

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

FINAL FINDING AND DECISION

of a
**Proposed Land Offering in the City and Borough of Yakutat
Forest Highway Subdivision – ADL 108464**
AS 38.05.035(e), AS 38.05.045

and its
RELATED ACTION(S):
Mineral Order (Closing) MO 1202
AS 38.05.185 and AS 38.05.300

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated June 29, 2017. The PD and related action have had the required public review, and the PD is attached.

I. Recommended Action(s)

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 Forest Highway Subdivision project area (ADL 108464), as described in the Preliminary Decision. Surveyed 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 Forest Highway Subdivision project area, DNR may develop a subdivision of no more than 40 parcels no smaller than 18,000 square-feet in size. The area proposed for subdivision includes Tracts B and C of the XeitiAani' (Thunder Land) Subdivision and approximately 11.8 acres of the northern portion of ASLS 71-34, which excludes the approximately 8.2 acres currently used for the Yakutat School. In a separate action (ADL 108750), if approved, DNR proposes to exchange surveyed parcels within ASLS 71-34 for Tracts B and C of the XeitiAani' Subdivision. This project area is located within the City and Borough of Yakutat (CBY) and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards. The project may be subdivided and offered in multiple stages.

There is one related action with this proposal:

Mineral Order: DNR DMLW proposes to close the project area to new mineral entry through Mineral Order (MO) 1202.

Public notice for this related action was conducted concurrently with the notice for the primary action's Preliminary Decision.

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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”.

For related actions, *AS 38.05.300 Classification of Land* and *AS 38.05.185 Generally* allow for mineral orders.

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, final subdivision design and survey will be completed by an Alaska licensed surveyor. The surveyor will submit a platting application including a preliminary plat to the local platting authority prior to survey. This process will be subject to CBY ordinances and codes. During the process the public will have opportunity at the local level to provide additional comment and feedback prior to final establishment of lot corners and monuments.

Subdivision design will be submitted to the CBY for review in accordance with *Chapter 8 Planning* of their ordinance.

Chapter 8.36.060 Notification of Public Hearing. “Notification of public hearings held under this Chapter shall be made in accordance with the provisions of Section 8.44.030 of this Code.”

Chapter 8.44.030(C) Notice of Public Hearing. “All notices of a public hearing shall be posted in at least three public places....no less than 10 days before the public hearing.”

Chapter 8.36.020(C) Major Plats. “The Platting Authority shall approve, approve with conditions, or disapprove the preliminary plat within sixty (60) days of its submittal by the subdivider.”

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/ for

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the entire public notice period. Public notice for this proposed action was run concurrently with public notice and agency review of the proposed municipal land exchange ADL 108750.

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 CBY per AS 38.05.945(c)(1), as well as Sealaska 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, August 3, 2017 in order to ensure consideration and eligibility to appeal. For more information, refer to the Preliminary Decision.

DNR DMLW LSS received comments from the State of Alaska, Department of Fish and Game (ADF&G) and the State of Alaska, Department of Natural Resources, Alaska Mental Health Land Trust Office (MHLTO). All comments received during the public comment period are summarized below.

ADF&G Comment: The proposed subdivision area provides habitat for deer, brown bears, and black bears. Conflicts with bears are frequent in the adjacent subdivision, partially due to attractants introduced by people. ADF&G encourages DNR to minimize potential for additional conflict through subdivision design. ADF&G also recommends requiring builders to use bear-proof trash containment and for house design to include garages or attached sheds to help prevent the food conditioning of bears. Additionally, ADF&G recommends adequate lighting in the subdivision to help prevent walkers or bikers from startling bears.

DNR DMLW LSS Response: Thank you for reviewing the preliminary decision and considering ways to reduce wildlife conflicts. LSS will share these recommendations with the CBY Planning and Zoning Department. Information will also be made available to potential land purchasers about methods to help prevent food conditioning of wildlife.

Alaska MHLTO Comment: The proposed subdivision (ADL 108464) and land exchange (ADL 108750) don't impact Alaska Mental Health Trust land, therefore the Alaska MHLTO has no comment.

DNR DMLW LSS Response: Thank you for reviewing the preliminary decision.

VI. Modifications to Decision and/or Additional Information

The recommended action has not been modified from the original proposed action(s) described in the Preliminary Decision.

The Preliminary Decision incorrectly stated that approximately 12.5 acres within ASLS 71-34 are proposed for subdivision; the correct acreage estimate proposed for subdivision within ASLS 71-34 is approximately 11.8 acres. Approximately 8.2 acres will be excluded for the Yakutat School site.

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The Preliminary Decision incorrectly stated that the DNR Division of Oil and Gas (DOG) did not provide comment on the agency review conducted from March 8 through April 8, 2016. As part of that agency review, DOG noted no objection to the proposed action and that no applications or pending authorizations were in the immediate vicinity of the proposed Forest Highway Subdivision.

DNR DMLW Resource Assessment and Development Section made the determination that the project area is classified as settlement land in determination SC-95-002-D01, signed on July 26, 2017. This determination updates the planning and classification section provided in the Preliminary Decision.

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 these parcels 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 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.

/S/

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

September 1, 2017

Date

/S/

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

September 26, 2017

Date

/S/

Approved by: Andrew T. Mack
Commissioner
Department of Natural Resources
State of Alaska

October 17, 2017

Date

Reconsideration Provision

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may request reconsideration, in accordance with *11 AAC 02*. Any reconsideration request 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. 7th Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 907.269.8918; or sent by electronic mail to dnr.appeals@alaska.gov.

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31st day after issuance. Failure of the commissioner to act on a request for reconsideration within 30 calendar days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of 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.