

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

**FINAL FINDING AND DECISION**

**Proposed Land Offering  
Lakes Subdivision-ADL 231196  
AS 38.05.035 (e), AS 38.05.045**

**Related Actions:**

**Proposed Amendment to the Susitna Area Plan  
AS 38.04.065**

**Proposed Special Exceptions to the Susitna Area Plan  
AS 38.04.065**

**Proposed Mineral Order (Closing) No. 1127  
AS 38.05.065, AS 38.05.185**

This Final Finding and Decision supplements the Preliminary Decision dated February 15, 2012 for the proposed action(s) incorporated by reference herein. The proposed decision has had the required public review.

Attachment I: Preliminary Decision  
Attachment II: List of Commenters

**I. Recommended Action(s)**

The State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water recommends offering for sale State-owned land for private ownership within the Lakes project area (ADL 231196), as detailed in Attachment I: Preliminary Decision.

The purpose of the sale is to make land available for settlement within the Lake Louise area. If deemed feasible, DNR may offer for sale up to 74 previously surveyed, settlement-classified parcels. This recommended action has been modified from the original proposed action by a reduction of 20 parcels from possible current sale as a result of field investigation, coordination with The State of Alaska, Department of Fish and Game (DFG), and the subsequent determination that these parcels provide significant habitat or recreation. The parcels vary in size but average 5 nominal acres. The parcels will be offered in phases in more than one future auction. If the parcels do not sell at auction, they may be offered by another method under AS 38.05.045 Generally [Land for Sale].

There are five related actions associated with this project: a mineral order, three special exceptions to the Susitna Area Plan (SUAP), and an amendment to the SUAP.

- Mineral Order: No mining activity has been identified within the project boundaries. In order to prevent potential conflicts between surface and subsurface users within the project area, Mineral Order (Closing) No. 1127 closes the entire project area

(approximately 333 acres) to mineral entry prior to offering. The mineral order applies only to new mineral location and does not remove valid existing mineral rights. This order is consistent with the management intent of the SUAP.

- The proposed special exceptions<sup>1</sup> to the SUAP will:
  - Exempt the area affected by this decision from SUAP Chapter 2 - Fish and Wildlife Habitat requirement, “On Susitna Lake, up to 25 additional lots may be offered for sale.” The sale of additional parcels proposed by this offering will not result in the conveyance of more than 50% of the lakeshore out of public ownership. Fish and Wildlife Habitat and access to fishing opportunities will be preserved, given the size of the lake and the large amount of land in public ownership.
  - Exempt the area affected by this decision from the Chapter 2 - Recreation requirement that provides that remaining public land surrounding large lakes with relatively little development, specifically Susitna Lake, will be retained in public ownership. The other large lakes mentioned in Chapter 2 - Recreation, namely, Chelatna Lake, Tyone Lake, Alexander Lake, Strandline Lake, and Old Man Lake, will not be affected by this Special Exception. SUAP states that where the decision has been made by the plan to sell additional land surrounding a lake greater than 640 acres (e.g., Lake Louise) those sales will be designed to minimize damage to public recreation values by retaining islands and lakefront property in public ownership, protecting public access from lakes to backcountry areas and protecting stream and trail corridors and other important open space areas. Other management intent within Areawide Land Management Policies and management intent for the Subregion allow for the sale of additional parcels on Susitna Lake.
  - Allow the offering of parcels on islands within Subunit 1b. Private parcels already exist on these islands, these parcels have been classified Settlement, and this action is compatible with the current land uses in the area.
- Proposed Area Plan Amendment to SUAP: DNR DMLW proposes to amend SUAP to remove the limitation of the number of lots to be offered on Susitna Lake by striking the language, “(<25 parcels)” within Management Intent for Subunit 1b, and to strike the language, “The total number offered will not exceed 25 lots” Within Management Guidelines for Subunit 1b. This amendment will also remove the limitation of the number of parcels to be offered on Lake Louise by striking the language, “(less than 25)” within Management Guidelines for Subunits 1a and 1c.<sup>2</sup>

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<sup>1</sup> Special exceptions and plan amendment follow the same process and standards in this decision. See the attached documents for specifics and for a more detailed explanation of the reasons for granting the special exceptions.

<sup>2</sup> See attached document for specifics and for a more detailed explanation of the reasons for granting the plan amendment.

## **II. Authority**

The State of Alaska, Department of Natural Resources (DNR) has the authority under AS 38.05.035 (e) Powers and Duties of the Director to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State. The Land Sales and Contract Administration Section (LSCAS) of the Division of Mining, Land, and Water (DMLW) is delegated authority to offer parcels through auction under AS 38.05.045 Generally [Sale of Land], AS 38.05.050 Disposal of Land for Private Ownership, and AS 38.05.055 Auction Sale Procedures. If parcels do not sell at auction, DNR DMLW is authorized to offer the parcels through other methods under AS 38.05.045.

For related actions, AS 38.05.185 Generally [Mining Rights] allows for closing lands to mineral entry, and AS 38.05.065 Land Use Planning and Classification and 11 AAC 55.030 (f) Land Use Plan allow for Area Plan Amendments and Special Exceptions.

## **III. Traditional Use Finding**

In accordance with AS 38.05.830 Land Disposal in the Unorganized Borough, a traditional use finding is required for project areas that are located outside an organized borough (within the Unorganized Borough). This project area is not within the Unorganized Borough; therefore no Traditional Use Finding is required.

## **IV. Summary of Public Notice and Comments**

Pursuant to AS 38.05.945 Notice, public notice inviting comment was published in a legal notice in the statewide Anchorage Daily News on February 19, 2012. The notice also appeared on the State of Alaska Online Public Notices website at <http://notes.state.ak.us/pn/>. Additionally, public notices with a request to post until 5:00 pm on March 28, 2012 were mailed to the library in the general area of the proposed offering and the Glennallen post office. Notices were also mailed the Matanuska-Susitna Borough; the regional corporation; as well as adjacent land owners, permit holders, or managers of record. The public notice stated that written comments were to be received by 5:00pm March 28, 2012 in order to ensure consideration and to be eligible to appeal. A public open house was conducted at the Matthews Public Safety Building at Lake Louise on March 8, 2012. During the comment period the Division became aware that several adjacent land owners had not received notice in the mail because the database used to obtain adjacent land owner information was not current. Public notice inviting the public to comment and advising the public of an extension to the public comment period was published in legal notices in the regional Frontiersman and the statewide Anchorage Daily News on March 25, 2012, and the Copper River Record on March 29, 2012. Additionally, public notices with a request to post until 5:00 PM on April 30, 2012 were mailed to the library in the general area of the proposed offering and the Glennallen post office. Using the most current data available from the Matanuska-Susitna Borough, notices were also mailed to the Matanuska-Susitna Borough; the regional corporation; as well as adjacent land owners, permit holders, or managers of record. The public notice stated that written comments were to be received by 5:00pm April 30, 2012 in order to ensure consideration and to be eligible to appeal.

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The Division received timely, written comments from 39 individuals and the Matanuska-Susitna Borough. The Division also received comments from the Alaska Department of Fish and Game, Division of Sport Fish after the extended comment deadline.

Many of the comments received were about concerns shared by several individuals and apply to all or most of the parcels. In those cases, common comments are combined, summarized and addressed collectively below. Other comments are summarized and addressed individually. All comments received during the public comment period are summarized below.

Public Comment: Comments were received expressing concern about boater safety in navigating the channel between Lake Louise and Susitna Lake. The channel is narrow, shallow and winding. Large jet drive boats need to pass through at high speed “on step” during times of low water. At these speeds the boat operators have difficulty seeing and avoiding boat traffic heading in the opposite direction as well as smaller, slower boats in general. Individuals felt that selling more parcels of land on Susitna Lake would increase traffic through the channel and increase the danger of navigating there. Several individuals noted that the residents of the area have attempted to coordinate with a variety of local, state and federal agencies to improve safety in the channel without success. Several individuals recommended that DNR should make the channel safer by constructing improvements. Some individuals asserted that the channel was the only summer access to Susitna Lake. One individual suggested bypassing the channel by extending the Lake Louise Road to the southwest of Susitna Lake and constructing launch facilities, a parking area and a lodge site there.

DNR DMLW Response: Prospective purchasers will be urged to use caution should they choose to use the shallow channel connecting the two lakes. Boat travel through the channel is only one method of access. Access is also possible by float plane or overland during the summer and ski plane or snowmobile during the winter. The sale brochure will urge potential purchasers to use caution when approaching and passing through the channel connecting Lake Louise and Susitna Lake. DNR does not believe the shallow water creates a safety hazard that is disproportionate to other hazards of accessing remote land in Alaska. Ultimately, safe navigation is the responsibility of the vessel operator. According to Coast Guard Navigation Rules, rule six: “every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid a collision and be stopped within a distance appropriate to the prevailing circumstances and conditions”. If an individual does not feel that they can safely access the area through the channel, other legal access exists. DNR does not have the authority to enforce boating safety outside of legislatively designated areas. While offering more land for private ownership on Susitna Lake may increase boat traffic in the area, past experience shows that many of the individuals that participate in land sales in remote areas such as Susitna Lake already use the area prior to owning land in the area. Constructing access or improvements is not necessary to provide access, would be cost prohibitive, and is beyond the scope of this decision.

Public Comment: Several individuals commented that there is insufficient parking available in the area and that the boat launch near the causeway between Dinty Lake and Lake Louise is regularly full on weekends and holidays. Sometimes parked trucks/ trailers block access to launching directly into Dinty Lake. One individual would like to see a marked “no parking” area to protect the launch into Dinty Lake.

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DNR DMLW Response: Adequate parking exists at the Lake Louise State Recreation Area. According to the concessionaire, the parking area there has never filled, even on the busiest weekends of the year. There is a fee for launching boats at the recreation area which may be a contributing factor for individuals choosing to overcrowd the causeway. The causeway area (USS 3494 Lot 28) is managed by the Department of Transportation via an Interagency Land Management Agreement (ADL 227094). Concerns about enforcement and management of parking in this area should be addressed to DOT and are beyond the scope of this decision. If parking at the causeway is full, individuals have the opportunity to, and should use the Lake Louise State Recreation Area facilities. DOT has been notified of the request for no parking signs at the Dinty Lake launch area.

Public Comment: Comments were received expressing concern about the State offering too much land at one time. Individuals worry that land values will be depressed, and that such a change would be too abrupt for wildlife and current landowners to comfortably adapt to. Individuals proposed a variety of phasing strategies concerning the rate of offering.

DNR DMLW Response: The parcels will be offered in phases. The number of parcels to be offered in each phase will be determined as part of the yearly offering decision process.

Public Comment: Several comments expressed concerns about water quality. Generally, that increasing private ownership will decrease water quality. An individual pointed out that the SUAP states that "...DNR and DEC should take special care to protect this resource".

DNR DMLW Response: DNR DMLW recognizes the importance of water quality. As noted in the Preliminary Decision, all land owners in the area, as throughout the state, will be required to comply with State of Alaska, Department of Environmental Conservation (DEC) water quality protection laws. Additionally, in accordance with the Areawide Land Management Policies outlined in SUAP, water quality will be protected by a 100-foot building setback. The Matanuska-Susitna Borough notes that there has been a voluntary lake monitoring program at Lake Louise and Susitna Lake since 2001, and that the data indicates that the lakes are in relatively healthy condition.

Public Comment: A comment was received expressing a concern about the number of outhouses on islands. The comment stated that the individual was "told several years ago [that] no additional lands would be opened up on the islands at Susitna Lake" due to the number of outhouses on the island. No further information was provided.

DNR DMLW Response: As noted, all land owners in the area, as throughout the state, are required to comply with State of Alaska, Department of Environmental Conservation (DEC) water quality protection laws. Additionally, in accordance with the Areawide Land Management Policies outlined in SUAP, water quality will be protected by a 100-foot building setback.

Public Comment: Comments were received that expressed concern with increasing fire danger with increasing private ownership. Comments also expressed concern that the current volunteer fire and EMS services in the area would be burdened by increased private land ownership.

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DNR DMLW Response: As noted in the Preliminary Decision, landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Increasing private ownership may increase demand for volunteer emergency services, but it is not unreasonable to think that a percentage of new owners in the area will offer their services as volunteers, just as a percentage of current owners have volunteered theirs. Offering materials will inform potential purchasers of the Fire Management Option within the area. As this area is outside of a fire service area potential purchasers must assume the risk associated with minimal fire protection in a remote area.

Public Comment: A comment was received that expressed concern that increasing private ownership in the area would increase crime. Specifically the comment stated that the sale of parcels on Lake Louise and Susitna Lake will result in an increase in domestic violence, theft and arson “because of no law enforcement or accountability”.

DNR DMLW Response: This comment is beyond the scope of this decision. Criminal activities should be reported to the Department of Public Safety.

Public comment: A comment was received noting that refuse collection and disposal in the area is inadequate at present and adding additional private ownership in the area will cause the situation to deteriorate.

DNR DMLW Response: This comment is beyond the scope of this decision. Proper disposal of refuse is ultimately an individual responsibility. Concerns with facility management should be directed to the responsible managing agency.

Public Comment: A comment was received that suggested that the Lake Louise Road was in poor condition and is unable to handle increased traffic.

DNR DMLW Response: This comment is beyond the scope of this decision. The Lake Louise Road is maintained by the Department of Transportation, which is the appropriate agency to report road concerns to.

Public Comment: A comment was received stating that any demand for purchasing land in the area could be met by private land sales.

DNR DMLW Response: Members of the public have nominated this land for sale and have expressed a specific interest in purchasing the undeveloped parcels proposed in this action.

Public Comment: Comments were received expressing concern that selling the remaining settlement-classified lots, especially on Susitna Lake, would negatively impact the remote feeling of the area. One individual expressed viewshed concerns and recommended that other areas around Susitna Lake should be offered to minimize the impact on current landowners who are accustomed to views that do not include structures/ cabins. Some individuals suggested that the proposed disposal would result in an unacceptably high population density. Concerns about the loss of peace and quiet were also noted.

DNR DMLW Response: These parcels are classified Settlement. Although the Division recognizes that offering land in areas where settlement currently exists will have some impact,

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existing landowners are not entitled to preferential use of State land surrounding their parcel. It is the nature of settlement areas to change over time and it is appropriate that other Alaskans have opportunities to obtain settlement-classified land as well. The majority of the land in the vicinity of Susitna Lake remains classified public recreation/ wildlife habitat. Viewshed impacts should be reduced due to the 100' building setback. Offering parcels in other areas of Susitna Lake would involve surveying new parcels and reclassifying Public Recreation/ Wildlife Habitat lands to Settlement and is beyond the scope of this decision.

Public Comment: Comments were received expressing concern that recreational opportunities in the Susitna Lake area will be negatively impacted. Some individuals expressed concerns related to increased fishing pressure and lack of fishing enforcement.

DNR DMLW Response: As noted in the Preliminary Decision, the majority of the Susitna Lake lakeshore is presently classified Public Use Recreation/Wildlife Habitat, which will provide the public with recreational opportunities. Management and enforcement of fishing regulations is the responsibility of the Department of Fish and Game, and the Department of Public Safety. Suspected violations should be reported to the Alaska Wildlife Troopers. As noted, past experience shows that many of the individuals who participate in land sales in remote areas such as Susitna Lake already use the area prior to owning land in the area.

Public Comment: Comments were received expressing a general concern for the loss of wildlife habitat. Comments were also received expressing concern that caribou migration may be altered in the vicinity of Susitna Lake and that moose that move through this area would also be affected. Comments were also received noting that waterfowl and eagles use the area.

DNR DMLW Response: As noted in the Preliminary Decision as well as throughout this document, the majority of the land in the vicinity of Susitna Lake is classified Public Recreation/ Wildlife Habitat. It should also be noted that settlement in clustered sites with average parcels being a nominal 5 acres in an area that is traditionally used part time and seasonally, does not exclude wildlife, as can be seen in remote settlement areas throughout the State. Additionally, as noted, the majority of the lakeshore will remain in public ownership and remain classified Public Recreation/ Wildlife Habitat. In addition and based on a field investigation of this area conducted between June 14 and June 19, 2012, parcels showing significant wildlife use have been withdrawn from current consideration for sale as part of this action. DNR DMLW coordinated with DFG after the field inspection. Parcels identified as important habitat areas by DFG have been removed from consideration for sale as well.

Eagle nesting sites and migratory bird nest areas are protected by federal law that is enforced by the U.S. Fish and Wildlife Service. Potential purchasers are informed of this in the offering brochure.

Public Comment: A comment was received inquiring about what will be done about the "squatter's cabin" that is still in use.

DNR DMLW Response: As noted in the Preliminary Decision, the Division is aware of an unauthorized cabin that is on Lot 1 of USS 5654. A field investigation of this area was conducted on June 15, 2012. The cabin does not appear to be recently occupied and it requires some repair. Its value will be determined prior to sale. Other unauthorized activities and

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improvements which were identified during the field inspection have been referred to DNR DMLW South-Central Regional Office for further action as necessary and appropriate.

Public Comment: Comments were received expressing concern that the sale of these Settlement-classified parcels would limit access to the backcountry.

DNR DMLW Response: As noted in the Preliminary Decision, the State has already classified several areas of Lake Louise lakeshore as Public Use/Recreation and these areas remain in State ownership and may be used for backcountry access. The majority of the Susitna Lake lakeshore is presently classified Public Use Recreation/Wildlife Habitat, which also provides access to the backcountry. Additionally, public access easements may be reserved along interior lot lines, where necessary, to provide access to the backcountry. Also, based on a field investigation of this area conducted between June 14 and June 19, 2012, parcels showing use for access have been withdrawn from current consideration for sale as part of this action.

Public Comment: A comment was received expressing concern that the Division did not adequately address Agency Review comments made by the Alaska Department of Fish and Game, Division of Sport Fish in the preliminary decision. Specifically, the comment quotes the agency response letter: "ADF&G reviewed the current language in the SUAP and is concerned about the number of additional parcels that will be transferred into private ownership. These proposed land disposals will lead to an increase in general recreational activity as well as hunting and fishing efforts. As more shoreline is transferred into private ownership, subsistence activity will be negatively impacted. The resources will become more dispersed and harder to harvest or access."

DNR DMLW Response: To complete the Alaska Department of Fish and Game quote that was referenced in this comment, the next and final sentence of that paragraph is "We encourage DNR to consider the following comments when deciding the number of parcels to offer for disposal." Those "following comments" were specific recommendations related to the general concerns outlined in that introductory paragraph and were addressed on pages 17 and 18 of the Preliminary Decision (see Attachment 1). During the Agency Review phase of this project, DNR proposed the offering of approximately 150 surveyed parcels, including parcels classified Public Recreation/Wildlife Habitat. Pursuant to Agency Review and the development of this proposed offering, approximately 56 parcels not classified Settlement were removed from consideration. Public Notice was conducted on the proposed offering of 94 parcels, all classified Settlement. This proposed offering has subsequently been reduced to 74 settlement classified parcels by removing another 20 settlement classified parcels from current consideration for sale.

Public Comment: Comments were received stating that the SUAP has designated the primary use of Susitna Lake to be Public Recreation/ Wildlife Habitat and the secondary use to be Settlement. Comments suggested that selling additional Settlement land on Susitna Lake was inconsistent with or interfered with the primary designation and therefore not allowed. One comment stated that Settlement is the primary designation for Lake Louise with Public Recreation/ Wildlife Habitat being the secondary designated use. That comment proposed that the Division reclassify Public Recreation/ Wildlife Habitat land around Lake Louise to Settlement and sell that land instead of offering additional Settlement land on Susitna Lake.

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DNR DMLW Response: The SUAP designates Public Recreation/ Wildlife Habitat as the primary use for subunit 1b and Settlement as a secondary use. Secondary uses are permitted as long as they do not detrimentally affect the primary use of the management unit as a whole. Given the small amount of acreage being proposed for disposal compared to the amount of land being retained for the primary use, the secondary use of settlement is considered appropriate and may be allowed as a secondary use unless inconsistent with the primary management orientation. As noted in the Preliminary Decision, the majority of the Susitna Lake lakeshore is, and will remain after this action, classified Public Recreation/ Wildlife Habitat which is consistent with the primary management orientation for this area which focuses on the protection and maintenance of habitat and public recreation values. The parcels proposed through this action have all been classified Settlement by Land Classification Order SC-86-012, which was prepared immediately subsequent to the adoption of the area plan and was intended to identify specific parcels to be classified Settlement or Wildlife Recreation/Public Recreation. At the time of this action this was considered the appropriate method to implement an area plan (but did not involve the revision of the plan itself). Although the Susitna Lake subunit is designated with a primary land use of Public Recreation/Wildlife Habitat and a secondary land use of Settlement, the parcels addressed in this decision are classified Settlement only without dual classification, indicating that this area is specifically intended for settlement in the area plan. Reclassifying Public Recreation/ Wildlife Habitat land on Lake Louise to Settlement is not being proposed and is beyond the scope of this decision. Thus, selling additional land on Susitna Lake is not inconsistent with the management intent of the SUAP since the disposal of land occurs within areas specifically designated with Settlement as an allowable use.

Public Comment: Comments were received expressing concerns that making any changes to the SUAP at all, either by Plan Amendment or by Special Exception was inappropriate. Some individuals indicated that to make any change violates the spirit of the Plan or its intent. Some individuals stated that a new Area Plan covering Lake Louise and Susitna Lake is pending in three to five years and that this action should be postponed until that plan is adopted. Some individuals stated that the Lake Louise/ Susitna Lake areas were intentionally left out of the more recent Susitna-Matanuska Area Plan (SMAP) in order to allow for the development of an area plan specific to these areas.

DNR DMLW Response: The SUAP was adopted in 1985 and has not been updated since. All area plans, including the SUAP, recognize that conditions and planning assumptions change over time and that there is a need for flexibility for changes to be made to a plan, especially a plan that is so old. (Most area plans are updated on a 20 year basis.) The changes to the plan that are recommended in the special exceptions and plan amendment are consistent with this need for flexibility in the implementation of an area plan. The proposed changes, it should be stressed, only affect specific areas and do not alter the general management orientation for this area.

It is correct that the SMAP did not include the Lake Louise area. This area and the large area along the Denali Highway, known as the 'Denali Block', was intentionally omitted from the planning area of the SMAP. The Denali Block contains extensive state selections that have not yet been adjudicated by the BLM. There are continuing discussions with BLM over these selections in this area, and it is uncertain when and how these discussions will conclude. When this plan is prepared, it will include a much larger area than Lake Louise and Susitna Lake, encompassing the much larger Denali Block (eastern Denali Highway) area. The Department

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never considered the development of a specific management plan for the Lake Louise area, such as suggested by one commenter. This plan may not be prepared for years and the timing of its preparation depends on the resolution of state selection issues in the Denali Block area over which DNR has no control. It has been the position of DNR DMLW that the current area plan should be used for guidance when the plan in question is not scheduled for plan revision within a 2-3 year period. Thus, the current SUAP continues to apply and it is the appropriate document to be used in decisions of this type.

There is a demand from the public to obtain Settlement-classified land in the area, and there is the requirement from the State Legislature to make land available to citizens of the state. The proposed parcels are already surveyed and classified Settlement. The Division does not believe that making Settlement-classified land available to the public for the purposes of settlement violates the spirit or intent of the SUAP; rather it is consistent with and implements the management intent of disposal for state land classified Settlement. Ultimately, it is the nature of Settlement-classified land to be offered for the purposes of settlement. It is not the intent of an area plan to retain an area for habitat or public recreation unless the plan explicitly provides for this, and this plan explicitly does not. The habitat and settlement designations arise from the planning process that was used to create the SUAP. This process involves input from multiple stakeholders, relevant agencies and the public, and there is no intention at this time to revise the recommendations of the SUAP in this part of its planning area.

Public Comment: Comments were received expressing concern that DNR DMLW had not met the requirements for the use of Special Exceptions under the SUAP or under 11 AAC 55.030 (f). Specifically, some individuals expressed the opinion that the special exceptions will change the plan's general management intent or guidelines (contrary to 11 AAC 55.030 (f)). Other individuals expressed concern that the proposed Special Exceptions fail to meet the SUAP requirements that state: "Special exceptions shall occur only when complying with the plan is excessively difficult or impractical **and** an alternative procedure can be implemented which adheres to the purposes and spirit of the plan".

DNR DMLW Response: The proposed Plan Amendment and three Special Exceptions meet statutory and regulatory requirements. A special exception is intended to be used to create a one-time variance from a plan requirement, but cannot be used to create a wholesale, permanent change to a plan policy or guideline. A plan amendment, however, permanently amends a policy or guideline. The special exceptions that are used to enable this decision do not permanently change a policy or guideline, and the plan amendment is specific to a particular area and does not affect any other areas within the plan. This approach is consistent with the requirements for plan revision in 11 AAC 55.030.

Since the requirements that are affected by the special exceptions derive from Chapter 2, *Areawide Land Management Policies*, SUAP, Special Exceptions are required to exempt this land disposal from this intent without changing the management intent for the entirety of the planning area. The Special Exceptions proposed are specific to the Susitna Lake area and do not change the plan's general management intent or guidelines for the remainder of the SUAP. A Plan Amendment is inappropriate to use when modifying *Areawide Land Management Policies* because the effect would be to delete requirements for the entirety of the planning area and this is not intended. In order for DNR DMLW to meet the requirement for the disposal of land expressed through a Settlement classification, it is impractical and inappropriate to impose

the aforementioned requirements since the effect of this action would be to preclude land disposals, which is the primary management intent of lands classified Settlement. DNR DMLW considers it impractical to withhold previously surveyed, Settlement-classified land from the public. These proposed actions adhere to the general theme of the plan through only proposing for offering those parcels classified Settlement, and providing the additional easements and restrictions described herein.

The standards that must be followed for revising a plan are contained in 11 AAC 55.030 and these must be followed for the processing of changes to plans. There are provisions within the SUAP that discuss requirements and standards for amendments and exceptions. However, these plan provisions have been explicitly superseded by 11 AAC 55.030. The regulation sets standards that are somewhat different from those described in the 1985 SUAP but the standards in 11 AAC 55 are the requirements that must be followed.

Public Comment: Comments were received that specifically addressed the proposed Special Exception that would exempt the area affected by this decision from SUAP Chapter 2 - Fish and Wildlife Habitat requirement, "On Susitna Lake, up to 25 additional lots may be offered for sale." Individuals noted that the 2003 sale fulfilled this requirement.

DNR DMLW Response: The two special exceptions – one being derived from the Fish and Wildlife Habitat section which provided up to an additional 25 lots offered for sale, and the other from the Recreation section which required DNR to retain the remainder of Susitna Lake in private ownership, are both management guidelines. Accordingly, a special exception is required to exempt the proposed action from these requirements without changing the management intent for the entirety of the planning area. While the 2003 offering of parcels on Susitna Lake provided an additional 25 parcels there is a continuing demand for land in this area and the area of the offering is classified settlement. The provision of additional land for settlement purposes is therefore appropriate and the special exception therefore necessary, in order to void a plan recommendation that is inconsistent with the general intent for the provision of settlement in this area. Since the time of the writing of the SUAP, DNR has learned that providing such specific and restrictive language, in this case, references to 25 lots in area plans is inappropriate because it limits the flexibility of land managers to make decisions about state land over time. Subsequent area plans omit such language.<sup>3</sup>

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<sup>3</sup> DNR has also reviewed the casefile associated with the classification of state land in the subject area. While we have been able to identify the amount of land that was thought appropriate for settlement, we can find no basis for the plan's statement that only 25 lots should be offered. Moreover, this 25 lot criterion must be viewed in the context of the classification process that was used to implement that the SUAP. That process is described in more length on p. 19 of this decision and should be consulted. This classification process was used to refine the area plan and to implement it more specifically, and occurred immediately subsequent to the plan's adoption. The classification process established that the lots that are classified Settlement were appropriate for disposal. (Areas classified Settlement are, by definition, considered appropriate for disposal; see standards in Chapter 2.) DNR views this subsequent classification process as being more definitive than statements contained in previously adopted area plans that set parcel limitation numbers.

Moreover, on a different level, DNR has simply found that the parcel limitations that were set by the older area plans to be unjustifiable. It is not realistic for a document that dealt with over 12 million acres of land to be able to make such definitive decisions on parcel numbers or project phasing at the level that is the subject of this decision. These decisions can only be realistically made at the time of project development, which can more realistically deal

Pursuant to the field inspection conducted between June 14 and June 19, 2012, those parcels containing sufficient public recreation or wildlife habitat values suitable for potential retention in State ownership were removed from consideration for offering through this decision.

Public Comment: Comments were received that specifically addressed the proposed Special Exception that would allow the offering of parcels on islands within Subunit 1b. Some individuals noted that the islands are used by migrating caribou, as well as other wildlife and waterfowl. An individual also expressed the loss of peace and quiet as a reason for their objection to this proposed Special Exception.

DNR DMLW Response: As stated in the Preliminary Decision, as well as throughout this document, private parcels already exist on these islands, these parcels have been classified Settlement, and this action is consistent with the current land use in the area. As noted in the Preliminary Decision as well as throughout this document, the majority of the land in the vicinity of Susitna Lake is classified Public Recreation/ Wildlife Habitat. It should also be noted that settlement in clustered sites with average parcels being a nominal 5 acres in an area that is traditionally used part time and seasonally, does not exclude wildlife, as can be seen in remote settlement areas throughout the State. Additionally, as noted, the majority of the lakeshore will remain in public ownership and remain classified Public Recreation/ Wildlife Habitat. Although the Division recognizes that offering land in areas where settlement currently exists will have some impact, existing landowners are not entitled to preferential use of State land surrounding their parcel. It is the nature of settlement areas to change over time and it is appropriate that other Alaskans have opportunities to obtain settlement-classified land as well.

Public Comment: Comments were received that specifically addressed the proposed Special exception that would exempt the area affected by this decision from the Chapter 2 - Recreation requirement that provides that remaining public land surrounding large lakes with relatively little development, in this case specifically Susitna Lake, will be retained in public ownership. Individuals felt that the proposed Special Exception was inappropriate and violated the spirit and intent of the SUAP.

DNR DMLW Response: The proposed Special Exception seeks to clarify an apparent contradiction within the SUAP, as portions of the lands surrounding Susitna Lake are intended for retention, and other portions are intended for settlement. The SUAP Chapter 2 - *Recreation* requirement to retain the remaining public land appears to conflict with Chapter 2 - *Fish and Wildlife Habitat*, which provides that additional parcels may be sold, and Chapter 3 *Policies For*

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with the specificity of what areas should be developed, what areas to retain in open space and for other environmental or habitat protection purposes, what lots to sell and not sell, and when to sell those lots. DNR has recognized this problem since at least 2000 and has revised (or prepared) all of the area plans since then without the specificity that characterized the plans developed in the early 1980s, which were the first generation of area plans developed by the department. The newer plans affect over 40 million acres of state land and therefore should be viewed as the preferred management approach of the Department. The imposition of parcel restrictions of the type identified in these early plans is simply not justifiable on a factual basis and is inconsistent with the current subdivision practices. (Note: the reason for the inclusion of parcel specific restrictions was related to the type of land planning and regulation that occurred at that time. The many regulatory land management processes that now exist and provide for environmental and habitat protection did not then exist and the plans at that time attempted to provide the specificity that is now captured in our current regulatory processes.)

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*Each Management Unit (including management intent for individual units and parcels), which also provides for the sale of Settlement-classified parcels on Susitna Lake. A large amount of land surrounding this lake is retained in public ownership, as intended by the SUAP, and is not affected by this Special Exception. The majority of the lake shore and nearly the entirety of the uplands are retained in public ownership as Public Recreation/Wildlife Habitat land. The current classification of Wildlife Habitat/Public Recreation in the 1985 SUAP is retained and is unaffected by the special exception. Similarly, the plan provides for some areas along Susitna Lake to be made available to the public for private ownership, as evidenced by the secondary land use designation of Settlement. The special exception clarifies this language by specifying that land in this area is to be managed according to its classification and designation. Another, and separate, special exception obviates the restriction on the number of parcels that can be offered. This action does not violate the spirit or intent of the SUAP in that the majority of the land around Susitna Lake is being retained for the purposes of Public Recreation/ Wildlife Habitat, as well as the majority of the land on Susitna Lake islands. DNR has processed many special exceptions to restrictions in area plans that specify the number of lots that can be offered for disposal at specific periods of time. We have found that it is not practicable to provide such a high level of specificity in area plans. Decisions of this type, we have found, are best left to design level decisions that reflect the characteristics of the site. (Note: See footnote 3 on pages 11 and 12 for more detail.)*

Public Comment: Comments were received requesting an extension to the Public Comment period for the Preliminary Decision.

DNR DMLW Response: As noted in this document, the public comment period was extended. The original public notice period was planned to run from February 19, 2012 to March 28, 2012 totaling 39 days. It was extended an additional 33 days to April 30, 2012. Therefore, the entire public notice period was 72 days.

Public Comment: Comments were received noting that the time date and location of the public open house made it difficult for all interested individuals to attend.

DNR DMLW Response: The public open house was held for informational purposes and to give individuals an additional means of receiving answers to their questions. The location was chosen based on the proximity to the proposed offering area. As part of the public notice process, the public was provided with contact information for Division personnel should they have questions or require additional information. Given that property owners are dispersed through-out the State, the nation, and internationally, and given other opportunity to receive information about the proposed offering, a meeting at the location of the offering was appropriate.

Public Comment: A comment was received requesting that the parcels be made available with veteran's preference or discount.

DNR DMLW Response: Should the parcels be made available for purchase, qualified veterans will be able to use their one-time veteran's discount. The subject parcels do not qualify for veteran's preference at the time of this writing, as they are not presently zoned Residential by the Matanuska-Susitna Borough.

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Public Comment: A comment was received specific to USS 4591. The comment reports that there is a heavily used fishing stream running through or adjacent to Lot 14. In winter, this stream is used as access to trails and traplines. The comment further reported that there is a winter trail on Lot 4 or Lot 5 that is used for access to properties on Lake Tyone.

DNR DMLW Response: During a field inspection of the area conducted between June 14 and June 19, 2012, the stream was located and found to be neither within, nor adjacent to lot 14. The stream appears to be located entirely within lot 13 of USS 4591. Lot 13 of USS 4591 is unclassified state-owned land and was excluded in the Preliminary Decision proposing the sale. The winter trail accessing Lake Tyone is located within lot 4 of USS 4591. Lots 3 and 4 of USS 4591 appear to be highly suited to public recreation and provide access to Tyone Lake and are no longer being considered for sale as part of this action.

Public Comment: Comments were received specific to USS 4590. Caribou use this area for migration. USS 4590 Lots 23-27 are on a relatively small island adjacent to a narrow, shallow channel. Increasing docks may create dangerous congestion in the area. Water quality may be affected by the cluster of settlement on the island. Slopes on the island may be greater than 12%.

DNR DMLW Response: A field inspection of this area was conducted between June 14 and June 19, 2012. Some small game trails were discovered concentrated mainly around the wetland areas. There was little sign of caribou, but it appears that the wetland areas may be important to moose, waterfowl, and other wildlife. Lots 13, 16, 18 and 19 of USS 4590 were found to contain substantial wetlands with little if any developable land and are no longer being considered for sale as part of this action. Lots 14 and 15 of USS 4590 are no longer being considered for sale as part of this action because they are interior parcels that are also affected to a smaller degree by wetlands and access to them is limited. Lots 23, 24 and 27 of USS 4590 were found to have generally poor land quality for settlement and are no longer being considered for sale as part of this action. Due to the removal of these parcels, potential congestion caused by unregulated docks and water quality issues are resolved. Slopes are within the allowable limits per the SUAP.

Public Comment: A comment was received specific to USS 4582, USS 4584 and USS 5654. Caribou use these areas for migration.

DNR DMLW Response: A field inspection of this area was conducted between June 14 and June 19, 2012. The lots within USS 4582 did not appear to be subject to heavy use by migrating caribou however, after further coordination with DFG, lots 3 and 6 of USS 4582 are no longer being considered for sale as part of this action. Lots 12, 14 and 15 of USS 4584 appear to contain an area that may be heavily used by migrating caribou based on observations of ground disturbance and scat in the area. These lots are no longer being considered for sale as part of this action. There was no indication of caribou usage within lots 1 and 3 of USS 5654. The northern half of USS 5654 lot 2 appears to be in use and susceptible to use by both moose and migrating caribou. Lot 2 of USS 5654 is no longer being considered for sale as part of this action. USS 4584 appears to receive very limited, if any, use by migrating caribou. The few game trails in this area appear to be in use primarily by hares.

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Public Comment: Comments were received specific to USS 4587. Access is reportedly difficult over a shallow gravel bar, there is a grayling stream in the cove that is used by the public, the cove supports numerous species of fish and water fowl, the north-facing shoreline is exceedingly difficult to walk, and the north-facing lots are unsuitable for building due to permafrost.

DNR DMLW Response: A field inspection of this area was conducted between June 14 and June 19, 2012. Lots 5 and 6, the north-facing lots, were found to have poor land quality and limited buildable area. The cove appears to be highly valuable for recreation and wildlife habitat. For these reasons, USS 4587 Lots 5 and 6 are no longer being considered for sale as part of this action.

Public Comment: A comment was received questioning the State's ownership of USS 3493 Lots 23 and 24.

DNR DMLW Response: The State of Alaska, Department of Natural Resources, holds fee title to the land and mineral estate for Lots 23 and 24 of USS 3493 as described in Title Reports 1959 and 1960 under Patent No. 50-96-0130, dated 12/15/1995.

### Additional Comments:

The Matanuska-Susitna Borough provided comment on the proposed action. The Matanuska-Susitna Borough noted that this area falls under the Lake Louise Comprehensive Plan (adopted 1998) and summarized the plan's objectives and some of the plan's recommendations.

Specific to this project, the Matanuska-Susitna Borough has the following comments, concerns and recommendations that it encourages DNR DMLW to address prior to the proposed land offering:

Matanuska-Susitna Borough Comment: Lake Louise and Susitna Lake channel: DNR is aware of the navigational safety issues in the channel and has not yet addressed these concerns. DNR DMLW owns the lots adjacent to the channel and the land under the channel. The Department of Natural Resources has jurisdiction for boat safety in this area and should consider options to address the channel safety concerns prior to any additional land sale offerings on Susitna Lake.

DNR DMLW Response: As noted, prospective purchasers will be urged to use caution should they choose to use the shallow channel connecting the two lakes. Boat travel through the channel is only one method of access. Although the Department of Natural Resources has management authority for the submerged lands and the uplands adjacent to the channel, the authority for and enforcement of vessels and navigation are with the US Coast Guard and Department of Public Safety.

Matanuska-Susitna Borough Comment: Lack of parking and blocking of access: There is adequate free parking at the State campground; however, it is not being used. There is a boat launch fee. People are parking along the road by Dinty Lake and blocking access to the Dinty Lake launch area, instead of using the parking in the designated areas. DNR should address these parking and access issues. DNR should ensure that there is adequate parking for vehicles prior to offering these parcels for sale.

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DNR DMLW Response: The Division concurs that adequate parking exists at the Lake Louise State Recreation Area. As noted, according to the concessionaire, the parking area there has never filled, even on the busiest weekends of the year. There is a fee for launching boats at the recreation area which may be a contributing factor for individuals choosing to overcrowd the causeway. The causeway area (USS 3494 Lot 28) is managed by the Department of Transportation via an Interagency Land Management Agreement (ADL 227094). Concerns about enforcement and management of parking in this area should be addressed to DOT and are beyond the scope of this decision. If parking at the causeway is full, individuals have the opportunity to, and should use the Lake Louise State Recreation Area facilities.

Matanuska-Susitna Borough Comment: Trails and Access Improvements: DNR has stated that trails and trailhead accesses identified will be retained in public ownership or protected by easement, patent reservations, or by other means as appropriate. DNR DMLW should avoid the sale of any parcels that will interfere with established trailheads. The MSB Recreational Trails Plan (Updated 2008) has identified the following trails in the Lake Louise area as "regionally significant": Moore Lake, Crosswind Lake, Eureka East, Jan Lake Loop, North-South Seismic, Tolsona; and Lake Louise-Mendeltna. These trails provide significant recreational opportunities to people outside the area they are located within and therefore deserve higher priority when it comes to funding for maintenance and management. A copy of the map identifying the location of these trails was attached. The trails plan recommends that a comprehensive trail assessment be conducted to determine trail conditions and need for trail repairs, re-routing, trail marking and trailhead development for the following trails: Moore Lake, Crosswind Lake, Eureka East, Jan Lake Loop, and North-south Seismic. The plan recommends acquiring a public recreational trail easement for Tolsona Trail. The plan recommends that research be conducted to determine the location and current use of the Lake Louise Mendeltna Trail, as well as survey the route and acquire a public recreational trail easement if the need for one is established. In addition to the trails identified in the MSB trails plan, the Lake Louise Snowmachine club has identified and mapped other trails in the area. A copy of the map showing the location of these trails was attached.

DNR DMLW Response: DNR DMLW will retain parcels if they are found to contain trailheads. None of the proposed parcels appear to be affected by the trails depicted on the Recreational Trails Plan map or the Lake Louise Snowmachine Club map. A field inspection of the project area was conducted between June 14, 2012 and June 19, 2012. A trail from Susitna Lake to Tyone Lake was discovered within Lot 4 of USS 4591. That parcel is no longer being considered for sale as part of this action. A few other trails were discovered that appear to access private property over State land. Since those trails are being used for non-public purposes and can be rerouted along lot lines or other State land, they will not be protected via an easement. As part of this field inspection, the portion of RST 1522 that affects the previously surveyed parcels around Dinty Lake was surveyed. Where the RST 1522 easement crosses previously surveyed parcels, this information will be noted in sales brochures and the public record.

Matanuska-Susitna Borough Comment: Water Quality: There has been a voluntary lake monitoring program at Lake Louise and Susitna Lake since 2001. The data collected indicates that the lakes are in relatively healthy condition which is important to the fish, wildlife, and residents of the area. The residents use the lakes for their drinking water source. Copies of the

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lake monitoring reports are available from the Borough for Lake Louise and Susitna Lake. DNR has stated that all land sales require compliance with State of Alaska Department of Environmental Conservation (DEC) water quality protection laws and water quality will be protected by a 100-foot building setback. Development must also comply with Borough zoning requirements. When the State sells lands, a copy of the Borough's setback regulations and Voluntary Best Management Practices for Development Around Waterbodies (copies enclosed) should be provided to the buyers.

DNR DMLW Response: DNR DMLW concurs. Parcels will be subject to easement and reservations as herein and in the attached Preliminary Decision. Offering materials will reference the relevant platting and planning authority and reference where purchasers may acquire this additional information.

Matanuska-Susitna Borough Comment: Concerning the proposed Plan Amendment: Less than 50% of the land within 500 feet of Lake Louise was in public ownership when the plan was adopted. The management intent allows for the sale of additional parcels. DNR DMLW purposes to remove the limitation of less than 25 lots to be offered on Susitna Lake and Lake Louise. There will be 29 lots offered on Lake Louise and Dinty Lake. The addition of more than 25 lots along Susitna Lake is consistent with the current land use of the area.

DNR DMLW Response: DNR DMLW concurs, but would like to clarify that there will be **up to 29** lots offered on Lake Louise and Dinty Lake.

Matanuska-Susitna Borough Comment: Concerning the Special Exception from the SUAP Chapter 2 - Fish and Wildlife Habitat requirement: "On Susitna Lake, up to 25 additional lots may be offered for sale": More that 50% of the Susitna Lake shoreline is in public ownership. The proposed sale of additional parcels will not reduce the amount of publicly-retained shoreline below 50% More than 50% of the Lake Louise shoreline is in private ownership.

DNR DMLW Response: DNR DMLW concurs.

Matanuska-Susitna Borough Comment: Concerning the Special Exception from the SUAP Chapter 2 Recreation requirement to retain the remaining public land surrounding large lakes with relatively little development, specifically, Susitna Lake: Several areas of the Lake Louise Lakeshore are classified as Public Use/ Recreation and these areas remain in State ownership and are not affected by this proposal. The Recreation policy states that lakes with important recreational values will be protected through retaining in public ownership 50% of the land within 500 feet of the lake. This requirement has been met on Susitna Lake. Less than 50% of the land within 500 feet of Lake Louise was in public ownership when the plan was adopted and the management intent allows for the sale of additional parcels.

DNR DMLW Response: DNR DMLW concurs.

Matanuska-Susitna Borough Comment: Concerning the Special Exception to allow the offering of parcels on islands within Subunit 1b: The proposed offerings on two islands already have some privately owned parcels and the lots are clustered adjacent to existing private property. Recreational access will be preserved. The parcels have been classified Settlement and this is consistent with the current land use in the area.

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DNR DMLW Response: DNR DMLW concurs.

The Alaska Department of Fish and Game (DFG) provided comments during the Agency Review period. Those comments are addressed in the Preliminary Decision. Additionally, DFG provided comment after the completion of the extended Public Comment period. Although the comments were untimely, DFG's comments are summarized and addressed below.

DFG Comment: DFG noted that the Susitna Area Plan (SUAP) states that the. "Division of Parks and Outdoor Recreation (DPOR) should investigate and identify public access routes to be retained in public ownership or protected by easement."

DNR DMLW Response: This comment is beyond the scope of this decision. It has, however, been forwarded to the appropriate agency (DPOR).

DFG Comment: The SUAP states that, "prior to additional land sales, the state and borough should investigate the need for parking facilities at the southern end of Lake Louise." In the PD it is noted that DPOR did not provide comments during the 2009 Agency Review. As a follow up to our Agency Review comments dated October 30, 2009, ADF&G sent a map to DNR staff with GPS tracked public access trails for this disposal area. We also recommended that DNR look into additional parking at the Lake Louise boat launch. In the summer the existing public boat launch parking area is full on a regular basis. Additional land sales may result in more use of the already crowded parking lot making it hard for other members of the public to use the launch.

DNR DMLW Response: As noted in this document, adequate parking exists at the Lake Louise State Recreation Area. According to the concessionaire, the parking area there has never filled, even on the busiest weekends of the year. If parking at the causeway is full, individuals have the opportunity to, and should use the Lake Louise State Recreation Area facilities. The causeway area (USS 3494 Lot 28) is managed by the Department of Transportation via an Interagency Land Management Agreement (ADL 227094). Concerns about enforcement and management of parking in this area should be addressed to DOT and are beyond the scope of this decision. None of the proposed parcels appear to be affected by the trails depicted on the map provided by DFG.

DFG Comment: ADF&G recommends DNR, Division of Lands work with DPOR to reserve and establish adequate access routes and public use sites prior to the disposal of state land. Although there are parcels designated Habitat located along the shore, it is not the same as a developed site. Additional parking should be created at the existing Lake Louise boat launch site to accommodate the increasing number people accessing the lake system. ADF&G also recommends development of an additional public use site on the north of the Lake Louise where it connects to Susitna Lake. Additional camping at this location will disperse some of the use from the southern public use site and facilitate use of the north shore of Lake Louise into Susitna Lake. In response to our Agency Review comments, DNR stated that actions such as these require a separate action outside the scope of this review.

DNR DMLW Response: During Agency Review DFG recommended retention of some land at the north end of Lake Louise, where it connects to Susitna Lake, for an undeveloped public use site. As noted in the Preliminary Decision, in compliance with that recommendation, that land is

## **Final Finding and Decision**

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not being considered for disposal. The new recommendation from DFG, which is a deviation from their Agency Review comments, for the development of an additional public use site on the north of Lake Louise should be addressed to DPOR. Adequate parking exists at the Lake Louise State Recreation Area. These comments remain beyond the scope of this decision. They have, however, been forwarded to the appropriate agency (DPOR).

DFG Comment: ADF&G recommends that DNR consider not disposing of state land until a management plan for the area has been created and can provide updated guidelines and management intent for the area. During the planning, public use sites and trails should be established to maintain recreation activities and plan for the increase in use of the area. The 1985 Susitna Area Plan has been revised and is now called the Susitna-Matanuska Area Plan. The Lake Louise area has intentionally been left out so that a smaller, more specific management plan can be created.

DNR DMLW Response: This concern was not mentioned by DFG during Agency Review. It is correct that the Susitna-Matanuska Area Plan (SMAP) did not include the Lake Louise area. The Resource Assessment and Development Section (RADS) intentionally left this area out along with the Denali area. However, when a new plan is prepared it will include a much larger area than the Lake Louise area, encompassing lands within the Denali block, Lake Louise, Lake Susitna, and the surrounding area, and will be developed as an area plan for the greater area as opposed to a site-specific management plan as noted above. Moreover, this plan may not be prepared for years and the timing of its preparation depends on the resolution of state selection issues in the Denali Block area over which DNR has no control. Thus, while it is true that this area was not included, the timing of a new area plan is unknown and it has been the position of the Division that the current area plan applies until revised. Since it is likely that the preparation of the new plan is over five years away, the current plan should be used for guidance.

DFG Comment: ADF&G concurs with the reservation of all public access, section line, and trail easements. We recommend these reservations be noted on all subsequent conveyance documents, plats, and maps.

DNR DMLW Response: Reservations of public access will be noted on appropriate documents.

DFG Comment: ADF&G again recommends that all parcels with a known access route or trail not be offered for sale. On page 17 of the PD, DNR notes that the Lake Louise Trail "appears to cross some of the private and State-owned parcels along Dinty Lake." The location of the RST and any other trail should be documented prior to disposal so the proper reservations can be included in the conveyance document and maps.

DNR DMLW Response: As noted, access along trails will be protected with an easement, patent reservations, or other means as appropriate.

DFG Comment: ADF&G recommends DNR retain in state ownership all remaining parcels along Lake Louise. From the map provided, there appears to be very few areas of public land remaining. ADF&G staff annually receives calls requesting information on how to access the lake system without trespass. As more land becomes private along the lakes, the harder it becomes for the outside public to access. ADF&G recommends that only 50% of Dinty Lake be

made available for disposal. Dinty Lake, though small, is also important for recreation activities and fishing.

DNR DMLW Response: This comment conflicts with DFG's Agency Review comments. Lake Louise and Dinty Lake are being managed together as a single unit due to the proximity and small size of Dinty Lake as well as the fact that the SUAP does not address Dinty Lake separately. Specific to Lake Louise, several areas along Lake Louise have been reserved for public use and recreation, to include land adjacent to lake inlets and outlets. Specific to Dinty Lake, there is an area used for public use and recreation and it includes the lake outlet. This area is managed by DOT. The lake inlet is on private land. A field investigation of this area conducted between June 14 and June 19, 2012, failed to reveal concerns that would support withdrawal of the parcels on Dinty Lake from consideration for sale as part of this action. This decision adequately protects ADF&G's primary concerns over access, recreation and fishing activities, and water supply (inlet/outlet).

We still propose to offer for sale additional Settlement-classified lots along Lake Louise and Dinty Lake, which is allowed under SUAP's specification for areas of high recreational value where there is a demand for land for private ownership in the area. Additionally, management intent for the subregion allows for the sale of additional parcels along Lake Louise and Dinty Lake.

DFG Comment: ADF&G recommends the state not offer any additional parcels at Susitna Lake. As described in our Agency Review comments, the north end of the lake system is heavily utilized by hunters and subsistence users, particularly Nelchina caribou hunters in August and September. The northern end is currently the most unpopulated area and therefore receives the most hunting effort. The lakes make access to hunting grounds more accessible, while maintaining the remote feel.

DNR DMLW Response: This comment conflicts with DFG's Agency Review comments. As noted, this decision only addresses those parcels that are classified Settlement. The majority of Susitna Lake is classified Public Use/ Recreation, as such, access will be preserved.

DFG Comment: "In conclusion, The PD does not clearly justify the need of this proposed land sale. During the development of the SUAP it became clear how important this area was for public recreation and the guidelines and management intent of the plan support those activities. ADF&G understands that DNR has received pressure from members of the public to offer more parcels for sale around these lakes. The continuation of recreational opportunities for sport fishing, hunting, boating, hiking, camping and subsistence activities, as well as access to adjacent hunting, trapping and recreational lands seem to outweigh the need for additional land disposals. DF&G finds it in the best interest of the people of the state for these lands to remain open to the public."

DNR DMLW Response: We believe that the PD does justify the need for this proposed land sale. The land that is the subject of this sale is classified Settlement, and as has been explained previously, the classification of Settlement affecting these lots was established immediately subsequent to the adoption of the area plan. Based on our research of the area plan casefile, it is evident that the planners at that time were attempting to make the recommendations of the then recently adopted area plan more specific and, through the

subsequent classification process, they determined that these parcels were appropriate for settlement. The point here is that a balancing of interests occurred subsequent to plan adoption and there was a determination at that time that settlement in the areas that are the subject of this decision were appropriate and not in conflict with the classification of the remainder of the subunit, which was classified Wildlife Habitat and Public Recreation. This decision clearly implements the intent of the plan, and these plans are the basis for the management of state land and the basis for retention and disposal decisions made by DNR. This decision is consistent with the area plan and implements the intended policy of the state. If DNR were to determine that a sale in this area was inappropriate, that decision would be inconsistent with the plan's intent and with its explicit determination that this area was appropriate for disposal.<sup>4</sup>

Moreover, this comment conflicts with DFG's Agency Review comments. Subunit 1b of SUAP has approximately 34,000 acres classified as public recreation and wildlife habitat. This is without the acreage associated with Susitna Lake. DNR DMLW is proposing to sell approximately 211 acres within this subunit, less than 1% of the total land within Subunit 1b. The total acres DNR DMLW is proposing to sell in Subunits 1b and 1c is approximately 333 acres. The amount of acreage DNR DMLW is proposing to sell is a de minimis amount in comparison with the retained public recreation and wildlife habitat classified land. Further, as noted in the Preliminary Decision, the Legislature and the public have indicated a desire for DNR to offer State-owned land for private ownership. Retention of this land would inhibit DNR from meeting its Constitutional and legislative obligations. Not offering the project area would deny many Alaskans the opportunity to obtain land in an area that has been classified Settlement. Also as noted in the Preliminary Decision, this proposed action affects only Settlement-classified land. Public Recreation/ Wildlife Habitat-classified land is unaffected and will continue to provide the public with recreational and subsistence related activities. Parcels noted to have possible habitat and recreational use or value during a field inspection conducted between June 14 and June 19, 2012, have been removed from consideration for sale. DNR DMLW coordinated with DFG after the field inspection. Parcels identified as important habitat areas by DFG have been removed from consideration for sale. This document constitutes a best interest finding (under the authority of AS 38.05.035(e)), by DNR, which is the department with the authority to issue a best interest finding for disposal of State-owned land.

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<sup>4</sup> Based on a review of departmental records relating to the implementation of area plans, it is evident that the processes used to classify state land currently differ from those used in the past and those used specifically in the implementation of the Susitna Area Plan. Currently, the land classification order is adopted concurrently with the area plan and directly implements its recommendations. There is therefore a direct relationship between plan designations and classifications. This is not the case for the very old plans, like SUAP. In these plans, the land classification order was developed subsequent to the plan and was intended to make the plan more specific. That is, the more general recommendations of the plan were made specific to particular areas and parcels through the subsequent classification process. To the planners at that time, the classifications that were being established were a direct outgrowth of the plan recommendations for an area and the land classifications were intended to be a refinement of the land use recommendations of the area plan. The classifications that were established should therefore be viewed as a refinement of the recommendations of the more general area plan and therefore as an expression of the management philosophy of that plan.

**V. Modifications to Decision and/or Additional Information**

Pursuant to public comment, coordination with DFG, and a field inspection between June 14, 2012 and June 19, 2012, the following 20 parcels are no longer being considered for sale as part of this action and will be retained in State ownership for further evaluation. This lowers the number of parcels to be offered from 94 to 74.

USS 4582 Lots 3 and 6  
USS 4584 Lots 12, 14 and 15  
USS 4587 Lots 5 and 6  
USS 4590 Lots 6, 13, 14, 15, 16, 18, 19, 23, 24 and 27  
USS 4591 Lots 3 and 4  
USS 5654 Lot 2

Final finding and decision follows.

**VI. Final Finding and Decision**

The Department recommends proceeding with the proposed action as described in Attachment I: Preliminary Decision and as supplemented, amended, changed, or deleted herein. This action is undertaken under relevant authorities. Offering these parcels for sale will help meet the State's goal to provide land for settlement for sale to the public and raise revenue for the State.

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

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

/s/  
Recommended: 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, 2012  
Date

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

November 20, 2012  
Date

/s/  
Approved: Daniel S. Sullivan  
Commissioner  
Department of Natural Resources, State of Alaska

November 21, 2012  
Date

**Reconsideration Provision**

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040 (c) and (d) and may be mailed or delivered to Daniel S. Sullivan, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1.907.269.8918; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov).

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31<sup>st</sup> day after issuance. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.