

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

FINAL FINDING AND DECISION

of a
**Land Offering in the Unorganized Borough
Mankomen Lake Remote Recreational Cabin Sites – ADL 231542**
AS 38.05.035(e), AS 38.05.045, AS 38.05.600

and its
RELATED ACTIONS:
Amendment to the Copper River Basin Area Plan SC-86-030A09
AS 38.04.065
Land Classification Order CL SC-86-030A09
AS 38.04.065 and AS 38.05.300
Mineral Order 1209 (Closing)
AS 38.05.185 and AS 38.05.300

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated July 6, 2018. The PD and related actions have had the required public review, and is attached.

I. Recommended Actions

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales Section (LSS) recommends offering for sale State-owned land for private ownership within the Mankomen Lake project area (ADL 231542), as described in the PD.

For the purposes of providing land for settlement, DNR proposes to sell land within the Mankomen Lake Remote Recreational Cabin Sites (RRCS) project area. In order to offer these lands for sale, if approved and deemed feasible, DNR may offer authorizations to stake up to 25 parcels ranging from 5 to 20 acres in this project area, for a maximum of 500 acres sold through this offering under *AS 38.05.600 Remote Recreational Cabin Sites*. Authorizations will be awarded by drawing. When so authorized, entrants may stake a parcel within a defined staking area, lease the staked parcel during the survey, platting, and appraisal process, and convert the lease to a sale at a purchase price established by the appraised value, plus associated fees. Although the total disposal authorized under this proposal will not exceed the stated maximums, the development and offering of the project area may be completed in multiple stages. This project area is located within the Unorganized Borough and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards.

Within the Mankomen Lake RRCS project area, the land offering includes five surveyed parcels: lots 1, 2, 4, 8 and 10 of US Survey 4059, containing approximately 21.30 acres. In accordance with the governing area plan and proposed related actions, DNR proposes to sell the lots under *AS 38.05.045* for the purpose of providing land for settlement. These lots may be offered in multiple stages.

Final Finding and Decision

Mankomen Lake RRCS – ADL 231542

Page 2 of 10

There are three related actions with this proposal:

Area Plan Amendment: DNR DMLW proposes to amend the Copper River Basin Area Plan (adopted 1986) to change the primary designation of Subunit 29B from Public Recreation and Wildlife Habitat to Settlement and to remove Mankomen Lake from the list of recreation lakes in Chapter 2. Management intent for Subunit 29B will be replaced with: “Land offering within Subunit 29B is appropriate. Public recreation opportunities shall be preserved around Mankomen Lake by retaining 50% of the lakeshore in State ownership”.

Land Classification Order: In relation to the proposed Area Plan Amendment, DNR DMLW proposes to reclassify the project area in a Land Classification Order from Public Recreation and Wildlife Habitat (primary) and Settlement (secondary) to Settlement only.

Mineral Order: DNR DMLW proposes to close the project area to new mineral entry through Mineral Order (MO) 1209.

Public notice for these related actions was conducted concurrently with the notice for the primary action’s Preliminary Decision.

II. Authority

DNR has the authority under *AS 38.05.600 Remote Recreational Cabin Sites* and *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." In addition to *AS 38.05.600 Remote Recreational Cabin Sites*, *11 AAC 67.805 Designating Areas for Remote Recreational Cabin Sites*, and *11 AAC 67.815 Offering Remote Recreational Cabin Sites* apply.

For related actions, *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for amendments to area plans, land classification orders, and mineral orders.

III. Public Participation and Input

All State requirements for public notice and public comment input have been met as covered in detail in **Section V. Summary of Public Notice and Comments**. Further information may lead to alterations of design of this project within the parameters set forth through this decision. Should this project be approved, final survey will be completed by an Alaska licensed surveyor.

Within an organized borough or local platting authority, platting ordinances typically provide for an additional opportunity for review and comment on proposed platting actions. The scope of such a review is limited and specific to review of the project’s adherence to the local platting ordinance, and is the sole prerogative of a political subdivision of the State which establishes platting authority and the applicable ordinances governing such actions.

Final Finding and Decision

Mankomen Lake RRCS – ADL 231542

Page 3 of 10

The Mankomen Lake project is within the Unorganized Borough and outside of any local platting authority.

IV. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a traditional use finding is required for project areas within the Unorganized Borough. This project area is within the Unorganized Borough. As discussed in the PD, there would be an increase in the density of the population in the area. There are no anticipated significant changes to traditional uses of the land and resources of this area as a result of the proposed action, other than a possible increase in the various traditional activities which may be practiced by private-property owners. Since issuing the PD, DNR DMLW LSS reviewed information from the Alaska Department of Fish and Game (ADF&G) regarding subsistence uses of fish and wildlife in the region encompassing the project area; LSS used this information to evaluate some of the public comments discussed in **Section V. Summary of Public Notice and Comments**. No conflicts with traditional uses of the land have been discovered. Public review brought forth no new information indicating traditional use conflicts that were not apparent at the Preliminary Decision stage.

V. Summary of Public Notice and Comments

Pursuant to *AS 38.05.945* Notice, public notice inviting comment appeared on the State of Alaska Online Public Notices website at <https://aws.state.ak.us/OnlinePublicNotices/> and was posted on the DNR DMLW LSS website at http://dnr.alaska.gov/mlw/landsale/public_notice/ for the entire public notice period.

Notification and decision copies were sent directly to area State legislators and to multiple State agencies. Public notice was sent to other interested entities including landowners in the vicinity of the offering; additionally, parties were notified via the DNR Land Sales subscribers lists by email. Information was also posted to Twitter and Facebook. Notices were mailed to Ahtna regional corporation per *AS 38.05.945(c)(2)-(3)* and to the Chistochina Tribal Council, Copper River Native Association, Copper Valley Development Association, Mentasta Tribal Council, and the Slana Community Corporation. Additionally, notices and a request to post were sent to postmasters and librarians in the vicinity of the offering.

The public notice stated that written comments were to be received by 5:00PM, August 8, 2018 in order to ensure consideration and eligibility to appeal. For more information, refer to the Preliminary Decision.

DNR DMLW LSS received comments from the State of Alaska, Department of Fish and Game; DNR, Division of Forestry; DNR, Division of Oil & Gas; and nine private individuals. All comments received during the public comment period are summarized below.

ADF&G Comment: ADF&G commented in a prior agency review about the importance of fishing and hunting in the area. ADF&G has no objections or additional comments on the land offering proposal, and noted that DNR plans to retain 50% of the lake shoreline in State ownership.

Final Finding and Decision

Mankomen Lake RRCS – ADL 231542

Page 4 of 10

LSS Response: We appreciate your review of the proposal and the additional information regarding fish and wildlife harvest in the Mankomen Lake vicinity, included in the responses below.

Department of Natural Resources, Division of Forestry (DOF) Comment: DOF doesn't have any major concerns with development of the project area. DOF recommends offering parcels for staking on the larger end of the allowed range of 5 to 20 acres to help future landowners develop in a fire-wise manner. Prospective and future landowners should be made aware that the project area currently receives Limited fire protection status, the lowest level of fire protection, and DOF is not in favor of increasing fire protection in response to this offering.

LSS Response: Thank you for your review and comments on this proposal. In order to maximize opportunity for authorized stakers to locate parcels along the lake while retaining a minimum of 50% of the lake frontage in State-ownership, some parcels along the lake will necessarily have to be smaller in size. However, LSS will continue to inform prospective stakers and potential landowners about fire-wise practices and the current fire protection status within the Mankomen Lake staking area, and will encourage stakers to select larger parcels, allowing for fire-wise development. LSS isn't requesting a change in the fire protection for the project area.

Department of Natural Resources, Division of Oil & Gas (DOG) Comment: DOG has no objections to the proposed land disposal and has no applications or pending authorizations in the area. DOG recommends that LSS continue to make potential purchasers aware that the State reserves the mineral resources that may be in or upon the land that it sells.

LSS Response: Thank you for reviewing the land sale proposal, and LSS will continue to inform prospective stakers and purchasers about the laws around State retention of the mineral estate.

Nine individuals commented on the proposed project area. LSS grouped and addressed the comments in the following categories:

Comments regarding hunting, fishing, and trapping: LSS received comments from four individuals concerning hunting pressure in the area, expressing concern about the moose population, or characterizing the existing hunting pressure as excessive. The commenters also expressed individual concerns about: increased competition for caribou and sheep, competition over trapping, and the health of fish populations in Mankomen Lake. Two commenters asked if ADF&G had been consulted as part of the land sale process. One commenter expressed concern about diminishing hunting opportunities for local communities.

LSS Response: Thank you for sharing your concerns and questions. DNR DMLW consults with ADF&G in the creation of regional land use plans, and LSS seeks ADF&G's input on each land sale proposal. ADF&G commented on the Mankomen Lake RRCS proposal during agency review, and LSS requested additional ADF&G input based on the specific concerns and questions received during the comment period for this proposal.

ADF&G reports that for the last five years, an average of 28 hunters have used the area surrounding Mankomen Lake for moose hunting, and that hunters use the cabins next to the lake for their base camp. Other areas within GMU 13C west and southeast of Mankomen

Final Finding and Decision

Mankomen Lake RRCS – ADL 231542

Page 5 of 10

Lake appear to receive less moose hunting pressure. ADF&G did not state any concerns with respect to moose hunting pressure or harvest.

The area immediately surrounding Mankomen Lake has not been commonly used by the residents of communities closest to Mankomen Lake (Copper Center, Mentasta Lake, Mentasta Pass, and Slana), according to research on subsistence harvest of wild resources (ADF&G Technical Paper No. 380). None of these communities reported hunting for moose or caribou around Mankomen Lake. The only subsistence search areas reported in ADF&G research that included the Mankomen Lake vicinity were brown bear, Dall sheep, small land mammals, furbearers, and berries/plants/mushrooms by residents of Mentasta Pass. This suggests that if increased competition for wild resource occurs due to LSS's land offering proposal, it would most likely affect those traveling to the area from more distant communities, not residents of these local communities.

With respect to fishing, ADF&G reports they haven't conducted an assessment of Mankomen Lake in approximately 20 years. If additional cabins were built around the lake, ADF&G would monitor harvest and adjust management if necessary, as is common for changing harvest levels for lakes. No subsistence permits have been requested for Mankomen Lake since the early 1960s.

Comments regarding overland access and trail conditions: LSS received comments from six individuals pertaining to the difficulty of trail access to Mankomen Lake, conflict with Mentasta Lake residents due to a lack of trailhead parking, and damage to the trails caused by existing uses. One commenter asked specifically whether Ahtna Regional Corporation had been consulted because trail access crosses Ahtna land. Another commenter asked about LSS's plans for preserving trails in anticipation of increased use.

LSS Response: Thank you for providing input about overland access, trail conditions, and areas of conflict. Based on this input, LSS has further investigated trail access to the project area. To provide context for this discussion, LSS considers travel by plane as the primary means of access for Mankomen Lake, as described in the Preliminary Decision.

The Preliminary Decision outlines several overland access routes. The route specifically described in the comments connects Mentasta Lake to the Mankomen Lake project area. Where this trail routing crosses Ahtna Regional Corporation land, legal access is by a series of connected "17(b)" easements managed by the federal government:

- the Eagle Trail provides access from Mentasta Spur Road to the northwest corner of Township 13 North, Range 8 East, Section 3, Copper River Meridian;
- the Slana River Trail provides access from the northwest corner of Township 13 North, Range 8 East, Section 3 to Township 14 North, Range 6 East, Section 9, Copper River Meridian; and
- the Mankomen Lake Trail provides access from Township 14 North, Range 6 East, Section 9, Copper River Meridian to State land and the project area.

All of these "17(b)" easements are 50-foot wide and allow for travel by foot, dogsleds, animals, snowmobiles, two- & three-wheeled vehicles, small & large all-terrain vehicles, track vehicles, and four-wheel drive vehicles. The Bureau of Land Management (BLM) Glennallen Field Office referred to this trail network as the Slana River Trail and one commenter referred to it as Mentasta Lake Trail.

Final Finding and Decision

Mankomen Lake RRCS – ADL 231542

Page 6 of 10

One commenter and the BLM Glennallen Field Office also referred to another overland access route via a trail network called the Mankomen Lake Trail. This trail connects the Tok Cut-Off Highway to Mankomen Lake following an approximately north-south route east of the Chistochina River and East Fork of the Chistochina River. This path also has a “17(b)” easement for crossing Ahtna land.

“17(b)” easements provide legal access across Ahtna land. Provided that trail users stay within the easement and use the easement as allowable, authorization from Ahtna is not necessary. Additionally, when not on a “17(b)” easement, Ahtna Regional Corporation offers land use permits for parking, crossing, camping, and other uses on Ahtna land. As required by *AS 38.05.945 Notice*, LSS provided notice to Ahtna about this land sale proposal during the Preliminary Decision comment period.

These “17(b)” easements are managed by the BLM. A BLM Glennallen Field Office representative characterized the Slana River Trail network as challenging, primarily due to the crossing of the Slana River. The BLM characterized the Mankomen Lake Trail as in very poor condition because of wet ground and braiding. Due to limited federal lands in the vicinity of these trails, BLM does not place a high priority on the maintenance of these trails.

One commenter implicitly expressed concern about the Slana River Trail access route because it has many crossing of anadromous fish streams. ADF&G issued a General Fish Habitat Permit (FH16-III-0179-GP) along this route for motorized vehicle stream crossings of the Slana River, Bone Creek, and Alteration Creek at traditional ford locations. Therefore wheeled and tracked vehicles operating in accordance with the permit stipulations have ADF&G authorization. LSS consulted with ADF&G, and ADF&G noted that the anadromous stream crossings do not cause a significant threat to the salmon productivity.

Regarding preservation of trails, stakers will not be allowed to stake across trails depicted on the staking maps. Additionally, DNR reserves the right to reserve a public access easement along any traditionally used existing roads and trails that have been and are in use at the time of staking. If a parcel is staked with an existing unreserved trail inside it, the parcel will be surveyed with a 60-foot wide public access easement along that trail.

Individuals that use the trails to access Mankomen Lake are welcome to lead an initiative for the preservation or improvement of trails on State land that provide public access near and within the project area. Several non-profit entities formed for the purpose of trail protection in specific areas of the state have received funding from DNR's Division of Parks and Outdoor Recreation (DPOR). DPOR's Recreational Trail Program offers reimbursable, matching funds for grants to develop and repair public recreational trails ranging from \$5,000 to \$100,000 for motorized trail uses. Please get in touch with LSS or DPOR if you wish to know more about these opportunities.

Land sale offering materials will inform potential stakers about the difficulty of overland access and will emphasize that travel by plane is the primary means of access to the project area.

Final Finding and Decision

Mankomen Lake RRCS – ADL 231542

Page 7 of 10

Question about notification for current landowners: One commenter was unhappy with the public notice timeframe for the Preliminary Decision and stated that not everyone who has property along Mankomen Lake received notice about the land offering proposal.

LSS Response: The main limitation for providing notice to property owners in most remote locations is the lack of property ownership information in the Unorganized Borough. For the Mankomen Lake Preliminary Decision, LSS researched property transactions from the State Recorder's Office and provided notice to all individuals that appeared to be current landowners in the area. The public notice timeframe met the requirements under *AS 38.05.945 Notice*.

Although the public comment period has ended, LSS still welcomes input on and questions about the proposal and the State land sale process.

Comment regarding trespass: One commenter mentioned that trespassing on their property within the project area is already problematic, and that it presumably will become worse if more people are accessing Mankomen Lake because of a land offering.

LSS Response: To do our part to help prevent trespass, LSS provides information in offering materials about legal means of access to project areas and about existing private property within project areas. For example, the map in our Mankomen Lake land offering proposal illustrates private property and the PD states that the airstrip on the east end of Mankomen Lake is on private property, requiring landowner permission prior to use. Additionally, staking materials provided to authorized stakers include survey plats of existing private properties.

LSS is open to suggestions on how best to illustrate and describe private property within the project area in future staking offering materials to help prevent trespass. However, it is the exclusive right of the landowner to post their property if they choose, and to deter trespass on their lands.

A State land offering within the project area also can help avoid some instances of trespass. Because remote areas of Alaska often lack readily-accessible depictions of land ownership, LSS's maps and descriptions often help clarify private property locations and trails that provide legal access. For example, the map within the Preliminary Decision served to clarify the current status of private land within the project area for a landowner that was unaware of the southernmost parcel of private land (US Survey 14280).

Comment about property values: A landowner next to Mankomen Lake expressed concern that his property investment will be devalued if the State offers land in the area, and that landowners in the area should have the opportunity to purchase additional land first.

LSS Response: Thanks for sharing your concern. If demand for land near Mankomen Lake proves to be limited, there is a possibility that land values in the area could decrease due to the State offering land for sale. It is also possible that land values would increase due to the State offering land for sale, as has been found in some instances of the RRCS program.

The primary goal of State land sales is making land available to the public, and only Alaska residents are eligible to apply for a staking authorization in the RRCS program or to bid on

Final Finding and Decision

Mankomen Lake RRCS – ADL 231542

Page 8 of 10

parcels in LSS's annual auction. LSS is unable to offer "right of first refusal" to existing property owners in the vicinity of a land offering as there is no statutory authority to make such an offer.

Comment on areas within the project area to exclude from staking: One individual commented that staking should not be allowed along the East Fork of the Chistochina River because this section of river is not easy to navigate and stakers would likely need trail access to Mankomen Lake, thereby worsening trespass problems.

LSS Response: Thank you for providing input to help guide the proposed land offering. If an authorized staker chooses to locate a parcel along the East Fork of the Chistochina within the project area, they will have options to legally access Mankomen Lake.

Overland access from the East Fork of the Chistochina to Mankomen Lake is available to the public following generally allowed uses on State land. Also, the East Fork of the Chistochina is a public water of the State. The public may legally access Mankomen Lake by traveling on the East Fork of the Chistochina by watercraft, including the right to use the river bed in support of moving upstream to the lake (e.g. lining a boat), per *AS 38.05.126*. Please refer to the comment and response above about trespassing on private land.

Question on retention of lakeshore in State ownership: One individual asked how LSS will ensure that 50% of the shoreline of Mankomen Lake will be retained in State ownership.

LSS Response: LSS will apply restrictions specific to Mankomen Lake RRCS when offering staking authorizations, such as limiting the waterfrontage of a parcel staked along the lake shoreline. The maximum number of parcels proposed for staking is 25, which allows LSS to determine a maximum lakeshore frontage to allow for each parcel, assuming the unlikely scenario that all parcels would be located along the lakeshore.

Question on trail development within the project area: One individual asked what trail access the State will develop or permit within the proposed staking area.

LSS Response: LSS is not proposing to develop trails as part of the this offering. Generally allowed uses on State land allow the public to clear a trail up to 5 feet wide using hand tools on unreserved general State land without DNR authorization. For more information on generally allowed uses on State land, please refer to this fact sheet: http://dnr.alaska.gov/mlw/factsht/land_fs/gen_allow_use.pdf

If someone wishes to develop a trail beyond what is allowable under generally allowed uses, they are required to submit an application to the appropriate regional land office of DNR DMLW. For Mankomen Lake, this is the Southcentral Regional Office located in Anchorage. As mentioned above regarding trail access to the staking area, DPOR's Recreational Trail Program may offer reimbursable, matching funds for grants to develop and repair public recreational trails.

Question on protection of private property and trails: One individual asked how the State will ensure no deterioration of private property and trails used to access private property.

LSS Response: Regarding private property, LSS notifies potential stakers about the presence of private property within staking areas and makes resources available so that

Final Finding and Decision

Mankomen Lake RRCS – ADL 231542

Page 9 of 10

private property can be located, such as survey plats included in staking materials. Stakers, as well as any other individuals, are responsible for knowing where private property is and avoiding trespass. Private property owners are responsible for the care and protection of their property. If there are areas where trails cross private property exclusive of any easement or reservation, LSS encourages landowners to place signs where trails cross private property to help people avoid trespassing.

On State land within the staking area, stakers will not be allowed to stake across trails depicted on the staking maps. Additionally, staked parcels will be subject to an easement along any traditionally used existing roads and trails that have been and are in use at the time of staking.

LSS is open to suggestions on how best to illustrate and describe private property within the project area in staking offering materials to help prevent trespass.

Comments in support of the land offering proposal: Two individuals expressed support for the proposal to sell land in the project area and want to build cabins near the lake.

LSS Response: Thanks for your support for the proposal and interest in the State land sale program.

VI. Modifications to Decision and/or Additional Information

During the public notice for the Preliminary Decision, DNR, DMLW, Mining Section requested to exclude the north half of Section 9 of Township 14 North, Range 5 East, Copper River Meridian from the Mineral Order. Because it is important to minimize conflict between users of the mineral and surface estates, LSS modified the proposed RRCS project area and Mineral Order 1209 to exclude the northern half of Section 9, Township 14 North, Range 5 East, Copper River Meridian.

Accordingly, the recommended action has been modified from the original proposed actions described in the Preliminary Decision by modifying the project area to exclude the N½ of Section 9 within Township 14 North, Range 5 East, Copper River Meridian. The project area as amended encompasses approximately 8,030 acres. This modified project area is shown in the *Amended Attachment A: Vicinity Map*.

The project area legal description and acreage has been updated in Mineral Order 1209, Copper River Basin Area Plan Amendment SC-86-030A09, and Land Classification Order Number CL SC-86-030A09.

Recommendation and approval of the Final Finding and Decision follow.

Final Finding and Decision

Mankomen Lake RRCS – ADL 231542

Page 10 of 10

VII. Final Finding and Decision

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

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

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

Signature on file

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

November 13, 2018

Date

Signature on file

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

November 20, 2018

Date

Signature on file

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

November 29, 2018

Date

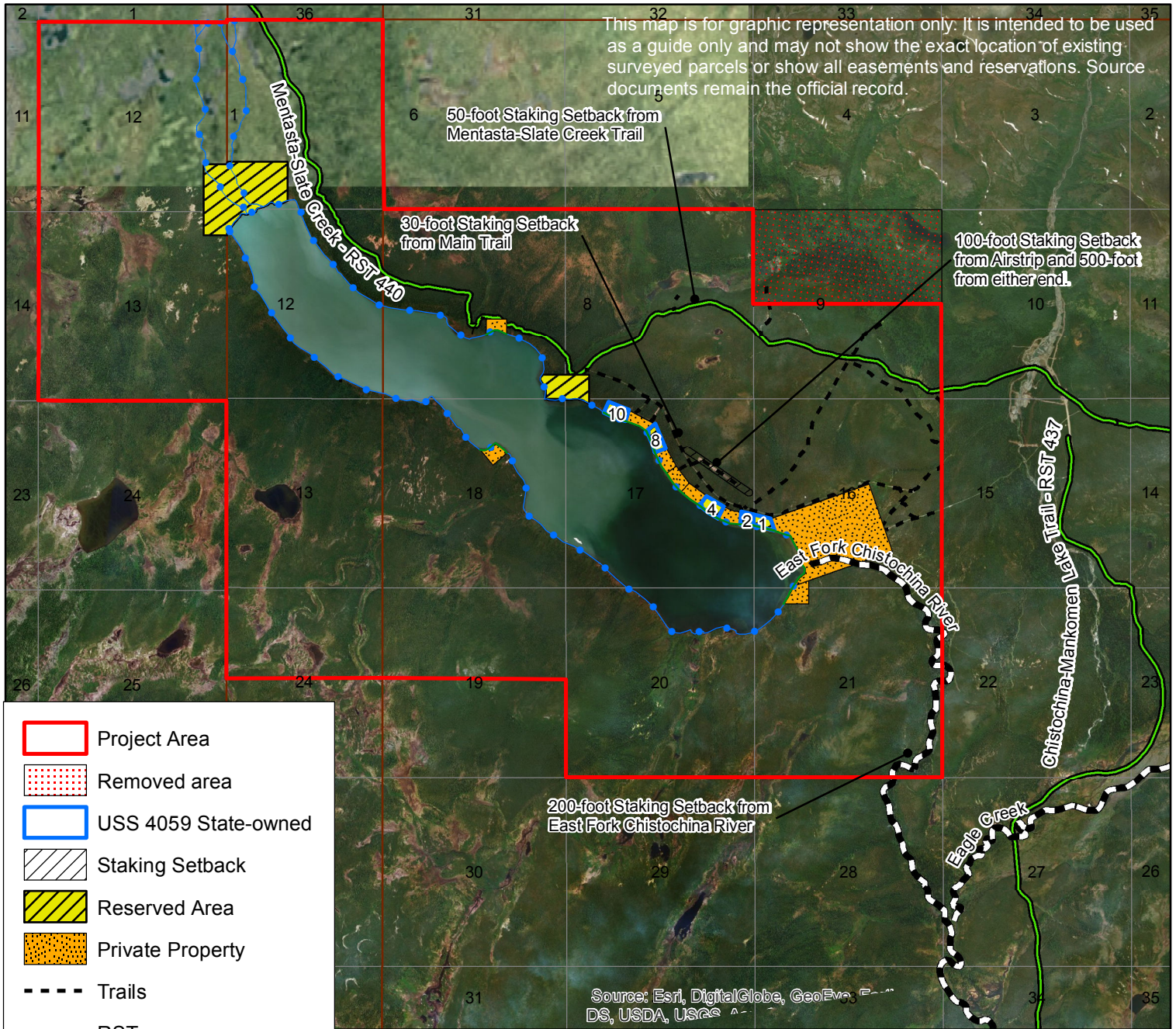
Reconsideration Provision

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may request reconsideration, in accordance with *11 AAC 02*. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in *11 AAC 02.040(c) and (d)* and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 907.269.8918; or sent by electronic mail to dnr.appeals@alaska.gov. Under *11 AAC 02.030*, requests for reconsideration filed under *11 AAC 02* must be accompanied by the fee established in *11 AAC 05.160(d)(6)*, which has been set at \$200 under the provisions of *11 AAC 05.160 (a) and (b)*.

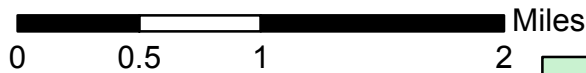
If reconsideration is not requested by that date or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31st day after issuance. Failure of the commissioner to act on a request for reconsideration within 30 calendar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



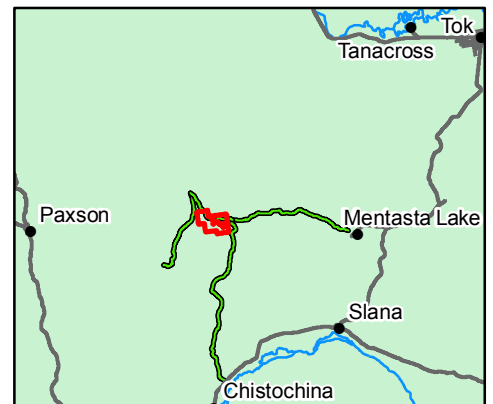
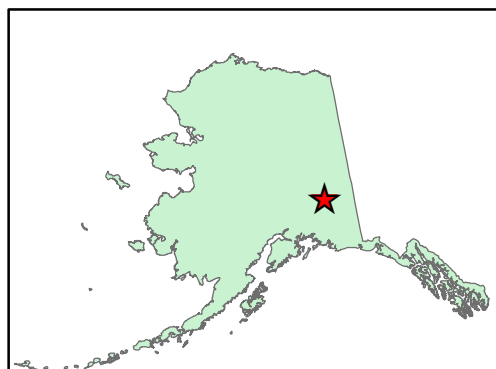
Amended Attachment A: Vicinity Map Mankomen Lake RRCS ADL 231542



- Project Area
- Removed area
- USS 4059 State-owned
- Staking Setback
- Reserved Area
- Private Property
- Trails
- RST
- Anadromous Stream
- Public Water



CMC 10/12/2018



USGS QUAD 1:63,360

Mt. Hayes A-1, A-2; Gulkana D-1, D-2

For more information contact:

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Department of Natural Resources

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