

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

**FINAL FINDING AND DECISION
Ninilchik Bluff Subdivision – ADL 231907
Proposed Land Offering in the Kenai Peninsula Borough
*AS 38.05.035 (e), AS 38.05.045***

**RELATED ACTIONS:
Amendment to the Kenai Area Plan SC-99-002A09
AS 38.04.065
Land Classification Order # CL SC-99-002A09
AS 38.04.065 and AS 38.05.300
Mineral Order (Closing) #1175
*AS 38.05.185 and AS 38.05.300***

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated August 14, 2015. The PD and related actions has had the required public review. The Preliminary Decision is considered a part of this decision and is hereby attached.

I. Recommended Action(s)

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 Ninilchik Bluff project area (ADL 231907) 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 Ninilchik area, if deemed feasible, DNR may develop a subdivision of up to 5 parcels varying in size from one to 20 acres. This project area is located within the Kenai Peninsula Borough and therefore survey, platting, and road construction will be completed to the relevant subdivision standards. The project may be subdivided and offered in multiple stages.

There are three related actions with this proposal: an amendment to the Kenai Area Plan, the related Land Classification Order, and a mineral order.

Area Plan Amendment: DNR DMLW proposes to amend the Kenai Area Plan (2000) to change the designation for the project area from General Use to Settlement.

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 General Use to Settlement.

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

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Public notice for these related actions 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 under *AS 38.05.035 (e) Powers and Duties of the Director*, it is determined to be in the best interest of the State. 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*.

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 [Mining Rights]* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

III. Public Participation and Input

All state requirements for public notice and public input have been met as covered in detail in Section V, Summary of Public Notice and Comments below. Data regarding concept and design of the proposed project may continue to be generated through further research, evaluation of agency and public input, and ongoing development study. Should this project move forward with state approval, actual subdivision design with a professional survey will be conducted and an Alaska licensed surveyor will produce a preliminary plat. In an organized borough the subdivision design must be submitted for approval in accordance with local ordinances and codes. At that point the public will have opportunity at the local level to provide additional comment and feedback on the preliminary plat prior to final establishment of lot corners and monuments.

Subdivision design will be submitted to the Kenai Peninsula Borough for review in accordance with Title 20 of their Administrative Codes:

Title 20.25.090 Notice. All subdivision approvals under this title shall be subject to public notice. This section details the parameters for notice of public hearing required by the Kenai Peninsula Borough.

IV. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a traditional use finding is required for project areas located within the Unorganized Borough. This project area is within an organized borough; therefore no Traditional Use Finding is required. Public review brought forth no new information.

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.

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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. The notice was also mailed to the Kenai Peninsula Borough per AS 38.05.945 (c) (1), local and state Soil and Water Conservation Districts per AS 41.10.130 and 11 AAC 67.029, as well as CIRI, a regional corporation per AS 38.05.945 (c) (2)-(3). Additionally, notices and a request to post for 30 days were sent to postmasters and librarians in the vicinity of the offering, and to nearby landowners.

The public notice stated that written comments were to be received by 5:00PM, September 23, 2015 in order to ensure consideration and eligibility to appeal. For more information, refer to Attachment I: Preliminary Decision.

DNR DMLW LSCAS did not receive comments during the public comment period.

VI. Modifications to Decision and/or Additional Information

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

Recommendation and Approval of the Final Finding and Decision follow.

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VII. Final Finding and Decision

The Department recommends proceeding with the proposed 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 for all actions has been accomplished in accordance with *AS 38.05.945 Notice* and no comments were received. 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 and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

November 9, 2015

Date

/s/

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

December 1, 2015

Date

/s/

Approved by: Mark Meyers
Commissioner
Department of Natural Resources
State of Alaska

December 30, 2015

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