

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

PRELIMINARY DECISION

of a
**Proposed Land Offering Within the Unorganized Borough
City of Thorne Bay – Platting Authority**

**Old Skid Road Subdivision – ADL 108053
AS 38.05.035 (e), AS 38.05.045**

COMMENT PERIOD ENDS 5:00PM, TUESDAY, MARCH 18, 2014

I. Proposed Action(s)

Primary Proposed Action: The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW) is to offer for sale State-owned land for private ownership within the identified project area. Surveyed parcels will be offered for sale in a future offering under the methods as described herein.

Attachment A: Vicinity Map

Attachment B: Area Data Summary Table

Attachment C: Public Notice

Located within the DNR's Southeast Region, on the south side of Thorne Bay on Prince of Wales Island, the project area is within the northern part of Section 33, Township 71 South, Range 84 East, Copper River Meridian, within the City Limits of Thorne Bay. The project area consists of approximately 112 acres of which approximately 74 acres have been identified for disposal by this proposed action. See Attachment A: Vicinity Map for a depiction of the approximate location of the project area.

In accordance with the governing area plan and for the purpose of providing land for settlement in the Thorne Bay area, if deemed feasible, DNR may develop a subdivision of no more than 25 parcels varying in size from approximately 2½ acres to 10 acres along with larger remainder tract(s). This proposed project area is located within the Unorganized Borough and within the city limits of the City of Thorne Bay, and therefore survey, platting, and road construction will be completed to the relevant subdivision standards. The project may be subdivided and sold in multiple offerings over time.

If this proposed primary action is approved, the actual area offered for sale may consist of all or only a portion of the overall project area. After consideration of public comment, the size and boundaries of the development area will be described in a subsequent Final Finding and Decision, if the project proceeds to that step. There may be adjustments to the development area prior to survey/subdivision, as described in applications to the City, as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with City platting

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requirements. Although actions under this proposal are limited to stated ranges, additional offerings may be authorized under future proposals, which could increase the density of privately-owned parcels within the project area.

Proposed Related Action(s): There are no new related actions with this proposal.

Mineral Order (Closing): mineral closing order 739 and Mineral Order 1011 as well as Mineral Order 1045 have closed the project area to new mineral entry. Refer to the Reservation of Mineral Estate subsection under Section VI, page 7 of this document for more information on this topic.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal. See Section VIII Submittal of Public Comments at the end of this document and Attachment C: Public Notice for details on how to submit a comment for consideration. If after consideration of timely, written comments the proposed action is approved, DMLW will issue a Final Finding and Decision.

II. Methods of Sale

DMLW proposes to sell land within the project area as described herein, through a future offering under *AS 38.05.045 Generally [Sale of Land]*. If the parcels do not sell when offered at auction, they may be offered by another method under this statute.

Offerings are noticed and administered by DNR DMLW LSCAS's Marketing and Sales Administration Team. DNR DMLW will give public notice of an offering pursuant to *AS 38.05.945 Notice*. Normally LSCAS makes available land sale brochures, which usually advertise several previously surveyed parcels offered simultaneously across the state; provide conditions of the offering; describe the costs involved; and note appraised values and minimum bids. Participants submit bids certifying eligibility to participate in a public auction in an attempt to win a maximum of one parcel per offering. This method provides opportunity for the maximum number of eligible Alaska residents to purchase land while providing for a means of return of and on the State's investment in development of the parcels.

III. Authority

DNR DMLW has the authority under *AS 38.05.045 Generally [Sale of Land]* to sell State-owned land, including additional Administrative Parcels and reoffers, if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State as required by *AS 38.05.035 (e) Powers and Duties of the Director*. In 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*.

IV. Administrative Record

The project file for Old Skid Road Subdivision, ADL 108053, constitutes the administrative record for the proposed action. Also incorporated by reference are:

- *Prince of Wales Island Area Plan (PWIAP), Revised: October 1998 and Amendment May 2008*, and associated land classification files;
- *Alaska Interagency Wild land Fire Management Plan* (amended October 1998);

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- *Alaska Department of Fish & Game 2012 Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes;*
- *1979 Exploratory Soil Survey of Alaska and/or USDA Natural Resources Conservation Service Custom Soil Report for this project; and*
- DNR case files relating to access easements, right-of-ways, and other federal, state, and local documents mentioned or discussed throughout this document.

V. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding Section III Authority of this document is limited and specific to DNR DMLW's proposal to offer State-owned land within the defined portion of the project area for disposal. The scope of this proposal does not include the control of post-patent use and DNR DMLW does not intend to impose deed restrictions for this purpose. The sale of lots may be conducted in multiple offerings over time.

VI. Description

Location: Within DNR's Southeast Region, on the south side of Thorne Bay on Prince of Wales Island, the project area is within the northern part of Section 33, Township 71 South, Range 84 East, Copper River Meridian. See Attachment A: Vicinity Map, and Attachment B, Area Data Summary Table for additional information.

Borough/Municipality: The project area is within the Unorganized Borough but is within the city limits of the City of Thorne Bay and is subject to city platting and zoning authority.

Native Regional and Village Corporations: Sealaska is the native regional corporation for this project area. Courtesy notification will be distributed to village corporations and councils in the area, including Klawock Heenya Corporation, Craig Community Council, Organized Village of Kasaan, and Klawock Cooperative Association, as they may potentially pursue traditional uses within the project area.

Legal Description: Government Lots 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the unsubdivided remainders of Government Lot 2 & SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, Township 71 South, Range 84 East, Copper River Meridian, located within the Ketchikan Recording District, First Judicial District, Alaska, containing approximately 112 acres.

Title: Information from Title Report No. 2157 current as of November 17, 2010 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 50-85-0436, dated 6/14/1985, Patent 50-2007-0530 dated 6/18/2007 and Tentative Approval dated 7/1/1991. These lands were acquired under Statehood entitlement, under the Act of July 7, 1958, 72 Stat. 339 as amended. The applicable State case files are NFCG 238 and NFCG 149. The parcel is subject to the reservations, easements and exceptions contained in the federal patent or other state or federal conveyance, and in acts authorizing the issue thereof, easements, rights-of-way, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any.

Retention of and Access to Mineral Estate: In accordance with *Section 6(i) of the Alaska Statehood Act* and *AS 38.05.125 Reservation [of Rights to Alaska]*, the State retains

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ownership of the mineral estate that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals, such as gold, copper and silver; and leasable minerals such as oil, gas, coal, ore, minerals, fissionable material, geothermal resources, and fossils.

The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing, and producing these reserved mineral resources. Access reserved to these retained interests is superior to any and all surface uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, *AS 38.05.130 Damages and Posting of Bond* also provides that the surface owner will be compensated for damages resulting from mineral exploration and development.

Navigable Waters: Per *AS 38.05.126 (b) Navigable and Public Waters*, “the State has full power and control of all of the navigable or public water of the state, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the state.” This trust is in accordance with the principles of the Public Trust Doctrine, which are included in *Article VIII, Section 14 of the Alaska Constitution* and protected in *the United States Constitution*. It is vested in the title to this land, is not transferable, and the State’s title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made and access will be reserved per *AS 38.05.127 Access To and Along Public and Navigable Water*. For more information, see *Access To, Within, and Beyond Project Area* subsection of this document.

State selection file NFCG 149: BLM determined there are no navigable water bodies in this selection; state navigability determination was not addressed in the NFCG 238 file. Public Waters of Thorne Bay are abutting a good portion of the north boundary of this project area. Refer to the *Access To, Within, and Beyond Project Area* and *Setbacks, Reserved Areas, and Easements* subsections of this document for additional information.

Physical Characteristics and Hazards: Attachment B: Area Data Summary Table describes the project area’s physical characteristics. In addition, the following paragraphs describe the project area based on internal research and ground field inspections conducted by DNR Survey staff on September 9, 2010 and June 27, 2013. This is by no means a complete description of the project area, and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect individual parcels prior to purchase to familiarize themselves with the physical characteristics of the land.

Geologic Hazards: In general, active geologic forces are found throughout all of Alaska. Each site may have micro-conditions that could vary from surrounding tracts. According to information provided by DNR, Division of Geological and Geophysical Surveys, no specific potential geologic hazards exist within the project area except the regionally typical coastal issues of erosion, storm waves and surges, as well as seismic shaking and associated potential hazards from earthquakes originating on the Queen Charlotte-Fairweather Fault system. See further discussion under section VII, Agency Comments. The heavily vegetated, moderately sloped land may pose some avalanche risk or possible landslide danger as suggested by an NBC News article of January 15, 2014 which reported a

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landslide between mile 22-23 of Coffman Cove Rd, another one outside of Hollis, with Whale Pass Rd. washout at mile 32 , all attributed to heavy rainfall and melting snow. Other than these factors and seasonal storms that may strike the ocean shoreline or add to increased runoff in upland ravines, LSCAS is not aware of any dramatic geologic hazards in the proposed project area.

Fire Hazards: The *Alaska Interagency Fire Management Plan* indicates no fire management option. Potential for wildland fire is minimal in southeast Alaska recent history. In 2011 (latest data) less than 4½ acres were burned by wildfire in the entire 17 million acre Tongass National Forest (NF); the southeast Alaska rainforest appears to be quite firesafe.

Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. The Department provides all applicants with information regarding wildland fire prevention and encourages them to locate structures in defensible areas such as hardwood stands with access to water.

Fire management options and policies throughout the state are identified in the Alaska Interagency Wildfire Management Plan available from the Department of Natural Resources (DNR) Division of Forestry. The current fire management option for the project area is not even rated. It is important to note, however, that the DNR Division of Forestry warns that DNR Division of Mining, Land, and Water inform participants there is no guarantee their property will be spared from harm from a wildland fire, even if the area is designated “Full” fire management option.

Flood Hazard: Seasonal storms could possibly bring costal surges or heavy rains that may increase runoff in upland gullies. No FEMA Flood Insurance Rate Map information was found for the southeast Alaska area.

Background: The project area is bound on the north by open waters of Thorne Bay and by Tongass NF lands; the entire west side and most of the south boundary are adjoined by undeveloped state lands which are also designated settlement; the rest of the proposed project area has lands abutting to the south and east which are in private ownership as part of Alaska State Land Survey/ASLS No. 80-121, a 1,210 acre subdivision. Portions of that subdivision involved state Mental Health Trust Lands or University Lands; however, the current project area, according to Title Report 2157, does not contain such state or other third party interests. No documentation was found of native lands within the project section. ADL 105577 Public Easement right-of-way was issued as early as 1992 to the City of Thorne Bay for construction of South Thorne Bay Road, which, along with abutting subdivision roads, provide for upland access to the proposed new subdivision. An old logging skid-road within the proposed subdivision, once brushed, will provide a drivable path into the subdivision to connect to most lots; this and additional platted right-of-ways will be part of the project design that designates access through the subdivision to all lots and to state lands beyond to the northwest. As verified by field inspection, the Thorne Bay shoreline is such that physical access to waterfront lots should be readably feasible from the waters of the bay. Field inspection also reported the existence of several apparently abandoned vehicles in trespass along subdivision boundaries and blocking the junction of the overgrown skid-road from the cul-de-sac at the end of North Rd. in ASLS 80-121. Of note, although located outside of the current action, Land Abstract cases for section 33 include listings of ADLs for many material sales, spread over a number of years,

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just to the south of the project. Alaska State Land Survey 80-121, sheet 6, note #14 states, “the outer 10’ of both sides of the 60’ roadway right-of-way is reserved as an easement for utility use.” Alaska Power Company is the area electric utility. DMLW field inspections confirmed that timber harvesting activity has occurred on the site as evidenced by the old logging skid-road and presence of the now decades-old, lush, second growth trees. The 17 million acre Tongass NF, largest in the U.S., is the driving factor in timber harvest activity for the region. A reduction of the overall timber industry in all of southeast Alaska has taken place as a result of US Forest Service (USFS) policy over the past 50 or more years. DNR recognizes that, although USFS land abuts and abounds in the project area, the subject of timber harvesting policy is beyond the scope of this preliminary decision.

Planning and Classification: The project area is within Prince of Wales Island Area Plan (PWIAP), Thorne Bay Region, Unit 11, Subunit 11c. Settlement (S) is the current, primary surface use designation for this unit. The area is classified Settlement through Classification Order (CL) SE-90-001. No amendments or special exceptions to the area plan are involved with this proposal.

Area-wide Considerations: The management guidelines (pages 20–22) in PWIAP, Chapter 2-Settlement provide that the following subjects must be taken into account as part of overall design and development actions: Planning and Coordination with private markets and local government entities over time; handling of Isolated Parcels of State Land; Protection, Management, and Enhancement of Other Resources; Design factors such as retaining appropriate public land uses, cost, access, local design elements (terrain, vegetation, timber harvest, etc.); and attention to Other Guidelines Affecting Settlement to include fish and wildlife habitat, forestry, recreation, shoreline and stream corridors, trails, etc. These considerations will be incorporated into the design and development of the project. Lands to be retained in public ownership, conditions, and reservations will be noted in the land sale brochure.

It is acknowledged that Chapter 2 Areawide Land Management Policies, Introduction (page 1, Chapter 2) states that all state uplands [within this area plan] are within the coastal zone, and all activities on tidelands, submerged lands, and uplands within the coastal zone must be consistent with the Alaska Coastal Management Program (ACMP). However, in the wake of the sunset of the ACMP program on July 1, 2011, the body of regulations regarding or referring to the ACMP has been repealed or revised. Such regulation changes that went into effect on December 27, 2012 are included in the January 2013 regulations supplement; see <http://www.legis.state.ak.us/basis/folio.asp> for more information.

Unit 11 Thorne Bay/Subunit 11c-Thorne Bay: Chapter 3-Page 174, Management Intent and Guidelines states: “State lands will be managed for multiple use, with an emphasis on meeting the expansion needs of the Thorne Bay community. ... Settlement is expected to concentrate southeast of the community in areas designated ‘Settlement’, ... during this planning period.” At 3-179, specific Settlement Management Intent stated that DNR “...will work with the City of Thorne Bay when authorizing ... and planning land disposals.” At 3-180, applicable “Guidelines” simply made reference to Chapter 2 Guidelines for Settlement, Shoreline and Stream Corridors, and for Trail and Public Access Management. Project design and development will include consideration of these factors.

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Reservation of Mineral Estate: In accordance with Section 6 (i) of the Alaska Statehood Act and *AS 38.05.125 Reservation [of Rights to Alaska]*, the State, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing, and producing the reserved mineral resources. Exploration and development, that could occur, would be consistent with *AS 38.05.130 Damages and Posting of Bond* and any other applicable statutes and regulations, which provide that the land estate (surface) owner be compensated for damages resulting from mineral exploration and development. Refer to the Mineral Order(s) section of this document for more information on restrictions on use of the mineral estate within the project area.

Mineral Order(s): Active MO 1011 of 10/16/1998 is referenced as MCO 739 in the PWIAP Appendix C and assigns boundaries closing lands to mineral entry based on legal description that includes the ADL108053 project area. LSCAS is not aware of any current or planned mineral activity within the proposed project boundaries.

Mineral closing orders, where established, close an area to new exploration and development of locatable minerals such as gold, copper, platinum, etc. Such mineral orders do not apply to leasable minerals, including oil and gas leasing, coal leasing, shallow gas leasing, or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

Mining activity would be incompatible with the past, current, and proposed land estate uses for land disposals. To allow new mineral location within the boundaries of the parcels encompassed by this decision could create serious conflicts between land estate and mineral estate users. Area plan mineral estate management policy states that, in general, areas scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land estate and mineral estate users.

Local Planning: Where they exist, local zoning and related ordinances govern private land use. The project area is within the city limits of the City of Thorne Bay (City of Thorne Bay Planning Services, Base Map for Zoning and Planning, 1999) and platting actions are subject to their platting and zoning authority. Approval of platting and zoning actions, and dedication of right-of-ways will require separate processes and public notices through the City of Thorne Bay. The City of Thorne Bay included in its FY 08 Overall Economic Development Plan, page 8, a list of items under “Priorities for Development: Item 3. Increase availability of low cost land for commercial and residential development.” Because of the scarcity of land to expand the existing city center, the proposed land sale project will allow for increase in total population while not increasing the density. As also discussed in the PWIAP, this proposed subdivision will help support new and diversified area economic activity, including timber harvesting, by offering for development accessible, affordable residential property to allow for an expanded population base.

Coastal Issues: The City of Thorne Bay will receive public notice and an opportunity to comment. Additionally, comment received during the public comment period will be considered.

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Cultural Resources: DMLW's Office of History and Archaeology made an appropriate review of the project area and concluded there was no need for a field site survey or special conditions related to cultural resources in the project area.

Traditional Use Finding: The project area is located within the Unorganized Borough, and a traditional use finding is therefore required per *AS 38.05.830 Land Disposal in the Unorganized Borough*. Based on the involved process of developing the PWIAP, research, and field investigation to date, it is expected that the effect of offering the proposed project within the designated settlement unit for sale will present no conflict with traditional use in the vicinity.

PWIAP, Chapter 3 – Page 176, noted that Thorne River and the head of Thorne Bay, near the project area, are locations for seasonal black bear concentrations, seasonal waterfowl concentrations, trout overwintering areas, [and] salmon rearing and schooling. Alaska Department of Fish and Game (ADF&G) added that those waters are also used by locals to harvest crab and clams. The Thorne Bay area is known to support fishing, hunting, tourism, trade, and transportation activities dating back to pre-statehood times, but no specific information on these items was discovered regarding the acreage within the project area itself. Inquiry to the City of Thorne Bay and a review of the FY 08 Overall Economic Development Plan yielded no documentation of significant traditional use of the proposed project site other than timber harvesting. See Background subsection above for timber discussion.

Additional specific and factual information on traditional use is welcome during the public comment period, and if this proposal is approved, LSCAS will address the information received in the Final Finding and Decision. See the Submittal of Public Comments section at the end of this documents and Attachment C: Public Notice for details on how to submit comment.

Access To, Within, and Beyond the Project Area: ADL 105577 Public Easement right-of-way was issued as early as 1992 to the City of Thorne Bay for construction of South Thorne Bay Road; it connects with abutting subdivision roads Ron's Rd. to North Rd. for upland access to the proposed new subdivision. An old logging skid-road within the proposed subdivision, once brushed, will provide a drivable path into the subdivision to connect to most lots. Furthermore, to be platted right-of-ways are part of the project concept that will designate access through the subdivision to all lots and to state lands beyond to the northwest. As verified by field inspection, the Thorne Bay shoreline is such that physical access to waterfront lots should be feasible from the waters of the bay. LSCAS is not aware of any RS2477 or other trails within the proposed subdivision. The project area is within the platting authority of the City of Thorne Bay, and approval of platting actions and dedication of right-of-ways will require separate processes and public notices under city requirements.

Access To and Along Public or Navigable Waters: In accordance with *AS 38.05.127 Access To Navigable or Public Water*, DNR will determine if a body of water or waterway is a navigable or public waterway and establish easements or right-of-ways as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or right-of-ways under this statute include *11 AAC 51.035 Determination of Navigable and Public Water* and *11 AAC 51.045 Easements To and Along Navigable and Public Water*.

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For the purposes of *AS 38.05.127*:

- Waters may be determined public or navigable consistent with *AS 38.05.965 (18) Definitions*.
- Other than adjacent open waters of Thorne Bay, LSCAS is not aware of any public or navigable waters within the proposed project area.

For the purposes of reserving access to public or navigable water under the aforementioned statutes and regulations, if a water body is determined to be public or navigable prior to disposal, a continuous easement extending upland from the ordinary high water mark will be reserved within parcels located along said waters. An alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult. If a water body determined to be public is located entirely within a parcel, a public use access easement from the parcel boundary to and along the water body will be reserved and dedicated at the time of field survey. Refer to the *Easements, Setbacks, and Retained Lands* and *Agency Comments* sections for additional information.

Building Setbacks From Public or Navigable Water: If this subdivision is deemed feasible, DNR DMLW proposes to place a note on the final survey plat describing a building setback upland from the ordinary high water (OHW) mark of public and navigable water to protect access, fish and wildlife habitat, and personal property. Except for utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function, structures and subsurface sewage disposal systems will not be permitted within the building setback. We will continue to develop and apply criteria as needed and the public is invited to comment. Refer to the *Easements, Setbacks, and Retained Lands* and *Agency Comments* sections of this document for additional information.

Easements, Setbacks, and Retained Lands: Parcels may be subject to a variety of easements, setbacks, and retained lands which will be identified on the subdivision plat and included in related informational documents. With acknowledgement of PWIAP, 2-24 listings, upland utility easements will be appropriately designed for all lots. Approval of platting actions will require separate processes and public notices through the City of Thorne Bay. Final width and location of easements and reservations will be determined as part of the platting process.

Parcels and subdivision design may be subject to a variety of reservations or restrictions where appropriate, such as:

- public access or utility easements along certain parcel boundaries may vary; and
- a 50-foot-wide public access easement on each side of surveyed or protracted section lines on State-owned land, unless formally vacated; such public ROW easement remains between sections 28 and 33 which bounds a portion of this project; and
- a 50-foot continuous to and along, *AS 38.05.127*, public access easement upland from the ordinary high water mark of public or navigable water bodies as described above; and

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- a 25-foot building setback outside of buffers or easements (PWIAP, 2-24); and
- a 50-foot building setback from wetland areas (PWIAP, 2-24); and
- a survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a direct line-of-sight easement from the control station to an azimuth mark or other control monument; and
- Any additional easements, setbacks, or restrictions that may be required by the local platting authority.

Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.

Hazardous Materials and Potential Contaminants: During field inspection in June 2013, LSCAS and Survey staff observed the existence of several apparently abandoned vehicles in trespass near or blocking the junction of the overgrown skid-road from the cul-de-sac at the end of North Rd. in ASLS 80-121. It is not know whether there are any hazardous wastes, spills, or other potential contaminants within the area, or whether perhaps the area has possibly been used for any other unauthorized activities. While there may be no known significant environmental hazards present within the project area, the State makes no representations and no warranties, express nor implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances eventually be found. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land prior to bid or application submittal.

DNR DMLW recognizes there are potential environmental risks when previously vacant land is occupied. Many of the activities increasing these potential risks are regulated by other agencies, such as the regulation of septic system installation by the State of Alaska, Department of Environmental Conservation. Given the high degree of interest from both the legislature and citizens in sale of State-owned land, DNR DMLW is of the opinion that the benefits outweigh the potential risks.

Survey, Platting, and Appraisal: After evaluating agency and public commentary, physical conditions of the land, and access issues, DNR DMLW will determine if it will offer the property for sale. In order to offer the property, a combination of survey, subdivision, and/or plat actions may be required. This proposed project area is located within the City of Thorne Bay, and therefore survey and platting will be completed to the relevant subdivision standards.

The local platting authority's planning requirements provide for separate public notice periods and processes for platting actions within the city. These additional opportunities for public involvement occur after an approved Final Finding and Decision authorizes the project to move into that stage of processing.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR DMLW standards will be required within two years of the date fixed for the sale of any parcel developed under this proposed action.

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Pursuant to PWIAP, as discussed under Planning and Classification of Section VI above, part of the initial and advanced research, study, analysis, and preparation that goes into a PD document includes consideration of economic factors. Utilizing market data prepared by DNR qualified professional appraisers under *AS38.05.840(b)*, working directly with LSCAS and DNR Survey Section staff, potential economic return under more than one scenario of sale has been considered. Market analysis to determine economic feasibility of a project is an ongoing process, and any contribution of meaningful, pertinent information is always welcome. Since it commonly takes several years for a project to be identified for possible action, processed, and finally qualified for offering, applying *AS 38.05.840* ensures that current market conditions are addressed in order to obtain a realistic minimum bid for the sale of state lands taking into account such factors as price, value, and expenses. It is not unusual for state parcels to be released by multiple public offerings over more than one season; sale of only several lots at a time in a given location will thus mitigate “flooding” the market all at once. The two year appraisal requirement must still be followed.

VII. Agency Comments

Agency review was conducted from October 19, 2010 through November 26, 2010 concurrently with other separate, proposed projects. Comments pertinent to this proposed action received during agency review have been considered and addressed in the following paragraphs.

Division of Geological and Geophysical Surveys (DGGs) Comment

“No specific potential geologic hazards except the regionally typical coastal issues of erosion, storm waves and surges, as well as seismic shaking and associated potential hazards from earthquakes originating on the Queen Charlotte-Fairweather Fault system. Siting and design of structures should be carried out in accordance with local building codes that should already incorporate best practices for the potential seismic hazard.”

LSCAS Response

The comment is appreciated and in agreement with LSCAS understanding and approach to working with the local platting authority.

Alaska Department of Fish and Game (ADF&G) Comment

“ADF&G recommends that 50-foot wide section line easements be reserved for public access...also 50-foot wide easements be reserved along the MHW mark of Thorne Bay, pursuant to *AS38.05.127*. Additionally, a minimum 25-foot wide building set back should also be reserved adjacent to the along easements.”

Alaska Department of Fish and Game (ADF&G) submitted comment referencing the PWIAP noting that, “...water adjacent to the project area [is] classified for Crucial Habitat and Intensive Community Use. It has seasonal black bear and waterfowl concentrations, trout overwintering areas, salmon rearing and schooling areas, and is used by locals to harvest crab and clams. In order to protect traditional uses, ADF&G recommends limiting the number of water front lots and also recommends a community dock. There appears to be adequate access to the project via an existing road system. A community dock will provide access while limiting the amount of shoreline that is developed and therefore impacted.”

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LSCAS Response

The easements recommended have been incorporated into the overall project planning concept and will be appropriately designated on plats and in offering documents. See various detailed subsection discussions under Access To, Within, and Beyond the Project Area of Section VI above. The idea of a community dock has been recommended before on similar projects with oceanfront lots. Because DNR is not authorized, nor does DNR have the capacity, to enforce post patent activity, it is not legally or economically feasible to specify location, construction, liability coverage, maintenance, and the myriad of other factors related to a community dock. DMLW field inspections have led to the conclusion that any ocean access to the few lots that will directly front on Thorne Bay would be physically practical and compatible with the same or similar use that occurs in the area. As already stated, statutory and to be platted easements and set backs will facilitate mitigation of any impact along the waterfront and allow for continued traditional public use of the waterfront.

Other Agencies: The following agencies or groups were included in agency review, but no comments were received:

- Department of Environmental Conservation
- Department of Natural Resources
 - Division of Agriculture
 - Division of Oil and Gas
 - Division of Parks and Outdoor Recreation
 - Mental Health Trust Land Office
- Department of Transportation and Public Facilities
- State Pipeline Coordinators Office

Other timely comments that may be received during the Public Notice period will be considered and addressed in the Final Finding and Decision if the proposal proceeds to that step.

VII. Submittal of Public Comments

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

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

In accordance with *AS 38.05.946 (a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945 (c)* may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

All timely, written comments received by DNR DMLW LSCAS will be considered. If analysis of timely written comments received in response to this notice indicates the need for significant changes to the Preliminary Decision or related actions, if any, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to the proposal will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the Preliminary Decision, including any deletions, minor changes, and summary of comments and the DMLW responses, will be issued as a subsequent Final Finding and Decision without further notice.

Preliminary Decision

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Old Skid Road Subdivision – ADL 108053
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Only persons from whom DNR DMLW LSCAS receives timely, written comment during the identified comment period will be recognized as eligible to exercise appeal or reconsideration rights on the Final Finding and Decision. Upon approval and issuance of a Final Finding and Decision, a copy of the decision will be made available online at <http://dnr.alaska.gov/mlw/landsale/> and sent with an explanation of the appeal or reconsideration process to any party who provides timely written comment.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS 5:00 PM,
TUESDAY, MARCH 18, 2014**

VIII. Alternatives and Discussion

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of up to 25 parcels varying in size from 2½ to 10 acres, and offer those parcels for sale. The development and offering of these parcels may be done by multiple sales over time.

Alternative 2: Do not subdivide the project area prior to offering. Offer the project area as a single, 112-acre parcel.

Alternative 3: (Status Quo) Do not offer this project area for private ownership. Retain the land in State ownership.

Article VIII, Section 1 of the Alaska Constitution states, in part, that. “it is the policy of the State to encourage the settlement of its land...” Furthermore, *AS 38.05.045 Generally [Sale of Land]* has placed this charge with DNR, and the state legislature has provided funding to administer this charge.

Alternative 1 provides a method for DNR to help meet the obligations laid out in the Constitution and statute. Alternative 1 maximizes public interest. This offering provides an opportunity for the public to obtain land for settlement in a desirable area. A subdivision will allow DNR DMLW to create a design that will maximize use of the land and provide a greater number of the public an opportunity to purchase land within this area of contiguous land that is suitable to settlement. Due to the unique amenities of the area, its location relative to the community of Thorne Bay, and the existence of near-by residential property, the project area is best suited to subdivision prior to offering.

Alternative 2 does not maximize public interest. Not subdividing the project area prior to offering would limit the offering to only one purchaser. Alternative 2 is not preferred.

Alternative 3 is not preferred. The Legislature and the public have indicated a desire for DNR DMLW to offer State-owned land for private ownership. Retention of this land would inhibit DNR DMLW from meeting its Constitutional and legislative obligations. Not offering the project area would deny Alaskans the opportunity to obtain land in an area that is suited to settlement.

For the aforementioned reasons, Alternative 1 is the preferred alternative.

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IX. Recommendation

This Preliminary Decision for the proposed primary and any related actions described throughout this document and its attachments is consistent with the overall management intent for State-owned land; anticipated potential changes to public resources and the public interest as a result of the proposal appear to be within parameters of applicable statutory and regulatory requirements, and these proposed actions appear to be in the best interest of the State. It is hereby recommended to proceed to public notice.

This is a Preliminary Decision and evaluation of subsequent public review may result in changes to the preferred alternative or disapproval of the proposed primary action and/or any accompanying related actions. If the decision is approved, any related actions will accompany and precede the Final Finding and Decision.

/s/
Prepared by: John W. Thomas, Adjudicator
Acting Natural Resource Specialist III
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

2/10/2014
Date

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

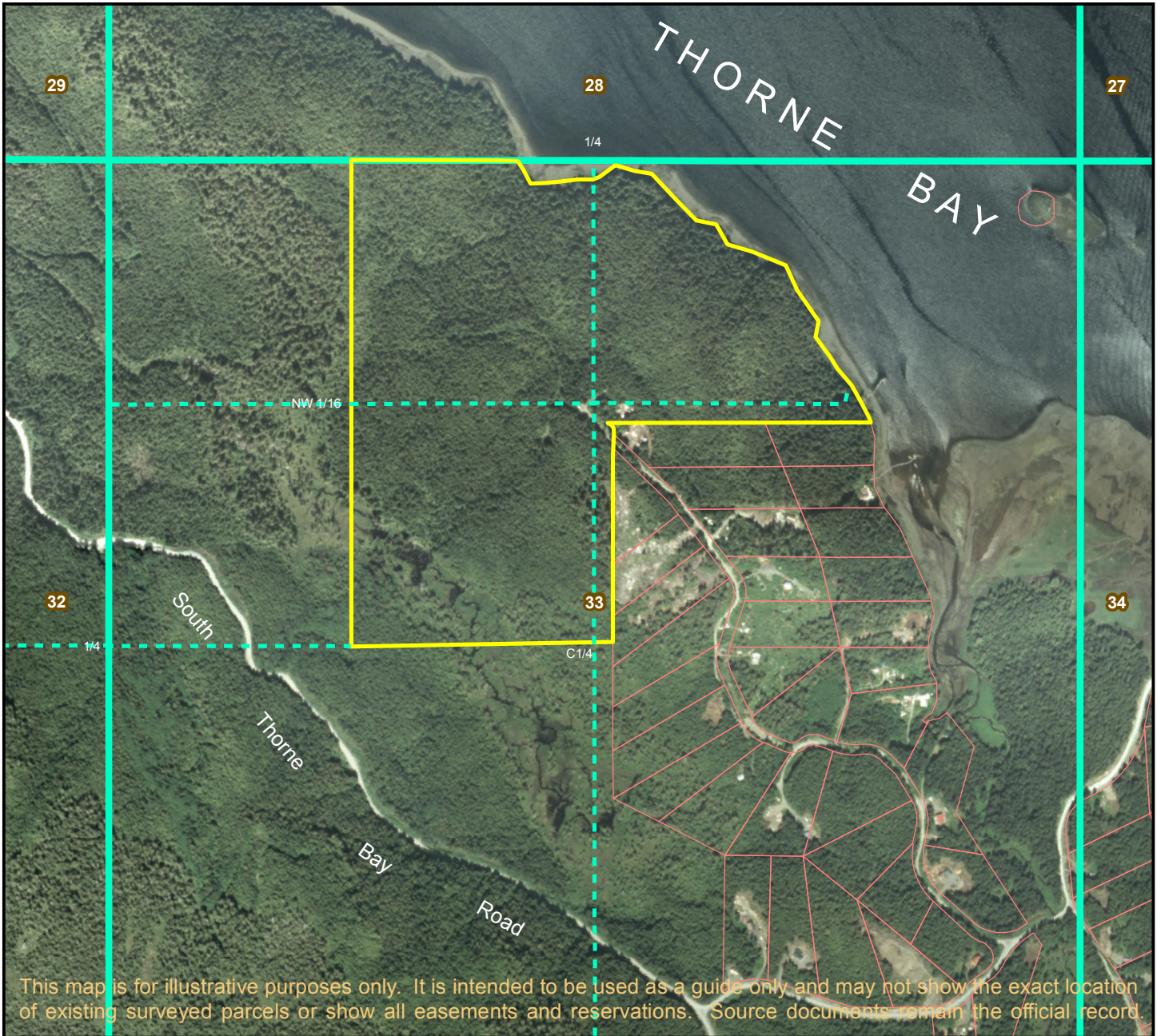
2/11/2014
Date



Old Skid Road Subdivision ADL 108053

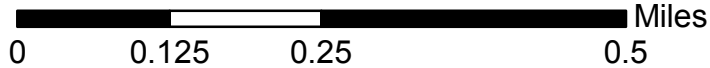
Attachment A: Vicinity Map

Preliminary Decision on Proposed Land Offering within city limits of The City of Thorne Bay



Legend

- ADL 108053
- Section Lines
- Aliquot lines
- Portion of ASLS 80-121

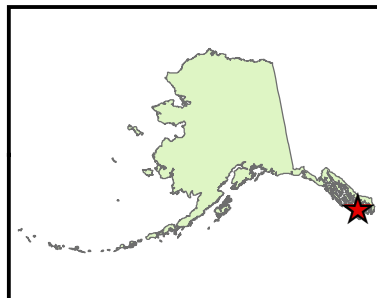


LFR-JWT 2/10/2014

Within Section 33, Township 71 South, Range 84 East, Copper River Meridian, Alaska

USGS QUAD 1:63,360 Mt. Fairweather A-1

For more information contact:
 John Thomas
 Department of Natural Resources
 Division of Mining, Land, and Water
 Land Sales & Contract Administration Section
 Phone 907.269.8591 Fax 907.269.8619
 Email subdivision.sales@alaska.gov



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

ATTACHMENT B: AREA DATA SUMMARY TABLE

to the
Preliminary Decision

for a
**Proposed Land Offering within the Unorganized Borough
City of Thorne Bay – Platting Authority
Old Skid Road Subdivision – ADL108053**

Offering Information	
Proposed Number of Parcels	Up to 25 parcels
Proposed Parcel Size	Varying in size 2.5 to 10 acres each along with larger remainder tracts
Proposed Related Actions	None
Project Area	
Location	Within DNR's Southeast Region, approximately one mile south of Thorne Bay on Prince of Wales Island, the project area is within the northern part of Section 33, Township 71 South, Range 84 East, Copper River Meridian, within the City Limits of Thorne Bay.
Project Area Acreage	~112 acres of which ~74 acres are proposed for development
USGS Topography Map	USGS Quad, Craig C-2
Legal Description	A subdivision of Government Lots 3, 4, SE¼NW¼ and the unsubdivided remainders of Government Lot 2 & SW¼NE¼ Section 33, Township 71 South, Range 84 East, Copper River Meridian
Title	Tentatively Approved and Patented State-owned land; see Section VI, Subsection <u>Title</u> for details
Area Plan and Classification	Prince of Wales Island Area Plan (PWIAP) (approved June 1985, Revised October 1998), Management Unit/Region 11-11C/Thorne Bay; lands are classified Settlement.
Mineral Orders	MCO 739/1011 See p. 2, et al for more details.
Physical Characteristics	
Access	Public waters of Thorne Bay for waterfront lots; all lots will have platted access via route of South Thorne Bay Road, Ron's Road, North Road, section-line easements, and multiple internal platted ROWs
Terrain and Major Features	Rolling hill uplands extend from sea level to over 300' elevation with slopes that DNR Surveyors estimate to be satisfactory for residential building

Attachment B: Area Data Summary Table

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for a Proposed Land Offering in the City of Thorne Bay

Old Skid Road Subdivision – ADL 108053

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View	Heavy, second-growth rain forest cover precludes much of a view even from the top of the dome-like rise near the center of the proposed development area
Climate	Thorne Bay is located on the central east coast of Prince of Wales Island within North America's only temperate rain forest environment. The region is dominated by a cool, moist, maritime climate. Summer temperatures range from 49-63° F and winter temperatures from 32-42° F. Average annual precipitation is 120 inches with 40 inches of snow.
Soils	Recent Custom Soil Report by USDA Natural Resource Conservation Service for the south Thorne Bay area described the following: Karta-Tolstoi complex for the vast majority of the uplands comprising this project; lower lying and moist areas consist of Kogish-Maybeso complex and Wadleigh gravelly silt loam soils. Known soil concerns will influence the project's design and feasibility and such features will be described in the project file and offering materials where relevant. Side note: Land Abstract records show there have been numerous permits for material site sales within the south portion of section 33 adjoining the proposed subdivision.
Vegetation	Prince of Wales Island is covered primarily by temperate rainforest consisting of Sitka spruce (<i>Picea sitchensis</i>) and western hemlock (<i>Tsuga heterophylla</i>), with lesser amounts of mountain hemlock (<i>Tsuga mertensiana</i>) and other conifers. Red alder (<i>Alnus rubra</i>) occupies riparian sites, and intermixed muskeg areas are common. Salt grasses may be found along the coastal transition locations.
Water Source	Potential water sources may include individual wells, springs, or rainwater catchment. Water quality is unknown. City of Thorne Bay is described as having piped water and sewer, but there is no immediate connection at the proposed subdivision location at this time.
Anadromous Waters	Alaska Department of Fish & Game, Anadromous Waters Atlas, Craig C-2 map and Water Body Table, page 96, show a small segment of unnamed stream 102-70-10550-2002 as Coho salmon rearing water in the southwestern portion of the project area that is proposed to be reserved to the state and not to be developed. ADF&G submitted no comments regarding this stream.
Local Management Information	
Fire Management Option	The <i>Alaska Interagency Fire Management Plan</i> indicates no fire management option. In 2011 (latest data) less than 4½ acres were burned by wildfire in the entire 17 million acre Tongass NF; the southeast Alaska rainforest appears quite firesafe
Game Management Unit	ADF&G Region I – Southeast Alaska, Game Management Unit 2
Local Authority	The City of Thorne Bay currently exercises authority for planning, platting, taxes, and zoning for the project area
Flood Zone	FEMA Flood Information Rate Maps are not available for the project area.
Utilities	No known services exist within the project area. Alaska Power Company is the area electric utility.

Attachment B: Area Data Summary Table

to the Preliminary Decision

for a Proposed Land Offering in the City of Thorne Bay

Old Skid Road Subdivision – ADL 108053

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Waste Disposal	All on-site waste water disposal systems must meet the regulatory requirements of the local platting authority and Alaska Department of Environmental Conservation.
Setbacks, Reserved Areas, Easements, and Conditions	
Improvements	Prior to construction of any structure or waste disposal system, contact the platting authority for any permits or for required setbacks from water bodies, lot lines, and easements. Per PWIAP (Chapter 2 – Page 24), filling tidelands and submerged lands for residential purposes will not be allowed. Any incursion into wetlands must be in accordance with Army Corps Of Engineer requirements.
Building Setbacks	Parcels are subject to a 25-foot building setback outside of buffers or easements and a 50-foot building setback from wetlands. A building setback from the ordinary high water mark of public and navigable waters will be noted on the final survey plat; certain water-dependent structures may be allowed within that building setback. Area plan guidelines and DMLW riparian protection guidelines will be consulted during the decision process to determine additional setbacks and other restrictions. See discussions under <u>Access To, Within, and Beyond the Project Area</u> of Section VI this document.
Public Access and Utility Easements	Parcels and subdivision design may be subject to a variety of reservations or restrictions where appropriate, such as: <ul style="list-style-type: none">• public access or utility easements along certain parcel boundaries may vary; and• a 50-foot-wide public access easement on each side of surveyed or protracted section lines on State-owned land, unless formally vacated; such public ROW easement remains between sections 28 and 33 which bounds a portion of this project; and• a 50-foot continuous to and along, AS 38.05.127, public access easement upland from the ordinary high water mark of public or navigable water bodies; and• a 25-foot building setback outside of buffers or easements (PWIAP, 2-24); and• a 50-foot building setback from wetlands (PWIAP, 2-24); and• a survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a direct line-of-sight easement from the control station to an azimuth mark or other control monument; and• Any additional easements, setbacks, or restrictions required by the local platting authority.
Public or Navigable Water Bodies	Ocean waters of Thorne Bay are considered public and navigable. If additional water bodies are deemed public or navigable, DNR DMLW will comply with statutory requirements to provide access to and along said water bodies.

Attachment B: Area Data Summary Table

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for a Proposed Land Offering in the City of Thorne Bay

Old Skid Road Subdivision – ADL 108053

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Additional Information	
Native Regional Corporations	Sealaska is the regional corporation for this project area. Sealaska and village corporations and councils within a 25 mile radius of the project area will be sent notice of this proposed project and will have opportunity to comment
Villages and Tribal Councils	Sealaska Region Villages (Na'eda list): Craig, Kasaan, Klawock
Oil and Gas Activity	There are no known oil and gas leases within the project area
Mining Activity	There is no known current mining activity within or nearby the project area
Comments	<p>The project area is conveniently located on the south side of Thorne Bay almost directly across from the present townsite and is accessible by existing public maintained right-of-ways or from the waters of Thorne Bay. The upland site is covered in heavy, second-growth, mostly coniferous rain forest situated on moderately steep sloping terrain judged by DNR Survey Section to be suitable for residential development. Access by constructed public roads through existing abutting subdivision is depicted and dedicated on Alaska State Land Survey 80-121; sheet 6, note #14 states, "the outer 10' of both sides of the 60' roadway right-of-way is reserved as an easement for utility use." DCCED community information lists Thorne Bay as a 2nd Class City with piped water and sewer, refuse collection, landfill, health clinic, police, volunteer fire/EMS/rescue, public safety facility, animal control, harbor/dock, bay chalet, gravel sales, roads, planning, parks, economic development, job training. Alaska Power Company (mailing address Port Townsend, Washington) is the area electric utility. This site offers the public an opportunity to participate in the offering of land for sale in a highly desirable area of Alaska. See also above Section VI for detailed discussion. Interested parties are encouraged to carefully study this PD, the Final Finding & Decision, if issued, and offering brochure and related materials, and to personally investigate the area of interest prior to participating in the sale.</p>

ATTACHMENT C: PUBLIC NOTICE

STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND, & WATER LAND SALES & CONTRACT ADMINISTRATION SECTION

PUBLIC NOTICE

Inviting Public Comment on a
Preliminary Decision of a Proposed State Land Offering:
Old Skid Road Subdivision – ADL 108053

Within the City of Thorne Bay

COMMENT PERIOD ENDS 5:00PM, TUESDAY, MARCH 18, 2014

This project will offer surveyed parcels for sale to the public as described in the Preliminary Decision (PD) document. The project may be subdivided and sold in multiple offerings over time.

Located within the DNR's Southeast Region, approximately one mile south of Thorne Bay on Prince of Wales Island, the project area is within the northern part of Section 33, Township 71 South, Range 84 East, Copper River Meridian, within the City Limits of Thorne Bay.

Project size: ~74 acres proposed development area, up to 25 parcels sized from 2.5 to 10 acres

To obtain a copy of this notice, a copy of the Preliminary Decision, or instructions on submitting comments, go to <http://dnr.alaska.gov/mlw/landsale/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers (PIC) on State work days, M-F, 10AM-5PM: Anchorage, 907 269-8400 (TDD for the hearing impaired: 907 269-8411); Fairbanks, 907 451-2705 (TDD: 907 451-2770), or Southeast Land Office, Juneau, 907 465-3400 (TDD: 907 465-3888); or <http://dnr.alaska.gov/commis/pic/>. Those requiring special assistance must make request to the PIC in Anchorage no later than 4:00 PM, Monday, March 10, 2014

Pursuant to AS 38.05.945 Notice, public comment is invited on all actions proposed in this notice; separate comments should be submitted on each action. **The deadline for public comment is 5:00PM, MARCH 18, 2014.** Only persons from whom DNR DMLW LSCAS receives written comment during the identified comment period will be recognized as eligible to exercise appeal or reconsideration rights on the Final Finding and Decision. Written comment or inquiries must be submitted and received by fax, email, or postal mail: fax 907.269.8916; subdivision.sales@alaska.gov; or DNR Land Sales, 550 W. 700 Ave., Suite 640, Anchorage, AK 99501. For questions, call DNR Land Sales: 907.269.8594.

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

DNR reserves the right to waive technical defects in this notice.