbanks, and Anchorage;
3. the Department's website at www.dnr.alaska.gov/mlw/landsale/;
4. Lauren Rouen by phone at (907) 269-8851, by email at lauren.rouen@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, attention Lauren Rouen, at the above address, on or before 5 PM Friday, August 3, 2012 in order to ensure consideration. All written timely responses will be considered. Comments may be submitted by letter, facsimile (907.269.8916) or email (lauren.rouen@alaska.gov.)

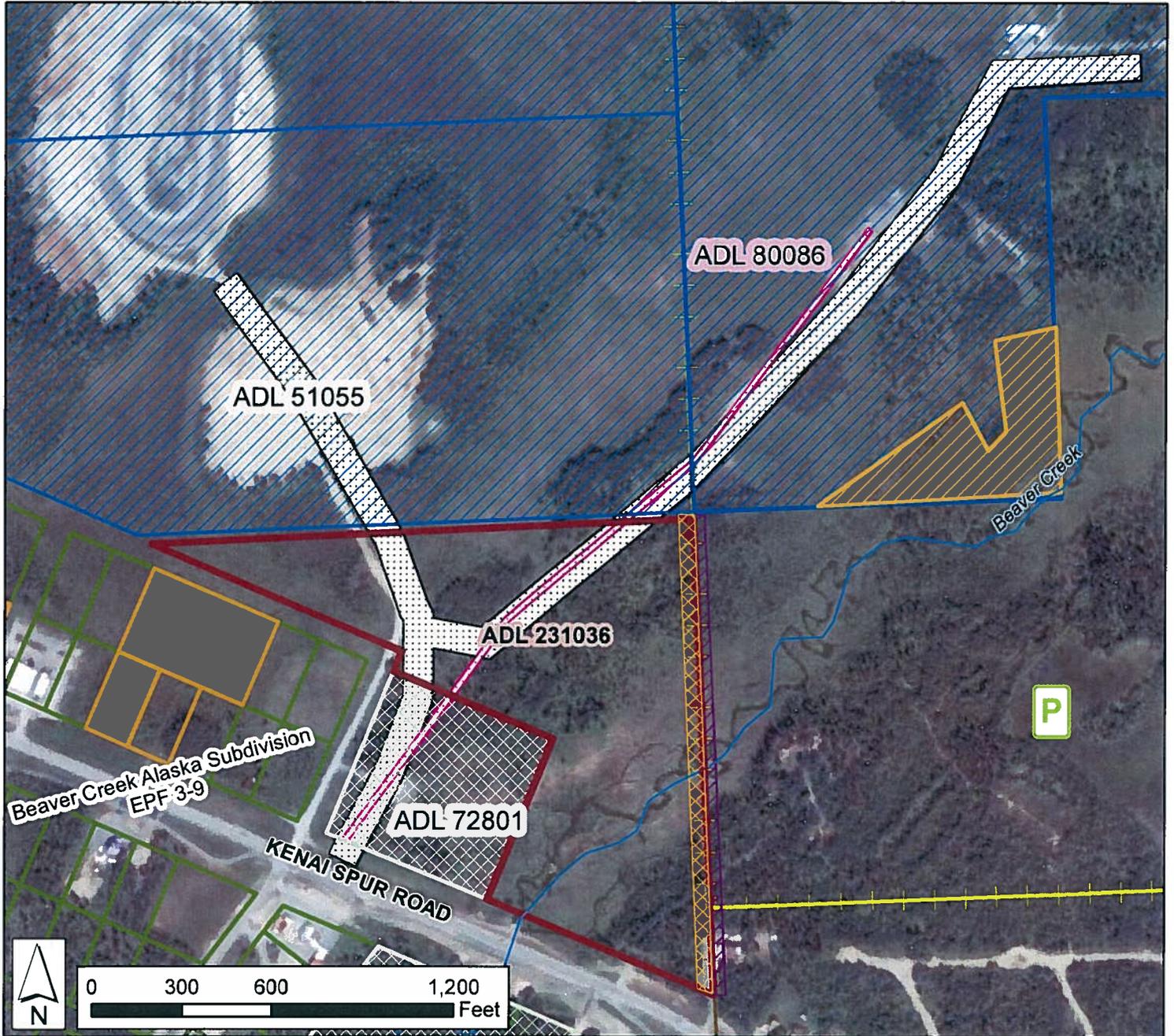
Only persons who submit timely written comments during the public notice period will be eligible to file an administrative appeal of the Final Finding and Decision.

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 or by TDD at (907) 269-8411 no later than Wednesday, July 25, 2012.

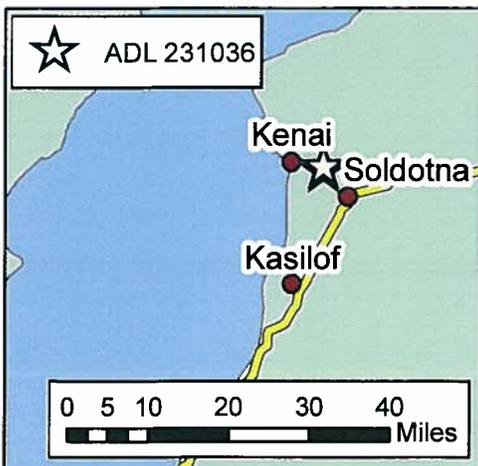


Attachment A: ADL # 231036

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



Seward Meridian T6N, R11W, Section 36



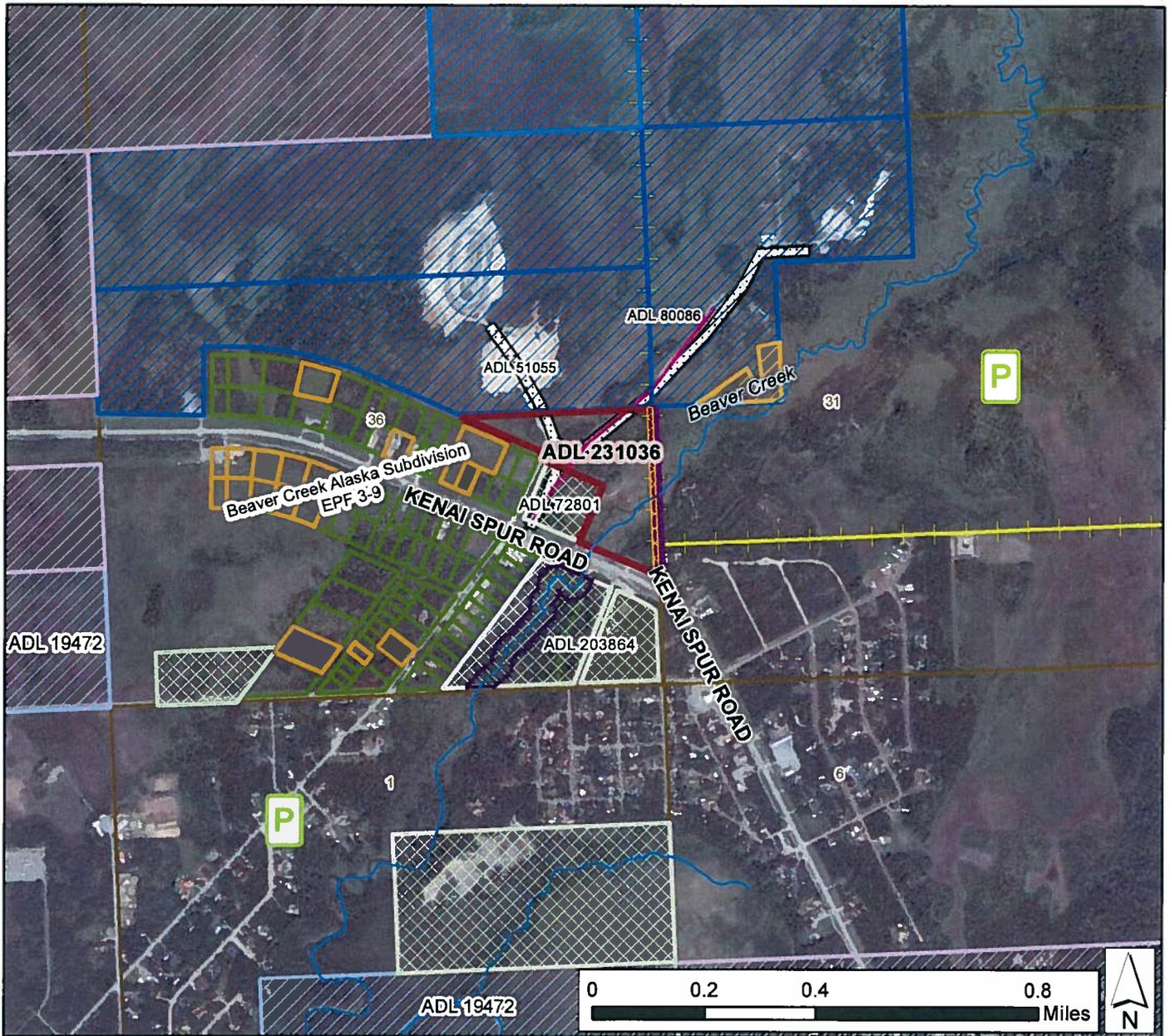
- Anadromous stream
- City of Kenai boundary
- 50 ft section line easement
- 33 ft section line easement
- Section
- Easements**
- ADL 51055
- ADL 80086
- Private
- City of Kenai
- State of Alaska creek retention
- ADL 231036
- State of Alaska
- Kenai Peninsula Borough
- Privately owned-conveyed directly by U.S.

Map produced by
L. Rouen 6/22/2012.



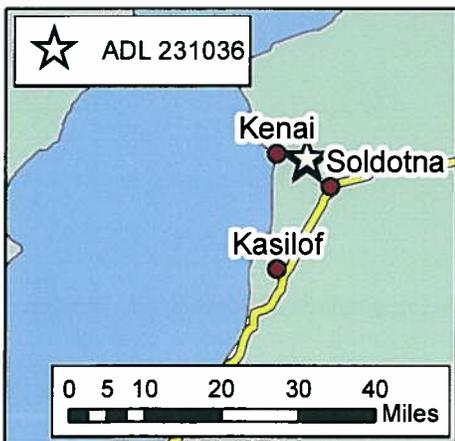
Attachment B: ADL # 231036

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



Map produced by L. Rouen 6/22/2012.

Seward Meridian T6N, R11W, Section 36



- | | |
|-------------------------------------------|---------------------------------|
| City of Kenai boundary | Anadromous stream |
| Cook Inlet Region, Inc. | Mental Health Trust |
| 50 ft section line easement | Private |
| 33 ft section line easement | City of Kenai |
| 200ft easement around creek | State of Alaska |
| Section | State of Alaska creek retention |
| Easements | |
| ADL 51055 | ADL 231036 |
| ADL 80086 | Municipal Entitlements |
| Privately owned-conveyed directly by U.S. | City of Kenai |
| | Kenai Peninsula Borough |