

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

**FINAL FINDING AND DECISION**

of a  
Land Offering in the Fairbanks North Star Borough  
**DMVA Tracts, ADL 420894**  
Public Access Easement, **ADL 421103**  
Private Easement, **ADL 421088**  
AS 38.05.035(e), AS 38.05.045, AS 38.05.850

and its  
**RELATED ACTION(S):**  
None

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated October 22, 2018. The PD and associated easements (attached) have had the required public review.

**I. Recommended Action(s)**

Land Offering, ADL 420894: 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 DMVA Tracts project area (ADL 420894), as described in the PD. Parcels will be offered for future sale by a method under AS 38.05.045 *Generally*.

For the purposes of providing land for settlement in the DMVA Tracts project area, DNR may offer for sale no more than two parcels no smaller than 160 acres. DNR currently plans to offer the project area as a 320-acre parcel. This project area is located within the Fairbanks North Star Borough (FNSB). The project may be offered in multiple stages.

Public Access Easement ADL 421103: DNR DMLW is authorizing a public access easement to the land offering project area from Goldstream Road up to 100 feet in width within government lots 7 and 8, Section 2, Township 1 North, Range 1 West, Fairbanks Meridian. A subsequent owner of the project area may submit an application consistent with this authorization for development plan review. If approved, the applicant will receive an entry authorization for construction and survey of access through the applicable portion of government lots 7 and 8. If created, the public access easement will be issued.

Private Easement ADL 421088: DNR DMLW is authorizing a private easement to the DNR Division of Parks and Outdoor Recreation (DPOR) for historic preservation, research, and monitoring of the Davidson Ditch within the land offering project area. Easement ADL 421088 will be 100 feet in width, approximately centered on the Davidson Ditch channel, encompassing the Davidson Ditch and a buffer area on either side of the ditch channel. Additionally, DNR DMLW intends to impose deed restrictions for the SE $\frac{1}{4}$  of Section 35 to provide the grantee of

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easement ADL 421088 is provided reasonable access to the Davidson Ditch. The easement and corresponding record of survey are included in Attachment A.

There are no related actions with this proposal. Public notice for the easements associated with the land offering was conducted concurrently with the notice for the primary action's PD.

## **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." In addition, if it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020 (h) Land Disposal Bank*.

DNR DMLW has the authority under *AS 38.05.850 Permits* to issue easements on State land.

## **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. Should this project move forward with State approval, parcels will be offer for sale.

## **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 FNSB per *AS 38.05.945(c)(1)*, as well as Doyon 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 5:00PM, November 28, 2018 in order to ensure consideration and eligibility to appeal. For more information, refer to the PD.

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DNR DMLW LSS received comments from the State of Alaska, Department of Transportation and Public Facilities (DOT&PF) and the FNSB, Department of Community Planning. All comments received during the public comment period are summarized below.

DOT&PF Comment: No comment.

DNR DMLW LSS Response: Thank you for reviewing the proposal.

FNSB Department of Community Planning Comment: FNSB Community Planning stated that the proposed authorization of an access easement to the land sale area appears to qualify as a dedication as defined by FNSB code 17.04.010. Dedicating an easement for means of public access is considered to be a grant of land, and thus required to go through the FNSB's subdivision process.

FNSB Community Planning strongly recommends rezoning the land sale area to an appropriate residential zone prior to sale to ensure conformance with the FNSB Regional Comprehensive Plan and to protect public health, safety, and welfare. The FNSB Comprehensive Plan designates the land sale area as Preferred Residential Land and Outskirt Area. Outskirt Area contains primarily open space, mining, and residential uses, and can include agriculture and supporting commercial uses. Preferred Residential Land is land more suitable for development because it generally has slopes of 20% or less, lacks wetlands, and has lower probability for permafrost. The land sale area is currently zoned GU-1, which is prone to land use conflicts because it allows for a wide variety of commercial, residential, and industrial uses with no setback requirements. FNSB Community Planning stated that a rezone of the land sale area would promote a variety of compatible land uses suited to the needs of the State and the community, and encourages collaboration to rezone the area prior to sale; otherwise the FNSB may choose to sponsor a rezone of the land sale area.

DNR DMLW LSS Response: The access easement is merely being authorized in concept through this decision process. At this stage, it is premature to require a survey or other location mechanism until an application is received with a specific easement location given within Government Lots 7 and 8. When or if such an application is received, any laws that DNR deems applicable will be followed during this stage of the state easement process.

DNR DMLW acknowledges the issue raised by FNSB concerning dedication of easements. The implications of this larger issue go beyond the scope of this one project. Defining easements as full land grants requiring any public easement to go through the FNSB's subdivision process will have a significant impact on the ability of the State to manage its land. DNR DMLW would like to begin separate discussions and work with FNSB on this concern. A DNR representative will contact FNSB to propose follow-up discussion.

DNR Land Sales collaborates with the FNSB to consider zoning changes when creating subdivisions of State land. For the DMVA Tracts land offering, the LSS does not propose to subdivide or develop the property prior to sale. The State purchased the property in 2014 for the Interior Alaska Veterans Cemetery (IAVC), but after site evaluation, the property was deemed unsuitable for the cemetery. The Alaska Legislature in 2017 appropriated the proceeds from the sale of the property for development of the cemetery elsewhere.

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Accordingly, LSS plans to sell the property without subdivision or development that would delay the land sale, thereby impacting the cemetery project.

LSS will not sponsor a zoning action for the DMVA Tracts project area because it is a large property with many potential uses that would be consistent with the FNSB Comprehensive Plan. LSS considers it more appropriate for a subsequent owner to seek zoning and subdivision actions consistent with their development plans and the FNSB Comprehensive Plan. FNSB may proceed with a zoning action if they choose.

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

The recommended action has not been modified from the original proposed action(s) described in the PD. However, the grantee of the private easement ADL 421088 has been changed from the DNR Office of History and Archaeology (OHA) to DNR DPOR. Because OHA is within DPOR, the change is editorial and does not affect the private easement.

LSS gained additional information about the project area during the PD public notice period in regard to the mineral estate and access to the project area. The mineral estate in the NE $\frac{1}{4}$  of Section 35 is owned and managed by the University of Alaska, therefore development of the mineral estate is determined by the University of Alaska.

The University of Alaska created the Silver Creek Subdivision within the W $\frac{1}{2}$  of Section 35 in November 2018 (plat 2018-79, Fairbanks Recording District). Silver Creek Road within this subdivision provides legal access from Goldstream Road to the northwest corner of the DMVA Tracts project area.

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 action as described in the Preliminary Decision. This action is undertaken under relevant authorities. Offering this land for sale with the associated easements will help meet the State’s goal to provide land for settlement for sale to the public and support the development the IAVC project.

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 actions are 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(s) as described and referenced herein.

Signature on file

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

January 11, 2019

Date

Signature on file

Approved by: Martin W. Parsons  
Director  
Division of Mining, Land, and Water  
Department of Natural Resources  
State of Alaska

January 11, 2019

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). Under *11 AAC 02.030*, appeals filed under *11 AAC 02* must be accompanied by the fee established in *11 AAC 05.160(d)(6)*, which has been set at \$200 under the provisions of *11 AAC 05.160 (a) and (b)*.

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.