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

PRELIMINARY DECISION

Proposed Land Offering
Albert Creek Remote Recreational Cabin Sites Project Area - ADL 417478
AS 38.05.035 (e), AS 38.05.045, and AS 38.05.600

COMMENT PERIOD ENDS 5:00PM, THURSDAY, AUGUST 25, 2011

I. Proposed Actions

The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water is to offer up to 1,000 acres of State-owned land for sale within the Albert Creek project area (ADL 417478).

Attachment A: Public Notice

Attachment B: Area Map

Located within the Department's Northern Region approximately 100 miles northeast of Fairbanks (Alaska's third largest population base), and 1 mile north of Central, Alaska, within Township 9 North, Range 14 East; Fairbanks Meridian, the project area encompasses approximately 9,000 acres and includes a portion of Albert Creek. See Attachment B: Area Map for a graphic depiction of the project area's location.

The Division proposes to offer up to 50 authorizations to stake parcels ranging from 5 to 20 acres in this project area, for a maximum of 1,000 acres sold through this offering. Under AS 38.05.600 Remote Recreational Cabin Sites, authorizations will be awarded by lottery. When so authorized, entrants may stake a parcel within a defined staking area, lease the staked parcel during the survey, platting, and appraisal process, and convert the lease to a sale at a purchase price established by the appraised value, plus associated fees. This offering may be conducted in phases.

After the staking period closes, the Division may also identify and survey additional parcels in a project area known as administrative parcels. Administrative parcels are not restricted to the 5-acre minimum and 20-acre maximum. Parcels that are staked but later relinquished, terminated, or expired before converting to sale, and parcels administratively created by the Division, will be offered at public auction or by another method under AS 38.05.045 Generally [Sale of Land]. The total number of acres and total number of parcels resultant from this offering will not exceed the maximum number specified for sale by this proposal.

This proposed sale originates from the recommendation pursuant to Classification Order NC-82-027, which classifies the area as Settlement. There are no related actions with this proposal.

Pursuant to AS 38.05.945 Notice, the public is invited to comment on this proposal. See the Submittal of Public Comments section at the end of this document and Attachment A: Public Notice for details on how to submit comments for consideration prior to the comment period deadline. If, after consideration of timely written comments, this proposal is approved, the Division will issue a Final Finding and Decision.

II. Authority

The State of Alaska, Department of Natural Resources (DNR) has the authority under AS 38.05.035 (e) Powers and Duties of the Director and AS 38.05.045 Generally [Sale of Land] to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State. The Land Sales and Contract Administration Section of the Division of Mining, Land, and Water (DMLW) is delegated authority to offer parcels under AS 38.05.600 Remote Recreational Cabin Sites, 11 AAC 67.805 Designating Areas for Remote Recreational Cabin Sites, and 11 AAC 67.815 Offering Remote Recreational Cabin Sites. The Division is also authorized to offer through other methods of sale under AS 38.05.045 any additional administrative parcels as well as any staked parcels later relinquished, terminated, or expired during the staking and leasing periods.

III. Administrative Record

The project file for the Albert Creek project area (ADL 417478) constitutes the administrative record for this action. Also incorporated by reference are:

- Alaska Interagency Wildland Fire Management Plan, amended October 1998;
- 2010 Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes; and
- 1979 Exploratory Soil Survey of Alaska.

IV. Scope of the Decision

The scope of this proposal, under the statutes and regulations described in the Authority section, is limited to the Division's proposal to offer State-owned land within the Albert Creek project area for sale through a future, public Remote Recreational Cabin Sites offering. The Division proposes to open the area for up to authorizations to stake parcels under AS 38.05.600 Remote Recreational Cabin Sites and 11 AAC 67.800 Qualifications for Remote Cabin Site - 11 AAC 67.990 Definitions. The Division may also identify and survey additional parcels in a project area to be sold at public auction under AS 38.05.045 Generally [Sale of Land]. The number of staked and additional surveyed parcels will not exceed the total number of authorizations offered, nor total number of acres to be sold. The Division does not intend to impose deed restrictions to control post-patent land use.

There may be related actions with this proposal as described in the Previous Actions section. The approval and succession of the primary proposed action detailed in this Preliminary Decision are contingent on the completion of related actions, as described throughout this document.

V. Description

Location: The project area is located approximately 100 miles northeast of Fairbanks and 1 mile north of Central. See Attachment B: Area Map for a graphic depiction of the approximate location of the project area.

USGS Map Coverage: The project area is within the US Geological Survey (USGS) inch-to-mile maps Circle C-2.

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

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

Native Regional and Village Corporations: Doyon Limited is the regional corporation for the Albert Creek project area. The village of Circle is within 25 miles of this project area and will be notified of the proposed project. Courtesy notification will be distributed to the village corporation and council in Birch Creek, who potentially pursue traditional uses within the project area.

Legal Description: The Albert Creek project area, depicted in Attachment B: Area Map, encompasses approximately 9,000 gross acres within:

- Township 9 North, Range 14 East, Fairbanks Meridian,
  - Section 1 in its entirety;
  - Sections 7-8 in their entirety;
  - Section 12 in its entirety;
  - Section 13, W ½, W ½ NE ¼;
  - Sections 14-22 in their entirety; and
  - Section 23, W ½ W ½, NE ¼ NW ¼, and N ½ NE ¼.

Title: Information from Title Report 1830, current as of April 13, 2011, indicates the State of Alaska, Department of Natural Resources, holds fee title to the land and mineral estate for the subject land as described in the title report under Tentative Approval, dated October 23, 1980, subject to valid existing rights, including reservations, easements, and exceptions in the U.S. Patent or other state or federal conveyance, and in acts authorizing the issue thereof, easements, right-of-ways, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any, including, but not limited to, those set out below.

These lands were acquired under Statehood entitlement, General Purpose Grant, under the Act of July 7, 1958, 72 Stat. 339 as amended. The lands are subject to standard federal reservations.

The Bureau of Land Management determined that waters within Township 9 North, Range 14 East, Fairbanks Meridian are non-navigable for title purposes.

Private parcels and State third-party interests will be depicted on staking maps in land sales brochures and enclosed in staking packets distributed to authorized stakers.

Retained Interest: In accordance with AS 38.05.125 Reservation [of Rights to Alaska], the State retains ownership of all 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. Access reserved to these retained interests is superior to any and all surface uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, AS 38.05.130 Damages and Posting of Bond also provides that the surface owner will be compensated for damages resulting from mineral exploration and development.

Physical Characteristics: The following paragraphs describe the area's physical characteristics. In addition to file research, a field inspection was conducted by snow machine on March 24, 2011.

Topography: The project area is roughly bisected by Albert Creek, which runs west to east. The area features rolling and relatively flat terrain crossed by two creek drainages. Elevation ranges from 900 feet above sea level at Albert Creek to 1,500 feet above sea level at higher elevations.

Geologic Hazards: There is also potential for discontinuous, ice-rich permafrost to be present in area soils.

Soils: Soils in the area are identified by the 1979 *Exploratory Soil Survey of Alaska*. Soils in the project area are histic pergelic cryaquepts. The dominant soils are poorly drained with shallow permafrost on rolling uplands and long foot slopes. Soils have a thick peaty surface over silt loam. Depth to ice-rich, perennially-frozen silt ranges from about 10 to 20 inches. In general, soils in the project area are poorly drained in low-lying areas and better drained at higher elevations.

Vegetation: Vegetation is highly varying and includes mixed spruce, birch, and aspen along water, and tussocks in low-lying, poorly-drained areas. The 2011 field inspection revealed most of the project area was burned by a wildland fire in 2004. Isolated patches of hardwoods throughout the project area and spruce along Albert Creek remain intact and hardwood vegetation in these areas is regenerating.

Fire Hazards: The 2011 field inspection revealed most of the project area was burned by a wildland fire in 2004. The primary fuel for the fire was black spruce. Vegetation in these areas is regenerating. Isolated patches of hardwoods throughout the project area and some spruce stands along Albert Creek remain intact.

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

hardwood stands with access to water, such as those areas along Albert Creek and the isolated patches remaining after prior wild land fire activity.

Fire management options and policies for the area are identified in the Alaska Interagency Wildfire Management Plan available from the Department of Natural Resources (DNR) Division of Forestry. The current fire management option for the project area is "Full." The policy on areas with the Full management option reads, "Fires occurring within or immediately threatening this designation will receive aggressive initial attack dependent upon the availability of suppression resources."

It is important to note, however, that the DNR Division of Forestry warns that DNR, Division of Mining, Land, and Water inform participants there is no guarantee their property will be spared from harm from a wildland fire, even if the area is designated "Full" fire management option.

Flood Zone: Federal Emergency Management Agency Flood Insurance Rate Maps are not available for the project area. However, there is potential for seasonal flooding and erosion of parcels adjacent to water bodies, especially in low-lying areas. Interested parties are encouraged to research this issue and inspect the project area prior to applying. We will continue to investigate and consider reserving areas prone to excessive flooding from staking.

Anadromous Waters: The project area does not contain any waters listed in the 2010 Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes.

Background: AS 38.05.600 Remote Recreational Cabin Sites authorizes lease and sale of Remote Recreational Cabin Sites. Article 8B of 11 AAC 67 Remote Recreational Cabin Sites and other related regulations allow the Division to offer authorizations to select and stake Remote Recreational Cabin Sites in designated areas. The Division offered this program to Alaskans annually from 2001 through 2010 and may be offered biennially beginning in 2012.

To begin, the Division announces a lottery application period for staking areas pursuant to AS 38.05.945 Notice. The notice describes availability of land sale brochures providing conditions of the offering. Participants submit applications for a lottery, a method of sale that gives all eligible members of the public an equal chance at acquiring a staking authorization for an area. Authorizations to stake a parcel within a project area are awarded to allow an individual to stake a parcel of State-owned land within a designated project area. Lottery winners are issued a staking packet that includes instructions for properly staking a parcel and other information pertaining to the program and specific staking area. Authorized stakers have a certain length of time to enter onto the land, stake a parcel of their choice in compliance with the staking instructions, and file a lease application. If approved, a lease is issued to the applicant and the lessee pays lease fees and deposits funds to cover survey, platting, and appraisal costs. The parcel is then surveyed, platted, and appraised while leased. Upon successful completion of the lease terms and upon completion of the survey, platting, and appraisal, the lessee is given the option to convert from lease to sale at a purchase price based on the appraised value, plus associated fees, with credits given for the survey and platting deposits collected while the parcel is under lease. The other option is to renew the lease for a second 5-year term at a cost of $1,000 per year. These lease payments do not go towards the

purchase price. The lessee can purchase the parcel at any time during the 5-year term. If the lessee has not purchased the parcel by the time the 5-year lease expires, their interest is terminated.

After the staking period closes, the Division may also identify and survey additional parcels in a project area, described as administrative parcels. Additionally, staked parcels later relinquished, terminated, or expired before converting to sale may be surveyed for future offering. Such additional, administrative parcels are not restricted to the 5-acre minimum and 20-acre maximum. However, the total number of acres and total number of parcels will not exceed the maximum number specified for sale by this proposal. These administrative parcels will be offered at public auction or by another method of sale under AS 38.05.045 Generally [Sale of Land]. The offering may be conducted in phases.

Offering administrative parcels under AS 38.05.045 Generally [Sale of Land] allows the Division to offer its surveyed parcels under a uniform set of statutes, administrative regulations, and policies in a statewide offering of varied parcels wherein successful buyers will purchase the property at a minimum price established by its appraised value, which takes into account the benefits of the surveying and platting. Without this change in method of sale, 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 the Division for the cost of surveying, platting, and appraising the site within 30 days of being notified of a successful purchase at public auction at initiation of purchase, in addition to the usual minimum down payment. That is to say, that the State would not finance the reimbursable survey, platting, and appraisal costs. This requirement creates an unrealistic burden upon purchasers and hinders the marketability of the property.

The sale of additional surveyed parcels at public auction is administered by the Subdivision Sales program within DNR DMLW's Land Sales and Contract Administration Section. The Division will announce an offering pursuant to AS 38.05.945 Notice. The notice will describe availability of land sale brochures providing procedures and conditions.

> *History*: The only privately-owned parcel in the proposed Albert Creek project area was offered by the State of Alaska under the State's Remote Parcel statutes. Authorizations to stake Remote Parcels were first offered by lottery in 1982 with additional authorizations offered over the counter in 1983 and 1984. A total of 1 parcel was conveyed within the project area as a result of the past State offerings.
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> A field inspection conducted by air on March 24, 2011 revealed most of the project area was burned by a wildland fire in 2004, leaving only isolated patches of hardwoods throughout the project area and mature spruce along Albert Creek.

<u>Planning and Classification</u>: Lands within this unit are classified Settlement under Land Classification Order (CL) No. NC-82-027.

The unit is classified Settlement and State-owned lands within the unit are appropriate for disposal, including sale. Lands to be retained in public ownership, conditions, and reservations will be issued in the land sale brochure and area-specific staking instructions and maps.

Mineral Order: No mineral activity has been identified on these lands and the Albert Creek project area is closed to mineral entry under Mineral Closing Order (MCO) No. 201 in accordance with AS 38.05.185 Generally [Mining Rights] and AS 38.05.300 Classification of Land. 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 land estate access to these resources. However, AS 38.05.130 Damages and Posting of Bond stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

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

Local Planning: Where they exist, local zoning and related ordinances govern any land use restrictions, as with other private land. The entirety of the project area is within the Unorganized Borough and subject to the State of Alaska platting and zoning authority. No local planning or zoning currently exists for this area. The Division does not intend to impose deed restrictions to control post patent use.

Other Constraints: There are no other known constraints at the time of this Preliminary Decision. The Division will continue to research and identify constraints throughout the public comment period and up through the point of offering.

Traditional Use Finding: In accordance with AS 38.05.830 Land Disposal in the Unorganized Borough, a traditional use finding is required for project areas, such as the subject, that are located outside an organized borough (within the Unorganized Borough). Prior research indicates the lands within the proposed project area are primarily used for recreation, hunting bear and moose for personal use, and trapping. There is one existing privately-owned parcel within the project area.

Offering this project area may lead to a slight increase in hunting, fishing, or resource harvest pressure. However, the Division does not anticipate changes in the types of traditional uses of the land. The increase in pressure on resources is minimized by offering opportunity for low-density settlement over a large project area, proximity to retained, State-owned lands, and protection of riparian and shoreline habitat with setbacks and easements along public and navigable water bodies. Impacts on existing resource users will be minimized by protecting public access along public or navigable water bodies and by limiting the number of staking authorizations allowed.

Access To, Within, and Beyond Project Area: Primary access to the area is by highway vehicle via the Steese Highway to Central. From there, access is by snow machine or ATV along several trails within the project area. The portion of ADL 409468 that runs toward the western part of the proposed project area can be accessed from Crooked Creek, just east of downtown

Central. The trail is well brushed and there are several other trails within the proposed project area that branch off of this providing additional access. We located one of the "RST" rights-of-way listed in Department land records under AS 19.30.400 Identification and Acceptance of Rights-of-Way (RST 237), but it was difficult to locate and was blocked by deadfall black spruce, making passage very difficult on snow machine. We did not locate the other RST 467 in spite of intensive searching. We also searched from the Steese Highway for the trail easements in the eastern part of the proposed project area but could find no indication of them. Refer to the Easements, Setbacks, and Reserved Areas subsection of this document for additional information.

Review of the title report and land status records indicates there is one easement issued by the Division in the area (ADL 409468) that covers several trails, and there are there two RS 2477 trails (Circle - Fairbanks Trail (RST 237) and Central - Circle Pack Trail (RST 467)). Parcels staked along the trail will be subject to an easement as described in the Easements, Setbacks, and Reserved Areas subsection of this document.

Additional legal access to, within, and through the project area is via travel across unreserved State-owned land, along section line easements, or other easements reserved in conveyances to third parties. Access across unreserved State-owned land without a permit, along with pertinent restrictions, is governed by 11 AAC 96 Provisions for General Land Use Activity.

The Division will, at its discretion, reserve an easement centered on existing trails that have not been assigned an ADL or RST number, or otherwise serialized, through or along any staked site. Section line easements will be reserved on each side of surveyed or protracted section lines that are within or along staked sites. Stakers will be instructed not to stake across surveyed section or township lines or across trail easements that have been assigned an ADL or RST number. Easements along interior parcel lines will also be reserved in order to ensure access between staked parcels. Lastly, a survey easement will be reserved to control monuments within parcels in order to allow for access to recover monuments of record for the purposes of surveying and establishing property boundaries in the vicinity of a parcel.

The Division will continue to research the location and status of access to and through the project area throughout the public comment period and up through the parcel survey. The reader is referred to the Easements, Setbacks, and Reserved Areas subsection of this document for more detailed information.

Access To and Along Public or Navigable Water: In accordance with AS 38.05.127 Access to Navigable or Public Water, the Division will determine if a body of water or waterway is a navigable or public waterway and will establish easements or right-of-ways as necessary to ensure unobstructed access to and along the body of water.

For the purposes of reserving access to public or navigable water under AS 38.05.127 Access to Navigable or Public Water and in accordance with its associated regulations, 11 AAC 51.035 Determination of Navigable and Public Water - 11 AAC 51.045 Easements to and Along Navigable and Public Water, a continuous easement extending upland from the ordinary high water mark will be reserved within parcels along waters determined to be public or navigable. An alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult.

Lakes larger than 50 acres in size or streams larger than 50 feet in width are navigable and lakes larger than 10 acres in size or streams larger than 10 feet in width are public for purposes of AS 38.05.127 Access to Navigable or Public Water. In addition, waters may be determined public or navigable water consistent with AS 38.05.965 (18) Definitions [General Provisions].

Attachment B: Area Map identifies water bodies determined to be public or navigable for the purposes of this proposal. If, at the time of field survey, a water body not depicted or identified on Attachment B is determined to be public or navigable, a public access easement will be reserved upland from the ordinary high water mark, in accordance with AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51.035 Determination of Navigable and Public Water. If a water body determined to be public is located entirely within a parcel, a public use access easement from the parcel boundary to and along the water body will be reserved and dedicated at the time of field survey. This is unlikely to occur given that staked parcels can only be up to 20 acres in size. However, as administrative parcels may be larger than 20 acres and water bodies smaller than 10 acres in size may be administratively determined public if they contain important public resources, it is possible that this type of public use access easement may be reserved.

If at the time of survey, a water body depicted or identified on Attachment B is determined to not be public or navigable, the public access will be extinguished. However, if public access is required, a public access easement in accordance with 11 AAC 51.015 Standards for Public Easements will be imposed on or adjacent to the water body. Refer to the Easements, Setbacks, and Reserved Areas subsection and Agency Comments section of this document for additional information.

The public is invited to comment on use of water resources in the project area to aid in making the public water determination.

Building Setbacks From Public or Navigable Water: We propose placing a note on the final survey plat describing a building setback 100 feet in width, upland from the ordinary high water (OHW) line of public and navigable water, to protect access, fish and wildlife habitat, and personal property. Structures are not permitted within the building setback except utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function. Subsurface sewage disposal systems and their locations relative to water bodies are regulated by the Alaska Department of Environmental Conservation. We will continue to develop and apply criteria as needed and the public is invited to comment on a proposed plat note.

Easements, Setbacks, and Reserved Areas: Parcels may be subject to the following as described previously in this section:

- a 60-foot access easement centered on ADL 409468;
- a 100-foot access easement centered on any surveyed or protracted section lines;
- a 60-foot access easement centered on existing trails that are not assigned an ADL or RST number through and along staked parcels;

- a public access and utility easement 30 feet in width along all interior parcel lines;
- a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius of 5 feet around the control monument, and as applicable, a 5-foot wide direct line-of-sight easement from the control station to an azimuth mark or other control monument;
- a continuous access easement 50 feet upland from the ordinary high water mark of public or navigable water bodies; and
- a 100-foot building setback upland from the ordinary high water mark of public or navigable water bodies.

The Division may identify additional staking setbacks and reserved areas up to the point staking instructions are issued, including sites for public use and access. Of note, staking setbacks differ from building setbacks in that staking setbacks leave an area of land retained in State ownership, while building setbacks convey with the land but place development restrictions thereon.

The brochure, area-specific staking instructions, and map issued to entrants will include information about access to and within the project areas, and routes and reserved areas will be depicted on staking maps, where possible. The Division will continue to research the status, location, and condition of access routes prior to and during the staking period.

Reservation of Mineral Estate: In accordance with Section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation [of Rights to Alaska], the State, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing, and producing the reserved mineral resources. Exploration and development, that could occur, would be consistent with AS 38.05.130 Damages and Posting of Bond and any other applicable statutes and regulations, which provide that the surface owner be compensated for damages resulting from mineral exploration and development. Refer to the Mineral Order section of this document for more information on restrictions on use of the mineral estate within the project area.

Hazardous Materials and Potential Contaminants: Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land. The State of Alaska makes no representations and no warranties, express nor implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances be eventually found.

There are no known environmental hazards present within the project area. The Division recognizes there are potential environmental risks when previously vacant land is occupied. Many of the activities increasing these potential risks are regulated by other agencies, such as the regulation of septic system installation by the State of Alaska, Department of Environmental Conservation. Given that this land was specifically classified for settlement and disposal, and given the high degree of interest from both the legislature and citizens in sale of State-owned land, the Division is of the opinion that the benefits outweigh the potential risks.

Survey, Platting, and Appraisal: Survey, platting, and appraisal of staked parcels will be completed prior to sale. The Division proposes to issue survey contracts to conduct the survey and the costs will be prorated by acreage for each parcel.

In accordance with AS 38.05.840 Appraisal, an appraisal meeting Division standards will be required within two years of the date fixed for the sale of parcels developed under this proposal.

In accordance with 11 AAC 67.825 Lease Application; Priority; 11 AAC 67.835 (4) Lease Conditions; and 11 AAC 67.840 Deposits, Refunds, and Credits; lessees will be required to pay a deposit for the cost of surveying, platting, and appraising a staked and leased Remote Recreational Cabin Sites parcel. Current regulations state the deposit may be either:

1. a quarterly payment toward the Division's estimated cost of survey, platting, and appraisal costs for the site; or
2. a cash performance bond of $1,000 to ensure the lessee's completion of survey, platting, and appraisal of the site, if the Division determines that offering this option is in the State's best interest, and if the applicant chooses it.

The Division has determined it is not in the State's best interest to offer the second deposit option for this offering as it is not cost-effective for either the Division or applicants to allow individual surveys in the same staking area where State-issued survey contracts are active. The exception would be if a project area received so few applications that a State-issued survey contract would not be cost-effective.

The Division may also identify and survey additional parcels in a project area to be sold at public auction. The number of staked and additional surveyed parcels will not exceed the total number of authorizations offered, nor total number of acres to be sold. The Division proposes to offer the surveyed parcels at public auction under AS 38.05.045 Generally [Sale of Land].

Staking Instructions and Lease: The Remote Recreational Cabin Sites program authorizes lottery winners to stake a parcel within a project area and issues leases to successful entrants while the parcels are surveyed, platted, and appraised.

Letters awarding authorizations to enter onto the land to stake and staking instructions will be issued to each successful lottery winner. The staking instructions will include general requirements for staking a parcel of land in a project area. The instructions include the manner of staking a parcel, such as setting corner posts; brushing and flagging parcel boundary lines; limiting total water body frontage; complying with setback requirements; abiding by easements along public and navigable waters and existing trails; and complying with minimum and maximum parcel sizes and other parcel configuration requirements. The staking packets will include supplemental staking instructions for the individual staking areas; a lease application and affidavit; notice of any changes including errata; staking maps showing the staking area boundaries; and a schedule of periods for staking in each area. The entrant must apply for a lease after staking a parcel.

A lease authorizes the lessee to enter and use the property after staking and prior to purchase while the survey, platting, and appraisal are completed. Lessees enjoy exclusive use of their

parcel while under lease. That use is limited to private recreational use only; during the term of the lease the leasehold may not be used for commercial purposes or as a permanent residence. Lessees will be allowed to construct buildings on the property, but will be warned of the risks of constructing prior to survey completion and zoning requirements, if any. Mislocation of the parcel or improvements does not vest any preference right to the land improperly entered.

As with other private land, local zoning, where it exists, governs any land use restrictions. The Division does not intend to impose deed restrictions to control post-patent use.

VI. Agency Comments

Agency review to present the proposed project area and gather comments and information ran May 11, 2010 through June 25, 2010. All comments received during this period are summarized in the paragraphs below.

Department of Fish and Game (DFG), Division of Sport Fish (DSF) Comment: DFG provided the following general comments pertaining to all project areas:

> DFG expressed concern that an increase in private property can lead to an increase in trespass, damage to fish and wildlife habitat, and degradation of water quality.
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> DNR DMLW Land Sales and Contract Administration Section (LSCAS) Response: The Division recognizes that an increase in private property ownership will likely lead to an increase in backcountry travel and resource use. Impacts on existing resources will be minimized by protecting public access along public or navigable water bodies, protecting riparian and shoreline habitat with building setbacks along all public or navigable water bodies, and limiting the number of authorizations. See the Traditional Use Finding and Hazardous Materials and Potential Contaminants sections of this document for more information.
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> DFG DSF Comment: DFG noted that poorly planned off-road vehicle (ORV) access can lead to ever-widening trails and unnecessary crossing of streams and wetlands, diminish recreational values, and increase difficulty of public access. DFG also noted that private property owners attempting year ‘round access can lead to poorly planned trails and degrade fish and wildlife habitat. DFG recommended that DNR DMLW continue to identify, reserve, and develop access points and routes within the project areas prior to staking. DFG recommended that DNR DMLW continue to work with boroughs, community groups, and DFG to develop access, and recommended that DNR DMLW depict access on staking information, plats, and conveyance documents.
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> DNR DMLW LSCAS Response: We will identify and reserve access across State-owned lands within the project area as needed. We will continue to research, identify, and where feasible, reserve existing and proposed access routes throughout the public comment period and up through the parcel survey. Moreover, the Division will identify and retain land in State ownership at sites suitable for public access to assist in mitigating these shared concerns.
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> Access across unreserved State-owned land is anticipated and is subject to conditions in 11 AAC 96 Provisions for General Land Use Activity. Restrictions on general land use,

including restricting access across unreserved State-owned land, is beyond the scope of this decision.

The offering brochure, staking map, staking packet, and supplementary information will describe any identified access routes, and provide information about conditions and limitations, where available. Easements and reservations for individual parcels will be depicted on survey plats.

The reader is referred to the Access To, Within, and Beyond Project Area; Access To and Along Public and Navigable Water; and Easements, Setbacks, and Reserved Areas subsections of this document for more information.

DFG DSF Comment: DFG noted that any work conducted below the ordinary high water of anadromous streams that may use, divert, obstruct, pollute, or change the natural flow or bed of a specific river, lake, or stream, or any activity that uses wheeled, tracked, or excavation equipment in the bed of creeks will require a Fish Habitat Permit from the appropriate Division of Habitat Office.

DNR DMLW LSCAS Response: The offering brochure will address activities that may require a Fish Habitat Permit and direct potential applicants to the DFG Division of Habitat for more information. Additionally, successful applicants are provided with the Generally Allowed Uses on State Land factsheet. This fact sheet indicates that some uses may require additional permits, such as Fish Habitat Permits, and encourages users to research these requirements.

DFG DSF Comment: DFG suggested that DNR DMLW schedule the staking period so as not to coincide with open hunting periods.

DNR DMLW LSCAS Response: The Division recognizes that the staking period will be concurrent with some big and small game hunting seasons. Due to multiple, overlapping hunting seasons of long duration, limiting the staking period to periods where there is no open season is not feasible as it would greatly decrease the opportunity for entrants to access the area and stake a parcel. A longer, continuous staking period that would overlap open hunting seasons provides entrants greater opportunity to access the area and successfully stake a parcel. In general, a longer staking period should minimize conflicts among surface users as pressure to access an area and stake a parcel is less acute.

DFG DSF Comment: DFG provided the following comments specific to the Albert Creek project area.

DFG concurs with proposed building setbacks on Albert Creek, proposed public access easement to and along public water, and reserving access along section lines and trails. They recommend that these requirements should apply to East Albert Creek and Little Albert Creek.

DNR DMLW LSCAS Response: If we determine that East Albert Creek (north of Albert Creek) is public, we will impose a 100-foot building setback from the ordinary high water

mark of the creek and maintain a continuous access easement 50 feet upland from the ordinary high water mark of the creek; Little Albert Creek is west of the project area (not depicted on the map) and this decision will not affect Little Albert Creek. Refer to the Access To, Within, and Beyond Project Area; Access To and Along Public and Navigable Water; and Easements, Setbacks, and Reserved Areas subsection of this document for additional information.

DNR Division Forestry (DOF), Forest Resources Program Comment: DOF provided the following general comments pertaining to all Remote Recreational Cabin Sites project areas:

DOF does not object to transfer of State-owned lands designated Settlement in area plans. DOF provided recommendations related to development in areas where risk of wildland fire is high and increased personal use of timber resource. DOF recommended DNR DMLW consider the presence of high-volume, hazardous forest fuels, such as black spruce forest, when identifying State-owned land for sale to the public and avoid offering parcels in areas with such fuels. DOF recommended DNR DMLW consider ingress and egress in an area. DOF describes narrow valleys and hillsides with only one access route, especially areas with high volumes of fuel, as representative of areas that are difficult to access for fire suppression or evacuation during a fast-moving wildland fire. DOF cites land sales in areas with high volumes of hazardous forest fuels or limited access places private and personal property at greater risk from wildland fires and imposes a long-term financial burden on the State for fire suppression activities.

DNR DMLW LSCAS Response: In general, lands designated Settlement are identified through area-wide planning efforts that consider wildlife habitat and resource values. The multi-year TBAP planning effort took into account agency expertise and public comment and most areas with high habitat or resource values are protected through the designation of habitat or forestry as primary uses. Areas with planned land sales are, in general, accessible areas where considerable private land already exists, or in areas that are not of extremely high value to fish and wildlife or resource development.

The Division acknowledges State land sales may occur in areas with high volumes of hazardous forest fuels. Instead of retaining discrete areas with high volumes of hazardous fuels in State ownership within a settlement unit, the Remote Recreational Cabin Sites program offers entrants the opportunity to stake parcels up to 20 acres in size. Larger parcels allow owners to develop a building site, create defensible space, and retain a remote character.

We will inform participants regarding access conditions in land sales brochures and staking packets, including depictions on staking maps. As participants are allowed to stake a parcel of their choice within the project area, ingress and egress cannot be determined prior to offering.

DNR DOF Comment: DOF recommended participants consider wildland fire when staking and developing remote parcels. DOF recommended DNR DMLW emphasize to participants the value of implementing Alaska Wildland Fire Coordinating Group Firewise Alaska (Firewise) standards. DOF also recommended DNR DMLW inform participants there is no

guarantee their property will be spared from harm from a wildland fire, even if the area is in an area designated "Full" fire management option. DOF cites an increase in wildland fire frequency, intensity, and size in Alaska.

DNR DMLW LSCAS Response: To the extent practicable, we will inform participants about the risk of wildland fire in any one project area and options for configuring defensible parcels, *Firewise* information that can be used to reduce risk of harm to property, and the fire management option for the area will be included in the land sales brochure and staking packets. We will update our land sales brochure and staking packet to inform participants that there is no guarantee properties will be spared from harm. Refer to the Fire Hazards subsection of this document for more information.

DNR DOF Comment: DOF recommended DNR DMLW consider availability and adequacy of local sources of firewood and cabin logs from State-owned lands for the number of parcels being planned in an area.

DNR DMLW LSCAS Response: We acknowledge land sales impact other uses of public land, including timber harvest, through the reduction in lands retained in public ownership. We also acknowledge an increase in private land ownership and associated remote recreational activities over time can cause an increase in timber harvest for personal use. However, areas with planned land sales are generally concentrated in accessible areas. Access allows participants to bring in building materials instead of relying solely on cabin logs available on adjacent lands. Limiting the total number of acres that may be sold in an area, and allowing entrants to stake in a low-density, dispersed pattern, reduces impacts of resource harvest on State-owned land across the Settlement unit. Harvest of timber resources on State-owned land is subject to conditions in11 AAC 96 Provisions for General Land Use Activity. Timber harvest for personal use, including firewood and building materials, required permits from DOF Area Offices.

DNR DOF Comment: DOF provided the following specific comments pertaining to the Albert Creek project area:

There are no forest classified lands delineated in the Albert Creek area. Much of the area has burned over in recent years and an abundant supply of small diameter fuelwood would be available on state lands near the parcel offering boundaries.

DNR DMLW LSCAS Response*:* We concur.

DNR Division of Geological and Geophysical Surveys Comment: There are no mineral conflicts with the Albert Creek North proposed area. No mining claims and no ARDF sites. As indicated on the maps accompanying the agency review request, there are mining claims to the west, southwest, and south of the proposed area, with the closest claims within 0.5 miles of the proposed staking area. Potential stakers should be fully aware of the pre-existing mining claims in the area.

DNR DMLW LSCAS Response: The Albert Creek Project area is closed to mineral entry through MCO 201. The offering brochure will include an advisory that mining claims and mining

activities are present within the area. Staking maps will show adjacent mining claims. See Mineral Order and Retained Interest sections of this document for more information.

Department of Commerce, Community, and Economic Development, Office of Economic Development, Office of Mineral Development Comment: There are no active mining claims within the project area.

DNR DMLW LSCAS Response*:* No response. See Mineral Order section and Retained Interest subsection of this document for more information.

DNR Division of Oil and Gas (DOG) Comment: DOG does not have any concerns as the State retains ownership of all oil, gas, coal, ore, minerals, fissionable materials, geothermal resources, and fossils that may be in or upon the land that it sells under AS 38.05.125 Reservation [of Rights to Alaska].

DNR DMLW LSCAS Response*:* No response. See Mineral Order section and Retained Interest subsection of this document for more information.

DNR DMLW, Resource Assessment and Development Section (RADS) Comment: The proposed RRCS site is not located within an existing Area Plan.

DNR DMLW LSCAS Response: We concur. The area was classified settlement under Classification Order NC-82-027. Remote Recreational Cabin Sites offerings are authorized disposal programs for settlement lands.

DNR DMLW, Survey Section Comment: The Office has no comments or objections to the proposal.

DNR DMLW LSCAS Response*:* No response.

Alaska Mental Health Trust Land Office Comment: The Office has no comments or objections to the proposal.

DNR DMLW LSCAS Response*:* No response.

DNR Division of Parks and Outdoor Recreation, Office of History and Archaeology Comment: The office has no comment on the proposed action.

DNR DMLW LSCAS Response*:* No response.

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

- Department of Natural Resources;
    - Division of Agriculture;
    - Division of Mining Land and Water;
        - Northern Region Lands Section;
        - Appraisals Section;
        - Mining Resources Section; and
        - Public Access Assertion and Defense;
    - Office of Project Management;
    - Division of Coastal and Oceans Management; and
    - Division of Parks and Recreation;
        - Office of History and Archeology; and
- Department of Environmental Conservation;
- Department of Transportation and Public Facilities; and
- State Pipeline Coordinator's Office.

VII. Alternatives and Discussion

The Division is considering the following alternatives:

1. Offer this project area, or a portion of the project area, for staking under the Remote Recreational Cabin Sites program as proposed. Offer additional surveyed parcels identified by the Division after the staking period closes or staked parcels that were not converted from lease to sale at public auction under AS 38.05.045 Generally [Sale of Land]. The number of staked and additional surveyed parcels will not exceed the total number of authorizations offered, nor total number of acres to be sold. That is, the Division will offer no more than 50 authorizations or sell more than 1,000 acres in a 10,000-acre staking area.
2. Do not offer the project area for staking under the Remote Recreational Cabin Sites program. Survey parcels prior to offering at public auction through the Subdivision Sales program.
3. Do not offer the area at this time. Retain the land in public ownership.

Alternative 1 is the alternative that maximizes public interest. In accordance with Classification Order NC-82-027, this area is classified for settlement. This offering provides a desirable opportunity to obtain remote property. There are very few opportunities to obtain private land in the vicinity of this offering.

Allowing additional parcels and parcels that are not converted from lease to sale to be surveyed and sold under AS 38.05.045 Generally [Sale of Land] will maximize the opportunities for the transfer of State-owned land into private ownership under a uniform set of conditions. Dispersed, low density staking is the best alternative for this settlement area since it is a remote location with little or no infrastructure; the amount of contiguous high-quality acreage suitable for a large number of adjacent sites is low due to varying topography; and entrants may choose individual sites within the staking area that suit their needs.

Alternative 2 is not preferred. High-quality sites suitable for individual settlement are discontinuous within the project area. There are few large areas with contiguous and high-quality acreage that could accommodate large numbers of adjacent parcels with suitable building sites and consolidated access.

Alternative 3 is not preferred. The Legislature and the public have indicated a desire for the Division to offer remote State-owned land for private ownership. Not offering the project area would deny many Alaskans the opportunity to stake and obtain land in an area that has been designated Settlement. Recommendation follows.

VIII. Recommendation

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

/s/ 07/10/2011

Prepared by Blair French
Natural Resource Specialist II
Remote Recreational Cabin Staking Program
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

Date

/s/ 07/10/2011

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

Date

Submittal of Public Comments

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

Pursuant to AS 38.05.945 Notice, 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 proposal will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the Preliminary Decision, including any deletions, minor changes, and summary of comments and 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.

COMMENT PERIOD ENDS 5:00PM, THURSDAY, AUGUST 25, 2011

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

ATTACHMENT A: PUBLIC NOTICE

to the Preliminary Decisions

for Proposed Land Offerings
Zitziana Remote Recreational Cabin Sites Project Area – ADL 418924
Albert Creek North Remote Recreational Cabin Sites Project Area – ADL 417478
Teklanika III Remote Recreational Cabin Sites Project Area – ADL 417472 and 417416
Kakhonak Lake Remote Recreational Cabin Sites Project Area – ADL 230871
AS 38.05.035 (e), AS 38.05.045, and AS 38.05.600

and Related Action
Proposed Mineral Order (Closing)
AS 38.05.185

COMMENT PERIOD ENDS 5:00 PM, THURSDAY, AUGUST 25, 2011

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW) proposes to offer State-owned land for sale within four project areas under AS 38.05.600 Remote Recreational Cabin Sites and AS 38.05.045 Generally [Sale of Land]. The Division proposes to offer authorizations to stake parcels from 5 acres to 20 acres in size. Authorizations awarded by lottery allow entrants to stake a parcel, lease the staked parcel during the survey, platting, and appraisal process, and convert the lease to a sale at a purchase price established by the appraised value, plus associated fees.

The Division may also identify and survey additional parcels in a project area. The total number of acres and total number of parcels will not exceed the maximum number specified for sale by this proposal. These additional parcels and any staked but later relinquished, terminated, or expired before converting to sale will be offered at public auction or by another method under AS 38.05.045 Generally [Sale of Land].

NORTHERN REGION PROPOSED AREAS
Zitziana project area is located approximately 100 miles southwest of Fairbanks and 55 miles southeast of Tanana along the Zitziana River. There are 50 authorizations proposed for this area.

Albert Creek North project area is located approximately 1 mile north of the Steese Highway and the community of Central, and approximately 100 miles northwest of Fairbanks. There are 50 authorizations proposed for this area.

Teklanika III project area is located approximately 50 miles southwest of Fairbanks and 7 miles southwest of Nenana along the Teklanika River. There are 25 authorizations proposed for this area.

SOUTHCENTRAL REGION PROPOSED AREA
Kakhonak Lake project area is located approximately 30 miles southeast of Iliamna and 90 miles west of Homer, along Kakhonak Lake on the Alaska Peninsula. There are 40 authorizations proposed for this area.

The Division, under AS 38.05.185, proposes to close the **Kakhonak Lake** project area to mineral entry prior to offering as a related action.

For additional information on these proposed actions, contact Amy Conklin (Anchorage) by phone at (907)269-8551 or Blair French (Fairbanks) at (907)451-3011; by email at dnr.rrcs@alaska.gov; or by fax at (907)269-8916. Copies of the decision packages, maps, related actions, and additional information are available at DNR DMLW, Land Sales and Contract Administration Section, 550 W. 7th Ave., Ste. 640, Anchorage, AK 99501. Copies of the documents, auxiliary aids, services, or special accommodations are also available at DNR's Public Information Centers on State work days between 10:00AM and 5:00PM, M-F in Anchorage by phone at (907)269-8400; in Fairbanks by phone at (907)451-2705; and inJuneau by phone at (907)465-3400; by email to Anchorage at dnr.pic@alaska.gov; by email to Fairbanks at fbx-pic@alaska.gov; by email to Juneau at sero@alaska.gov; by TDD to Anchorage at (907)269-8411; or by TDD to Fairbanks at (907)451-2770. Additionally, documents are online at http://dnr.alaska.gov/mlw/landsale.

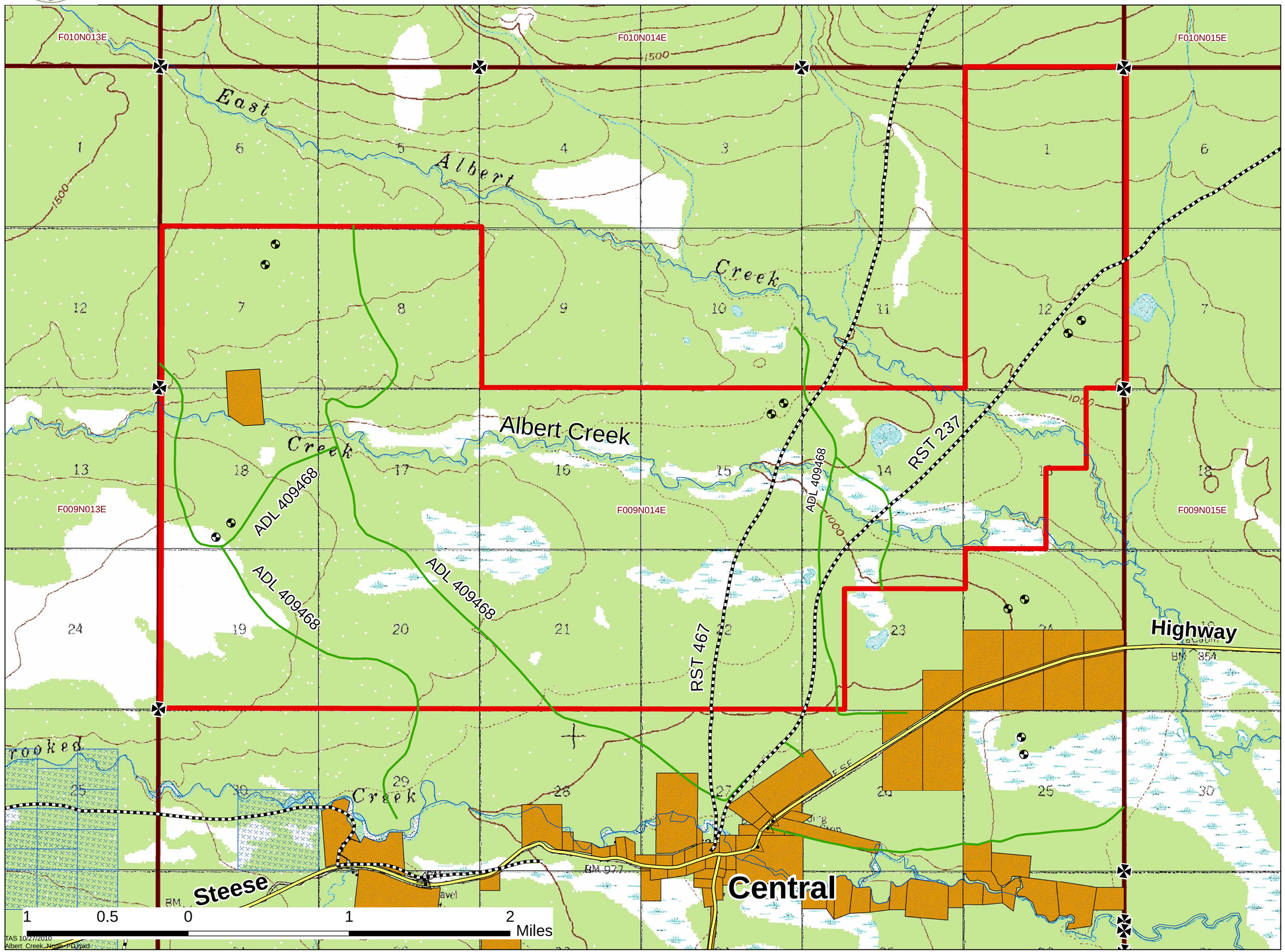
Pursuant to AS 38.05.945 Notice, the public is invited to comment on the proposed actions. Separate comments should be submitted for each action. Comments on these proposals and related action may be submitted by mail to DNR DMLW Land Sales and Contract Administration Section, Attention: Remote Recreational Cabin Sites, 550 W. 7th Ave., Ste. 640, Anchorage, AK 99501-3576; by email to dnr.rrcs@alaska.gov; or by fax to (907)269-8916. The comment period ends at **5:00PM Thursday, August 25, 2011**.

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

If the proposed actions are approved and no significant changes are required, the Preliminary Decisions, including any deletions, minor changes, summary of comments and division responses, will be issued as a subsequent Final Finding and Decisions 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 herein. Upon approval and issuance of a Final Finding and Decision, a copy of the decision will be made available online at http://dnr.alaska.gov/mlw/landsale and sent with an explanation of the appeal process to any party who provides timely written comment.

The Division of Mining, Land and Water reserves the right to waive technical defects in this notice.

Attachment B: Area Map Albert Creek North - ADL 417478



TAS 10/27/2010
Albert Creek North PD.mxd

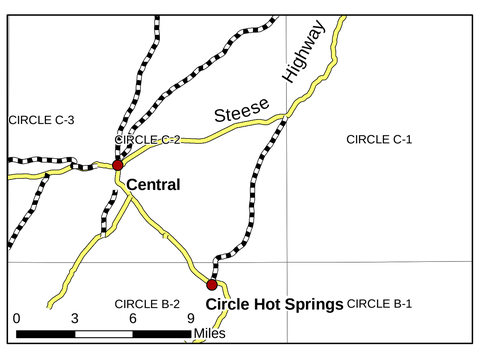
USGS QUAD 1:63,360
Circle C-2
T9N R14E, Fairbanks Meridian

This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record and should be reviewed prior to staking.

Maximum parcel size: 20 acres Minimum parcel size: 5 acres
Staking authorizations: 50
Staking period: 2012 to 2013

Legend

- BLM Monuments
- Survey Monuments
- NGS Monument
- PublicWaters
- RS2477 Trails
- Trail Easements
- Private Parcels
- Mining Claims
- Albert Creek North

Declination
21.41 Degrees East
As of 6/17/2011

N