

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

PRELIMINARY DECISION

**Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474**
AS 38.05.045, and AS 38.05.600

RELATED ACTION(S):
Proposed Mineral Order (Closing)
AS 38.05.185 and AS 38.05.300

COMMENT PERIOD ENDS 5PM JANUARY 30, 2014

I. Proposed Actions

Primary Proposed Action(s): The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water is to offer for disposal State-owned land for sale within the defined project area. This document and the following attachments describe the details of the project area and this proposal, with supporting documentation retained in the case file.

Attachment A: Vicinity Map

Attachment B: Area Data Summary Table

Attachment C: Public Notice

Located within the Department's Southcentral Region near the Mulchatna River, approximately 120 miles west of Kenai and 40 miles northwest of Lake Clark, the Half Cabin Lake project area is within the Lake and Peninsula Borough. The project area encompasses approximately 20 square miles (~12,650 acres) within portions of Township 8 North, Range 32 West and Township 9 North, Range 31 West, Seward Meridian.

Pursuant to the management intent contained within the Bristol Bay Area Plan (BBAP), adopted April 2005, amended September 2013, and Land related Classification Order No. CL-SC-04-002, which classified the area as Settlement, the Division proposes to offer up to 40 authorizations to stake parcels generally ranging from 5 to 20 acres as described in **Section II. Method of Sale** of this document. While the area plan indicates that the entire project area is appropriate for disposal during the life of the plan, at this time, the Division would dispose of no more than 800 acres under this proposal, if approved. In fact, the Division may reduce the actual staking area prior to offering to make adjustments as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with staking instructions. The adjusted project area will be described in the brochure or staking packet.

Although the total disposal authorized under this proposal will not exceed the stated maximums, the offerings and development may be conducted over time. Further, additional offerings that

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 2 of 31

could increase the density of privately-owned parcels within or near the project area may be authorized through separate future proposals, authorized and conducted as required under statute and regulation. As such, the Division makes no guarantees that the project area will remain remote or that settlement will be dispersed indefinitely and purchasing a parcel created through this offering does not provide any rights to the buyers to deny future disposals and developments.

Proposed Related Action(s): There is one related action with this proposal.

Mineral Order (Closing): Although we are aware of some mining claims filed southeast of the project area, no mineral activity has been identified within the project area. Mineral Closing Order (MCO) 393, adopted with the original (1984) BBAP, closed the course of the Mulchatna River to mineral exploration and Leasehold Location Order (LLO) 1 limits mineral entry within the project area to leasehold location.

To minimize potential conflicts between land estate and mineral estate users, the Division proposes a mineral order to close the project area to new mineral entry. Closing the entire area to mineral entry is consistent with the management intent of the BBAP. As such, this Related Action would close the remainder (approximately 12,435 acres) of the project area to new mineral entry in accordance with *AS 38.05.185 Generally [Mining Rights]* and *AS 38.05.300 Classification of Land*.

Related Actions, if any, are developed separately from the proposed primary action of this Preliminary Decision. However, approval and succession of the primary proposed action detailed in this Preliminary Decision are contingent on the completion of Related Actions, as described throughout this document. Refer to the Mineral Order subsection of this document for more information on this proposed Related Action.

Notice of the public comment period will be posted in accordance with *AS 38.05.945 Notice* for at least 30 consecutive days. The public is invited to comment on the proposed actions and the comment periods for all actions will be conducted concurrently. If commenting on more than one proposed action, separate comments should be submitted for each. 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 public input the proposed actions are approved, the Department will issue a Final Finding and Decision, which will be sent to those parties that submitted timely, written comments.

II. Method of Sale

AS 38.05.600 Remote Recreational Cabin Sites authorizes the Department to conduct leasing and sale of land for Remote Recreational Cabin Sites. *11 AAC 67.800 - 11 AAC 67.845 Remote Recreational Cabin Sites* and other related regulations describe how the Division offers authorizations to select and stake Remote Recreational Cabin Sites in designated areas during the specified offering period. The Division offered this program annually between 2001 through 2010 and then offered biennially beginning in 2012.

After approval of a Remote Recreational Cabin Sites disposal through a Best Interest Finding process such as this, the Division plans a future announcement of an offering of staking authorizations and the availability of land sales brochures pursuant to *AS 38.05.945 Notice*.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 3 of 31

The brochures generally describe simultaneous offerings of multiple areas; the relevant application period; and the related procedures, conditions, and eligibility requirements. Participants submit applications and the Division conducts a drawing, a method of sale that offers all eligible parties an equal chance at acquiring a staking authorization for an area. Authorizations to stake a parcel of State-owned land within a designated project area during a specified period are awarded to applicants drawn first. Authorized stakers are then issued a staking packet that includes instructions for properly staking a parcel and other information pertaining to the program and specific staking area. Authorized stakers then enter onto the land, stake a parcel of their choice in compliance with the staking instructions, and file a lease application. If approved, a short-term lease is issued and the lessee makes quarterly, prorated payments to cover associated development costs and an annual lease fee of \$100. While under lease, the parcel is then surveyed, platted, and appraised, typically over a three- to four-year period. Upon successful completion of the lease terms and upon completion of the survey, platting, and appraisal, the lessee is given the option to convert from lease to sale at a purchase price based on the appraised value, plus associated fees, with credits given for the survey and platting deposits collected while the parcel is under lease. The lessee's other option is to renew the lease for a second term at a cost of \$1,000 per year, which does not contribute to paying down the purchase price. A lessee in good standing can opt to purchase the parcel at any time during this optional renewal term, but if the lessee does not purchase the parcel by the time the renewed lease term expires, their interest is subject to termination.

After the staking period closes and lease applications have been received from authorized stakers, the Division may identify and survey additional Administrative Parcels in a project area. Additionally, the Division may opt to complete the survey on staked parcels relinquished, terminated, or expired before converting to sale. Such Administrative Parcels would generally be surveyed for future offering under *AS 38.05.045 Generally [Sale of Land]*. Although Administrative Parcels are not restricted to the size requirements stated for staked parcels, the total number of acres and authorizations will not exceed the maximum number specified for disposal under this proposal.

Offering administrative parcels under *AS 38.05.045 Generally [Sale of Land]* allows the Division to offer its surveyed parcels under a uniform set of statutes, administrative regulations, and policies, usually in a statewide offering of varied parcels to increase administrative efficiencies and improve the effectiveness of marketing efforts. Successful buyers may purchase the properties by highest sealed bid or by application at prices based on their appraised value. Appraised values account for the benefits of the surveying and platting. Without the inclusion of this additional method of sale in this proposal, sales of parcels initially developed under *AS 38.05.600 Remote Recreational Cabin Sites* and *11 AAC 67.815 (b) Offering Remote Recreational Cabin Sites* would require purchasers to reimburse the Division for the cost of surveying, platting, and appraising the site within 30 days of being notified of a successful purchase, in addition to the usual minimum down payment. That is to say, that the State would not finance the reimbursable survey, platting, and appraisal costs. To maintain this requirement without allowing for the differing method of sale of subdivided parcels under *AS 38.05.045* would create an unrealistic burden upon purchasers and hinder the marketability of the property.

III. Authority

The State of Alaska, Department of Natural Resources has the authority under *AS 38.05.045 Generally [Sale of Land]* and *AS 38.05.600 Remote Recreational Cabin Sites* to sell State-

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 4 of 31

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*.

In order to facilitate these sales, of State-owned land, the Division is also authorized to close land to mineral location under *AS 38.05.185 Generally (Mining Rights)* and *AS 38.05.300 Classification of Land*.

IV. Administrative Record

The project file for the Half Cabin Lake project area, ADL 229474, constitutes the administrative record for this action. Also incorporated by reference are:

- Bristol Bay Area Plan for State Lands (BBAP) adopted April 2005, amended September 2013, and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan*, amended October 1998;
- *2013 Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*; and
- *1979 Exploratory Soil Survey of Alaska*.

V. Scope of the Decision

The scope of this proposal, under the statutes and regulations described in **Section III**. **Authority** of this document, is limited to the Division's proposal to offer State-owned land within the project area for sale through a future, public Remote Recreational Cabin Sites offering or other method of sale. The Division proposes to open the area for the described number of authorizations to stake parcels under *AS 38.05.600 Remote Recreational Cabin Sites* and *11 AAC 67.800 - 11 AAC 67.845 Remote Recreational Cabin Sites*. The Division may also identify and survey additional parcels in a project area to be sold under *AS 38.05.045 Generally [Sale of Land]*. The Division does not intend to impose deed restrictions to control post-patent land use.

There may be Related Actions with this proposal as described in **Section I. Proposed Actions** of this document. Related Actions, if any, are developed separately from the proposed primary action of this Preliminary Decision. However, approval and succession of the primary proposed action detailed in this Preliminary Decision are contingent on the completion of Related Actions, as described throughout this document.

VI. Description

Location: The project area is located within the Department's Southcentral Region near the Mulchatna River, approximately 120 miles west of Kenai and 40 miles northwest of Lake Clark, the project area is within the Lake and Peninsula Borough. The project area encompasses approximately 12,650 acres within portions of Township 8 North, Range 32 West and Township 9 North, Range 31 West, Seward Meridian. See Attachment A: Vicinity Map for a graphic depiction of the approximate location of the project area. See Attachment B: Area Data Summary Table for additional information.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 5 of 31

Borough/Municipality: The project area is within the Lake and Peninsula Borough, just 3 miles from the Borough's north border. As such, the property is subject to the Borough's platting and zoning authority.

Native Regional and Village Corporations: Bristol Bay Native Corporation (BBNC) is the regional corporation for the project area. As no villages are located within 25 miles of the project area, courtesy notification will be distributed to village corporations and councils in Lime Village and Port Alsworth. Because the project area is also located within a 5-mile radius of lands owned by the Cook Inlet Regional Corporation (CIRI) and Calista Regional Corporation, these entities will receive courtesy notices as well.

Legal Description: The project area, depicted in Attachment A: Vicinity Map encompasses approximately 12,650 gross acres within the Iliamna Recording District, Third Judicial District, State of Alaska, described as:

- Township 8 North, Range 32 West, Seward Meridian,
 - Sections 5-8;
 - Sections 12 and 13;
 - Section 17-20; and
 - Section 23 and 24; and
- Township 9 North, Range 31 West, Seward Meridian,
 - Sections 22-26; and
 - Sections 34-36.

Title: Information from Title Report 4569A/B (as an update to Report 1607A/B), current as of August 29, 2013, indicates the State of Alaska holds fee title to the land and mineral estate within the project area.

These lands were acquired under Statehood entitlement, General Purpose Grant, under the Act of July 7, 1958, 72 Stat. 339 as amended. The State received title under Patent No. 50-2008-0040 dated October 15, 2007 and Patent No. 50-2008-0277, dated April 21, 2008. Applicable State case files are GS-2141 and GS-2144. The lands are subject to standard federal reservations.

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 the State]*, 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) and leasable minerals (such as oil, gas, coal, ore, minerals, fissionable material, geothermal resources, and fossils).

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

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 6 of 31

owner of the land estate 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 *Alaska Constitution* and also 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, refer to the Access To, Within, and Beyond Project Area subsection of this document.

According to the title report, the Bureau of Land Management determined in 1983 that the Mulchatna River is navigable for title purposes. Half Cabin Lake (outside the project area) does not appear to have such a determination. However, the lake still appears to meet the definition of a public water body and thus may be used for a public access point.

Private parcels and third-party interests on State-owned land will be depicted on staking maps in land sales brochures and enclosed in staking packets distributed to authorized stakers.

Physical Characteristics and Hazards: The following paragraphs describe the area’s physical characteristics and hazards. In addition to file research and agency review, field inspections were conducted by air in 2009 and again on July 27, 2010. See Attachment B: Area Data Summary Table for additional information.

Geologic Hazards: There is potential for seasonal flooding and erosion of parcels adjacent to streams. Most of these soils are underlain by permafrost. Such deposits could cause problems with the stability of structures and other improvements built nearby or thereupon. The project area is also about 12-15 miles away from active volcanoes. Although volcanic ash is noted in the local soil composition, there have been no recent volcano warnings from the Alaska Volcano Observatory Website. Similarly, the Alaska Earthquake Information Center has only recorded about a dozen earthquakes with a magnitude of 3.0 or greater near the project area since 1968, with the highest magnitude reported being 4.8.

Fire Hazards: A portion of the project area was burned by a wildland fire in 1974 but vegetation has since regenerated. The 1974 fire burned just over 16,000 acres and there were two other small fires in the general area (200-acre Mulchatna Fire in 1957 and 195-acre fire southwest of the project area in 2013).

Potential for wildland fire is high in some areas of Alaska. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. The Department provides all entrants with information regarding wildland fire prevention and encourages them to locate parcels in defensible areas such as hardwood stands with access to water, such as those areas along the creeks and ponds and isolated patches remaining after prior wildland fire activity.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 7 of 31

Fire management options and policies for the area are identified in the Alaska Interagency Wildfire Management Plan available from DNR Division of Forestry. The current fire management option for the project area is "Limited." The policy on areas with the "Limited" management option reads, "Wildland fires occurring within this designation will be allowed to burn under the influence of natural forces within predetermined areas while continuing protection of human life and site-specific values within the management option. Generally this designation receives the lowest priority for allocations of initial attack resources; however, surveillance may be a high priority."

It is important to note, however, that the DNR Division of Forestry warns that there is no guarantee property will be spared from harm from a wildland fire, even if the area is designated "Full" fire management option.

Flood Hazard: There is potential for seasonal flooding and erosion of parcels adjacent to water bodies, especially in low-lying areas. Interested parties are encouraged to research this issue and inspect the project area prior to applying. We will continue to investigate and consider reserving areas prone to excessive flooding from staking.

Background: In the current BBAP, the project area is designated Settlement as Management Unit 07-04 Half Cabin Lake. This Unit is considered appropriate for disposal during the planning period. Although the area is sparsely populated, areas adjacent to the project area were selected by the Lake and Peninsula Borough (LPB) under the Municipal Entitlements program and approved for conveyance to LPB on May 19, 2000.

Notable observations include few scars from an old wildland fire that burned the eastern portion of the project area in 1974. Also, a structure was observed on an authorized trapping cabin permit (ADL 223545, expiring February 28, 2018 unless renewed) during a field flyover. The permit allows a single cabin up to 400 square feet and up to 192 square feet of outbuildings within 150 feet of the main cabin. An area surrounding this site, of a size to be determined before offering, will be reserved from staking and depicted on staking maps, where appropriate.

In 2009, a remote subdivision was proposed for portions of the project area. That proposal has been abandoned in favor of a lower density, dispersed settlement offering through the Remote Recreational Cabin Sites program.

Planning and Classification: The general management intent of the area plan unit and subunit were reviewed for consistency with the proposed offering. The project area is within the BBAP: Management Region 7: Upper Mulchatna and Upper Hoholtna, Unit 07-04: Half Cabin Lake. Lands within this unit are classified Settlement under Land Classification Order No. CL-SC-04-002.

Guidelines in Chapter 2 of the area plan regarding Remote Settlement; Shorelines, Stream Corridors and Coastal Areas; Fish and Wildlife Habitat and Harvest Areas; Heritage Resources; Public Access Easements, Neighborhood Trails, and Public Access; and other land and resource uses have been reviewed and the indications therein will be incorporated in the development of this project. Specific to the proposed offering, BBAP defines this area as appropriate for Remote Settlement based on criteria that includes settlement areas that are

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 8 of 31

most suitable for residential or recreational use because they are further away from communities and the road system with generally more difficult access by water or air and typically more challenges to development than other types of management units. For these reasons, this parcel is appropriate for the dispersed, low-density settlement pattern created through a Remote Recreational Cabin Sites offering.

Of note, BBAP indicates that the main Mulchatna River valley is a wintering and calving area for moose. The low density of a Remote Recreational Cabin Sites development is not expected to disrupt caribou and moose activities in the area. In addition, an unnamed stream within Section 8, Township 8 North, Range 32 West, Seward Meridian, the Mulchatna River, and Half Cabin Lake (outside the project area) are identified as anadromous. BBAP calls for riparian buffers to be retained in public ownership along anadromous and high-value, resident fish streams and waters. These buffers are to be at least 100 feet along each side of the anadromous stream or water, with discretion given to DNR DMLW to increase the widths up to 300 feet if consultation with the State of Alaska, Department of Fish and Game (DFG) indicates that larger widths are necessary to protect fisheries, wildlife, or habitat). We have consulted with DFG and we will address this issue in the Setbacks, Reserved Areas, and Easements subsection of this document. Lands to be retained in public ownership, conditions, and reservations will be described in the land sale brochure and area-specific staking instructions and maps.

The proposed offering is consistent with area-wide land management policies and general management intent of the BBAP and specific management unit. The unit is designated Settlement and State-owned lands within the unit are appropriate for disposal, including sale, during the planning period.

Mineral Order: Although we are aware of some mining claims filed southeast of the project area, no mineral activity has been identified within the project area. Mineral Closing Order (MCO) 393, adopted with the original (1984) BBAP, closed the course of the Mulchatna River to mineral exploration and Leasehold Location Order (LLO) 1 limits mineral entry within the project area to leasehold location.

Mineral orders that close an area to mineral entry, where they have been established, close that area to new exploration and development of locatable minerals such as gold, copper, platinum, etc. Such mineral orders do not apply to non-locatable minerals, including oil and gas leasing, coal leasing, shallow gas leasing, or exploration licensing for such, nor do they preclude reasonable land estate 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.

LLOs differ from mineral closing orders in that an LLO allows mining in the affected area, but only through an upland mining lease. Within an area under an LLO, such as the Half Cabin Lake project area, a miner may stake a leasehold location (as opposed to a mining claim) submit a Plan of Operations, and apply for an upland mining lease. In an area under an LLO, commercial mineral extraction for purposes beyond exploration may not occur until the upland mining lease is issued. The Department does not have discretion to deny an upland mining lease application if the land is open to mineral entry and there are no prior existing rights to the mineral estate. However, the Department may put stipulations on the upland mining lease, such

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 9 of 31

as to require conflicts be resolved prior to mining. The rights acquired with a leasehold location is a preference right to convert to an upland mining lease, but it is not the right to extract minerals. Upland mining leases are revocable for violations of stipulations. In contrast, a mineral closing order closes the affected area to all claiming of the mineral rights. For mining claims, the rights to extract the minerals are acquired when the mineral claim is staked. The Mining Claim Holder has the right to extract the minerals at any time (after the claim is legally staked) for any purpose. Revocation of a valid Mineral Claim would be considered a taking by the Department. LLOs provide an advantage in situations where there may be a potential conflict between the uses of the land and mineral estates. An LLO does not prohibit the development of the mineral estate, but may provide additional tools to manage for both uses and to manage conflict.

Mining activity would be incompatible with the proposed land disposal. To allow new mineral location within the boundaries of the parcels encompassed by this decision, even under an LLO, could create serious conflicts between land estate and mineral estate users. Area plan mineral estate management policy states that, in general, areas scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land and mineral estate users. When appropriate, land sales brochures generally note mineral activity identified in the vicinity of an offering.

To minimize potential conflicts between land estate and mineral estate users, the Division proposes a mineral order to close the project area to new mineral entry. Closing the entire area to mineral entry is consistent with the management intent of the BBAP. As such, this Related Action would close the remainder (approximately 12,435 acres) of the project area to new mineral entry in accordance with *AS 38.05.185 Generally [Mining Rights]* and *AS 38.05.300 Classification of Land*.

Reservation of 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, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing, and producing the reserved mineral resources. Exploration and development, that could occur, would be consistent with *AS 38.05.130 Damages and Posting of Bond* and any other applicable statutes and regulations, which provide that the land estate owner be compensated for damages resulting from mineral exploration and development.

Local Planning: Where they exist, local zoning and related ordinances govern any land use restrictions, as with other private land. The entirety of the project area is within the Lake and Peninsula Borough (LPB) and subject to the LPB platting and zoning authority. The LPB exercises platting authority and development must meet subdivision requirements in LPB ordinances and regulations. Approval of platting and zoning actions and dedication of right-of-ways may require separate processes. The Division does not intend to impose deed restrictions to control post patent use.

Local Review of Staking Area: In accordance with *11 AAC 67.810 Local Review of Staking Area*, the Division is working with the Lake and Peninsula Borough as the local platting authority to obtain conceptual approval for the Half Cabin Lake Remote Recreational Cabin

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 10 of 31

Sites staking area prior to offering. In addition, the Division will continue to work with the Borough to develop a preliminary plat after staking, working through the survey stage to obtain final plat approval prior to sale to lessees.

Coastal Issues: The Lake and Peninsula Borough will receive public notice and an opportunity to comment.

Traditional Use Finding: The proposed offering is within the Lake and Peninsula Borough and a traditional use finding in accordance with *AS 38.05.830 Land Disposals in the Unorganized Borough* is not required. However, the Division welcomes comment on uses of State-owned land in the project area during the public comment period and we will address information received in a subsequent Final Finding and Decision.

Access To, Within, and Beyond Project Area: Access to the project area is by boat on the Mulchatna River or fly in to one of the many lakes within or near the project area. DNR may reserve sites for public use and limit water frontage on fly-in lakes to protect access to, within, and beyond the project area. Such reserved areas will be depicted on the staking map distributed to authorized stakers. Refer to the Setbacks, Reserved Areas, and Easements subsection of this document for additional information.

Some areas adjacent to the project area have been approved for conveyance to the Lake and Peninsula Borough (LPB) under the Municipal Entitlement program. If the public wish to access the project area through these lands, they will need to contact LPB for information about uses and access on LPB-owned land. This information will be included in staking packets issued to authorized stakers.

Review of the title report and land status records indicates there are no easements issued by the Division in the area, nor are there any RS 2477 trails (RST) listed under *AS 19.30.400 Identification and Acceptance of Rights-of-Way* in the area, i.e. rights-of-way listed in Department land records as RST routes.

Additional legal access to, within, and through the project area is via travel across unreserved State-owned land, along section-line easements, or other easements reserved in conveyances to third parties. Access across unreserved State-owned land without a permit, along with pertinent restrictions, is governed by *11 AAC 96 Provisions for General Land Use Activity*.

As appropriate and at the Division's discretion, the following easements may be reserved:

- reserve an easement centered on existing trails that have not been assigned an ADL or RST number, or are not otherwise serialized, that traverse through or along any staked site (authorized stakers will be instructed not to stake across surveyed section or township lines or across trail easements that have been assigned an ADL or RST number, this reservation of easements for existing trails will also apply to traplines identified while in the field);
- on each side of surveyed or protracted section lines that are within or along staked sites;
- along interior parcel lines in order to ensure access between staked parcels; and

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 11 of 31

- for survey to control monuments within parcels in order to allow for access to recover monuments of record for the purposes of surveying and establishing property boundaries in the vicinity of a parcel.

The width of these easements will be discussed at the end of the Setbacks, Reserved Areas, and Easements subsection of this document. The Division will continue to research the location and status of access to and through the project area throughout the public comment period and up through the parcel survey. The reader is referred to the Setbacks, Reserved Areas, and Easements subsection of this document for more detailed information.

Access To and Along Public or Navigable Water. In accordance with AS 38.05.127 *Access to Navigable or Public Water*, the Division will determine if a body of water or waterway is a navigable or public waterway and will establish easements or right-of-ways as necessary to ensure unobstructed access to and along the body of water.

Lakes larger than 10 acres or streams larger than 10 feet in width are public and lakes larger than 50 acres or streams larger than 50 feet in width are navigable for purposes of AS 38.05.127 *Access to Navigable or Public Water*. In addition, waters may be determined public or navigable water consistent with AS 38.05.965 (18) *Definitions [General Provisions]*.

Attachment A: Vicinity Map shows the Mulchatna River, the unnamed stream within Section 8, Township 8 North, Range 32 West, Seward Meridian, and Half Cabin Lake as water bodies determined to be public or navigable for the purposes of this proposal. If, at the time of field survey, a water body not depicted or identified on Attachment A is determined to be public or navigable and within or adjacent to a parcel, a public access easement will be reserved upland from the ordinary high-water (OHW) mark, in accordance with AS 38.05.127 *Access to Navigable or Public Water* and 11 AAC 51.035 *Determination of Navigable and Public Water*. If a water body determined to be public is located entirely within a parcel, a public use access easement from the parcel boundary to and along the water body will be reserved and dedicated at the time of field survey. This is unlikely to occur given that staked parcels can only be up to 20 acres in size. However, as Administrative Parcels may be larger than 20 acres and water bodies smaller than 10 acres may be administratively determined public if they contain important public resources, it is possible that this type of public use access easement may be reserved and may affect some parcels. Reserved areas will be depicted on a staking map provided to authorized entrants, where appropriate.

If at the time of survey, a water body depicted or identified on Attachment A is determined to not be public or navigable, the public access will be extinguished. However, if preservation of public access is required, a public access easement in accordance with 11 AAC 51.015 *Standards for Public Easements* will be imposed on lands adjacent to the water body. Refer to the Setbacks, Reserved Areas, and Easements subsection and **Section VII. Agency Comments** in this document for additional information.

The Division will continue to research the location and status of navigable and public waters within the project area throughout the public comment period and up through the parcel survey. The public is invited to comment on use of water resources in the project area to aid in making the navigable and public water determination.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 12 of 31

For the purposes of reserving access to public or navigable water under *AS 38.05.127 Access to Navigable or Public Water* and in accordance with its associated regulations, *11 AAC 51.035 Determination of Navigable and Public Water - 11 AAC 51.045 Easements to and Along Navigable and Public Water*.

- a continuous easement extending upland from the OHW mark, where practical, will be reserved within parcels along waters determined to be public or navigable (an alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult).

Setbacks, Reserved Areas, and Easements: The Division may identify building setbacks, staking setbacks, reserved areas (including sites for public use and access), and easements at any time before staking instructions are issued. In addition, the Division may continue to research and identify easements throughout the staking and survey period. Of note, *staking* setbacks differ from *building* setbacks in that staking setbacks leave an area of land in State ownership, while building setbacks and easements place development restrictions on land that will be conveyed to the buyer. Restrictions and encumbrances will be identified in the staking instructions, depicted on staking maps, and noted in the brochure, where possible.

Staking Setbacks and Reserved Areas: Staking setbacks and Reserved areas may be designated for public use, access, or to protect valuable resources. Staking will not be allowed within these areas. The following staking setbacks and reserved areas will apply to this offering:

- staking setback from the OHW mark of the Mulchatna River and the unnamed stream within Section 8, Township 8 North, Range 32 West, Seward Meridian for the purpose of protecting these streams identified as anadromous or important to moose wintering and calving activities;
- reserved sites for public use and access on the Mulchatna River and the unnamed lakes in Sections 5 and 20 within Township 8 North, Range 32 West, Seward Meridian, to be depicted on staking maps, where appropriate;
- reserved area around permitted trapping cabin (ADL 223545 located within SE1/4 SE1/4 of Section 13, Township 8 North, Range 32 West, Seward Meridian and permitted through February 28, 2018, unless renewed) of a size to be determined before offering and depicted on staking maps, where appropriate; and
- reserved areas to protect any historic or archeological sites located within the project area (a cultural resource survey of a portion of the project area is underway and will be completed prior to offering).

The Division may identify additional staking setbacks and reserved areas until staking instructions are issued.

Building Setbacks From Public or Navigable Water: The Division proposes placing a note on the final survey plat describing a building setback, upland from the OHW mark of public and navigable water, to preserve access, conserve fish and wildlife habitat, and protect personal property from wakes, flood, erosion, or ice build up. Structures and subsurface sewage

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 13 of 31

disposal systems would not be permitted within the building setback. Exceptions to this restriction include utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for permitted uses that must be in or adjacent to the water body in order to function. The building setback is proposed as follows:

- building setback from the OHW mark of all water bodies determined to be public or navigable.

These restrictions would apply to all parcels created under this offering throughout all stages, from staking through lease, contract, and patent. The public is invited to comment on the proposed plat note and the Division will continue to develop and apply criteria as needed.

Easements: As discussed throughout the preceding sections of this document, parcels may be subject to a variety of easements, both during the lease period and after sale. This may include, but is not limited to, existing trails (with or without assigned ADL numbers), rights-of-way, section-line easements, and public access and utility easements. Throughout the staking period and survey process, the Division will continue to research the status, location, and condition of access routes and additional easements may be identified. Final width and location of easements and reservations will be determined as part of the platting process. Easements will be noted on the plat.

As discussed throughout this Setbacks, Reserved Areas, and Easements subsection of this document, parcels created through this offering could be subject to the following setbacks, reserved areas, and easements at the Division's discretion:

- 60-foot access easement centered on existing trails that are not assigned an ADL or RST number (or otherwise serialized) through and along staked parcels;
- 100-foot access easement centered on any surveyed or protracted section lines;
- 30-foot public access and utility easement along all interior parcel lines;
- 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 of 5 feet around the control monument, and as applicable, a 5-foot wide direct line-of-sight easement from the control station to an azimuth mark or other control monument;
- 50-foot continuous public access easement, where practical, upland from the OHW mark of public or navigable water bodies per *AS 38.05.127 Access to Navigable and Public Waters* (an alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult);
- 200-foot staking setback from the OHW mark of the Mulchatna River and the unnamed stream within Section 8, Township 8 North, Range 32 West, Seward Meridian for the purpose of protecting these streams identified as anadromous or important to moose wintering and calving activities;
- reserved sites for public use and access on the Mulchatna River and the unnamed lakes in Sections 5 and 20 within Township 8 North, Range 32 West, Seward Meridian, to be determined before offering and depicted on staking maps, where appropriate;

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough

Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474

Page 14 of 31

- reserved area of an appropriate size to be determined before offering and depicted on staking maps, where appropriate, around permitted trapping cabin (ADL 223545 located within SE1/4 SE1/4 of Section 13, Township 8 North, Range 32 West, Seward Meridian and permitted through February 28, 2018, unless renewed);
- reserved areas to protect any historic or archeological sites located within the project area after completion of a cultural resource survey of a portion of the project area; and
- 100-foot building setback from the OHW mark of all water bodies determined to be public or navigable.

Hazardous Materials and Potential Contaminants: Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land. The State of Alaska makes no representations and no warranties, express nor 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 be eventually found.

There are no known environmental hazards present within the project area. The Division recognizes there are potential environmental risks when previously vacant land 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, Department of Environmental Conservation. Given that this land was specifically designated for settlement and disposal, and given the high degree of interest from both the legislature and citizens in the sale of State-owned land, the Division is of the opinion that the benefits outweigh the potential risks.

Staking Instructions and Lease: The Remote Recreational Cabin Sites program authorizes applicants drawn first to stake a parcel within a project area and issue leases to successful applicants while the parcels are surveyed, platted, and appraised, in accordance with *11 AAC 67.800 - 11 AAC 67.845 Remote Recreational Cabin Sites*. Letters awarding staking authorizations to enter onto the land and staking instructions will be issued in accordance with *11 AAC 67.820 Staking Instructions*. These staking instructions will include general requirements for staking a parcel of land, specific requirements for individual staking areas, and staking maps depicting existing parcels, reserved areas, staking setbacks, and access routes, where known and practical.

To preserve their interest in the staked parcels and continue in the process to eventual ownership, stakers must apply for a lease after staking a parcel. Upon issuance, the lease authorizes the lessee to enter and enjoy exclusive, private, recreational use the property between staking and purchase while the survey, platting, and appraisal are completed. During the term of the lease the leasehold may not be used for commercial purposes or as a permanent residence. Lessees will be allowed to construct buildings on the property, but will be warned of the risks of constructing prior to survey completion solidifying the location of the property boundaries. Noncompliance with zoning requirements (if there are any) or mislocation of the parcel or improvements does not vest any preference right to the land improperly entered.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 15 of 31

Survey, Platting, and Appraisal: Survey, platting, and appraisal of staked and Administrative Parcels will be completed prior to sale. The Division proposes to issue survey contracts to conduct the survey and the costs will be prorated by acreage for each parcel.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting Division standards will be required within two years of the date fixed for the sale of parcels developed under this proposal.

In accordance with *11 AAC 67.825 Lease Application; Priority; 11 AAC 67.835 (4) Lease Conditions; and 11 AAC 67.840 Deposits, Refunds, and Credits*; lessees will be required to pay a deposit for the cost of surveying, platting, and appraising a staked and leased Remote Recreational Cabin Sites parcel. Current regulations provide two options for the survey: the lessee could either make quarterly payments or, if the Division determines it would be in the State's best interest, place a cash performance bond of \$1,000 to ensure the lessee's completion of survey, platting, and appraisal of the site on their own.

Generally, it would not be cost-effective for either the Division or applicants to allow individual surveys in the same staking area where State-issued survey contracts are active. For this reason, the Division has not determined the cash performance bond to be in the State's best interests at this time. However, if a project area received so few applications that a State-issued survey contract would not be cost-effective or if a separate survey contract is required to resolve platting issues, the Division may opt to offer the second option to lessees at the time of survey.

Other Constraints: There are no other known constraints as of the date of issuance of this Preliminary Decision. The Division will continue to research and identify constraints throughout the public comment period and up through the point of offering.

VII. Agency Comments

To gather comments and additional information, we conducted agency review of several projects simultaneously from May 11, 2010 through June 25, 2010. All comments pertaining to the Half Cabin Lake project area received during this period are addressed in the paragraphs below.

DNR DMLW Mining Section Comment: The Mining Section posed no objections to the project.

Response: Thank you for your response.

DNR DMLW Resource Assessment and Development Section (RADS) Comment: The unit is designated Settlement and it is considered appropriate for disposal. Development is to conform to the requirements of Remote Settlement.

Response: We concur. We reviewed the Remote Settlement guidelines and found the Remote Recreational Cabin Sites Program proposal consistent with the plan.

DNR DMLW RADS Comment: Development is to conform to the moose rutting and calving area and anadromous streams must have 100-foot buffers to conform to management guidelines.

Response: The BBAP states that the wintering and calving area for moose is the main valley of the Mulchatna River. To protect both moose and fish habitat, we will place a buffer on the

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 16 of 31

Mulchatna River and all streams within the staking area identified before staking as anadromous. The low density of a Remote Recreational Cabin Sites development is expected to minimize disruption to caribou and moose activities in the area.

DNR DMLW RADS Comment: The project area is affected in part by Mineral Closing Order (MCO) 393 and Leasehold Location Order (LLO) 1.

Response: We concur. The entire project area will be subject to a mineral closing order before offering per recommendations of the BBAP. Refer to the *Reservation of Mineral Estate* subsection of this document for additional information.

DNR DMLW RADS Comment: Reconfirm coastal zone boundaries. The project area may be within the Lake and Peninsula Borough coastal district.

Response: We concur. The project area is located within the Lake and Peninsula Borough (LPB), which exercises area-wide planning and land use regulation. DNR is coordinating with LPB, to include considerations of any coastal district issues relevant to platting within the project area. LPB has indicated that they have repealed their codes for Coastal Management when the corresponding State program sunset in 2011.

DNR DMLW Southcentral Region Office (SCRO) Comment: SCRO recommended DNR DMLW LSCAS take care to clearly explain to applicants the implications of a "60-foot public access easement along all existing unnamed trails." Construction of a road or trail does not create an easement and many existing trails in Alaska do not have legal status even though they have been used for years. SCRO is concerned that the public may be misled to believe that all existing trails do have an easement.

Response: When the parcels are surveyed for the proposed offering, observed existing (with or without legal status) adjacent to or within the parcels will be located. The subsequent right-of-way or public access easement that would affect the parcel will be platted and recorded with the survey, thus making the parcel legally subject to that traditional access. This will only provide legal status for the portion of the trail adjacent to or within the parcels, not the entire length of the trail. A separate application for an easement would need to be submitted to the appropriate Regional Land Office for the remaining portions of the trail to create a continuous legal easement. The project area consists of approximately 20 square miles in three separate areas separated by 24-square-miles of Borough-owned land. In most cases, as in this case, it is not practical to locate and survey an entire trail traversing the area due to the expansive size of the project area. Refer to the Access To, Within, and Beyond Staking Area subsection of this document for additional information.

DNR DMLW Survey Unit Comment: A Remote Recreational Cabin Sites offering is a much better use of the proposed project area than a planned, more densely surveyed subdivision project.

Response: We concur. The lower density of a Remote Recreational Cabin Sites Offering meets the BBAP guidelines for Remote Settlement.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 17 of 31

DNR, Mental Health Trust Land Office (TLO) Comment: TLO reviewed the information and has no comment or objections to the proposal. TLO does not have any land in the proposed project area.

Response: Thank you for your response.

DNR, Division of Parks and Outdoor Recreation, Office of History and Archeology, State Historic Preservation Office (SHPO) Comment: SHPO suspects this area may have a high potential for containing archeological resources and recommend it be surveyed.

Response: DNR will continue to work with SHPO to identify historical or archeological sites that may exist within the project area. Sites located prior to staking and appropriate buffers will be reserved from the staking area. Stakers will also be notified that *AS 41.35.020 Alaska Historic Preservation Act* prohibits the appropriation, excavation, removal, injury, or destruction of any State-owned historic, prehistoric (paleontological), or archaeological site without a permit from the Commissioner. Should any sites be discovered during the development of these parcels, activities that may damage will immediately cease and the Office of History and Archeology in the Division of Parks and Outdoor Recreation shall be notified immediately.

DOF provided the following general comments pertaining to the Remote Recreational Cabin Sites project areas distributed for simultaneous agency review:

DOF Comment: DOF does not object to transfer of State-owned lands designated Settlement in area plans. DOF's main concern is fire management with the growing number of improved properties in areas prone to wildland fires. DOF recommended consideration of several factors when developing a staking area, including the presence of high volumes of hazardous forest fuel, ingress and egress into an area with narrow valleys and steep hillsides, and the acknowledgement that wildland fires in Alaska are growing in frequency, intensity, and size. DOF suggests that DNR DMLW address fire risk by providing information describing the known hazards from wildland fires, information on mitigating those risks by emphasizing the value of implementing *Firewise* values, and noting that "Full" fire protection level does not guarantee properties in these areas will be spared from a wildfire.

Response: DNR DMLW acknowledges sales of State-owned land may occur in areas with high volumes of hazardous forest fuels. Instead of retaining discrete areas with high volumes of hazardous fuels in State ownership within a Settlement unit, the Remote Recreational Cabin Sites program offers entrants the opportunity to stake parcels up to 20 acres in size. These larger parcels allow owners to develop a building site and create defensible space and allow for development more in line with the area's remote character.

We will inform participants regarding access conditions in land sales brochures and staking packets, including depictions on staking maps. As participants are allowed to stake a parcel of their choice within the project area, ingress and egress cannot be determined prior to offering. Of note, the project area is not located within a narrow valley or ravine and the topography of the area offers numerous ingress and egress options, including the Mulchatna River and various lakes and streams within the project area.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 18 of 31

To the extent practicable, we will inform participants about the risk of wildland fire if it is identified within a particular project area and the options for configuring defensible parcels. As we have done with past offerings, the DOF and *Firewise* website information will be provided in the offering brochure, staking packets, and other offering information. DNR DMLW will also continue to provide *Firewise Alaska* booklets with staking instructions when available. We will also describe the fire management option for the project area and inform participants that there is no guarantee properties will be spared from harm from a wildland fire, regardless of the fire management option designation. Refer to the Fire Hazards subsection of this document for more information.

DNR DOF Comment: DOF recommended DNR DMLW consider availability and adequacy of local sources of firewood and cabin logs from State-owned lands for the number of parcels being planned in an area.

Response: We acknowledge land sales impact other uses of public land, including timber harvest, through the reduction in lands available for public use. We also acknowledge an increase in private land ownership and associated remote recreational activities over time can lead to an increase in timber harvest for personal use. However, areas with planned land sales are generally concentrated in accessible areas. Choosing to locate a parcel in close proximity to the access points allows participants to bring in building materials instead of relying solely on cabin logs available on adjacent lands. Limiting the total number of acres that may be sold in an area and allowing entrants to stake in a low-density, dispersed pattern, reduces impacts of resource harvest on State-owned land across the Settlement unit. Additionally, harvest of timber resources on State-owned land is subject to conditions in *11 AAC 96 Provisions for General Land Use Activity*. Timber harvest for personal use, including firewood and building materials, require permits from DOF Area Offices, which may provide for a means of tracking actual demand.

DNR Division of Geological and Geophysical Surveys (DGGGS) Comment: There are no mineral conflicts within the Half Cabin Lake proposed area; no mining claims and no sites located with the Alaska Resource Data Files. Mining claims, principally for placer gold, occur to the east of the area in Township 8 North, Range 31 West, Seward Meridian at Pass Creek, Cash Creek, and the Bonanza Hills.

Response: Thank you for your response. Refer to the *Mineral Order* and *Retained Interest* subsections of this document for more information.

DNR Division of Oil and Gas (DOG) Comment: DOG does not have any concerns as the State retains ownership of all oil, gas, coal, ore, minerals, fissionable materials, geothermal resources, and fossils that may be in or upon the land that it sells under *AS 38.05.125 Reservation [of Rights to Alaska]*.

Response: Thank you for your response. Refer to the *Mineral Order* and *Retained Interest* subsections of this document for more information

State of Alaska, Department of Commerce, Community & Economic Development (DCCED) Comment: Mineral entry within the project area is limited to leasehold location under Leasehold

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 19 of 31

Location Order (LLO) 1. There are no active mining claims shown in the project area as of June 18, 2010.

Response: We concur. The entire project area will be subject to a mineral closing order before offering in accordance with BBAP. Refer to the *Reservation of Mineral Estate* subsection of this document for additional information.

The Department of Fish and Game (DFG), Division of Sport Fish (DSF) provided the following general comments pertaining to the Remote Recreational Cabin Sites project areas distributed for simultaneous agency review:

DFG DSF General Comment: DFG expressed concerns with an increase of privately-owned cabins creating an increase of trespass incidents and damage to fish and wildlife habitat and water quality through poorly planned trails and access routes. These poorly planned routes often lead to widening trails and unnecessary crossing of streams and wetlands.

DNR and DFG share a common goal to provide access while protecting fish and wildlife habitat. In working with DNR, DFG has several recommendations:

- Access points and trails be identified and reserved prior to staking, if possible.
- DNR should continue to work with affected boroughs, community groups, and DFG to develop consistent and legally established access both to and within staking areas.
- All easements and legal access should be noted and depicted on staking material, conveyance documents, plats, and maps.

Response: DNR recognizes that an increase in private property ownership will likely lead to an increase in backcountry travel and resource use. Impacts on existing resources will be minimized by protecting public access along public or navigable water bodies, protecting riparian and shoreline habitat with building setbacks along water bodies determined to be public or navigable, reserving public access sites, and limiting the number of authorizations.

DNR will identify and reserve access across State-owned lands within the project area as needed. We will continue to research, identify, and where feasible, reserve existing and proposed access routes throughout the public comment period and up through the parcel survey. Moreover, the Division will identify and reserve sites for public access to assist in mitigating these shared concerns. The offering brochure, staking map, staking packet, and supplementary information will describe any identified access routes, and provide information about conditions and limitations, where available. Setbacks, reserved areas, and easements for individual parcels will be depicted on survey plats. Refer to the Access To, Within, and Beyond Project Area and Setbacks, Reserved Areas, and Easements sections of this document for more information. Access across unreserved State-owned land is anticipated and is subject to conditions in *11 AAC 96 Provisions for General Land Use Activity*. Restrictions on general land use, including restricting access across unreserved State-owned land, is beyond the scope of this decision.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 20 of 31

DFG DSF Comment: DFG noted that any work conducted below the OHW mark of anadromous streams that may use, divert, obstruct, pollute, or change the natural flow or bed of a specific river, lake, or stream, or any activity that uses wheeled, tracked, or excavation equipment in the bed of creeks will require a Fish Habitat Permit from the appropriate Division of Habitat Office.

Response: The offering brochure generally addresses activities that may require a Fish Habitat Permit and directs potential applicants to the DFG Division of Habitat for more information. Additionally, authorized stakers are provided with the Generally Allowed Uses on State Land Fact Sheet, which indicates some uses that may require additional permits and encourages users to research these requirements.

DFG DSF Comment: DFG suggested that DNR DMLW schedule the staking period so as not to coincide with open hunting periods.

Response: DNR recognizes that the staking period will be concurrent with some hunting seasons for big and small game. Due to multiple, overlapping hunting seasons of long duration, limiting the staking period to periods where there is no open season is not feasible, as it would greatly decrease the opportunity for entrants to access the area and stake a parcel. A longer, continuous staking period that would overlap open hunting seasons provides entrants greater opportunity to access the area and successfully stake a parcel. In general, a longer staking period should minimize conflicts among surface users as pressure to access an area and stake a parcel is less acute.

DFG provided the following comments specific to the Half Cabin Lake project area:

DFG DSF Comment: The Mulchatna River area is a popular destination for float trips, camping, and fishing. The Mulchatna River, Half Cabin Lake, and other unnamed streams are cataloged as important for anadromous fish. Moose hunting and trapping are increasing in the area and applicants should be aware of existing cabins within the staking area. This is also an important migration corridor for moose movement to wintering grounds. DFG proposes a 200-foot-wide riparian buffer to be established and maintained in State ownership along the Mulchatna River and anadromous water bodies. DFG concurs with the 50-foot to-and-along easements as well as the other public access, utility, and section-line easements proposed.

Response: BBAP notes important moose and caribou habitat exists along the river valleys. To help protect these areas, we have proposed a buffer on all anadromous streams and based on your commentary, increased this buffer from the 100 feet proposed in the original documents distributed for agency review (refer to the Setbacks, Reserved Areas, and Easements subsection of this document for the exact proposed buffer depth). DNR will also reserve an area around any existing cabins located within or adjacent to the staking area.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough

Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474

Page 21 of 31

The Bristol Bay Coastal Resource Service Area (BBCRSA) provided the following comments specific to a proposed offering of the area (Upper Mulchatna) as a remote subdivision in 2009. The subdivision project was abandoned in favor of a more dispersed, recreational offering such as the current Remote Recreational Cabin Sites proposal. BBCRSA's comments follow:

BBCRSA Comment: BBCRSA objects to the land disposal being proposed in the Half Cabin Lakes region of the upper Mulchatna River. BBCRSA stated that they recognize that the BBAP has designated the region for settlement; however they brought forth what they perceived to be an inconsistency in between BBAP and the Nushagak Mulchatna Rivers Recreation Management Plan (NMRRMP). BBCRSA stated that the management intent for that area's uplands and shorelands in the NMRRMP is "semi-primitive use experience, meaning that permanent facilities are prohibited". BBCRSA went on to acknowledge that the NMRRMP does not affect other management issues addressed in the BBAP and suggests private landowners use its management intent in planning their uses, BBCRSA felt the State should avoid an inconsistency by simply not making the land available for settlement.

DNR Response: DNR has reviewed the NMRRMP and found that the proposed project area is within *Unit 24. Half Cabin Lakes Area*. The NMRRMP was revised in April 2005 and the revision states that the management intent for this area is "semi-developed use experience". In addition, Map 3-1 labels this project area as State-owned land and explicitly states that the State-owned parcels are not affected by the plan. The NMRRMP further refers the reader to the BBAP for management requirements. DNR has determined that this project area is appropriate for settlement and we are proposing a low-density, dispersed development pattern through a Remote Recreational Cabin Sites offering.

BBCRSA Comment: BBCRSA noted that subsistence resources have been relatively abundant in past years for the people of the Nushagak River villages. However, the noted "a serious decline in caribou populations has been documented." BBCRSA went on to say, "Residents have attested that the current moose and caribou resources are not sufficient. The increased pressure that could be brought to bear on these and other resources by the establishment of a settlement, no matter how small, could have a serious impact. We respectfully recommend the State not follow through with the land offering at this time."

DNR Response: We have reviewed BBAP's information on wildlife habitat in the project area, consulted with RADS who authored the BBAP, as well as consulted with DFG on this specific project. As a result of these reviews and consultations, we have identified appropriate riparian buffers along anadromous waters. Additionally, minimization of the impact to the land and resources through a low-density, dispersed development pattern within the project area is one reason why a Remote Recreational Cabin Sites offering is preferred to a subdivision sale. The low density of a Remote Recreational Cabin Sites development is expected to minimize disruption to caribou and moose activities in the area.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 22 of 31

Other Agencies: The following agencies or groups were invited to participate in agency review but we did not receive any comments in response:

- State of Alaska;
 - Department of Natural Resources;
 - Division of Agriculture;
 - Division of Mining Land and Water;
 - Appraisals Section; and
 - Public Access Assertion and Defense;
 - Division of Coastal and Oceans Management (now defunct);
 - Office of Project Management and Permitting; and
 - State Pipeline Coordinator's Office;
 - Department of Environmental Conservation; and
 - Department of Transportation and Public Facilities;
- Lake and Peninsula Borough (LPB); and
- University of Alaska, Land Management.

VIII. Submittal of Public Comments

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

Pursuant to *AS 38.05.945 Notice*, the Department will issue public notice inviting comment on this Preliminary Decision and any Related Actions. If commenting on more than one proposed action, separate comments should be submitted for each.

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

The Division will consider all timely, written comments. If the comments indicate the need for significant changes to the Preliminary Decision or any Related Actions, additional public notice for the affected lands will be given before a Final Finding & Decision is issued. Reducing the amount of land offered and making minor changes to the proposal 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 our responses, will be issued as a subsequent Final Finding and Decision without further notice. Related Actions, if any, are developed separately from the proposed primary action of this Preliminary Decision. However, approval and succession of the primary proposed action detailed in this Preliminary Decision are contingent on the completion of Related Actions, as described throughout this document.

Only persons from whom the Department receives timely, written comment during the identified comment period will be eligible to file an appeal of a Final Finding and Decision. Upon approval

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 23 of 31

and issuance of a Final Finding and Decision, a copy of the decision will be made available online at <http://landsales.alaska.gov> and sent to any party who provides timely written comment.

DEADLINE TO SUBMIT WRITTEN COMMENT IS: 5PM JANUARY 30, 2014

IX. Alternatives and Discussion

The Division is considering the following alternatives:

1. Offer this project area, or a portion of the project area, for dispersed settlement staking under the Remote Recreational Cabin Sites program as proposed. Offer additional surveyed parcels identified by the Division after the staking period closes or staked parcels that were not converted from lease to sale under *AS 38.05.045 Generally [Sale of Land]*, if deemed feasible. The number of staked and additional surveyed parcels will not exceed the total number of authorizations offered, nor total number of acres to be sold.
2. Do not offer the project area for staking under the Remote Recreational Cabin Sites program. Survey parcels as a planned subdivision prior to offering at auction.
3. Do not offer the area at this time. Retain the land in public ownership.

Article VIII, Section 1 of the Alaska Constitution states, in part, that "...it is the policy of the State to encourage the settlement of its land..." Furthermore, *AS 38.05.045* has placed this charge with the Commissioner of DNR. *Alternative 1* is the alternative that maximizes public interest. In accordance with the approved area plan, this area is designated Settlement. This offering provides a desirable opportunity to obtain remote property. There are very few opportunities to obtain private land in the vicinity of this offering.

Allowing additional parcels and parcels that are not converted from lease to sale to be surveyed and sold under *AS 38.05.045 Generally [Sale of Land]* will maximize the opportunities for the transfer of State-owned land into private ownership under a uniform set of conditions. Dispersed, low-density staking is the best alternative for this settlement area since it is a remote location with little or no infrastructure; the amount of contiguous high-quality acreage suitable for a large number of adjacent sites is low due to varying topography; and under the Remote Recreational Cabin Sites program, entrants may choose individual sites within the staking area that suit their needs.

Alternative 2 is not preferred. High-quality sites suitable for individual settlement are discontinuous within the project area. There are few large areas with contiguous and high-quality acreage that could accommodate large numbers of adjacent parcels with suitable building sites and consolidated access.

Alternative 3 is not preferred. The Legislature and the public have indicated a desire for the Division to offer remote State-owned land for private ownership. Not offering the project area would deny many Alaskans the opportunity to stake and obtain land in an area that has been designated Settlement.

Recommendation follows.

Preliminary Decision

Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
Page 24 of 31

X. Recommendation

This Preliminary Decision for the proposed actions described throughout this document and its attachments are consistent with the overall management intent for State-owned land; potential changes to public resources and the public interest as a result of the proposal are acceptable; and these proposed actions are in the best interest of the State. It is hereby recommended to proceed to public notice.

/s/

Timothy Shilling
Natural Resource Manager I
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

November 19, 2013

Date

/s/

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

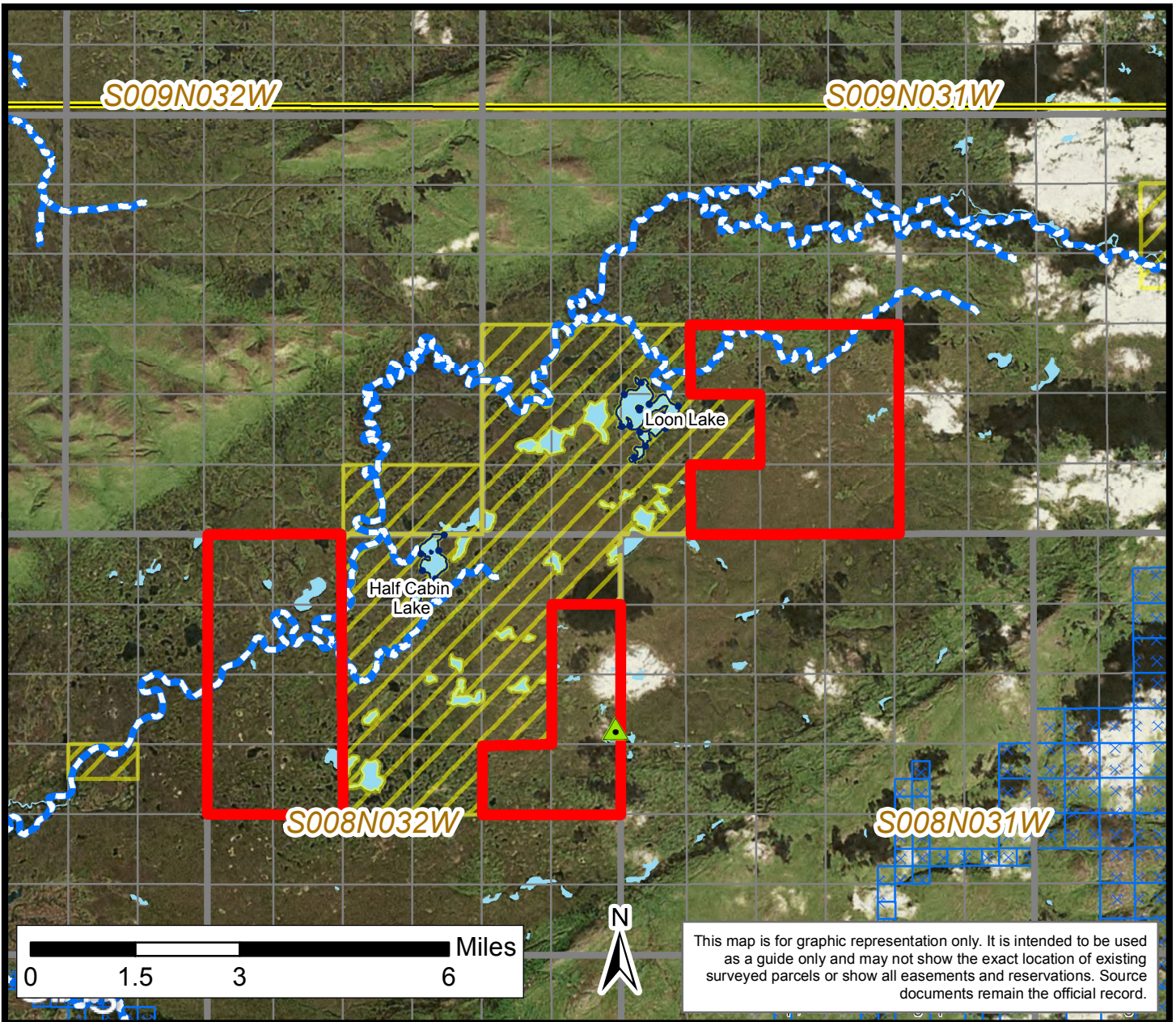
November 19, 2013

Date



Attachment A: Vicinity Map

to the Preliminary Decision for a Proposed Land Offering
in the Lake and Peninsula Borough
ADL 229474



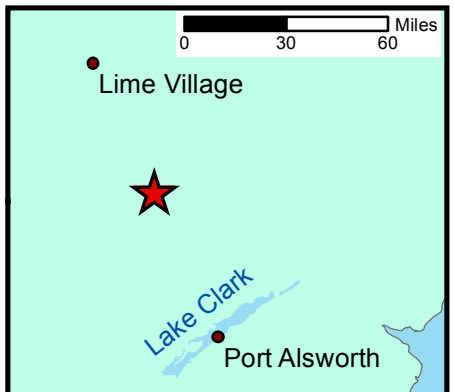
This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

USGS QUAD 1:63,360
Lake Clark C-6, D-5, D-6
Township 9 North, Range 31 West,
Township 8 North, Range 32 West,
Seward Meridian

For more information contact:
Southcentral Project Development Team
Department of Natural Resources
Division of Mining, Land, and Water
Land Sales & Contract Administration Section
Phone 907.269.8594
Fax 907.269.8916
Email landsales@alaska.gov

Legend

Project Area	Public Water
Anadromous Streams	Townships
ADL 223545	Sections
Borough Boundary	Lakes
Borough Entitlement	Mining Claims



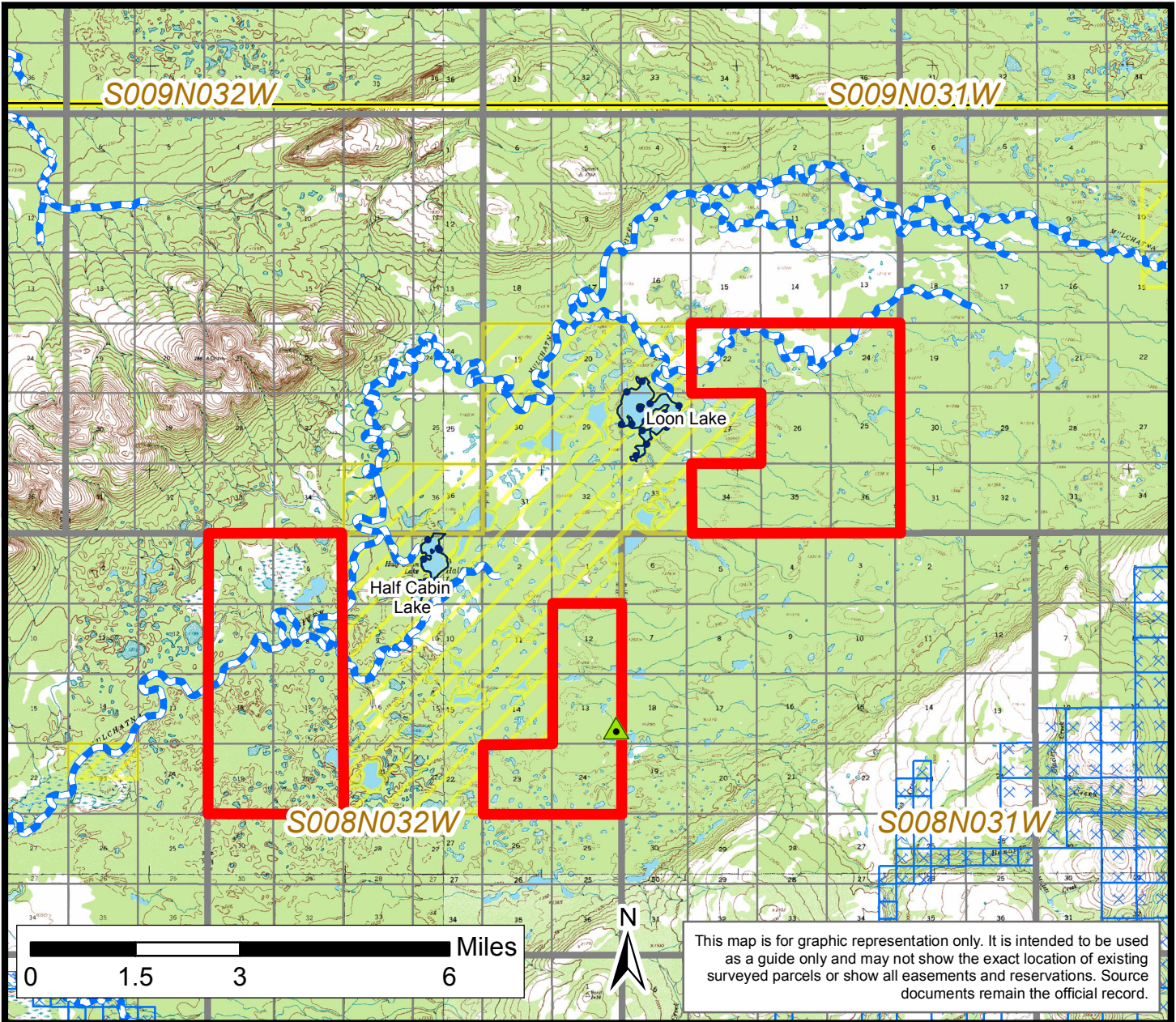


Attachment A: Vicinity Map

to the Preliminary Decision for a Proposed Land Offering

in the Lake and Peninsula Borough

ADL 229474



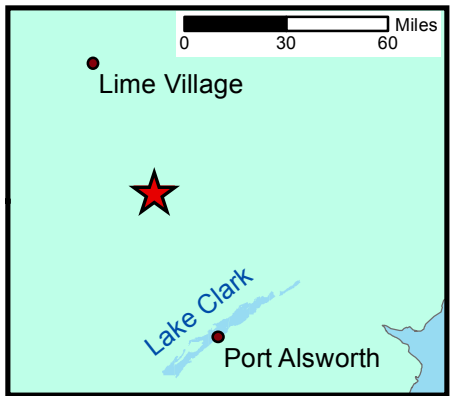
This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

USGS QUAD 1:63,360
 Lake Clark C-6, D-5, D-6
 Township 9 North, Range 31 West,
 Township 8 North, Range 32 West,
 Seward Meridian

For more information contact:
 Southcentral Project Development Team
 Department of Natural Resources
 Division of Mining, Land, and Water
 Land Sales & Contract Administration Section
 Phone 907.269.8594
 Fax 907.269.8916
 Email landsales@alaska.gov

Legend

Project Area	Public Water
Anadromous Streams	Townships
ADL 223545	Sections
Borough Boundary	Lakes
Borough Entitlement	Mining Claims



**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 Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474
AS 38.05.045, and AS 38.05.600**

Offering Information	
Number of Authorizations	40 authorizations
Parcel Size	5 to 20 acres each
Net Offering	up to 800 acres
Proposed Related Action(s)	Mineral Order (Closing) for entirety of the project area not already closed by MO(C) 393
Project Area	
Location	Southcentral Region, within Lake and Peninsula Borough, ~3 miles south of northern boundary ~120 miles west of Kenai ~40 miles northwest of Lake Clark
Gross Project Area	12,650 acres, more or less
USGS Topography Map	Lake Clark D-5 and D-6
MTRS	Seward Meridian: Township 8 North, Range 32 West, Sections 5-8, 12-13, 17-20, and 23-24 Township 9 North, Range 31 West, Sections 22-26 and 34-36
Title	Patented, State-owned land
Area Plan	Bristol Bay Area Plan for State Lands (BBAP), adopted April 2005, amended September 2013 Management Region 7: Upper Mulchatna and Upper Hoholitna, Unit 07-04: Half Cabin Lake Classified Settlement through CL-SC-04-002
Mineral Orders	The course of the Mulchatna River within the project area is closed to mineral entry under Mineral Closing Order (MO(C)) 393 The entire project area is under Leasehold Location Order (LLO) 1 An MO(C) is proposed as a Related Action(see Section I: Proposed Actions of this document)
Physical Characteristics	
Access	Boat along the Mulchatna River Fly in to land or lakes Overland by all-terrain vehicle/ snow machine

Attachment B: Area Data Summary Table

Preliminary Decision for a Proposed Land Offering in the Lake and Peninsula Borough

Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474

Page 28 of 31

	Summer access may be limited by wet trail conditions
Terrain and Major Features	Mulchatna River meanders through portions of the project area Terrain is generally vegetated with spruce woodlands but displays a variety of landscapes featuring low hills, ridges, and broad, sloping stream valleys Elevations range from 1,200 feet to 1,300 feet above sea level
View	Views of the Mulchatna River through portions of the project area and the Bonanza Hills east of the project area
Climate	Nearest weather station: ~8 miles southeast of Port Alsworth (~50 miles southeast of the project area) Average summer temperatures range from 42°F and 62°F Average winter temperatures range from 6°F and 30°F Extreme temperatures of 89°F and -55°F have been recorded Average annual precipitation is 26 inches with 70 inches of snowfall
Soils	Mixture of very gravelly colluvium, silty loess, and volcanic ash, mostly underlain by permafrost Hills and ridges are well drained and often gravelly, valleys can be somewhat poorly drained
Vegetation	Spruce woodlands and shrubs along the Mulchatna River Forest-shrub-bog mosaic throughout the project area
Water Source	Mulchatna River, Half Cabin Lake, various streams and lakes throughout the project area, water quality is unknown Nearby mining claims to the southeast have associated surface water right appropriations (certificates) from Bonanza and Little Bonanza Creeks
Anadromous Waters	Unnamed stream within Section 8, Township 8 North, Range 32 West, Seward Meridian and Mulchatna River are listed in the <i>2013 Catalog of Waters Important for Spawning, Rearing, or Migration of Anadromous Fishes</i> State of Alaska, Department of Fish and Game (DFG) also identified Half Cabin Lake (outside the project area) as important for fish rearing
Local Management Information	
Fire Management Option	Limited
Game Management Unit	17B
Local Authority	Lake and Peninsula Borough exercises authority for planning, platting, taxing, and zoning for lands within the project area
Flood Zone	Federal Emergency Management Agency Flood Insurance Rate Maps are not available for the project area
Utilities	None known
Waste Disposal	All on-site waste water disposal systems must meet the regulatory requirements of the State of Alaska, Department of Environmental Conservation
Setbacks, Reserved Areas, Easements, and Conditions	
Allowed Uses	Remote Recreational Cabin Sites are for recreational use only, no commercial use or permanent residence is allowed while

Attachment B: Area Data Summary Table

Preliminary Decision for a Proposed Land Offering in the Lake and Peninsula Borough

Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474

Page 29 of 31

	<p>under lease, however, once the parcel is under purchase contract or conveyed into private ownership these restrictions no longer apply</p>
Reserved Areas	<p>Reserved areas may be imposed prior to staking to protect commonly used access points, for recreational use, and to protect a specific resource or authorization identified in the area plan or agency review, as will be continually researched up to the point of offering and depicted on the staking map, Staking will not be allowed within the following reserved areas:</p> <ul style="list-style-type: none">• reserved sites for public use and access on the Mulchatna River and the unnamed lakes in Sections 5 and 20, Township 8 North, Range 32 West, Seward Meridian, to be determined before offering and depicted on staking maps, where appropriate;• reserved area of an appropriate size to be determined before offering and depicted on staking maps, where appropriate, around permitted trapping cabin (ADL 223545 located within SE1/4SE1/4 of Section 13, Township 8 North, Range 32 West, Seward Meridian and permitted through February 28, 2018, unless renewed); and• reserved areas to protect any historic or archeological sites located within the project area after completion of a cultural resource survey of a portion of the project area
Public or Navigable Water Bodies	<p>Waters determined public or navigable within the project area:</p> <ul style="list-style-type: none">• Mulchatna River and an Unnamed Stream within Section 8, Township 8 North, Range 32 West, Seward Meridian (public, navigable, and anadromous within the project area) <p>While Half Cabin Lake is located outside the project area, it is a likely access point for stakers and recreationalists and it was identified by DFG as important for anadromous fish</p> <p>Additional water bodies may be determined to be public or navigable at the time of survey</p>
Staking Setbacks	<p>Staking will not be allowed within:</p> <ul style="list-style-type: none">• 200-foot of the OHW mark of the Mulchatna River and the unnamed stream within Section 8, Township 8 North, Range 32 West, Seward Meridian (anadromous streams and areas important to moose wintering and calving activities)
Public Access and Utility Easements	<p>Staked parcels may be subject to the following:</p> <ul style="list-style-type: none">• 60-foot access easement centered on existing trails that have not been assigned an ADL or RST number (or otherwise serialized) through and along staked parcels;• 100-foot access easement centered on any surveyed or protracted section lines;• 30-foot public access and utility easement along all

Attachment B: Area Data Summary Table

Preliminary Decision for a Proposed Land Offering in the Lake and Peninsula Borough

Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474

Page 30 of 31

	<p>interior parcel lines;</p> <ul style="list-style-type: none">• 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 of 5 feet around the control monument, and as applicable, a 5-foot wide direct line-of-sight easement from the control station to an azimuth mark or other control monument• 50-foot continuous public access easement, where practical, upland from the OHW mark of public or navigable water bodies per <i>AS 38.05.127 Access to Navigable and Public Waters</i> and (an alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult).
Building Setbacks	<p>Parcels will be subject to:</p> <ul style="list-style-type: none">• a 100-foot building setback from the ordinary high-water (OHW) mark of water bodies determined to be public or navigable, water-dependent structures may be allowed within the building setback
Improvements	<p>Prior to construction of any structure or waste disposal system, stakers will be instructed to contact the platting authority for any permits or for required setbacks from water bodies, lot lines, and easements</p>
Additional Information	
Native Regional Corporations	<p>Bristol Bay Native Corporation (BBNC) is the regional corporation for the project area</p>
Villages and Tribal Councils	<p>No known village or tribal councils located within 25 miles of the project area</p>
Oil and Gas Activity	<p>None identified</p>
Mining Activity	<p>None identified within the project area There are existing mining claims to the southeast of the project area</p>
Comments	<p>A cultural resources survey for a portion of the project area is underway and will be completed prior to offering</p>

ATTACHMENT C: PUBLIC NOTICE

of the
Preliminary Decision

for a
**Proposed Land Offering in the Lake and Peninsula Borough
Half Cabin Lake Remote Recreational Cabin Sites Project Area - ADL 229474**
AS 38.05.045, and AS 38.05.600

and
Related Proposed Mineral Order (Closing)
AS 38.05.185 and AS 38.05.300

COMMENT PERIOD ENDS 5PM JANUARY 30, 2014

As described in the Preliminary Decision document, the Division proposes to offer up to 40 authorizations to stake parcels generally ranging from 5 to 20 acres and create Administrative Parcels within the defined project areas. The offerings and development may be conducted in multiple offerings over time but will not exceed 800 acres under this proposal. As a Related Action, the Division would close the area to new mineral entry. The project areas is located approximately 120 miles west of Kenai and 40 miles northwest of Lake Clark, within the Lake and Peninsula Borough, encompassing approximately 20 square miles (~12,650 acres) within portions of Township 8 North, Range 32 West and Township 9 North, Range 31 West, Seward Meridian.

To obtain the notice, Preliminary Decision, or instructions on submitting comment, or to request auxiliary aids, services, or special accommodations, go to <http://notice.alaska.gov>. For assistance in obtaining the documents by an alternative method, 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 Section 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 4PM January 23, 2014.

Pursuant to *AS 38.05.945 Notice*, the public is invited to submit comment on these proposed action(s) for which notice is being conducted concurrently. If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5PM JANUARY 30, 2014.** Only persons from whom the Division's Land Sales and Contract Administration Section 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 fax to 907.451.2734, email to dnr.rrcs@alaska.gov, or postal mail to LSCAS, ATTENTION: HALF CABIN LAKE RRCS PROPOSAL, 3700 Airport Way, Fairbanks, Alaska 99709. For direct inquiries, contact Timothy Shilling at 907.451.2705.

If no significant change is required, the Preliminary Decision, including any minor changes and a summary of comments and responses, will be issued as a subsequent Final Finding and Decision without further notice. A copy of the Final Finding and Decision will be sent to any persons who comments on the Preliminary Decision.

DNR reserves the right to waive technical defects in this notice. Please post until 5PM January 30, 2014.