

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

**FINAL FINDING AND DECISION**

of a  
**Proposed Land Offering in the Matanuska-Susitna Borough  
Creek Bend House – ADL 232669  
AS 38.05.035(e), AS 38.05.045**

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated June 15, 2017. The PD has had the required public review, and is attached.

**I. Recommended Action**

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales Section (LSS) recommends offering for sale State-owned land for private ownership within the Creek Bend House project area (ADL 232669), as described in the Preliminary Decision. A surveyed parcel will be offered for future sale by a method under *AS 38.05.045 Generally*.

For the purposes of providing land for settlement, DNR may offer a single 5-acre parcel. This project area is located within the Matanuska-Susitna Borough (MSB).

There are no related actions with this proposal.

**II. Authority**

DNR has the authority under *AS 38.05.045 Generally* 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, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska provides: "It is the policy of the State to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest".

**III. Public Participation and Input**

All State requirements for public notice and public comment input have been met as covered in detail in Section **V. Summary of Public Notice and Comments**. Further information may lead to alterations of design of this project within the parameters set forth through this decision. The project area has already been surveyed. DNR has contracted for an as-built survey of the property and improvements. Should this project move forward with State approval, DNR intends to record a separate Record-of-Survey before sale. This process will be subject to MSB ordinances and codes.

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### IV. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a traditional use finding is required for project areas located within the Unorganized Borough. This project area is within an organized borough; therefore, no traditional use finding is required.

### V. Summary of Public Notice and Comments

Pursuant to AS 38.05.945 Notice, public notice inviting comment appeared on the State of Alaska Online Public Notices website at <https://aws.state.ak.us/OnlinePublicNotices/> and was posted on the DNR DMLW LSS website at [http://dnr.alaska.gov/mlw/landsale/public\\_notice/](http://dnr.alaska.gov/mlw/landsale/public_notice/) for the entire public notice period.

Notification and decision copies were sent directly to area state legislators and to multiple state agencies. Public notice was sent to other interested entities including landowners in the vicinity of the offering; additionally, parties were notified via the DNR Land Sales subscribers lists by email. Information was also posted to Twitter and Facebook. Notices were mailed to the Matanuska-Susitna Borough per *AS 38.05.945(c)(1)*, as well as Cook Inlet Region, Inc. (CIRI) native regional corporation per *AS 38.05.945(c)(2)-(3)*. Additionally, notices and a request to post were sent to postmasters and librarians in the vicinity of the offering.

The public notice stated that written comments were to be received by 5:00 PM, July 20, 2017 in order to ensure consideration and eligibility to appeal. For more information, refer to the Preliminary Decision.

DNR DMLW LSS received comments from six agencies and two private individuals. All comments received during the public comment period are summarized below.

Department of Transportation and Public Facilities (DOT/PF) Comment: The Department requests DNR notify the public that the buyer shall apply for a driveway access permit to the Old Glenn Highway; contact the Central Region Right-of-Way Group. DOT can confirm from aerial imagery the trail has been around since the '50s. DOT noted that there is no reference to a trail (Goat Creek Trail) in the Federal ARC records, and noted that it may have been privately constructed. The Old Glenn (Knik River Road) has not changed greatly but there are portions that may have meandered when necessary to protect the roads integrity. Prior to 2002 permits for access ran with the owner not the property. DOT is unable to confirm or deny if this particular approach [driveway] has ever been shown. DOT intends to ensure the new owner is aware of the liability and responsibility that comes with having a safe access to a state maintained road.

DNR DMLW LSS Response: The information provided is appreciated. Offering material will alert the public to the need for making application to DOT/PF for a driveway access permit to the Old Glenn Highway as requested.

DMLW Office of History and Archaeology (OHA) Comment: Review of the Alaska Heritage Resources Survey database indicated that there are no known cultural resource sites within the boundaries of the subject parcel. The possibility remains that previously unidentified resources may be located within the project area. If any are discovered, OHA should be notified so that office may evaluate whether the resources should be preserved in the public interest per Section 41.35.070[d].

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DNR DMLW LSS Response: The information provided is appreciated. LSS has communicated with OHA since early in the development of this project. Offering materials will include a statement regarding archaeological sites and the need to contact OHA if any such sites are discovered.

The following organizations all submitted comments of non-objection: Alaska Railroad Corporation; Division of Agriculture; Mental Health Trust Land Office; and, Matanuska-Susitna Borough Platting Officer.

Individual Comment: One individual submitted comment stating that US Surveys on several parcels depict the existing driveway for USS 3070 to logging and prospecting lands in the Goat Creek valley. The individual asserted that the current driveway on USS 3070 was built by a private individual many years ago for logging and likely prospecting the backcountry. Prior to statehood, there was apparently some activity in the area of Goat Creek with roadbuilding, railroad construction, logging, prospecting, and construction of a café-rooming house and other structures. The commenter noted that the Goat Creek Trail is mechanically constructed and ascends the highlands to the south of the Old Glenn Highway, crosses a ridge and drops into the valley, where there is the general appearance of mining activity at the creek. He stated it should be fully protected as a rare access into Chugach State Park land. He concluded that the Goat Creek Trail is an RS2477 right of way and requested the State of Alaska assert and provide for public use of this ROW.

DNR DMLW LSS Response: DNR appreciates the knowledge shared by the comments submitted and will take them into consideration when offering this parcel. No surveys, documents, notes, or records were referenced or provided. Pursuant to information received and further conversation with the commenter, it is unclear which route may be asserted as a RS 2477 trail. The route discussed above may include the constructed driveway to USS 3070, or the depicted route of R/W A044000. DNR and DOT/PF research has revealed evidence that is inconclusive as to the origin and status of the current driveway for USS 3070 and its association, if any, to what appears to be federal R/W A044000. DMLW has discovered no RS2477 for a Goat Creek Trail or any other trail on or around the project parcel to date. US Surveys for the project and adjacent and surrounding parcels, including Field Notes, do not identify the origin and/or status of trails that are marked on boundaries of some surveys and not marked on adjacent surveys dated within a few days of each other. Items provided by Matanuska Electric Association, Chugach Electric Association, and Anchorage Municipal Light and Power (the purchasers of the federal Eklutna Power project), are not well-defined in locating what they declare is an access road for transmission line tower maintenance. Access to Chugach State Park through this state parcel would require additional access to be reserved across private property between USS 3070 and Chugach State Park. DNR is not currently asserting a RS 2477 trail exists in this location. However, LSS has coordinated with the DMLW Public Access Assertion and Defense (PAAD) Section to serialize and research this potential RS 2477 route. PAAD has serialized this potential RS 2477 route as RST 2002. The location and status of this potential trail is subject to further research and adjudication. As with any other public or private land, if an RS 2477 is determined to exist, the property will be subject to the applicable ROW along that route.

The same individual later submitted additional comment stating that the image provided by DNR is colorful but not accurate; an aerial winter view in 2011 shows the trail alignment clearly, to its

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terminus at about 1,200' level. He noted geologic features in the vicinity, including Twin Peak's chromite deposit and Border Ranges Fault within the Chugach State Park, and noted that the Border Ranges Fault is closer to the project area discussed in the PD. The commenter also noted that chromite may be a strategic mineral in the future. He stated concern about Goat Creek drainage as a valuable clear water supply that is not protected here, and concern with the privatization of water rights. He stated this parcel has a history of title problems. He asserted the Chugach Park Plan required notice to MSB Platting and federal notice that would affect water supplies and access routes. The commenter expressed that if DNR continues to divest this known and substantial public water and access route, he predicted expensive law suits in the future. Because of the above items, he stated it is in conflict with public interest and highest and best uses in compliance with Art. 8 Alaska Constitution and this parcel should be retained in public ownership.

DNR DMLW LSS Response: The Attachment A for the Preliminary Decision (PD) is a graphic depiction for use as a guide to the project area. It may not show exact locations of all easements or associated features, and source documents remain the official record. The project research file has a copy of the 2011 winter imagery mentioned. LSS agrees the dirt trail/road that runs up the mountain to the south goes well beyond the high-power transmission line which seems to coincide with R/W A044000 as depicted on USGS Anchorage (B-6) Quadrangle. DMLW LSS has worked closely with the Division of Parks and Outdoor Recreation (DPOR), which administers Chugach State Park, throughout the development of this proposal. The chromite deposit mentioned is within the Chugach State Park, which is currently closed to the staking of mining claims. The development of this resource is subject to the restriction of the Legislatively Designated Area, and the Chugach State Park Management Plan. Because these lands are not available for multiple purpose use, leasing and subsurface development is precluded. This 5-acre parcel is surrounded by private land on all sides excepting the southwest corner. The proposed sale of this parcel is consistent with the current surrounding use of settlement. The sale of this parcel is not changing the use of the land, as this parcel has previously been used for settlement. Goat Creek is located outside of the parcel, above and approximately 275 feet from the nearest point of the parcel, and bends eastward to cross the Old Glenn Highway approximately ½ mile away. As noted in the PD, all surface and subsurface waters on all lands in Alaska are a public resource, subject to appropriation in accordance with the Alaska Water Use Act (AS 46.15). A water right is a legal right to use surface or groundwater under the Alaska Water Use Act. A water right allows a specific amount of water from a specific water source to be diverted, impounded, or withdrawn for a specific use, in this case to be withdrawn from the well. Although the water remains a public resource, the purchaser of the property will have the right to extract and use a certain amount based on that water right. Given the location and proximity of Goat Creek relative to the parcel, and the limited amount of water expected to be used for residential purposes, there should be minimal, if any, impact to Goat Creek due to offering this parcel for sale. Title Report No. 8163, provided by DMLW Realty Services Section (RSS), along with other project research as summarized in the Background section of the PD, provides that the state holds fee title to this parcel. Public notice was conducted in accordance with AS 38.05.945 Notice, and the MSB received notice of the proposed action. This parcel is outside of the Chugach State Park, and is not subject to any additional notice requirements through the Chugach State Park Management Plan. As noted above, access through the parcel via the proposed RS 2477 trail will attach to the property if the RS 2477 is determined to be valid. Given the prior residential use of the property, consistent with the surrounding land use, and the value of this property with existing improvements, DNR DMLW believes this parcel is appropriate for sale.

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### **VI. Modifications to Decision and/or Additional Information**

The recommended action has been modified from the original proposed action described in the Preliminary Decision, to correct language regarding the proposed utility access easement. The PD stated that the parcel may be subject to a utility access road easement 15-feet in width, located within the southwest corner of the parcel. The proposal is hereby modified to state that USS 3070 is subject to a utility-only access easement thirty (30) feet wide along the existing road depicted on Sheet 14 of the As-Built Survey of the Eklutna Transmission Line recorded on November 15, 1996 as Plat 96-110 in the Anchorage Recording District and located in Section 9 and 16, Township 16 North, Range 2 East, Seward Meridian.

The DMLW Resource Assessment and Development Section determined that the designation of Settlement and classification of Settlement Land is appropriate for this parcel and is necessary for consistent land use in the area (Determination SC-09-002-D12). The parcel will be incorporated into the nearby planning unit G09.

Recommendation and Approval of the Final Finding and Decision follow.

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**VII. Final Finding and Decision**

The Department recommends proceeding with the proposed action as described in the Preliminary Decision and amended herein. This action is undertaken under relevant authorities. Offering the parcel for sale will help meet the State’s goal to provide land for settlement for sale to the public and raise revenue for the State.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with *AS 38.05.945 Notice* and comments received were considered. The project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The proposed action is consistent with constitutional and statutory intent for State-owned land and this action is undertaken under relevant authorities.

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended action as described and referenced herein.

/s/

Recommended by: Kathryn Young  
Section Manager  
Land Sales Section  
Division of Mining, Land, and Water  
Department of Natural Resources  
State of Alaska

August 10, 2017

Date

/s/

Approved by: Brent Goodrum  
Director  
Division of Mining, Land, and Water  
Department of Natural Resources  
State of Alaska

16 AUG 2017

Date

**Appeal Provision**

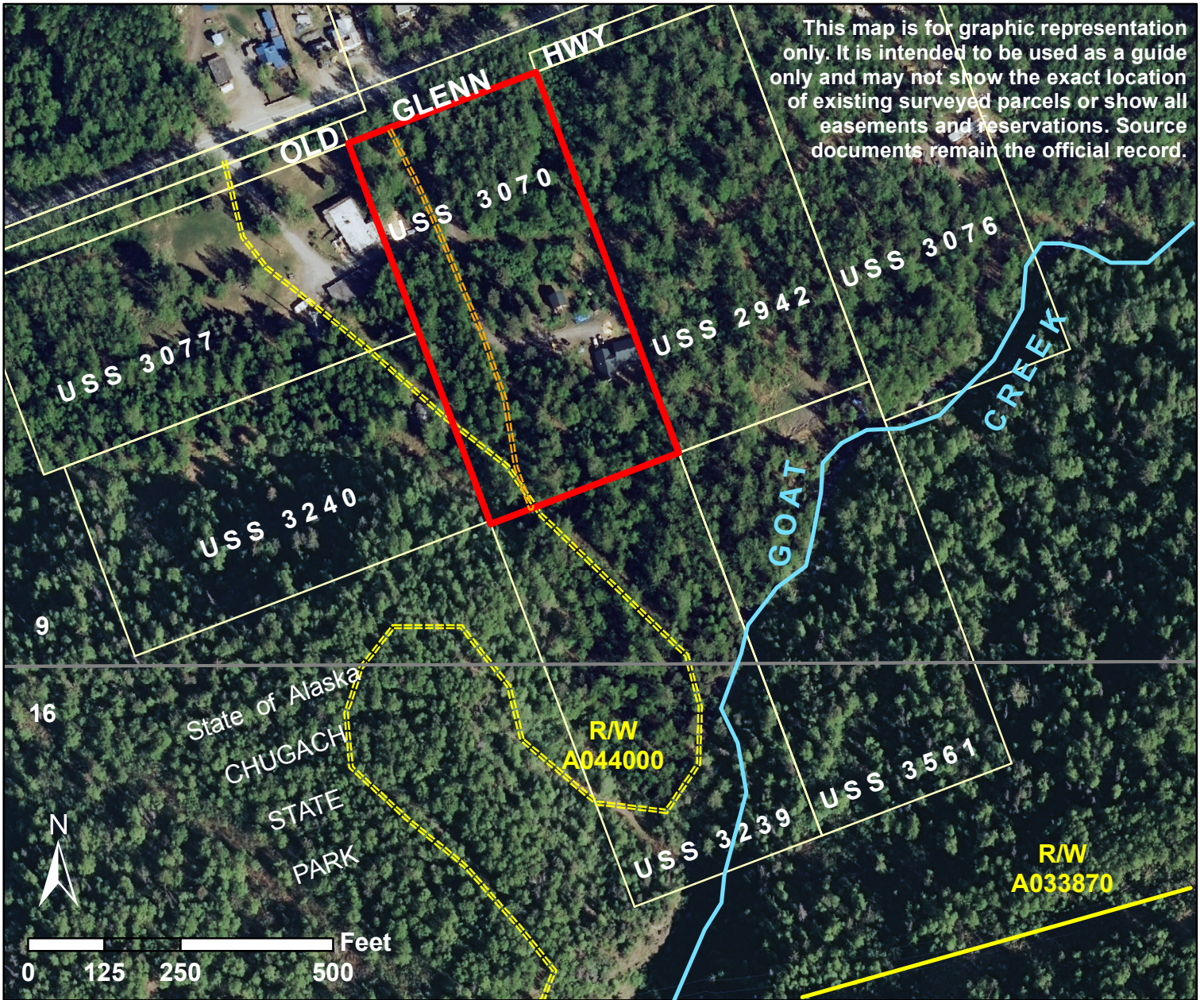
A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal it, in accordance with *11 AAC 02*. Any appeal must be received within 20 calendar days after the date of “issuance” of this decision, as defined in *11 AAC 02.040(c) and (d)* and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7<sup>th</sup> Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 907.269.8918; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). If no appeal is filed by that date, this decision goes into effect as a final order and decision on the 31<sup>st</sup> calendar day after issuance. An eligible person must first appeal this decision in accordance with *11 AAC 02* before appealing this decision to Superior Court. A copy of *11 AAC 02* may be obtained from any regional information office of the Department of Natural Resources.





# CREEK BEND HOUSE ADL 232669

## Attachment A - Vicinity Map Proposed Offering Within the Matanuska-Susitna Borough



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.

- Legend**
- Project Area ———
  - Utility Access Only - - - - -
  - Utility High Power Line ———
  - Goat Creek ———

USS 3070 Within  
S1/2SW1/4 Section 9  
Township 16 North,  
Range 2 East  
Seward Meridian

JWT 8/10/2017

**USGS QUAD 1:63,360**  
Anchorage (B-6)  
For more information contact:  
John W. Thomas  
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