

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

Preliminary Finding and Decision (Appel II)
Amendment to Preliminary Finding and Decision (Snake River, Appel II)
Amendment to Final Finding and Decision (Cannery Creek)
2004 Proposed Land Offering AS 38.05.035(e)
Remote Recreational Cabin Sites Program AS 38.05.600
Proposed Mineral Closing Order AS 38.05.185

Proposed Action:

The Division of Mining, Land and Water proposes to open three remote settlement areas in the Southcentral Region for staking under the Remote Recreational Cabin Sites program, AS 38.05.600. The division proposes to offer approximately 250 authorizations to stake land in the summer of 2004 in the northern and southcentral regions of the state. This decision addresses the Appel II, Snake River and Cannery Creek staking areas located in the Southcentral Region. Appel II and Snake River have not been offered under any previous program. Cannery Creek was offered as a non-agricultural homestead staking area in the summer of 1985.

This decision proposes to amend a preliminary decision and finding dated May 20, 1986, for the Snake River staking area, and a preliminary decision and finding dated November 29, 1983 for a portion of the Appel II staking area. Final findings and decisions were never completed for these areas. It also proposes to amend a prior final finding and decision dated March 22, 1985 for the Cannery Creek staking area. These proposed amendments are intended to complement and update the prior findings. In addition, this is a new preliminary decision for the southern portion of the Appel II staking area. This decision also proposes to close all of the Snake River and the southern portion of the Appel II staking areas to new mineral entry. The Cannery Creek and northern portion of Appel II staking areas were previously closed to mineral entry.

The areas approved by this decision may be offered in 2004 or included in a later offering. In addition to the new staking areas proposed, previously staked areas approved in the 2001, 2002 and 2003 Final Findings and Decisions, but not yet offered under this program, may also be offered in 2004. Brochures advertising the offering and application period will be published and distributed throughout the state. Successful applicants will be drawn by lottery in accordance with AS 38.05.057 if the number of applications for an area exceeds the number of staking authorizations offered.

Attachment A is the public notice, which will be published in the legal notices of statewide and local newspapers advertising the public comment period in accordance with AS 38.05.945.

Attachment B is a chart that includes the number of stakings proposed for this offering, the applicable area plan, nearest communities, tribal councils and villages, and the boroughs and Native Corporation boundaries the staking areas are located within.

Attachment C includes a statewide location map and a reduced map of each proposed staking area. Color maps of the staking areas may be viewed on the DNR web site at http://www.dnr.state.ak.us/mlw/landsale/remote_recsites.htm or at the nearest DNR public information office in Anchorage, Fairbanks or Juneau. Please note that the staking maps are in draft and may not show all the final stream buffers, trails, reserved areas, etc.

Authority

The Department of Natural Resources has the authority under AS 38.05.035(e) to sell state land for private ownership if it is determined to be in the best interest of the state. The applicable statutes include but are not limited to Alaska Statutes (AS): AS 38.04.010, AS 38.05.020, AS 38.05.035, AS 38.05.057, AS 38.05.127, AS 38.05.185, AS 38.05.300, AS 38.05.600, AS 38.05.830, AS 38.05.850, AS 38.05.945, AS 38.05.946.

The applicable regulations include but are not limited to Alaska Administrative Code (AAC): 11 AAC 51, 11 AAC 53, 11 AAC 55, 11 AAC 67.005 through 11 AAC 67.240, 11 AAC 67.800 through 11 AAC 67.850, 11 AAC 96.

Administrative Record

The division's project files for the project areas constitute the administrative record for this proposed decision. Also incorporated by reference are the *Kenai Area Plan*, *Bristol Bay Area Plan* and the *Kuskokwim Area Plan* and associated land classification files.

Scope of Project to be Reviewed

The scope of this decision is limited to DNR's decision to make the proposed settlement areas available for staking and eventual conveyance into private ownership under the new Remote Recreational Cabin Sites program. Under this program, successful applicants will be authorized to stake parcels of land between 5 and 20 acres for a remote recreational cabin site within a certain staking period, lease the site until the department completes survey and appraisal of the parcels and then purchase the parcels at market value. The sites will be restricted to recreational use while under lease and purchase contract. The division does not intend to impose deed restrictions to control post-patent use. Local zoning governs any land use restrictions as with other private land.

The proposed numbers of stakings will not exceed the net acres recommended for offering in the area plans. The proposed staking areas were classified for settlement in the area plans. The department proposes to close the staking areas to new mineral entry prior to the offering. The department may also identify and survey additional parcels in a staking area up to the total number of stakings authorized during the staking period, to be offered for sale at a later time.

Location of Staking Areas

The *Appel II* staking area is located between McGrath and Medfra, north of the Kuskokwim River and east of the old Appel Mountain Remote Parcel staking area. The area is within Township 28 and 29 South, Range 18 East, Kateel River Meridian, and encompasses approximately 9,440 gross acres.

The *Cannery Creek* staking area is located on the west side of Cook Inlet approximately 25 miles west of Kenai and 12 miles northeast of Redoubt Volcano, near Redoubt Bay and the mouth of the Drift River. The area is within Township 6 North, Range 17 and 18 West, Seward Meridian, and encompasses approximately 7,300 gross acres.

The *Snake River* staking area is located 15 miles northwest of Dillingham along the Snake River approximately one-half mile south of Lake Nunavaugaluk (Snake Lake). This area is within Township 12 South, Range 57 West, Seward Meridian, and encompasses approximately 15,300 gross acres.

Municipality

The *Appel II* staking area is not located within an organized borough and is not subject to a municipal authority.

The *Cannery Creek* is located within the Kenai Peninsula Borough and is subject to the Kenai Peninsula Borough municipal authority.

The *Snake River* staking area is not located within an organized borough and is not subject to a municipal authority.

Alaska Coastal Districts

Appel II is not within a coastal district.

Cannery Creek is within the Kenai Peninsula Borough Coastal District.

Snake River is within the Bristol Bay Coastal Resource Service Area.

Native Regional Corporations

The staking areas are located within the following Native Regional Corporation boundaries:

Appel II: Doyon, Limited

Cannery Creek: Cook Inlet Region, Inc.

Snake River: Bristol Bay Native Corporation

See Attachment B for potentially affected Village Corporations, Villages and Tribal Councils.

USGS Map Coverage

Appel II: USGS Medfra A-5, Medfra A-6, McGrath D-5 and McGrath D-6

Cannery Creek: USGS Kenai C-7

Snake River: USGS Dillingham A-8

Legal Description

The ***Appel II*** staking area encompasses approximately 9,440 gross acres within Sections 25-29, 32-36, Township 28 South, Range 18 East, Kateel River Meridian and Sections 1-6, Township 29 South, Range 18 East, Kateel River Meridian.

The ***Cannery Creek*** staking area encompasses approximately 7,300 acres within sections 7, 17-20, 29-31 of Township 6 North, Range 17 West, Seward Meridian and within sections 11-14, 24, 25, and 36 in Township 6 North, Range 18 West, Seward Meridian.

The ***Snake River*** staking area encompasses approximately 15,300 gross acres located within Sections 13-36, Township 12 South, Range 57 West, Seward Meridian.

Land Title

Title Reports for Appel II, Cannery Creek and Snake River were requested on December 12, 2003. Information pertaining to title will be included in the Final Finding and Decision.

Discussion

In 1997, the legislature passed a new law, AS 38.05.600, Remote Recreational Cabin Sites. The new program is similar to the state's open-to-entry, remote parcel and homestead programs from the 1970's and early 1980's. The program allows an individual to stake a parcel of state land for a cabin site in a designated remote settlement area. The staked parcel of land will be leased and deposit payments made for survey and appraisal of the parcel until the survey and appraisal are completed, then the parcel may be purchased at fair market value. Regulations to implement the new program went into effect February 9, 2001 (11 AAC 67.800 through 11 AAC 67.850).

Before opening an area to the staking of remote recreational cabin sites, the department will announce a simultaneous filing period in the manner provided for lottery parcels by AS 38.05.057(e) and 11 AAC 67.815. An applicant may file only one application per staking area, but may file an application for each area. If there are more applicants for an area than the number of entries to be offered, the winners will be chosen by a lottery drawing. Staking authorizations for the area with the highest ratio of applications to allowable entries will be drawn first. If an applicant files applications for more than one area, the applicant will receive a staking authorization for the first area for which the applicant's name is drawn. A staking authorization for which no application is filed will not be available to the public over the counter, but may be reoffered in a subsequent offering. The department may also identify and survey additional

parcels in a staking area up to the total number of stakings authorized during the staking period, to be sold under this program at a later offering.

The lottery method of disposal gives all eligible members of the public an equal chance at acquiring a staking authorization for an area. The successful applicants are given a staking packet, which includes instructions for properly staking a parcel of land and other information pertaining to the program and the specific staking area. The successful applicants have a certain length of time to enter onto the land, stake a parcel and file an application. The sites are leased until they are surveyed and appraised, and then can be purchased at fair market value.

Planning and Land Classification

The proposed staking areas are located within the area plan boundaries listed below. All proposed staking areas are classified for settlement, which allows for sale to private ownership. A classification of settlement provides for possible conveyance of state land to private ownership with no post-conveyance restrictions.

The areawide land management policies and general management intent of the area plan management units and subunits below were reviewed for consistency with the proposed offering. Guidelines regarding stream buffers, trail management, settlement and other uses were reviewed and will be incorporated on the staking maps, the brochure and the special staking instructions.

Appel II:

Kuskokwim Area Plan, adopted May 1988
Management Unit 5, Kuskokwim River,
Subunit 5b, Appel II
Classified: Settlement

Management Intent: The management intent is to protect public uses while providing opportunities for private land acquisition.

Offering this area for staking under the Remote Recreational Cabin Sites program is consistent with the classification and the management intent of the area plan.

Cannery Creek:

Kenai Area Plan, adopted August 2001
Region 11, West Side of Cook Inlet-North Redoubt Bay
Management Unit 158, Upper Cannery Creek
Classified: Private Recreation (Settlement)

Management Intent: This area is recommended for low-density settlement, taking into consideration salmon and bear habitat along water bodies.

Offering this area for staking under the Remote Recreational Cabin Sites program is consistent with the classification and the management intent of the area plan.

Snake River:

Bristol Bay Area Plan, adopted in September 1984, currently under revision
Management Unit 5, Dillingham, Snake Lake, Nushagak Bay
Classified: Settlement

Management Intent: Management Intent to accommodate increased development while maintaining habitats for fish and wildlife. State land offerings should supply for community expansion. State land may also fill state and local demand for recreational settlement.

Offering this area for staking under the Remote Recreational Cabin Sites program is consistent with the classification and the management intent of the area plan.

Alaska Coastal Management Program

Cannery Creek and Snake River staking areas were previously reviewed for Coastal Management consistency.

Cannery Creek staking area was determined to be consistent with the Kenai Peninsula Borough Coastal District Program on April 21, 1983. Because the policies of the Kenai Peninsula Borough Coastal District Program were revised subsequent to the 1983 determination, a letter dated November 20, 2003, was sent to inform the participating agencies about this offering, and to request additional comments. DNR received no comments; therefore the provisions of the original consistency determination will continue to apply.

Snake River staking area was determined to be consistent with the Bristol Bay Coastal Management Program on May 5, 1986. No additional review is necessary.

Agency Review and Comments

Agency review for the Appel II staking area was conducted in October 2002 for the proposed 2003 offering. The area was not included in the preliminary decision for the proposed 2003 offering, however, and is being reconsidered for the 2004 offering. Agency comments from the 2002 review are included and discussed below.

Agency review for the proposed 2004 offering was conducted from October 15, 2003 to November 14, 2003. Agency comments received are summarized below.

1. Alaska Department of Fish and Game (ADF&G), Southcentral Region

General comments: ADF&G made general remarks about public access and management of trails for all areas. ADF&G voiced concerns that private remote cabins will lead to an increase of trespass and habitat damage. It was recommended that access points and trails, especially any RS 2477 trails, be identified prior to staking, and that DNR continue to work

with boroughs, community groups and ADF&G to develop consistent and legally established access both to and within staking areas.

Response: DNR will identify any known RS 2477 trails on the staking maps and in the area summaries. A 50-foot minimum right-of-way on each side of the centerline is required for all RS 2477 trails, and a 30-foot centerline easement for other existing trails. DNR does and will continue to work with boroughs, communities and agencies to identify and preserve both legal and existing physical access to and within the staking areas. DNR encourages the stakers to use existing trails, and to consolidate access trails to limit habitat damage. All stakers are required to describe access to their parcel during lease application. Any staker that stakes along or across an existing trail is subject to a trail easement. The trail easement will be depicted on the survey plat.

Appel II: ADF&G identified the Appel II area as being within Game Management Unit 19D. This portion of the Kuskokwim River has been identified as an anadromous water body, with several types of salmon, whitefish and sheefish. There were concerns about active trap lines in the northwest portion of the staking area and in maintaining public use of the trails, particularly the Iditarod and Old Medfra Trails. ADF&G requested that DNR remove section 30 from the staking area to ensure access to the area trails. In addition, ADF&G requested DNR remove sections 1, 25, 28, 29, and 36 for fire management reasons. ADF&G requested that DNR reserve public access to and along the Kuskokwim River and to consult with McGrath and other local residents regarding subsistence uses.

Response: DNR will remove the west 1/2 of section 29, section 30 and the northwest 1/4 of section 31 from the staking area. This will ensure the protection of the trail and the trapping interests in the area. Removal of these sections will maintain a large public corridor to access Appel Mountain, which is consistent with the Kuskokwim Area Plan. DNR will not remove all the sections requested for fire concerns, but rather discourage the staking of areas with high fire potential. By adding language to the brochure, DNR will caution stakers of the wildland fire potential in the identified areas. The higher incidents of stakings do not occur in black spruce, which is the vegetation identified by ADF&G as having the highest fire potential. Stakers usually prefer to select hardwood forests where the soils provide better drainage, and where firewood is readily available. The division will provide stakers with information regarding wildland fire prevention and riparian management recommendations, and encourage them to locate parcels in fire defensible areas such as hardwood stands with access to water. The brochure will list the fire management option, if known, for the staking area, and to contact the Division of Forestry for updated information regarding management options. In addition, each staking packet will contain the publication, *Firewise Alaska*. This booklet, developed by the Alaska Wildland Fire Coordinating Group, informs the public how to protect their homes from the threat of wildland fire.

For the protection of the anadromous Kuskokwim River, and to ensure public access, there will be a 300-foot staking setback along the Kuskokwim River. In addition, a 300-foot setback on either side for a distance of 600 feet from the river will be along the two streams

draining into the Kuskokwim River in sections 2 and 3, Township 29 South, Range 18 East, Kateel River Meridian. These setbacks will provide additional habitat protection and reserved areas for public use and access into the staking area.

DNR has scheduled an open house in McGrath on January 29, 2004. At that time additional local subsistence and access information will be obtained.

Upper Cannery Creek: The Upper Cannery Creek staking area is located in Game Management Unit (GMU) 16B. ADF&G identified three anadromous streams and associated lakes in the staking area, and requested a 200-foot staking setback from the ordinary high water mark of these water bodies. The setbacks would apply to the water bodies in sections 17, 18, 19, 29, and 30, T6N, R17W, SM; and sections 13, 14, 24, and 25, T6N, R18W, SM. In addition, ADF&G requested that the lakes in sections 13, 25 and 30 have areas reserved to provide access to the state and private land. ADF&G noted the Kenai Area Plan requires a 100-foot wide vegetated building setback on all anadromous streams.

Response: DNR will require the 200-foot staking setback from the ordinary high water mark of the water bodies in sections 17, 18, 19, 29, and 20, T6N, R17W, SM; and sections 13, 14, 24 and 25, T6N, R18 W, SM as requested by ADF&G. This is consistent with the Kenai Area Plan, preserves habitat and provides public access. The Final Finding and Decision for Cannery Creek, dated March 22, 1985, identified a 100-foot staking setback along the stream in sections 13, 14, 15 and 16, T6N, R18W, SM. Although ADF&G did not identify this stream as anadromous, the 100-foot staking setback will remain for this offering.

Public use areas have been reserved on the lakes in sections 13 and 25, T6N, R18W, SM, and the lake in section 30, T6N, R17W, SM. Another public use area will be reserved on the lake in section 19, T6N, R18W, SM.

Snake River: ADF&G stated that the Snake River staking area is located in Game Management Unit 17 C. ADF&G requested that a 200-foot wide buffer along the ordinary high water mark on each side of Snake River and Weary River be reserved for protection of fish habitat.

Response: To be consistent with the Bristol Bay Area Plan and to protect fish habitat, DNR will maintain 200-foot wide staking setbacks along Snake River and Weary River.

2. DNR, Division of Parks and Outdoor Recreation (DPOR), Office of History and Archaeology (OHA).

Appel II: OHA requested that archaeological surveys be conducted along the portions of the Kuskokwim River in sections 2 and 3, T19S, R18E, KRM, and on the large hill located in section 26 and 27, T28S, R18E, KRM.

Response: DNR does not have funding to conduct non site-specific surveys of the area. However, to protect against impact to potential cultural resources, DNR will include standard language in the brochure, staking instructions and lease regarding the Alaska Historic Preservation Act. All stakers will be required to report any historic, prehistoric, or archaeological sites discovered in an area, and cease any activities that may damage the site.

Cannery Creek: The OHA identified a known site within the staking area, located in the SE1/4 of section 31, T6N, R17W, SM. The OHA recommended that the boundaries of this site be identified through survey, and that other areas with a high potential for archaeological sites be surveyed.

Response: After further review, the area where the site was identified was determined to be in private ownership (ASLS 87-117). The site was reported to OHA by stakers during the 1985 homestead offering. Although the exact perimeter of the site is unknown, very little public land remains in the quarter section; therefore, DNR does not find it necessary to remove this area from staking. DNR will include standard language in the brochure, staking instructions and lease regarding the Alaska Historic Preservation Act. All stakers will be required to report any historic, prehistoric, or archaeological sites discovered in an area, and cease any activities that may damage the site.

Snake River: The Office of History and Archaeology considered this area to have a high potential for containing archaeological sites. The OHA recommended that the areas of high potential be archaeologically surveyed and that the staking setback be increased from 200 feet to 300 feet.

Response: DNR does not have funding to conduct a non site-specific survey of the area. However, DNR will include standard language in the brochure, staking instructions and lease regarding the Alaska Historic Preservation Act. All stakers will be required to report any historic, prehistoric, or archaeological sites discovered in an area, and cease any activities that may damage the site. Most of the land adjacent to the Snake River and Weary River in the staking area contains significant wetlands, which stakers in general find undesirable. Most of the desirable land in the staking area is more than 300 feet from the OHW mark of the rivers.

3. State of Alaska, State Pipeline Coordinator's Office (JPO)

General Comments: The JPO does not find the areas for the 2004 offering to be in the vicinity of, or affecting the existing Trans-Alaska Pipeline System (TAPS) or the proposed common carrier pipeline areas.

4. Division of Forestry (DOF) Mat-Su/Southwest Area Office:

The DOF Mat-Su/ Southwest Area Office reviewed the areas for timber sales and found no conflicts. Forestry also provided information about wildland fire management for the staking areas.

Response: This information will be included in the area summaries in the brochure and the staking packet.

The following agencies were contacted and responded saying they had no comments: Kenai Peninsula Borough and the DNR Office of Habitat Management and Permitting.

The following agencies were contacted and did not comment: Division of Geological and Geophysical Services, Department of Transportation and Public Facilities, Department of Environmental Conservation, Alaska Volcano Observatory, Mental Health Trust Office, DNR-Division of Parks and Outdoor Recreation, Division of Agriculture, Division of Oil and Gas, Division of Mining, Land and Water-Southcentral Region, Division of Mining, Land, and Water-Mining Section.

Environmental Risk Assessment

There are no major environmental risks associated with the proposal to offer remote land for staking within the staking areas. Other impacts as a direct result of the proposed offerings would be as follows:

The anticipated changes as a result of offering areas under this program are an increase in private land ownership in new remote areas of the state, relieving the recreational development pressure and competition for resources in other existing staking areas. There will be a potential increase in related remote recreational activities over time, including trail construction and cabin building. Associated changes may be an increase in hunting, fishing and other summer and winter recreational activities in the area.

The division will work with stakers to identify and consolidate trail use to minimize the impacts. Other mitigations to reduce the potential environmental risks are retention of buffers along streams for protection of riparian habitat and reservation of important public use sites.

Mineral Closing Order

The Division of Mining, Land and Water proposes to close the mineral estate of the following staking areas in accordance with AS 38.05.185 for a land disposal. Mining activity would be incompatible with the past, current and proposed surface uses for land disposals. To allow mineral location in the proposed staking areas could create serious conflicts between surface and potential subsurface users. Area plan subsurface management policy states that in general, areas scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between surface and subsurface users. However, the project area may still be subject to potential oil and gas leasing and exploration.

Appel II: Sections 1-6, T29S, R18E, KRM, is currently open to mineral entry. A mineral closing order is needed for these sections. Sections 25-29 and 32-36, T28S, R18E, KRM are closed to mineral entry. A mineral closing order is not needed for these sections.

Snake River: The staking area is currently open to mineral entry. A mineral closing order is needed.

Cannery Creek: Cannery Creek is closed to mineral entry. A mineral closing order is not needed for this staking area.

Traditional Use Finding (AS 38.05.830)

A traditional use finding is not required for areas within organized boroughs. For the areas outside boroughs, Snake River and Appel II, there are no anticipated significant changes to traditional uses of the land and resources of this area as a result of the proposed action other than a potential increase in remote recreational activity associated with having privately owned sites. These areas are designated and classified for settlement (land disposals) through the area plans, and one of the considerations in designating settlement areas was minimizing impacts on traditional uses, including fish and wildlife harvest. The impacts should be kept to a minimum by having a limited number of new stakings during the 2004 offering.

Cannery Creek: is located within the Kenai Peninsula Borough. No traditional use finding is required.

Access To and Within Staking Areas

Legal access to the staking areas is generally by travel across state land, along section line easements or other easements reserved in conveyances to boroughs and private parties. Access across unreserved state land without a permit may be by foot, snow machine, or similar means provided road construction is not undertaken. Limited trail construction may be allowed on state land without a permit under certain conditions (generally allowed uses, 11 AAC 96).

The brochure and staking packets will include information about access to and within the staking areas and routes will be depicted on the staking maps where possible. The information will be gathered from agencies, public input and other research. Satellite imagery will be used for information on currently used trails, airstrips and seismic lines.

The staking instructions require that all staked parcels be subject to existing trails within the staking areas. A minimum 50-foot right-of-way on each side of RS 2477 trails is reserved. An easement 30 feet in width will be reserved along on each side of existing trails through or along any staked site. Section line easements will also be reserved 50 feet on each side of surveyed or protracted section lines that are within or along staked sites. Parcels may not be staked across surveyed section or township lines, RS 2477 rights-of-way or across trails that have been assigned an ADL number.

Appel II: Access to the staking area is by a series of RS 2477 trails. These trails, RST 140, (McGrath-Telida), RST 345 (Kobi-McGrath) and RST 203 Takotna-Nixon Fork) intersect in section 20, T28S, R18W, KRM, approximately 1/2 mile north of the staking area. These trails are part of the Iditarod trail system and are for winter use only. Additional winter access is by snowmachine along the Kuskokwim River to the staking boundary. Summer access is by plane or boat from the Kuskokwim River to the staking boundary.

Cannery Creek: Summer and winter access is by float or ski plane to the lakes located in sections 13 and 25, T6N, R18W, SM. Other lakes dot the staking area but their suitability for float or ski plane use is unknown.

Snake River: Access to the Snake River staking area is by snowmachine, plane or boat from the Snake River. Land between the RS 2477, Togiak-Nushagak trail, is within the Togiak National Wildlife Refuge. Check with the Togiak National Wildlife Refuge before crossing refuge land. Additional research on access will be included in the Final Decision.

Waters Determined Public or Navigable

Lakes larger than 50 acres in size or streams larger than 50 feet in width are navigable for title purposes. For purposes of this offering, it is administratively determined that the Kuskokwim River, Drift River, Cannery Creek, Snake River and Weary River are navigable. All other streams shown on the 1:63,360 USGS base maps for the staking areas are determined to be public. If at the time of survey a parcel is staked along a stream not shown on a staking map, the waterbody may be determined to be public at that time in accordance with AS 38.05.127 and 11 AAC 51.035. Waterbodies determined to be public or navigable will have 50-foot public access easements reserved along the ordinary high water mark.

Generally, lakes less than ten acres in size are not determined navigable or public unless specifically identified below.

Appel II: There are no lakes determined public or navigable within the staking area.

Cannery Creek: The unnamed lakes in sections 17 and 20, T6N, R17W, SM, section 19, T6N, R17W, SM, sections 19 and 20, T6N, R17W, SM and sections 20, 29 and 30, T6N, R17W, SM are determined public. The unnamed lakes in sections 11 and 14, T6N, R18W, SM, section 13, T6N, R18W, SM and section 25, T6N, R18W, SM are determined public. All other isolated lakes are less than ten acres in size and are determined not public.

Snake River: The unnamed lakes in section 14, T12S, R57W, SM, sections 13 and 14, T12S, R57W, SM, sections 19 and 30, T12S, R57W, SM and sections 29 and 30, T12S, R57W, SM, are determined public. All other isolated lakes are less than ten acres in size and are determined not public.

Access To and Along Public Water (AS 38.05.127, 11 AAC 51.035, 11 AAC 51.045): For the purposes of reserving access easements under 11 AAC 51.045, Easements To and Along Navigable and Public Water, a continuous easement extending at least 50 feet upland from the ordinary high water mark will be reserved along water bodies determined to be navigable and/or public. An alternate upland access route may be reserved if topography or obstructions prevents or makes a continuous easement difficult.

Parcels staked along waters determined to be navigable and/or public will have the following easement reserved:

A continuous easement for public access extending at least 50 feet upland from the ordinary high water mark.

See the previous section for waterbodies identified as public for purposes of this offering. Since the program allows authorized stakers to choose their own parcel of land within a large remote area, we cannot determine in advance what specific waterbodies will be staked, what topographic conditions will exist and what easements will be finally reserved. Therefore, instead of at the time of the final finding, the initial determination may be made at the time of lease adjudication for a specific parcel of land based on the above determinations, but the final determination will be made at the time of survey of that parcel.

Survey and Appraisal Deposits

In accordance with 11 AAC 67.825, 11 AAC 67.835(4) and 11 AAC 67.840, a deposit for the cost of surveying, platting and appraising the site will be required. Current regulations state the deposit may be either: 1) a quarterly payment towards the department'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 department determines that offering this option is in the state's best interest, and if the applicant chooses it. However, the department has determined that it is not in the state's best interest to offer the second deposit option for this offering. The department proposes to issue state survey contracts under the procurement code for the staking areas, and the costs will be prorated by acreage for each parcel. It would not be cost-effective for either the department or the applicants to allow individual surveys in the same staking area where state contracts are issued. The exception would be if a staking area received so few applications that a state survey contract would not be cost-effective. The department may also identify and survey additional parcels in a staking area up to the total number of stakings authorized during the staking period, to be sold at a later offering.

Staking Instructions

Staking instructions will be issued to each successful lottery applicant. The staking instructions will include general requirements for staking a parcel of land in a staking area, including the manner of staking a parcel such as setting corner posts, brushing and flagging parcel boundary lines, limits on total water body frontage, easement or setback requirements from public and navigable waters and existing trails, minimum and maximum parcel sizes, and other parcel

configuration requirements. The staking instructions include special instructions for the individual staking areas, notice of any changes including errata, staking maps showing the staking area boundaries, and the time periods for staking in each area.

Alternatives

The following alternatives were considered:

1. Offer the settlement areas for staking under the Remote Recreational Cabin Sites Program. Area plan recommendations regarding setbacks, public access, public use areas, etc. will be shown on the staking maps for the offering. Additional public and agency concerns, such as excluding areas of potential conflict, will be addressed in the final finding and decision.
2. Do not offer the settlement areas for staking under the Remote Recreational Cabin Sites Program. Instead, offer the areas under other programs, such as subdivision sales or homesteads.
3. Do not offer the areas at this time. Retain the land in public ownership.

Alternative 1 is the alternative that maximizes the public interest. In accordance with the approved area plan, these areas were designated for future settlement. Dispersed, low density staking is the best alternative for these settlement areas since they are in a remote location with little or no infrastructure available. The areas were identified during the area plan process as being appropriate for settlement, due to factors such as suitable terrain, availability of overland, boat or air access, suitable soils and vegetation, and other factors. The initial offering will be less than the maximum net acres recommended in the area plans to limit potential conflicts and minimize impacts.

Alternative 2 is not preferred. The department is currently funded to offer the Remote Recreational Cabin Sites program and has been successfully managing the program for three previous offerings. Subdivisions in these areas are not preferred because the cost of creating subdivisions requires more dense settlement. In addition, these areas are generally not physically suitable for more dense settlement. Additional study (soils surveys, engineering, etc.) would be required to identify and plat subdivision sites. The homestead program was changed so that only pre-designated, surveyed aliquot part parcels can be offered, which does not allow people to stake a parcel of their choosing.

Alternative 3 is not preferred. The legislature and the public have indicated a high desire for DNR to offer remote state land for private ownership. This program would allow Alaskans the opportunity to stake a piece of land of their choosing in a designated remote area of the state for recreational purposes, and to purchase the land at market value after it has been surveyed and appraised. The opportunity to stake parcels of land in new remote areas of the state has not been available to Alaskans for many years.

Local Review of Staking Areas

In accordance with 11 AAC 67.810, if a remote recreational cabin site staking area is within a municipality that exercises platting authority or expects to begin exercising platting authority before the remote recreational cabin sites are platted, the department will notify the municipality when providing notice under AS 38.05.945(c) that:

1. The department will not proceed with the proposed opening without a modification of the municipality's plat review process.
2. The survey plat will not be prepared until three or more years after an applicant stakes a site and receives a lease, and that during that period before the plat is prepared, a lessee might construct permanent improvements and onsite wastewater disposal systems.
3. To ensure compliance with applicable platting and onsite wastewater disposal requirements, those requirements must be known before a lease is issued.

This decision is the notice provided under AS 38.05.945(c). If in response to this notice, the municipality

1. grants conceptual approval of the density and minimum size of cabin sites to be offered, and consents to be guided by that conceptual approval during its later plat review, the department will conform the department's final decision to that maximum number and minimum size;
2. requests that the department submit a preliminary plat, showing the cabin site's approximate location and size, for the municipality's approval before the department issues a lease, the department will submit that material and adjust the boundaries of the lease site as necessary to comply with municipal platting requirements;
3. requires a minimum parcel size to qualify the final plat for a waiver of review, the department will conform the department's final decision to that minimum parcel size; or
4. states that the municipality will not modify its platting process to allow the offering of unsurveyed cabin sites, the department will not proceed with the proposed offering.

DNR has informed the respective boroughs that their conceptual approval is needed in order to offer the areas in 2004. This preliminary decision constitutes the formal request, although in order to allow the boroughs enough time to consider the proposed areas during their process, DNR has notified the boroughs in advance of the deadline for formal approval.

The Cannery Creek proposed staking area will be presented at the Kenai Peninsula Borough Planning Commission hearing on January 26, 2004 for conceptual approval.

Public Notice

This decision is to be given public notice pursuant to AS 38.05.945. Legal notices will be published in the Anchorage Daily News, the Fairbanks Daily News-Miner, and newspapers of local circulation for the areas proposed to be offered. Public notices will be posted at post offices and public libraries in the general area of the proposed offerings. Notices will be mailed to the affected boroughs, Native Corporations, Tribal Councils, private landowners and permittees of

record within the vicinity of the proposed staking areas. The notice will also appear on the State of Alaska Online Public Notices web page at <http://notes3.state.ak.us/pn/pubnotic.nsf>.

Public Open Houses

A public open house is scheduled for:

McGrath on January 29, 2004, 6-8 pm at McGrath School commons for the Appel II proposed new staking area. The open house will provide local residents an opportunity to review the proposals, provide local information about the staking areas and to comment on the proposals.

An open house was not scheduled for Cannery Creek because it is a prior approved offering and the proposed action is only to change the method of disposal from homestead to Remote Recreational Cabin Sites. However, the areas will be presented to the Kenai Peninsula Borough at its January 26, 2004 hearing, which is open to the public.

A public open house was held in Dillingham for the Snake Lake proposed staking area on November 19, 2003, in conjunction with the public house for the Bristol Bay Area Plan revisions. No comments were received at the open house.

Hearings

Pursuant to AS 38.05.946, 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 commissioner (or a representative) shall attend the hearing. The commissioner has discretion whether to hold a public hearing.

Public Comments

In accordance with AS 38.05.945, the public is invited to comment on the preliminary decision, amendment to preliminary decision and amendment to final finding ("preliminary decision") to offer these areas under the Remote Recreational Cabin Sites program, and on the proposed mineral closing orders for Appel II and Snake River. Copies of the preliminary decision, maps, and additional information are available at DNR's Public Information Centers in Juneau, Fairbanks, and Anchorage, and at http://www.dnr.state.ak.us/mlw/landsale/remote_recsites.htm. Any comments must be received in writing by the Division of Mining, Land and Water, Land Sales and Contract Administration Unit, 550 West 7th Avenue, Suite 640, Anchorage, AK 99501-3576, attention: Pandora Willingham, or the DNR Northern Region Office, 3700 Airport Way, Fairbanks, AK 99709-4699 attention: Jeanne Proulx, **on or before 5:00 p.m. Friday, February 20, 2004** in order to ensure consideration.

If public comments in response to this notice indicate the need for significant changes in the above decision, additional public notice for the affected area(s) will be given on or about March 5, 2004. Deleting all or portions of a staking area from the offering, making minor changes to the proposed staking areas or staking authorization numbers, will not be considered a significant

change requiring public notice. If no significant change is required, the Preliminary Finding and Decision, including any deletions, minor changes and a summary of public comments and division responses, will be issued as the Final Finding and Decision of the Department of Natural Resources without further notice. A copy of the final decision will be sent to any person who comments on the preliminary decision and will be available at the address above. The final decision will set out the applicable process for appealing the decision under AS 38.05.035(i)-(m). To be eligible to appeal, a person must comment during the public comment period.

If you have any questions concerning this proposed action, please contact Pandora Willingham at (907) 269-8595, e-mail: pandora_willingham@dnr.state.ak.us or fax: (907) 269-8916, or contact Jeanne Proulx at (907) 451-2745, email: jeanne_proulx@dnr.state.ak.us or fax (907) 451-2751.

Individuals with disabilities who may need auxiliary aids, services or special modifications should contact the Public Information Center in Anchorage between 10:00 a.m. and 5:00 p.m., M-F at (907) 269-8400, email: pic@dnr.state.ak.us or TDD (907) 269-8411, or the Public Information Center in Fairbanks between 9:00 a.m. and 5:00 p.m. at (907) 451-2705, email: fbx_pic@dnr.state.ak.us, TDD: (907) 451-2770.

Recommendation

The proposed actions, with the above recommendations, are consistent with the overall management intent for state land and is in the state's best interest. By offering the proposed staking areas under the Remote Recreational Cabin Sites program, the state can provide Alaskans the opportunity for private ownership of land in remote settlement areas of the state, and can generate revenue for the state. It is recommended that the Appel II, Cannery Creek and Snake River staking areas as depicted in Attachment A be approved, closed to mineral entry where appropriate and offered for staking under the Remote Recreational Cabin Sites program, AS 38.05.600.

_____/S/_____
Pandora Willingham
Natural Resource Specialist II
Land Sales and Contract Administration

_____/1/21/2004_____
Date

Best Interest Finding

The proposal is consistent with the overall management intent for state land for these areas. Changes to public resources and the public interest as a result of the proposal are acceptable. I find that the proposed action may be in the state's best interest and it is hereby approved to proceed to public notice.

_____/S/_____
Dick Mylius, Deputy Director
Division of Mining, Land and Water

_____/1/21/2004_____
Date

Attachments:

Public Notice
Area information chart
Statewide Maps and Area Maps

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
PUBLIC NOTICE
PRELIMINARY FINDING AND DECISIONS
AMENDMENT TO PRELIMINARY FINDING AND DECISIONS
AMENDMENT TO FINAL FINDING AND DECISIONS
2004 PROPOSED LAND OFFERING AS 38.05.035(e)
REMOTE RECREATIONAL CABIN SITES PROGRAM AS 38.05.600
PROPOSED RECLASSIFICATION AS 38.04
PROPOSED AMENDMENT TO TANANA BASIN AREA PLAN 11 AAC 55
PROPOSED MINERAL CLOSING ORDERS AS 38.05.185**

Subject to AS 38.05, the Division of Mining, Land and Water proposes to open the following areas of state land for staking under the Remote Recreational Cabin Sites program, AS 38.05.600. The division also proposes to amend the Tanana Basin Area Plan to reclassify the Tok Triangle staking area to settlement, and to close the Appel II, Snake River, Teklanika II and Tok Triangle areas to mineral entry. The division proposes to offer approximately 250 authorizations in the summer of 2004 to stake parcels of land between 5-20 acres each from the following areas and areas previously approved. The division has issued two decisions, one for the northern region areas and one for the southcentral region areas.

NORTHERN REGION:

Far Mountain staking area is located along North Fork Chena River and Boulder Creek, approx. 6 miles northeast of Chena Hot Springs Resort and 65 miles northeast of Fairbanks, within Township 4 North, Range 9&10 East, Fairbanks Meridian, approx. 44,800 acres. 50 staking authorizations are proposed for this area.

Teklanika II is located along the Teklanika River approx. 17 miles downstream from the bridge across the Parks Highway at Nenana, 60 air miles southwest of Fairbanks, within Township 6 South, Range 10 West, Fairbanks Meridian, approx. 8,320 acres. 50 staking authorizations are proposed. The area is proposed to be closed to mineral entry prior to offering.

Tok Triangle is located approx. 4 miles southwest of Tok between the Eagle Trail, the Alaska Highway and the Glenn Highway, within Township 17&18 North, Range 11&12 East, Fairbanks Meridian, approx. 8,000 acres. 50 staking authorizations are proposed. The staking area will be reclassified from agriculture/settlement to settlement only to allow the area to be offered under this program. The area is proposed to be closed to mineral entry prior to offering.

SOUTHCENTRAL REGION:

Appel II is located north of the Kuskokwim River and east of Appel Mountain approx. 7 miles northeast of McGrath, within Township 28&29 South, Range 18 East, Kateel River Meridian, approx. 9,440 acres. 50 staking authorizations are proposed. The area is proposed to be closed to mineral entry prior to offering.

Cannery Creek is located approx. 12 miles northeast of Redoubt Volcano near Redoubt Bay and the mouth of Drift River, on the west side of Cook Inlet approx. 25 miles west of Kenai, within Township 6 North, Range 17&18 West, Seward Meridian, approx. 7,300 acres. 30 staking authorizations are proposed for this area.

Snake River is located along the Snake River approx. 1 mile south of Lake Nunavaugaluk (Snake Lake), 15 miles northwest of Dillingham, within Township 12 South, Range 57 West, Seward Meridian, approx. 15,300 acres. 50 staking authorizations are proposed. The area is proposed to be closed to mineral entry prior to offering.

OPEN HOUSES

DNR will hold open houses in McGrath on January 29, 2004 from 6:30-8:30 pm at the McGrath School commons; Tanacross on February 3, 2004 from 3:00-5:00 pm at the community center; Dot

Lake on February 4, 2004 from 2:00-4:00 pm at the community center; and Tok on February 4, 2004 from 6:00-8:00 pm at the public school, to gather local input and comments. All open house locations, dates and times are subject to change. Call the DNR Public Information Center in Anchorage at (907) 269-8400 or in Fairbanks at (907) 451-2705 for additional information and confirmation. An open house was previously held in Dillingham on November 19, 2003.

PUBLIC NOTICE

In accordance with AS 38.05.945, the public is invited to comment on the preliminary decisions, amendment to preliminary decisions and amendment to final findings ("preliminary decisions") to offer these areas under the Remote Recreational Cabin Sites program, on the proposed mineral closing orders for Appel II, Snake River, Teklanika II and Tok Triangle, and the proposed Tanana Basin Area Plan amendment and reclassification for Tok Triangle. Copies of the preliminary decisions, maps and additional information are available at DNR's Public Information Centers in Fairbanks, Anchorage and Juneau and at http://www.dnr.state.ak.us/mlw/landsale/remote_recsites.htm. Any comments must be received in writing by the Division of Mining, Land and Water, Land Sales and Contract Administration Unit, 550 West 7th Avenue, Suite 640, Anchorage, AK 99501-3576, attention: Pandora Willingham, or the DNR Northern Region Office, 3700 Airport Way, Fairbanks, AK 99709-4699 attention: Jeanne Proulx, on or before **5:00 p.m. Friday, February 20, 2004**, in order to ensure consideration.

If public comments in response to this notice indicate the need for significant changes in the above preliminary decisions, additional public notice for the affected area(s) will be given on or about March 5, 2004. Deleting all or portions of a staking area, or making minor changes to the proposed staking areas or staking authorization numbers, will not be considered a significant change requiring public notice. If no significant change is required, the preliminary decisions, including any deletions, minor changes, summary of public comments and division responses, will be issued as the Final Finding and Decisions of the Department of Natural Resources without further notice. A copy of the final decision will be sent to any person who comments on the preliminary decision and will be available at the address above. The final decision will set out the applicable process for appealing the decision under AS 38.05.035(i)-(m). To be eligible to appeal, a person must comment during the public comment period.

If you have any questions concerning this proposed action, please contact Pandora Willingham at (907) 269-8595, email: pandora_willingham@dnr.state.ak.us or fax: (907) 269-8916 or contact Jeanne Proulx at (907) 451-2745, email: Jeanne_Proulx@dnr.state.ak.us or fax (907) 451-2751.

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

Bruce Phelps, Acting Chief, Resource Assessment and Development Section

Publish: Anchorage Daily News: January 21, 2004
Fairbanks Daily News Miner: January 21, 2004
Peninsula Clarion: January 21, 2004
Bristol Baytimes: January 22, 2004
Mukluk News: February ____, 2004

ATTACHMENT B

Preliminary Finding and Decision
Remote Recreational Cabin Sites Program 2004 Offering

STAKING AREA	MTR	STAKINGS Allowed by Area Plan/ PROPOSED FOR 2004	BOROUGH	AREA PLAN/ MGMT UNIT	NEAREST COMMUNITY	NATIVE REG./ VILLAGE CORP.	TRIBAL COUNCIL/VILLAGE	PREVIOUS FINDING
SOUTHCENTRAL REGION								
Appel II	T28S R18E KRM T29S R18E KRM	150/50	N/A	Kuskokwim Area Plan; Unit: 5, Sub Unit: 5b Classified: Settlement	McGrath	DOYON LIMITED	McGrath Native Village Council Medfra Traditional Council Nikolai Edzeno' Village Council Takotna Village Telida Village	Preliminary Decision N/A for T29S R18E KRM
Cannery Creek	T33N R2W SM	41/30	Kenai Peninsula	Susitna Area Plan Subregion: North Parks Hwy Unit: 3 Subunit: 3e Classified: Settlement	Kenai	CIRI Tyonek Native Corpotaion	Village of Tyonek Ninilchik Native Assoc. Ninilchik Traditional Council Kenaitze Indian Tribe Salamatof Native Assoc. Village of Salamatof	Final Finding and Decision
Snake River	T12S R57W SM	100/50	N/A	Bristol Bay Area Plan Unit 5 Classified: Settlement	Dillingham	BRISTOL BAY Choggiung, Limited Aleknagik Natives Limited Manokotak Natives Limited	Curyung Native Village Council Aleknagik Traditional Council Manokotak Village Council Native Village of Dillingham Native Village of Aleknagik	Preliminary Decision

ATTACHMENT B

Preliminary Finding and Decision
 Remote Recreational Cabin Sites Program 2004 Offering

STAKING AREA	MTR	STAKINGS Allowed by Area Plan/ PROPOSED FOR 2004	BOROUGH	AREA PLAN/ MGMT UNIT	NEAREST COMMUNITY	NATIVE REG./ VILLAGE CORP.	TRIBAL COUNCIL/VILLAGE	PREVIOUS FINDING
NORTHERN REGION								
Far Mountain	T4N R9 FM T4N R10E FM	133/ 50	Fairbanks North Star	Tanana Basin Area Plan Subregion 1: Unit 1U Subunit 1U3c	Chena Hot Springs	DOYON Denakkanaaga	Fairbanks Native Association	Final Finding and Decision
Teklanika II	T6S R10W FM	100/ 50	Denali Borough (partially)	Tanana Basin Area Plan Subregion 4 Unit 4I Subunit 4I1	Nenana	DOYON Toghoththele	Nenana Native Village	N/A
Tok Triangle	T17N R11E FM T17N R12E FM T18N R11E FM T18N R12E FM	50/50	N/A	Tanana Basin Area Plan Subregion 6: Unit 6D	Tok	DOYON United Crow Band Inc. Dot Lake Native Corp. Tanacross Inc.	Tetlin Tribal Council Dot Lake Village Council Tok Native Association Tanacross Village Council	N/A