

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

FINAL FINDING AND DECISION

of a
**Proposed Land Offering in the Unorganized Borough
Memory Lane Subdivision – ADL 232021**
AS 38.05.035(e), AS 38.05.045

and its
RELATED ACTION:
Proposed Mineral Order #1171 (Closing)
AS 38.05.185 and AS 38.05.300

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated May 15, 2015. The PD and related action have had the required public review. The PD is considered a part of this FFD and is hereby attached.

I. Recommended Actions

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales and Contract Administration Section (LSCAS) recommends offering for sale State-owned land for private ownership within the Memory Lane Subdivision project area (ADL 232021), as described in the Preliminary Decision. Surveyed parcels will be offered for future sale by a method under *AS 38.05.045 Generally [Land for Sale]*.

For the purposes of providing land for settlement in the Glennallen area, if deemed feasible, DNR may develop a subdivision of no more than 20 parcels varying from 2 to 15 acres each with allowance for possible remainder parcel(s). This project area is located within the Unorganized Borough; survey, platting, and road construction will be completed to the relevant state subdivision standards. The project may be subdivided and offered in multiple stages.

One related action is associated with this proposal:

Mineral Order: DNR DMLW propose to close the project area to new mineral entry.

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

II. Authority

DNR DMLW has the authority under *AS 38.05.045 Generally [Sale of Land]* 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 that it is the policy of the state to encourage the settlement of its land. In addition, if it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020 (h) Land Disposal Bank*.

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For related mineral order action, *AS 38.05.185 Generally [Mining Rights]* and *AS 38.05.300 Classification of Land* allow for closing lands to mineral entry.

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 below. 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 subdivision design and 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.

The Memory Lane Subdivision project is within the Unorganized Borough and outside of any local platting authority. However, in an effort to provide additional opportunity for public participation and input, if it is determined to be feasible and practical, DMLW may hold courtesy meetings during the development of a project. DMLW did conduct a Public Scoping Meeting in Glennallen on September 30, 2014 to gather information about the potential Memory Lane Subdivision project and other potential projects in the area. DMLW also conducted a Public Open house in Glennallen on May 19, 2015, during the public comment period, to share and receive information about the proposed Memory Lane Subdivision and one other proposed subdivision.

As discussed in the PD, the general theme of input received at the Public Scoping Meeting was to have parcels of sufficient size to accommodate local conditions for building needs, and to avoid wetland areas. These comments have been incorporated into the design of this proposal. Input received at the Public Open House included emphasis on the common problem of permafrost and ice lenses and local examples of resulting difficulties with structure construction. Both meetings brought forth comments about lack of practical access to or through past state land sales in the region. This issue is acknowledged below. Both meetings also revealed generally unanimous support for having high quality land offerings around the community of Glennallen. As discussed at the meetings, there are a variety of factors affecting the availability of lands available for offering, to include area plan designation, classification, and land ownership. As such, finding truly high quality lands available for settlement is a real challenge. DMLW Project Development Team feels that this project is of reasonable and valuable potential to both the state and future buyers, and the decision process has attempted to convey basic information to support this project.

IV. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a traditional use finding is required for this project area because it is within the Unorganized Borough. There would be a potential 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

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which may be practiced by private-property owners. 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 <http://notes.state.ak.us/pn/> and was posted on the DNR DMLW LSCAS 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, and to other interested entities; additionally, parties were notified via the subscribers list for public notice and subdivision offering by email. Information was also posted to Twitter, and Facebook. Notices were mailed to the Ahtna native regional corporation per AS 38.05.945 (c) (2)-(3), and local and state Soil and Water Conservation Districts per AS 41.10.130 and 11 AAC 67.029. Additionally, notices, Vicinity map, and a request to post for 30 days were sent to postmasters, librarians, and other public or interested parties in the vicinity of the offering.

The public notice stated that written comments were to be received by 5:00 PM, June 24, 2015 in order to ensure consideration and eligibility for reconsideration or appeal. For more information, refer to the Preliminary Decision.

DNR DMLW LSCAS received comments which are summarized below from three (3) state agencies during the public comment period.

The following agencies all submitted brief comments of non-objection:

DNR, Mental Health Trust Land Office (MHTLO)

DNR, Division of Parks & Outdoor Recreation, Office of History & Archeology (DPOR/OHA)

Department of Fish and Game, Division of Sport Fish (DFG)

DNR DMLW DNR DMLW LSCAS Response:

We appreciate the time and interest to review the Preliminary Decision and submit comments.

One (1) Individual} Comment was received:

A single commenter submitted a number of points regarding current as well as general state land sales for the Glennallen area. DMLW has grouped and addressed the topics as follows:

1. Local Economy, Little Benefit to State of Alaska, Old Area Plan Comment Summary:

Due to population and school enrollment drops, many homes and lots are for sale in the area. Demand for land in the Glennallen townsite area is low, and supply of land is relatively high. There is no direct need to offer property at this time; state land sales would likely yield very little revenue, especially near term. DNR should wait for a change in the economy and better land becoming available with Copper River Basin Area Plan up-date before offering any more state land sales in the Copper River Basin.

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LSCAS Response: Research did show that there has been a downturn in population and school enrollment numbers. However, based on recent local customer conversations, comments from public scoping meeting, and sales data, demand for parcels on or near roads in the Copper River Valley is strong. Of the 34 Copper River Valley parcels (new and re-offers) in the 2015 land offering, all sold at the auction or within a week after being offered over-the-counter for a total value of \$630,932.00. All 12 Copper River Valley parcels offered in the 2014 state's annual sealed bid auction sold for a total value of \$157,635.00. In spite of the population decline, there is clearly a demand for land in the Glennallen area.

Additionally, DNR avoids flooding a local market by offering parcels in a given project over multiple years. Economic analysis by DMLW of the project area indicated that subdivision and sale of the project area would be profitable.

DNR Resource Assessment and Development Section is aware of the need for area plan update and has started the process. As this land is already classified settlement, the land sales process may continue concurrent with the area plan process. It is unusual for land classified settlement to be changed to another classification, particularly if adjacent land has already been developed or sold. Memory Lane is mostly surrounded by developed land, making the proposed land sale consistent with existing land use in the vicinity.

LSCAS maintains it is appropriate to approve this project now so that parcels will be available for inclusion in multiple future offerings.

2. Development Expense, Soil Quality, Cost Analysis Comment Summary: Driveway and road cost would be abnormally high, especially comparing these relatively low-value properties to better sites. Soil Type, permafrost, and drainage will require high cost septic and road development that would exceed the value of the land itself. The state should give detailed improvement cost figures for driveway, special septic systems, internal roadways, etc. Buyers often find building and development expenses too great compared to their expectations; this leads to poor quality development or abandonment of parcels.

LSCAS RESPONSE: As listed in the preliminary decision, DMLW staff conducted wide-ranging project research; field inspections of July 2005, July 2013, July and September 2014, and May 2015; and agency review which included responses from Division of Geological & Geophysical Surveys (DGGS) and from Kenny Lake Soil & Water Conservation District.

Additionally, pursuant to this comment, staff requested broader soil evaluation by DGGS of the overall area and compared it to the USDA custom soils report for an 11-mile square block containing the project. DMLW staff analysis of the soils data indicated the soil conditions are similar to much of the area. A good deal of the Copper River Basin surrounding Glennallen has permafrost and frost susceptible soil types. Settlement land still needs to be provided close to this central community.

Based on the above, DMLW has concluded that the proposed project is equal to or better than settlement classified state lands in the larger Glennallen vicinity, especially within close proximity to the core Glennallen area. Factors mentioned in comments have been considered in the development of the land offering project. Proposed lots will each have sufficient areas suitable for building. Most lots within Memory Lane will be accessed by the already constructed Memory Lane road. The previously unsurveyed easement for Memory Lane road was recently

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increased by ADL 231846 to a standardized 60-foot wide public access easement by amendment to an earlier issued easement, ADL 218306.

Because of the range of construction materials, contractors, timing, design parameters, and other variables involved in developing land, it is impossible for DNR to determine specific road construction costs per lineal foot or septic system installation costs. There are publically available references on these items from sources such as University of Alaska and Alaska Department of Environmental Conservation (DEC). Generally accepted design and construction practices on methods that meet DEC standards for wastewater disposal are also available from that department. Some options, including no septic system, do not entail excess expense. Additionally, there are new technological solutions for these issues that were not available when state land was sold in this area in the early 80's.

As with any other real estate transaction, each buyer is responsible to evaluate any parcel of interest to determine what fits their individual goals. Current sales brochures stress this and will continue to do so. LSCAS will include information in the offering brochure for this subdivision that there are permafrost and frost susceptible soil conditions with related building concerns.

3. High Rate of Defaults, 5% Down Payment Comment Summary: The 5% down payment is uncommonly low compared to private real estate transactions. This low down payment leads to attracting risky buyers. Coupled with subprime land it causes an increase in the odds of default, poor stewardship, and abandonment with the property left in poor condition (abandoned vehicles, trash, unfinished structures, etc.). The state is then left with the burden of clean up and remarketing distressed property. This is a chronic problem with state subdivisions in the Copper River Basin.

LSCAS RESPONSE: The 5% down payment is mandated in statute (AS 38.05.055). Statutes can only be changed by legislative action. LSCAS agrees that state financing offers a wide spectrum of residents the opportunity to participate.

LSCAS has no data to suggest that default and contract termination rates are a greater problem in the Copper River Basin than the rest of the state. LSCAS has some data on parcels returned to the state with abandoned improvements/trash. This preliminary information indicates that parcels in the Copper River Basin have the same or a lower rate of abandoned improvements/trash issues as other areas in the state.

Full title remains with the State of Alaska until a contract has been paid completely. The contract termination process is an administrative process and therefore involves relatively minimal expense. Additionally, there is relatively minimal expense to re-offer for sale an already surveyed parcel.

Speculation about past behaviors of landowners in the area, such as poor stewardship, is beyond the purview of DNR authority.

4. Plat Review Comment Summary: Before subdivision plats are finalized by the State, the public should have a review comment period of the draft plat to keep everything fair and equitable.

LSCAS RESPONSE: Although there is no statutory requirement, LSCAS often holds public scoping meetings in nearby communities early in the development of a land offering proposal.

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The purpose of such meetings is to share information and hear concerns by the local community, which sometimes includes how a subdivision should be designed (lot size, number of lots, etc.). These types of comments can also be received during the public notice period. For this project, a public scoping meeting was held on September 30, 2014 early in the process. In addition to the requirements under *AS 38.05.945 Notice*, LSCAS also held a public Open House May 19, 2015 early in the public notice period. The public comment period was from May 15 through June 24, 2015.

Project design will include careful ROW placement and ensuring enough buildable ground within each parcel. LSCAS will follow the appropriate statutes and regulations for subdivision in the Unorganized Borough (*AS 38.04.045 Survey and subdivision, AS 40.15 Subdivisions and Dedications, and 11 AAC 53.400-450 Subdivision Development Standards*).

If desired, an area population in the Unorganized Borough can establish a local government entity that would exercise local platting authority, including local plat review, zoning, or similar land planning options. Any developer, including the State, would then be subject to those local ordinances.

5. Quality Land Selection, Review Past State Subdivisions, and Need Area Plan Up-Date Comment Summary: There is a need in the greater Glennallen area for better quality land with a focus on a) cost of development, b) water availability, c) view, and d) pride of ownership. New state land sales should be accomplished after the Copper Basin Area Plan is up-dated to avoid repeat of past major flaws. The commenter requested DNR review and complete an onsite field inspection of nine past state subdivisions (platted in 1979-1980), and analyze each subdivision with regard to: percentage of lots and acreage built on and actively used versus the percentage built on and abandoned; the percentage of lots and acreage undeveloped; the percentage of lots which have reverted back to state ownership; and the percentage of lots without practical legal access. The commenter indicated that issues with many of these past subdivisions have caused hardship, undue expense, and that problems continue as the lots are re-sold.

LSCAS RESPONSE: DNR agrees that quality land is desirable for any subdivision. However, state land sales in the Glennallen area are constrained by those areas that are designated as settlement in the Copper River Basin Area Plan (CRBAP). As noted in the response under #1 above, a complete review and up-date of the CRBAP is currently underway by DNR. Because establishment or review of any area plan is a multi-year process, it is appropriate for LSCAS to continue to operate under the plan that is presently in effect.

DNR is aware of past state land offering challenges; however, it is not practical to expend limited financial and staff resources to attempt a detailed study of multiple 1979-1980 survey plats and old subdivisions. State land sale processing has changed over the past 35 years, and current projects are created under an entirely different set of administrative and development parameters than in the past.

DNR does not require land purchasers to develop, improve, or occupy property. It is inappropriate for this decision to speculate on the motivations of individual purchasers or their intentions. Although some parcels may return to state ownership, under current practice undesirable or problematic parcels are withheld from reoffer.

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Land characteristics and environmental factors of concern will be considered in project design and will be included in any offering information.

As verified by analysis of the research and input from the public and multiple agencies DMLW concluded that the need for and the quality of the proposed offering are sufficient reasons to move forward with the project.

LSCAS has taken required steps to insure that this designated settlement unit has been adequately evaluated under present-time requirements and policies, and DMLW has determined it is appropriate that the proposed Memory Lane Subdivision be offered for public sale pursuant to the Preliminary Decision.

VI. Modifications to Decision and/or Additional Information

The recommended action has a minor modification from the original proposed actions described in the Preliminary Decision. The written legal description for this project area is correctly described below by excluding the Glenn Highway Right-of-Way.

Section 22: SW1/4SW1/4NE1/4SE1/4;

W1/2NW1/4SE1/4SE1/4 excluding the Glenn Highway;

E1/2NW1/4SE1/4SE1/4 lying south of the Glenn Highway right-of-way;

NE1/4SE1/4SE1/4 lying south of the Glenn Highway right-of-way;

S1/2SE1/4SE1/4;

Section 23: SW1/4SW1/4, lying south of the Glenn Highway right-of-way;

all within Township 4 North, Range 2 West, Copper River Meridian, within the Unorganized Borough, located within the Chitina Recording District, Third Judicial District, Alaska.

The vicinity map attachment to the Preliminary Decision correctly depicted the project area boundary.

DNR has utilized input from state agencies and feedback received from the general public in arriving at the current proposal. A flexible number of lots in the subdivision design will be allowed subject to the upper limit of 20 lots specified in the decision. Because parcels will be greater than 2 acres in size, including a number in the 3, 4 and 5-acre range, and will be situated on higher elevation locations, DNR believes that this project should move forward as presented.

Recommendation for finding and decision follows.

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VII. Final Finding and Decision

The Department recommends proceeding with the proposed actions as described in the Preliminary Decision and as supplemented 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 actions as described and referenced herein.

/s/

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

July 8, 2016

Date

/s/

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

7/11/16

Date

/s/

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

11/1/2016

Date

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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 Appeals. 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., Suite 1400, Anchorage, Alaska 99501; faxed to 907.269.8918; or sent by electronic mail to dnr.appeals@alaska.gov.

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