

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

PRELIMINARY DECISION
Creek Bend House – ADL 232669

Proposed Land Offering in the Matanuska-Susitna Borough
AS 38.05.035 (e), AS 38.05.045

PUBLIC COMMENT PERIOD ENDS 5:00PM, JULY 20, 2017

I. Proposed Actions

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Attachment A: Vicinity Map

Attachment B: Area Data Summary Table

Attachment C: Public Notice

Primary Proposed Action: The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales Section (LSS) is to offer for sale State-owned land within the identified project area. If approved, this previously surveyed parcel will be offered for sale.

Located within DNR's Southcentral Region, approximately 35 miles north of Anchorage and 8 miles south of Palmer, the project area is at mile post 5.25 of the Old Glenn Highway, at 10585 S. Old Glenn Highway. The project area consists of United States Survey (USS) 3070, a single parcel approximately 5 acres in size identified for disposal by this proposed action. See *Attachment A: Vicinity Map* for a depiction of the project area.

For the purpose of providing land for settlement, if approved and deemed feasible, DNR may offer USS 3070 with existing structures. This proposed project area is located within the Matanuska-Susitna Borough (MSB).

If this proposed primary action is approved, the actual area offered for sale will consist of the parcel described above. After consideration of public comment, any alterations to the project area will be described in a subsequent Final Finding and Decision, if the project proceeds to that step.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal.

See **Section VIII. Submittal of Public Comments** at the end of this document and *Attachment C: Public Notice* for details on how to submit a comment for consideration. If, after consideration of timely, written comments, DNR moves forward with the proposal, a Final Finding and Decision will be issued.

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II. Method of Sale

DNR proposes to offer for sale land within the project area as described herein, through a future offering under *AS 38.05.045 Generally*.

The parcel offered through this action is offered fee-simple for the surface estate only. The land and any improvements on the land will be sold **as is** and **where is** with all faults, and in the condition found as of the date of sale, if the project moves forward. For more information about the land sales program, please visit the website at <http://landsales.alaska.gov>.

III. 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 states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."

IV. Administrative Record

The project file, Creek Bend House, ADL 232669, constitutes the administrative record for this proposed action. Also, incorporated by reference are:

- *Susitna Matanuska Area Plan (SMAP) for State Lands* (Adopted 2011) and associated land classification files;
- *Matanuska-Susitna Borough Comprehensive Development Plan*, 2005 Update;
- *South Knik River Comprehensive Plan* of 2014;
- *Matanuska-Susitna Borough Recreational Trails Plan*, Adopted March 2000, Updated August 2008;
- *Matanuska-Susitna Borough Community Wildfire Protection Plan Update* – September 2008;
- *Alaska Interagency Wildland Fire Management Plan* (2016);
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*;
- *USDA, Natural Resource Conservation Service Custom Soil Report* for this project, dated October 11, 2016;
- Associated case ADL 232243 non-competitive/preference rights file*;
- Associated case ADL 232402 trespass case*;
- Other DNR case files referenced within the project file.

*These files are available for inspection by contacting Kathryn Young, 907-269-8672, kathryn.young@alaska.gov

V. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section III. Authority**, is limited and specific to DNR DMLW's proposal to offer State-owned land within the defined project area for disposal as described herein. The scope of this proposal does not

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include the control of post-patent use and DNR DMLW does not intend to impose deed restrictions for this purpose.

VI. Description

Location: within DNR's Southcentral Region, approximately 35 miles from Anchorage and 8 miles from Palmer at mile post 5.25 of the Old Glenn Highway, 10585 S. Old Glenn Highway. See *Attachment B: Area Data Summary Table* for additional information.

Platting Authority: The project area is within the Matanuska-Susitna Borough and subject to the borough's platting authority.

Native Regional and Village Corporations: The project area is within the boundaries of Cook Inlet Region Incorporated (CIRI). Chickaloon Moose Creek Native Association, Inc.; Eklutna, Inc.; and Knikatu, Inc. village corporations are within 25 miles of this proposed action and will be sent notice. Courtesy notification will also be sent to Chickaloon Village Traditional Council, Native Village of Eklutna, and Knik Tribal Council.

Legal Description: USS 3070, located within Section 9, Township 16 North, Range 2 East, Seward Meridian, located within the Anchorage Recording District, Third Judicial District, Alaska.

Title: Information from Title Report No. 8163, current as of 9/15/2015 indicates the State of Alaska holds fee title to the land and mineral estates of the project area under deed issued to the Territory of Alaska pursuant to the Alaska Land Registration Act of 1953, dated November 3, 1958. The applicable State case files are FCL 18 and DSN 3-16. The parcel is subject to the reservations, easements and exceptions contained in the federal patent.

State Reservations of Title:

Retention of and Access to 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 retains ownership of the mineral estate that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals (such as gold, copper and silver, etc.), and leasable minerals (such as oil, gas, coal, etc.).

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 land estate owner will be compensated for damages resulting from mineral exploration and development.

Navigable Waters: Per *AS 38.05.126 (b) Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the state, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the state." This trust is in accordance with the principles of the Public Trust Doctrine, which are included in Article VIII, Section 14 of the

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Constitution of the State of Alaska and protected in the United States Constitution. It is vested in the title to this land, is not transferable, and the State's title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made and access will be reserved per *AS 38.05.127 Access To and Along Public and Navigable Water*. For more information, see Access To, Within, and Beyond Project Area subsection of this document.

The Bureau of Land Management has not made a navigability determination for waters within the affected township for title purposes.

Where they exist within the project area, State third-party interests will be described in land sales brochures.

Physical Characteristics and Hazards of the Land: Attachment B: Area Data Summary Table describes the project area's physical characteristics. Information about the project area is based on internal research, information received before and during agency review, and ground field inspections conducted by DMLW staff on September 15 and 22, 2016. This is by no means a complete description of the project area and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect the property prior to purchase to familiarize themselves with the physical characteristics of the land and improvements.

Soils: USDA Custom Soil Report of October 11, 2016 estimated about 72% of the parcel has Kashwitna-Kichatna complex 12-20% slopes and 28% is composed of Talkeetna-Chugach-Deneka complex soils 20-45% slopes. These coarse sand and gravelly soils are well drained, and frequency of flooding or ponding is listed as none. Although located in the vicinity of the historic farming colony project of territorial days, these soils are classified not prime farmland.

Wetlands: No wetlands have been identified within the project area.

Geologic Hazards: According to information provided by DNR, Division of Geological and Geophysical Surveys, there is a slight potential for seasonal flooding and erosion of adjacent Goat Creek. September 2016 ground inspections did not reveal any evidence of recent creek flow or flooding at the parcel. The property sits on a part of the well drained alluvial fan of Goat Creek and is at least 20 feet above the Knik River and is not at risk from precipitation-related flooding from the river. The parcel is in the zone of sporadic permafrost; coarse soil material would likely be thaw stable and not constitute an engineering problem. Castle Mountain fault is 16 miles away, and the area is susceptible to property damage from seismic vibrations and resulting landslides or avalanches, ground fissures, etc. The region's overall seismic hazard potential is high. In the event of a large eruption of a Cook Inlet volcano, there is potential for prevailing winds to transport ashfall to this location. This location is not in a known avalanche track. Should any other geologic hazards be discovered in the development of this proposal, information will be included in offering materials.

Fire Hazards: Pursuant to observations from DMLW September 2016 field inspections and information received from the Division of Forestry, fire risk in the area is likely moderate to seasonally high. The *MSB Community Wildfire Protection Plan Update* –

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September 2008, p. 10 states that historically May and June have been the most active months for wildfires in this portion of the state.

Potential for wild land fire can be high in Southcentral Alaska, especially during periods of high winds that are typical in the area during the dry weather of spring break-up and during the fall season. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. The project is within the Matanuska-Susitna Borough Butte Fire Service Area #2. More detailed wildfire protection information for communities and individuals is available in the *Matanuska-Susitna Borough Community Wildfire Protection Plan*, Update- September 2008.

Fire management options and policies for the area are identified in the *Alaska Interagency Wildfire Management Plan* available from DNR Division of Forestry. The 2016 fire management option for the project area is “Critical.” Operational Guidelines on areas with the critical management option reads: “Wildfires occurring in the Critical Management Option or that threaten Critical Sites are assigned the highest priority for suppression actions and assignment of available firefighting resources.” The plan also states that the designation of a fire management option does not ensure protection from wildfire, and that a protection response will be based on various factors. Ultimately it is the personal responsibility of the [landowner] to mitigate and minimize risk to their property and structures and to be ‘Firewise’ before threatened by a wildfire.

Flood Hazard: The project area is within FEMA Flood Insurance Rate Map Community Panel 8830, Map Number 02170C8830E effective date March 17, 2011. The parcel is outside of the depicted Knik River Flood Zone.

Water Resources: 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). Alaska Department of Fish and Game (DFG) holds reservation of water (LAS 28860) for stream flow within the Knik River and its floodplain. Four private water rights in the Land Administration System (LAS) have been identified near the project area, two north of the Old Glenn Highway and two on the south side. Based on feedback from the Water Section of DMLW, LSS has applied for water rights for this parcel. Water rights are appurtenant to the property. The water right application, LAS 31663, if issued, will remain with the state until the property has been patented to the new owner; at that time the water right will be transfer to the new owner.

Background: This 5-acre parcel and the structures located on it are state property suitable for settlement, specifically residential use. For USS 3070, federal patent 1144258 was issued to a private individual, May 4, 1954. Less than a month later, that owner conveyed his interest via Quitclaim Deed dated June 2, 1954 to another private party. Pursuant to Alaska Land Registration Law of 1953, the State of Alaska received title to the property via foreclosure on November 3, 1958. In 2004, descendants of the first private landowner returned to the property, without State authorization or permission, and built a home in trespass. In 2015, these same individuals filed a DNR Application for Preference Right Purchase of State Land (ADL 232243). DNR found that the applicants did not qualify for a preference right, and the application was denied. After the denial of the preference right, occupancy continued and the individuals asserted an equitable interest in the home built

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upon the property. DNR disputed this claim and initiated a formal trespass action (ADL 232402). One of the individuals, Sandy Stater, initiated a pro se lawsuit against several parties, including the State, in Alaska Superior Court Case No. 3AN-16-05025CI. On August 2, 2016, the Court dismissed the lawsuit. No subsequent lawsuit was filed, and the property was determined by DNR DMLW Southcentral Region Office (SCRO) staff to be vacated as of September 12, 2016. As of the date of this preliminary decision, no further litigation has been initiated or threatened by any party regarding the project area land. The property and buildings have remained vacated.

Field Inspection on September 12, 2016, also revealed that the kitchen in the home has been striped out, including major appliances, cabinets, and counters. Additional items removed include the heating stove, two exterior 500-gallon heating fuel tanks, one 80-gallon propane tank, shed and northern exterior stairway to the cabin. All structures, and the land in general, as determined by brief visual inspection, were otherwise left in good condition. DNR identified the parcel for a potential state land sale and quickly moved to have the site secured and winterized before freezing conditions or other factors could cause additional deterioration prior to offering.

The existing improvements in the project area will be sold **as is** and **where is** with all faults, and in the condition found, as of the date of sale, if the project moves forward.

Above ground utility lines run across the northern and northwestern portions of the parcel. The main portion of the utility line is approximately 100+ feet south of and roughly parallel to the Old Glenn Highway. Matanuska Electric Association (MEA) has indicated that this line connects the Eklutna Power Plant to Palmer and supplies electric power to USS 3070 and other parcels along its route. Due to the cleared underbrush along this line, snowmachines in the winter and ATVs in the summer use this as a trail. This use is unauthorized and considered in trespass.

A small take-off line runs northward across the Old Glenn Highway to a structure from the northwest corner of USS 3070. No records were found and no evidence was presented by other parties to establish their right to use or cross the property, via easements or other authorization, along either utility line segment on the project area. Matanuska Telephone Association (MTA) and MEA, representing the 1997 Eklutna Purchasers (MEA, Chugach Electric, and Anchorage Municipal Light and Power) were invited to work with DNR regarding this use of the land. However, no agreement could be reached on authorizing the utility lines on state land. DNR does not intend to reserve an easement along these utility lines within USS 3070.

There is an existing trail crossing the southwest corner of USS 3070. DNR intends to reserve a utility access road easement for the 1997 Eklutna Purchasers along this route which apparently is part of federal right-of-way (R/W) A044000 providing maintenance access to the federal R/W A033870 for high tension power line towers south of the parcel. Another utility access trail is depicted as entering the parcel from the east and may be associated with A044000; however, no evidence was found on the ground of this trail. This trail does not appear to provide access to the large power line towers up the mountain side or other utility structure. There is no record of an easement for that portion of a trail within USS 3070. DNR does not intend to reserve an easement along any trail that may traverse into USS 3070 from the east boundary.

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USS 3240 and USS 3239 both show a trail connection that is just outside of the southwest corner of the project area crossing what is now Chugach State Park land. To date, no state authorization has been found for this feature on or across state lands. Both surveys also show a power line crossing from USS 3240 into the southwest corner of USS 3070 and continuing into USS 3239. This powerline still exists today. To date, no state authorization has been found for this feature either on or across state lands. USS 3240, USS 3239, and USS 3077, abutting the project area on the south and west, are currently shown in Mat-Su Borough records as having the same owner who has stated to DNR staff the he has occupied USS 3077 since 1971. This neighbor also confirmed, in a meeting with DMLW staff and MEA on December 15, 2016, that he would have no problem with the utility companies using the federal R/W A044000 utility access road easement through his property from the Old Glenn Highway uphill to the southwest corner of USS 3070 and further southward on the existing trail. No documentation has been discovered or presented to establish public access or use on the project area. DNR does not intend to provide any public access easement or additional utility line easement on the project area parcel.

The present driveway from the Old Glenn Highway is a private driveway and not part of R/W A044000 or any other public or utility access road easement. The A044000 easement through the southwest corner of the parcel is for the exclusive use of the 1997 Eklutna Purchasers (MEA, Chugach Electric, and Anchorage Municipal Light and Power); it is not a public access easement. No individual or entity, public or private, has documented any other easement, right, agreement, or authorization to use any other portion of USS 3070.

In May 2017, an as built survey identified a previously unknown well located just over 3 feet inside of the west boundary adjacent to USS 3077. This well does not supply water to the project area. LSS is researching possible ownership or use of this well. Final recommendation for action on this possible trespass will be presented in the final finding and decision, if the project proceeds to this step.

In May 2017, an engineer's evaluation reported on-site wastewater disposal system, well flow, and septic adequacy meet the regulatory requirements of the Alaska Department of Environmental Conservation. This report also reported the drinking water sample tested at an ADEC certified laboratory was found to meet current ADEC drinking water standards for total coliform bacteria.

State of Alaska, Division of Parks and Outdoor Recreation (DPOR) 2010 Chugach State Park Access Plan, specific recommendations indicated interest in USS 3070 as a potential access point to this portion of the park. Steep terrain and very limited off-road parking along most of the Old Glenn Highway severely limit practical access to the northern portion of the park. DPOR was contacted concerning the 2010 park access plan, and on October 11, 2016 the Chugach State Park Superintendent and DMLW development staff explored options regarding this topic. The result was a request to have DMLW establish a public access easement for a trailhead sufficient to accommodate a small parking area and pedestrian trail from the Old Glenn Highway to park lands to the south of the project area. DMLW was amenable to this action which would only be feasible on state land. The project area would work for DPOR purposes if the access was reserved before sale. Any additional legal and physical connection through adjacent private property to the park would need to be accomplished by DPOR at a later date as part of the overall park access plan.

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Subsequent considerations led DPOR to withdraw their request. Therefore, DMLW does not intend to provide any public access easement or reservation on the parcel for access to the Chugach State Park.

Creek Bend House parcel is bound on the east, southeast, south and west by privately owned parcels. Chugach State Park shares a common corner to the southwest. Two private subdivisions are located northward directly across the Old Glenn Highway. Heritage Park Subdivision is a 30-acre subdivision with 47 lots that vary in size from 20,003 square feet to 1.9 acres. Aulney subdivision contains two lots each approximately 1.9 acres in size. Other development along the Old Glenn Highway in the vicinity consists of large undeveloped parcels and various subdivisions in different stages of development with multiple lots ranging in size from approximately .5-acre to approximately 20 acres. The proposed offering is compatible with land use patterns in the surrounding area.

Access to the proposed project consists of a dirt-gravel driveway oriented perpendicular to the Old Glenn Highway and running southward, up hill, roughly parallel to and within the western boundary.

It will be the responsibility of the buyer to deal with any trespass or other issues regarding any or all unauthorized improvements on the project area, including but not limited to utility crossing(s), potential access trails, a well, etc.

Because of the habitable structures on the property, this parcel offers a unique opportunity for potential buyers. Given the size and development of the parcel, it is not appropriate for further subdivision prior to sale. No other state agency has expressed the desire to utilize the property, and to protect the value of the functional structures involved, it is prudent to put this property on the market in the near future.

Planning and Classification: The general management intent of the area plan was reviewed for consistency with the proposed offering. The project area is within *Susitna Matanuska Area Plan* (SMAP, adopted August 2011). The parcel is within an area depicted as a Legislative Designated Area (LDA), i.e. Chugach State Park, and was not classified in the SMAP. USS 3070 was removed from the park via Alaska State House Concurrent Resolution No. 75 (*HCR 75 am*) in 1974. USS 3070 was described as a parcel of foreclosed land not contiguous to the park. DNR DMLW Resource Assessment and Development Section (RADS) confirmed that this parcel is considered as lands classified settlement pursuant to SMAP Chapter 4: Newly Acquired State Lands. Lands that were acquired proactively through exchange, purchase, or other methods (in this case, foreclosure) will be managed and classified consistent with the purposes for which they were acquired (use of land was residential).

Area-wide Considerations: LSS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies with emphasis regarding Cultural Resources, Recreation and Scenic Resources, Settlement, and Public Access. These considerations will be incorporated into the offering of the project. Lands to be retained in public ownership, conditions, and reservations, if any, will be included in offering materials as appropriate. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

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Cultural Resources: Management Guidelines provide that if determined by the Office of History and Archeology (OHA) during an agency review of a proposed land disposal that a cultural survey may be required, further coordination between OHA and DMLW prior to the land disposal is warranted. Cultural surveys should be considered where OHA reported sites exist or where there is a high potential for such sites to exist. The extent and type of cultural survey within the area of proposed land disposal shall be determined by OHA in consultation with DMLW. OHA was contacted early in project research and LSS requested their review of the proposed project. OHA did not report any existing sites nor did they require a cultural survey. OHA did not respond to the agency review. Land sale offering material will include information about reporting archaeological discoveries to OHA.

Recreation and Scenic Resources: Management Guidelines largely deal with public recreation lands and are not applicable to this single, specific residential site. The guideline to coordinate with other landowners and users of the area to take into account current and projected future recreational uses has been considered. DNR DMLW coordinated with DPOR in the development of this proposal. DPOR has withdrawn a request to pursue the 2010 *Chugach State Park Access Plan* regarding recreational access to the northern portions of the park through this parcel. Refer to the Background sub-section for additional information.

Settlement: Management Guidelines pertaining to settlement include Planning and Coordination; Types of Settlement Land and Land Offerings; Protection, Management and Enhancement of Other Resources; and Design. This proposal has considered these guidelines as addressed throughout this document. The nature of this specific parcel is unique compared to other proposed DNR DMLW land sale projects. LSS proposes to offer a single, already surveyed, 5-acre parcel with existing improvements. Some of the SMAP specific management guidelines do not apply due to the size and type of this project area. The proposed project does meet the applicable management guidelines for Settlement. Management Guidelines also recommend Mineral Orders to close lands to mineral entry prior to disposal for purposes of settlement. Mineral potential for the project area is very low and the project site is very small. DNR DMLW will consider closing the parcel to mineral entry in the future if appropriate.

Public Access: Applicable Management Guidelines for public access include reservation of public use easements and retaining public access to areas with significant public resource values. Reasonable access will be provided across state lands to other public and private lands. Direct communication was made with DPOR, local utility companies, and the neighboring land owner concerning verification of any desired or existing access use to, through or within USS 3070. DPOR rescinded interest in coordinating a possible public access easement on the property. Based on research regarding historical, current, and projected need for access to utility power lines, the property to be offered will comply with management guidelines by reserving a utility access road easement as described in the Background and Access To, Within, and Beyond Project Area sections. The landowner of adjoining USS 3240, USS 3239, and USS 3077 did not wish to pursue working on an access agreement regarding use of the project area, and did not provide evidence of authorization for his private or public use of any portion of the project area. DNR

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does not intend to establish any public access easement on or through the project area. The *MSB Recreational Trails Plan* was reviewed. The proposed land disposal appears to be compatible with the MSB trail plan. The nearest MSB identified trail is approximately 1½ miles west of the project area.

The proposed offering is consistent with area-wide land management policies and general management intent of the SMAP and specific management. The project area is considered to be designated and classified settlement.

Mineral Activity and Orders: No mineral activity has been identified on these lands. The entirety of the project area (approximately 5 acres) may be closed to mineral entry by mineral order in accordance with *AS 38.05.185 Generally* and *AS 38.05.300 Classification of Land* for a land disposal if appropriate in the future.

Mineral orders which close an area to mineral entry, close the applicable area to new exploration and development of locatable minerals. Such mineral orders do not apply to leasable minerals (such as: oil, gas, coal, etc.), or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

Local Planning: The project area is within the MSB and property purchased through this proposed offering will be subject to the applicable zoning, taxation, ordinances, and restrictions of the borough. The project area is within the boundary of the Matanuska-Susitna Borough Comprehensive plan. Review of that plan and other local plans listed at **IV. Administrative Record** above did not indicate any conflicts with this proposed land disposal.

Traditional Use Finding: The project area is located within the MSB and a traditional use finding is therefore not required per *AS 38.05.830 Land Disposal in the Unorganized Borough*. However, information on current or traditional use is welcomed and can be given during the public comment period. See the **Section VIII. Submittal of Public Comments** at the end of this document and *Attachment C: Public Notice* for details on how to submit comment.

Access To, Within, and Beyond Project Area: Access to the project area is via the South Old Glenn Highway (approximately mile post 5.25) to driveway on the south side of the highway that enters directly into the 5-acre parcel near its west boundary. This parcel is within MSB Greater Butte Road Service Area #26. DNR DMLW does not intend to establish public access within or beyond this residential property offering. Any changes or additions to the driveway connecting to the Old Glenn Highway may require additional permitting through DOT/PF.

Access To and Along Public or Navigable Waters: In accordance with *AS 38.05.127 Access To Navigable or Public Water*, DNR will determine if a water body is navigable or public and establish easements or right-of-ways as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or right-of-ways under this statute include *11 AAC 51.035 Determination of Navigable and Public Water* and *11 AAC 51.045 Easements To and Along Navigable and Public Water*.

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For the purposes of AS 38.05.127:

- navigable waters are generally lakes larger than 50 acres in size or streams larger than 50 feet in average width;
- public waters are generally lakes larger than 10 acres in size or streams larger than 10 feet in average width; and
- waters may be determined public or navigable consistent with AS 38.05.965 (18) *Definitions*.

DNR has not identified any public, navigable, or anadromous water bodies within the project area. If any such water bodies are discovered, parcels will be subject to access reservations in accordance with AS 38.05.127 *Access to Public or Navigable Water*, and a 100-foot building setback from the OHW of the water body.

Easements, Setbacks, and Retained Lands: This offering may include easement(s) which will be identified on a Record of Survey and included in related informational documents and offering material.

The parcel may be subject to a variety of reservations or restrictions where appropriate:

- a utility access road easement 15 feet in width, located in the southwest corner of the parcel; and
- 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 around the control monument, and as applicable, a 5' direct line-of-sight easement from the control station to an azimuth mark or other control monument.

Hazardous Materials and Potential Contaminants: During ground field inspections conducted on September 15 and 22, 2016, DMLW field staff did observe potential environmental hazards within the project area. Two large heating fuel tanks have been removed from the premises. Where these were hooked up to the house and cabin there may have been spilled heating/diesel oil, although no ground staining was observed. A small copper pipe protruding a foot or two out of the ground some 15 feet south of the cabin still gave off a strong smell like that of heating fuel, but no ground puddling or discoloration was seen. There are no other known environmental hazards present within the project area. However, the State makes no representations and no warranties, express or 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 eventually be found. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the property prior to application submittal.

DNR DMLW recognizes there are potential future environmental risks when land or property 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,

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Department of Environmental Conservation. This risk is no greater than when vacant private land undergoes development. Given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, the Department is of the opinion that the benefits to the state of offering the land outweigh the potential risks.

Survey, Platting, and Appraisal: The project area has already been surveyed. DNR has contracted for an as-built survey of the property and improvements. DNR intends to record a separate Record-of-Survey before sale.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR DMLW standards will be required within two years of the date fixed for the sale of any parcel developed under this proposed action. Any currently existing degradation of the improvements in the project area, such as the stripped-out kitchen in the main house, will be taken into account in the appraisal.

VII. DMLW and Agency Review

Information and comments received from multiple sections within DMLW prior to and concurrent with agency review have been considered and included in the preparation of this preliminary decision. Division and Agency Reviews were conducted from January 24, 2017 through February 17, 2017. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision, if one is issued.

Division of Oil and Gas (DOG) comments: No objection to the project was expressed, but DOG recommended that potential purchasers be made aware that the State reserves oil, gas, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that is sold along with the right to enter to explore, develop, and produce these resources. A mineral order closing the area to locatable mineral entry does not apply to leasable mineral resource exploration, development, or production.

DNR DMLW LSS Response: Offering materials will provide information about the state's reservation of the mineral interest.

Department of Transportation and Public Facilities (DOT) comments: This agency asked that DNR inform potential purchasers and developers that any changes to access will require refinement through the DOT Driveway Permitting process. If there are to be changes to the plat of this parcel, access issues are typically discussed in coordination with the borough platting process.

DNR DMLW LSS Response: Offering material will include notice that any driveway changes may require a DOT permit.

The following agencies or groups were included in the agency review, and all submitted comments of non-objection:

- Alaska Railroad Corporation
- State Pipeline Coordinator's Section

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- Department of Fish and Game
- Department of Natural Resources
 - Division of Agriculture
 - Division of Geological and Geophysical Surveys
 - Division of Forestry
 - Division of Parks and Outdoor Recreation
- University of Alaska
- Mental Health Trust Land Office
- Palmer Soil and Water Conservation District

The following agencies or groups were included in the agency review, but LSS did not receive any comments:

- Department of Commerce, Community and Economic Development
- Department of Environmental Conservation

VIII. Submittal of Public Comments

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

Pursuant to *AS 38.05.945 Notice*, DNR is issuing public notice inviting comment on this Preliminary Decision. **In the event of a government shutdown, the public notice and comment period will continue.** See *Attachment C: Public Notice* for more information.

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 Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

LSS will consider all timely, written comments received. If analysis of such comments indicates 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 any of the proposals 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 LSS responses, will be issued as a subsequent Final Finding and Decision without further notice.

Only persons from whom DNR DMLW LSS receives timely, written comment during the identified comment period will be eligible to file a request for an appeal of the Final Finding and Decision. Upon approval and issuance of this action, a copy of the decision will be made available online at <http://landsales.alaska.gov> and sent with an explanation of the request for appeal process to any party who provides timely written comment.

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DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact the Department's Public Information Center. For more information, refer to *Attachment C: Public Notice*.

DEADLINE TO SUBMIT WRITTEN COMMENT IS 5:00 PM, THURSDAY, JULY 20, 2017

X. Alternatives and Discussion

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Offer for sale US\$ 3070, consisting of 5 acres, with structures.

Alternative 2: (Status Quo) Do not offer this project area for private ownership. Retain the property in State ownership.

Article VIII, Section 1 of the Alaska Constitution states, "it is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." Furthermore, *AS 38.05.045 Generally* has placed this charge with DNR, and the legislature has provided funding to administer the land sale program.

Alternative 1 provides a method for DNR to help meet the obligations laid out in the Constitution and statute, and maximizes public interest. This offering provides an opportunity for the public to obtain land for settlement in a desirable area. This proposal, if approved in a subsequent Final Finding and Decision, will allow DNR DMLW to offer the parcel as proposed. Alternative 1 provides an opportunity for Alaskans to purchase land within this area. Due to the unique amenities of the area, location relative to the community of Palmer, highway access to Anchorage, presence of valuable structures, and the proximity of existing residential private property, the project area is best suited for residential offering. Alternative 1 is preferred.

Alternative 2 is not preferred. The Legislature and the public have indicated a desire for DNR DMLW to offer State-owned land for private ownership. To protect the value of the functional structures involved, it is prudent to put this property on the market in the near future. Retention of this land with improvements would impose a significant maintenance burden on the state and inhibit DNR DMLW from meeting its constitutional, statutory, and legislative obligations. Not offering the project area would deny Alaskans the opportunity to obtain land in an area that is suited to settlement and consistent with the surrounding development.

For the aforementioned reasons, Alternative 1 is the preferred alternative.

Recommendation follows.

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IX. Recommendation

This Preliminary Decision for the proposed disposal of state lands described throughout this document and its attachments is consistent with the overall management intent for State-owned land. Alternative 1 is the preferred alternative because it provides the maximum opportunity for offering State land to the public, and helps meet the mission of the land sales program. The Preliminary Decision described above, as represented by the preferred alternative, has been reviewed and considered. I find that the recommended action may be in the best interest of the state and that it is hereby approved to proceed to public notice.

This is a Preliminary Decision, and analysis of subsequent public review may result in changes to the preferred alternative of the proposed disposal of state lands.

/s/

Prepared by: John W. Thomas, Adjudicator
Natural Resource Specialist III
Land Sales Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

6/15/2017

Date

/s/

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

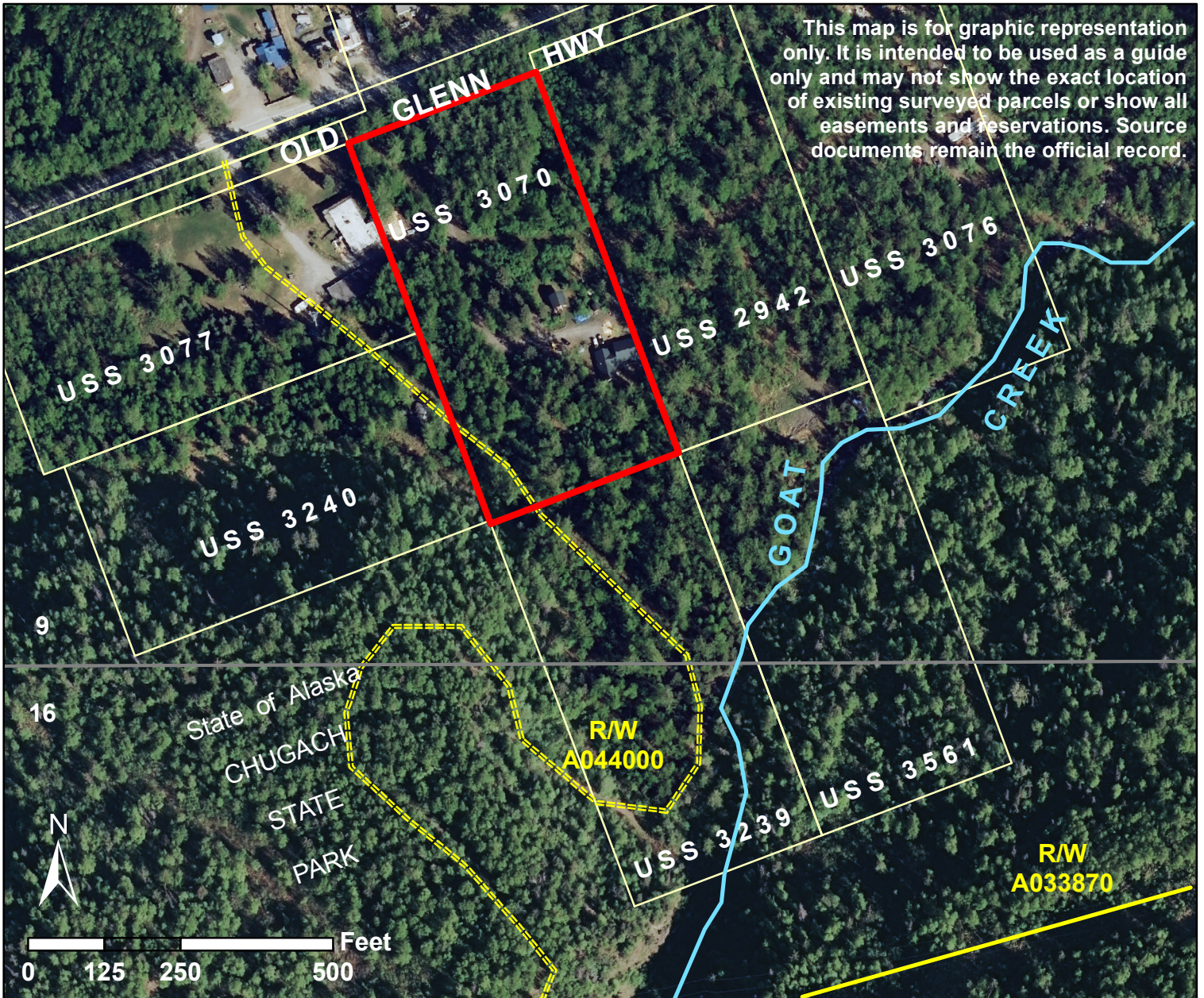
June 15, 2017

Date



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

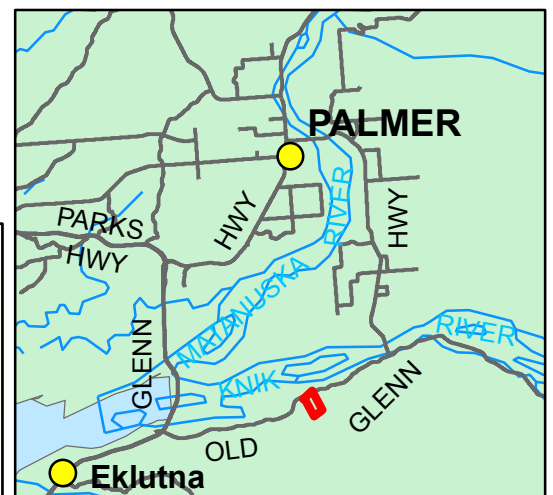
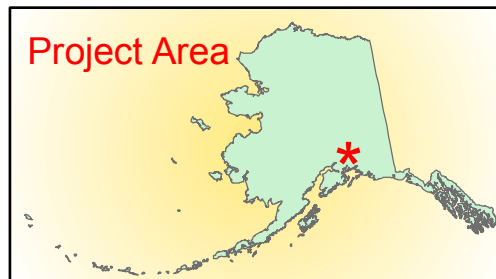
- Project Area —
- Utility Access Road - - -
- Utility Hi Power Line —
- Section Line —
- Goat Creek —

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

JWT6/6/2017

USGS QUAD 1:63,360

Anchorage (B-6)
For more information contact:
John W. Thomas
Department of Natural Resources
Division of Mining, Land, and Water
Land Sales Section
Phone 907.269.8591
Fax 907.269.8916
Email: land.development@alaska.gov



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

ATTACHMENT B: AREA DATA SUMMARY TABLE

to the
Preliminary Decision

for a
**Proposed Land Offering in the Matanuska-Susitna Borough
Creek Bend House – ADL 232669**

Offering Information	
Proposed Number of Parcels	One
Proposed Parcel Size	5 acres
Proposed Related Actions	None
Project Area	
Location	10585 S Old Glenn Hwy, Palmer, AK 99645 (approximately mile 5.25 of the Old Glenn Highway)
Project Area Acreage	5 acres
USGS Topography Map	Anchorage (B-6) Quadrangle
Legal Description	USS 3070 within Section 9, Township 16 North, Range 2 East, Seward Meridian
Title	Information from Title Report No. 8163, current as of 9/15/2015 indicates the State of Alaska holds fee title to the land and mineral estates of the project area under deed issued to the Territory of Alaska pursuant to the Alaska Land Registration Act of 1953, dated November 3, 1958.
Area Plan and Classification	<i>Susitna Matanuska Area Plan (SMAP)</i> (adopted August 2011) Lands are classified settlement pursuant to Chapter 4, p 4-7: Newly Acquired State Lands. Lands that were acquired proactively through exchange, purchase, or other methods will be managed and classified consistent with the purposes for which they were acquired.
Mineral Orders	None
Physical Characteristics	
Access	South Old Glenn Highway (approximately mile post 5.25) to driveway that enters directly into the 5-acre parcel.
Terrain and Major Features	Situated between the base of Pioneer Peak and the Twin Peaks, on an alluvial fan just northwest of Goat Creek, the parcel is on moderately sloping, relatively smooth, north aspect, solid, well drained ground. Elevation is approximately 20+ feet above the Knik River.

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Matanuska-Susitna Borough

Creek Bend House– ADL 232669

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View	Due to abundant vegetation, views are limited.
Climate	Average summer high temperature 66°F, average winter low temperature 16°F. Average annual rainfall 16 inches, average annual snowfall 54 inches. Palmer airport data.
Soils	USDA Custom Soil Report of 10/11/2016 estimated about 72% of the parcel has Kashwitna-Kichatna complex 12-20% slopes and 28% is composed of Talkeetna-Chugach-Deneka complex soils 20-45% slopes.
Wetlands	None
Vegetation	The entire parcel, except for nicely cleared areas around dwellings, is in an area of heavy forest of cottonwood and mixed birch and spruce with a lush understory of local grass and bushes including alder and Devils Club.
Water Source	Water is pumped from an on-site well. A drinking water sample tested at an ADEC certified laboratory was found to meet current ADEC drinking water standards for total coliform bacteria. Water rights will attach to the property if LAS 31663 is approved.
Anadromous Waters	None
Local Management Information	
Fire Management Option	The fire management option from the <i>Alaska Interagency Fire Management Plan</i> is Critical. The parcel is within Mat-Su Borough Butte Fire Service Area #2.
Game Management Unit	14-C
Local Authority	Matanuska-Susitna Borough (MSB) exercises authority for planning, platting, taxes, and zoning for the project area.
Flood Zone	FEMA Flood Insurance Rate Map Number 02170C8830E, Effective March 17, 2011 and MSB current Flood Hazard Map project show the site to be outside of the Knik River Flood Zone.
Utilities	This area is currently served by Matanuska Telephone Association (MTA) and Matanuska Electric Association (MEA)
Waste Disposal	The on-site wastewater disposal system, well flow, and septic system meet the regulatory requirements of the Alaska Department of Environmental Conservation. Off site MSB solid waste facilities will accommodate solid waste items.
Setbacks, Reserved Areas, Easements, and Conditions	

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Matanuska-Susitna Borough

Creek Bend House– ADL 232669

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Improvements	A 3-bedroom, single family residence with attached double garage (with large habitable space above accessed via master bedroom), built in 2004, and an older, small, two-story guest cabin have good appearance; both have nearly new metal roofing, and clean interiors. Since prior occupancy in the fall of 2016, it was discovered that the kitchen has been stripped-out, and the heating stove and other housing appurtenances have been removed. The house and cabin have been winterized, warmed by electric heaters, and secured for the period of vacancy pending appraisal and offering for sale. For future improvements and prior to construction of any structure, driveway, or waste disposal system, contact the platting authority for any permits or for required setbacks from water bodies, lot lines, and easements.
Building Setbacks	Parcel will be subject to any Mat-Su Borough property ordinance requirements.
Public Access and Utility Easements	Parcel may be subject to the following: <ul style="list-style-type: none">• a 15-foot utility access road easement across SW corner• a 5-foot survey easement
Retained Lands	None
Public or Navigable Water Bodies	None
Additional Information	
Native Regional Corporations	Cook Inlet Region, Inc. (CIRI)
Villages and Tribal Councils	Chickaloon Moose Creek Native Association, Inc., Eklutna, Inc., and Knikatu, Inc. Chickaloon Village Traditional Council, Native Village of Eklutna, and Knik Tribal Council.
Oil and Gas Activity	None known.
Mining Activity	None known.
Comments	<p>The anadromous Knik River has public access at the Eklutna Power Station Tailrace, approximately one mile to the west.</p> <p>USS 3070, dated July 2, 1952, depicts several small structures in the northern portion of the parcel. Project research revealed the main building apparently completely burned 1954, and the smaller cabins were abandoned and left to deteriorate and have essentially disappeared due to weathering and lack of occupancy.</p>

**STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, & WATER
LAND SALES ADMINISTRATION SECTION**

**ATTACHMENT C
PUBLIC NOTICE**

Requesting Input for
a Proposed Land Offering:
Creek Bend House – ADL 232669
a Preliminary Decision

COMMENT PERIOD ENDS 5:00PM, THURSDAY, JULY 20, 2017

This proposed project includes offering for sale a previously surveyed parcel in a future offering under the method and the related actions as described in the Preliminary Decision document.

Location: approx. 35 miles north of Anchorage and 8 miles south of Palmer at 10585 S. Old Glenn Highway (MP 5.25), USS 3070 located within S1/2SW1/4 Section 9, Township 16 North, Range 2 East, Seward Meridian, approx. 1.5 miles east of the Eklutna Power Plant tailrace.

Proposed project size and offering: a single 5-acre parcel with dwellings.

To obtain the notice and Preliminary Decision with instructions on submitting comment, go to <http://landsales.alaska.gov/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907.269.8400 (TDD for the hearing impaired: 907.269.8411) or Fairbanks at 907.451.2705 (TDD for the hearing impaired: 907.451.2770), or the Southeast Land Office in Juneau at 907.465.3400 (TDD for the hearing impaired: 907.465.3888), or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, Thursday, July 13, 2017.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decision. **The deadline for public comment is 5:00PM, THURSDAY, JULY 20, 2017.** Only persons from whom DNR DMLW LSS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Written comment may be received by email, postal mail, or fax: land.development@alaska.gov, DNR DMLW LSS, 550 W. 7th Ave. Suite 640, Anchorage, AK 99501, or fax # 907.269.8916. For direct inquiries or questions, call John W. Thomas at 907.269.8591. ***In the event of a government shutdown, please only send comments to the email address listed above. The public notice and comment period will continue if the government shuts down. Only if the state email system is shutdown will public notice and comment be either extended or reopen at a later date.***

If no significant change is required, the preliminary decision, including any minor changes and a summary of comments and responses, will be issued as the final finding and decision without further notice. A copy of the final finding and decision will be sent to any persons who commented timely on the preliminary decision.

DNR reserves the right to waive technical defects in this notice.