

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

PRELIMINARY DECISION

of a
**Proposed Land Offering in an Organized Borough
Nakwasina Sound Subdivision – ADL 108062**
AS 38.05.035 (e), AS 38.05.045

and its
RELATED ACTION(S):
Proposed Amendment to the Northern Southeast Area Plan
AS 38.04.065
Proposed Land Classification Order
AS 38.04.065 and AS 38.05.300

Comment Period Ends 5:00PM, THURSDAY, MARCH 20, 2014

I. Proposed Action(s)

Primary Proposed Action(s): 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 Department's Southeast Region, approximately 8 miles northwest of Sitka, the project area includes the portions of Tract A1, Township 54 South, Range 63 East, Copper River Meridian, AK within the following protracted sections: Section 20; the W1/2 of Section 21; the W1/2 of Section 28; Section 29; and the W1/2NE1/4, NW1/4, and NW1/4SE1/4 of Section 33; according to the BLM Supplemental Township Plat Officially Filed on July 28, 2010. The project area consists of approximately 485 acres identified for potential disposal by this proposed action. See Attachment A: Vicinity Map for a graphic depiction of the approximate location of the project area.

For the purposes of providing land for settlement in the Sitka area, if deemed feasible, DNR may develop a subdivision of no more than 50 parcels varying in size, no smaller than 2.5 acres each. DNR DMLW may also survey additional parcels to be retained in State ownership to provide for dispersed recreation and for the protection of heritage sites. Of note, if it is deemed necessary, DNR may consider parcels over 5 acres per the allowances listed in AS 38.04.020 (h) Land Disposal Bank. This proposed project area is located within the City and

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Borough of Sitka and therefore survey, platting, and road construction will be completed to the relevant subdivision standards. The project may be subdivided and offered in one or more separate offerings.

Proposed Related Action(s): There are two related actions with this proposal.

Area Plan Amendment: DNR DMLW proposes to amend the Northern Southeast Area Plan (adopted 2002) to change the designation from Gu (General Use) to Se (Settlement) for approximately 485 acres of the approximately 1090 acre B-08 unit. The amendment, if approved, will also modify the Management Intent for the B-08 unit by removing the requirement that road access be developed prior to land sales. This area plan amendment will apply only to the proposed development area.

Land Classification Order: In relation to the proposed Area Plan Amendment, DNR DMLW proposes to reclassify approximately 485 acres of the approximately 1090 acre B-08 unit in a Land Classification Order from Resource Management to Settlement. This land classification order will apply only to the proposed development area. Refer to the Planning and Classification subsection of this document for more information on this proposed related action.

Notice of the public comment period will be posted in accordance with *AS 38.05.945 Notice*, for at least 30 consecutive days. The public is invited to comment on the proposed primary and related actions. If commenting on more than one proposed action, separate comments should be submitted for each. 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 actions are approved, the Department will issue a Final Finding and Decision.

II. Method

DNR proposes to offer for sale the project area as described herein, through a future auction or another method 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 *AS 38.05.045 Generally [Sale of Land]*.

III. 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.

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.

IV. Administrative Record

The administrative record for the proposed action(s) consists of the documentation contained in the project file, Alaska Division of Land (ADL) 108062. Incorporated by reference are the Northern Southeast Area Plan and the 1976 Exploratory Soil Survey of Alaska.

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V. Scope of the Decision

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 and to conduct the proposed related actions as described herein. 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 subdivision and offering may be conducted in one or more separate offerings.

VI. Description

Location: Located within the Department's Southeast Region, approximately 8 miles northwest of Sitka, AK. The project area consists of approximately 485 acres identified for disposal by this proposed action. See Attachment A: Vicinity Map for a graphic depiction of the approximate location of the project area.

Borough/Municipality: The project area is within the City and Borough of Sitka and subject to the borough's platting and zoning authority.

Native Regional and Village Corporations: Sealaska Corporation is the regional corporation. Shee Atiká, Incorporated is the village corporation within 25 miles of the project area.

Legal Description of the Project Area: That portion of **Tract A1**, Township 54 South, Range 63 East, Copper River Meridian, AK within the following protracted sections: Section 20; the W1/2 of Section 21; the W1/2 of Section 28; Section 29; and the W1/2NE1/4, NW1/4, and NW1/4SE1/4 of Section 33; according to the BLM Supplemental Township Plat Officially Filed on July 28, 2010; located within the Sitka Recording District, First Judicial District, Alaska.

Title: Information from Title Report No. 2164, current as of November 24, 2010 indicates the State of Alaska holds Tentative Approval to the land and mineral estate within the project area under Tentative Approval, dated August 1, 1995. The applicable State case file is NCFG 304. The parcel is subject to the reservations, easements and exceptions contained in the Tentative Approval including a reservation for a Navigation Site known as Lisianski Peninsula Light House located at the intersection of latitude 57° 09' 00" N by 135° 24' 30" W, in Sec. 33 T. 54 S., R. 63 E., Copper River Meridian, measuring approximately fifteen (15) feet square, maintained by the U.S. Coast Guard, including the right to access for ingress and egress by boat or helicopter and the right to maintain an arc of visibility for the aid.

Retention and Access 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 retains 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

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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.

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 a field inspection conducted by DNR Survey staff on September 9, 2010. 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: Areas of steeper slopes and higher elevation may be subject to snow avalanches, otherwise there are no specific potential geologic hazards except the regionally typical coastal issues of erosion, storm waves and surges for parcels along the coast, as well as seismic shaking and associated potential hazards from earthquakes originating on the Queen Charlotte-Fairweather Fault system.

Fire Hazards: Due to heavy rainfall common in the maritime climate and dense vegetation on wet soils, the Southeast Alaska Rainforest presents minimal fire hazard.

Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations.

Fire management options and policies for the area 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 "Limited." The policy on areas with the "Limited" management option reads, "Wildland fires occurring within this designation will be allowed to burn under the influence of natural forces within predetermined areas while continuing protection of human life and site-specific values within the management option. Generally this designation receives the lowest priority for allocations of initial attack resources; however, surveillance may be a high priority."

It is important to note, however, that the DNR Division of Forestry warns that DNR Division of Mining, Land, and Water inform potential buyers there is no guarantee their property will be spared from harm from a wildland fire.

Flood Hazard: The project area is located within Flood Zone D. Flood Zone D is defined as: Areas of possible but undetermined flood hazards. No flood hazard analysis has been conducted. The relevant Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps are Community Panel Numbers 02220C0191C, 02220C0192C, 02220C0193C, and 02220C0194C

See Attachment B: Area Data Summary Table for more information on the description of the project area.

Background: This area was selected under the National Community Forest Grant (NCFG) for the purposes of community expansion and community recreation. The project area partially

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surrounds existing private parcels (USS 4568 and USS 12410). The proposed subdivision is bordered by Mental Health Trust land to the east, and the waters of Nakwasina Sound to the west. The Lisianski Peninsula Lighthouse is on the coast in the southwest of the project area. The Alaska Heritage Resources Survey indicates the presence of historic and prehistoric sites within or near the project area. No unauthorized structures or activities were observed during DNR staff's September 9, 2010 field inspection.

Planning and Classification: The project area is within the Northern Southeast Area Plan (NSEAP) Southern Region, Baranof Island Area, Unit B-08. General Use (Gu) is the current, primary surface use designation for this unit. The area is classified Resource management land through Classification Order (CL) SE-02-001. Under the Gu designation, unit B-08 is to be managed for multiple uses including remote settlement, dispersed recreation, and the protection of heritage sites and an anadromous stream. Only that portion to be developed under this proposal, the western- and southern-most portions of land, totaling approximately 485 acres, will be reclassified to Settlement (Se) as part of this project.

As proposed, it will be necessary to both reclassify this area to settlement and to change the management intent described in the area plan, which will require a plan amendment. The management intent recognizes that portions of this unit (B-08) are appropriate for remote settlement but it also contemplates the protection of sensitive areas, cultural sites, and anadromous streams. That is, it contemplates a variety of uses within this large parcel. While remote settlement may be appropriate for this parcel, or some portions of this parcel, revised management intent will identify that these sensitive features need protection.

AS 38.04.065(b) Requirements: The factors identified in this section of statute have been considered in this plan amendment and the proposed action is consistent with that portion of statute.

Area-wide Considerations: The management guidelines in the NSEAP Chapter 2-Settlement provide that Subdivisions will be designed to preserve and enhance the quality of the natural setting and the recreational opportunities that make an area attractive to potential buyers. State subdivision design will take account of site limitations and opportunities such as slope, drainage, soils, erosion, riparian zone and coastal buffer, and other features to ensure that sites offered are buildable and can be developed without the need for extensive public infrastructure.

Unit B-08: The NSEAP Management Intent for this parcel states that it is to be managed for multiple uses, including dispersed recreation, the protection of heritage sites and an anadromous stream, and remote settlement. The Management Intent also states that "(i)t is not anticipated that remote settlement will occur during the planning period given the relative inaccessibility of the area for potential residential development, previous timber harvest in many areas suitable for such development, and difficulty of water access. Such development should only occur when other more accessible state lands are developed and only if adequate road access can be developed. The General Use designation should be reevaluated at the time of plan revision.

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Area Plan Proposal: DNR DMLW proposes an Area Plan Amendment:

Area Plan Amendment: DNR DMLW proposes to amend the Northern Southeast Area Plan (adopted 2002) to change the designation from Gu (General Use) to Se (Settlement) for approximately 485 acres of the 1090-acre B-08 unit. The amendment to the designation is necessary to allow for the subdivision and offering of parcels as identified in the management intent (remote settlement). The amendment, if approved, will also modify the Management Intent for the B-08 unit by removing the requirement that road access be developed prior to land sales. The primary access for the proposed subdivision will be from the navigable waters of Sitka Sound and Nakwasina Sound. DNR DMLW is proposing to retain portions of the project area in State ownership to facilitate multiple uses including dispersed recreation, the protection of heritage sites and an anadromous stream which is consistent with the NSEAP Management Intent. The survey and sale of up to fifty parcels for remote settlement within the B-08 unit is consistent with the Management Intent. Amending the Management Intent to remove the requirement that road access be developed prior to land sales is appropriate. As can be seen throughout the State, road access is not necessary, nor at all times desirable, for individuals seeking remote settlement land. A field inspection conducted in September of 2010 revealed that water access to the project area is practical. Additionally, following an evaluation of potential land sale projects in the Southeast Region, this project is among the more desirable, accessible, and feasible projects.

Classification Proposal: DNR DMLW proposes a Land Classification Order:

Land Classification Order: In relation to the proposed Area Plan Amendment, DNR DMLW LSCAS proposes to reclassify approximately 485 acres of the 1090 acre B-08 unit with a Land Classification Order from Resource Management to Settlement. This Land Classification Order is necessary in order to fulfill the NSEAP Management Intent for the B-08 unit which envisions that this unit will be managed for multiple uses including dispersed recreation, the protection of heritage sites and an anadromous stream, and remote settlement. Although DNR DMLW proposes to reclassify only a portion of the entire B-08 unit to settlement, DNR DMLW, through this action, is also proposing to retain portions of the project area in State ownership to facilitate multiple uses including dispersed recreation, the protection of heritage sites and an anadromous stream which is consistent with the Management Intent. After the design of the project area is complete, DNR DMLW LSCAS may seek to reclassify those areas that are to be retained in State ownership back to Resource Management if deemed necessary.

Public notice for the related actions is being conducted concurrently with the notice for the primary action's Preliminary Decision. If approved after consideration of public comment, the related actions will be developed as separate actions and accompany the Final Finding and Decision for the primary action. The Final Finding and Decision will be dependent upon approval of the related actions such that if the related actions are not approved, the Final Finding and Decision will not be approved, unless modified. Likewise, DNR DMLW will not process the related actions unless proceeding with a Final Finding and Decision.

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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): The project area is presently closed to mineral entry under Mineral Order 1118.

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 City and Borough of Sitka and platting actions within this borough are subject to the City and Borough of Sitka's 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 and Borough of Sitka.

Coastal Issues: The City and Borough of Sitka will receive public notice and an opportunity to comment.

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Access To, Within, and Beyond the Project Area: Access to the project area is via the waters of Sitka Sound and Nakwasina Sound. Individual lots would be accessible via platted internal easements or directly from the water frontage. A field inspection conducted in September of 2010 revealed that water access to the project area is practical. In accordance with the NSEAP, appropriate public access easements and riparian protections will be incorporated into the subdivision design. The project area is within the platting authority of the City and Borough of Sitka. Approval of platting actions and dedication of right-of-ways will require separate processes and public notices through the City and Borough of Sitka.

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*.

For the purposes of AS 38.05.127:

- navigable water are generally lakes larger than 50 acres in size or streams larger than 50 feet in average width;
- public waters are generally lakes larger than 10 acres in size or streams larger than 10 feet in average width; and
- waters may be determined public or navigable consistent with AS 38.05.965 (18) *Definitions*.

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 (OHW) mark or mean high water (MHW) 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.

The waters of Sitka Sound and Nakwasina Sound are public and navigable. DFG has identified an unnamed anadromous stream (AWC# 113-43-10060) in the northwestern portion of unit B-08. In accordance with the NSEAP, DNR will provide appropriate riparian protections. Refer to the Easements and Retained Lands subsection of this document for more detailed information.

Building Setbacks From Public or Navigable Water: If 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 and Mean High Water Mark (MHW) 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

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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. Easements, setbacks, and retained lands will be identified on the subdivision plat and included in related informational documents. Approval of platting actions will require separate processes and public notices through the City and Borough of Sitka. Final width and location of easements and reservations will be determined as part of the platting process.

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

- a public access and utility easement along interior parcel boundaries;
- an easement centered on any surveyed or protracted section lines; section line easements may be vacated under *AS 19.30.410* and *11 AAC 51.065* as part of the subdivision design process
- a 50-foot continuous easement upland from the OHW mark or MHW mark of public or navigable water bodies;
- a 100-foot building setback from the OHW mark or MHW mark of public or navigable water bodies;
- a 100-foot building setback from the OHW mark of anadromous water bodies;
- 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.

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

Hazardous Materials and Potential Contaminants: During a field inspection in September, 2010, staff did not observe any hazardous wastes, spills, or other potential contaminants within the area. There are no known environmental hazards present within the project area, however, 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.

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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.

Traditional Use Finding: The project area is located within the City and Borough of Sitka and a traditional use finding is therefore not required per *AS 38.05.830 Land Disposal in the Organized Borough*.

Survey, Platting, and Appraisal: Depending on agency and public comments, physical conditions of the land, and access issues, DNR DMLW proposes to offer the property for sale. In order to offer the property, a combination of survey, subdivision, or plat may be required. This proposed project area is located within the City and Borough of Sitka, and therefore survey and platting will be completed to the relevant subdivision standards.

The City and Borough of Sitka has planning requirements that provide for separate public notice periods and processes for platting actions within the Borough. These additional opportunities for public involvement occur after Final Finding and Decision, if this proposed primary action is approved and the project moves forward.

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.

VII. Agency Comments

Agency review was conducted from October 19, 2010 through November 26, 2010 concurrently with other separate, proposed projects. As NSEAP indicates that historic or prehistoric sites may exist within the B-08 unit, DNR DMLW sought additional information from OHA after the Agency Review Period. OHA provided comment on March 12, 2013. Comments pertinent to this proposed action received during agency review have been considered and addressed in the following paragraphs. Additional timely comments received during the Public Notice period will be considered and addressed in the Final Finding and Decision if the proposal proceeds to that step.

DNR, DMLW, DPOR, OHA comment: OHA recommends that areas known to contain historic and or prehistoric resources be retained in State ownership and appropriate buffers or building setbacks be incorporated where necessary. OHA also notes that only a small portion of the State has been surveyed for cultural resources and therefore, the possibility remains that previously unidentified resources may be located within the project area. Should discoveries of cultural resources occur within the project area, OHA should be notified so that they may evaluate whether the resources should be preserved in the public interest.

DNR DMLW LSCAS response: The comments that OHA submitted on March 12, 2013 will be considered during the design of the subdivision project. OHA will be notified should any

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previously unidentified cultural resource discoveries occur during fieldwork or project development. Additionally, offering materials typically warn prospective purchasers that the Alaska Historic Preservation Act prohibits the appropriation, excavation, removal, injury, or destruction of any historic, prehistoric (paleontological), or archaeological site without a permit from the Commissioner of DNR (AS 41.35.200 *Unlawful Acts*); and should any sites be discovered, activities that may damage the site must cease and OHA must be immediately contacted.

DNR, Division of Geological and Geophysical Surveys (DGGs) Comment: Areas of steeper slopes and higher elevation may be subject to snow avalanches, otherwise there are no specific potential geologic hazards except the regionally typical coastal issues of erosion, storm waves and surges for parcels along the coast, as well as seismic shaking and associated potential hazards from earthquakes originating on the Queen Charlotte Fairweather Fault system.

DNR DMLW LSCAS Response: The geologic factors described have been taken into consideration and do not appear to preclude offering the proposed project. It will be the responsibility of the future land owners to evaluate structure location and design, and to follow local building codes.

DNR, Joint Pipeline Office, State Pipeline Coordinator's Office (SPCO) comment: No AS38.35 pipeline rights-of-way are impacted by the proposed subdivision.

DNR DMLW LSCAS Response: DNR DMLW appreciates your response.

Department of Fish and Game (ADFG), Division of Sport Fish Comment: ADFG recommends this project area be subject to the reservation of 50-foot section line easements as well as a 50-foot public access easement upland of the MHW mark of the coast and the OHW mark of an anadromous stream, pursuant to AS 38.05.127. ADF&G would also like to recommend that the waterfront lots be fewer and larger in size. Fewer property owners along the coast will reduce the number of structures that may impact tidelands. There should also be an additional minimum 25-foot wide building setback adjacent to the easements and buffers to prevent erosion and protect water quality and habitat. ADF&G would also like to propose community docks instead of personal docks. Community docks will make it possible for land owners without waterfront property to have alternative access as well as preventing damage to the entire coastline within the project area.

DNR DMLW LSCAS Response: Subdivision design will incorporate tracts of land to be retained in public ownership as appropriate. Parcels will be subject to upland public access easements in accordance with AS 38.05.127 Access to Navigable or Public Water and associated regulations. Parcels will also be subject to building setbacks in accordance with the NSEAP. We will consider a variety of configurations during subdivision design, including lot size and the possibility of retaining a tract or tracts for community use. Refer to the Easements, Setbacks, and Retained Lands section of this document for specific information.

DNR Division of Agriculture comment: The Division of Agriculture has no objection.

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DNR DMLW LSCAS response: DNR DMLW LSCAS appreciates your response.

Other Agencies: The following agencies or groups were included in agency review, but did not submit comments:

- Department of Environmental Conservation
- Department of Natural Resources
 - Division of Oil and Gas
 - Division of Forestry

Agencies will have an additional opportunity to comment during the Public Notice Period.

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VIII. 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.

The DMLW will consider all timely comments. If timely written comments received in response to this notice indicate 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. The related actions, if any, will be developed as separate actions. Approval of the primary and related actions is dependent upon one another. One action will not proceed without approval of the subsequent actions.

Only persons from whom the DNR receives timely, written comment during the identified comment period will be eligible to file an appeal of 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 process to any party who provides timely written comment.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS
5:00 PM, THURSDAY MARCH 20, 2014**

IX. Alternatives and Discussion

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of up to 50 parcels varying in size to be offered for sale to the public for remote settlement, and also survey parcels within the project area to be retained in State ownership for public use and/ or resource protection. The development and offering of the remote settlement parcels may be phased.

Alternative 2: Do not subdivide the project area prior to offering. Offer the project area as a single, 485 acre parcel.

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

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Nakwasina Sound Subdivision – ADL 108062

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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. 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 while also providing public areas for multiple uses. The subdivision as described will allow DNR DMLW to create a design that will maximize use of the land.

Alternative 2 does not maximize public interest and is not preferred. Due to the unique amenities of the area, the location relative to the community of Sitka the project area is better suited to subdivision prior to offering. Subdividing the project area prior to offering will allow DNR DMLW to fully implement the NSEAP Management Intent. 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 many Alaskans the opportunity to obtain land in an area that is suited to settlement.

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

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X. Recommendation

This Preliminary Decision for the proposed primary and any related actions described throughout this document and its attachments are consistent with the overall management intent for State-owned land; potential changes to public resources and the public interest as a result of the proposal are acceptable; 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 subsequent public review may result in changes to the preferred alternative or disapproval of the proposed primary action and the accompanying related actions. If the decision is approved, the related actions will accompany and precede the Final Finding and Decision.

/s/

Prepared by: Blair French
Natural Resource Specialist II
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

February 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

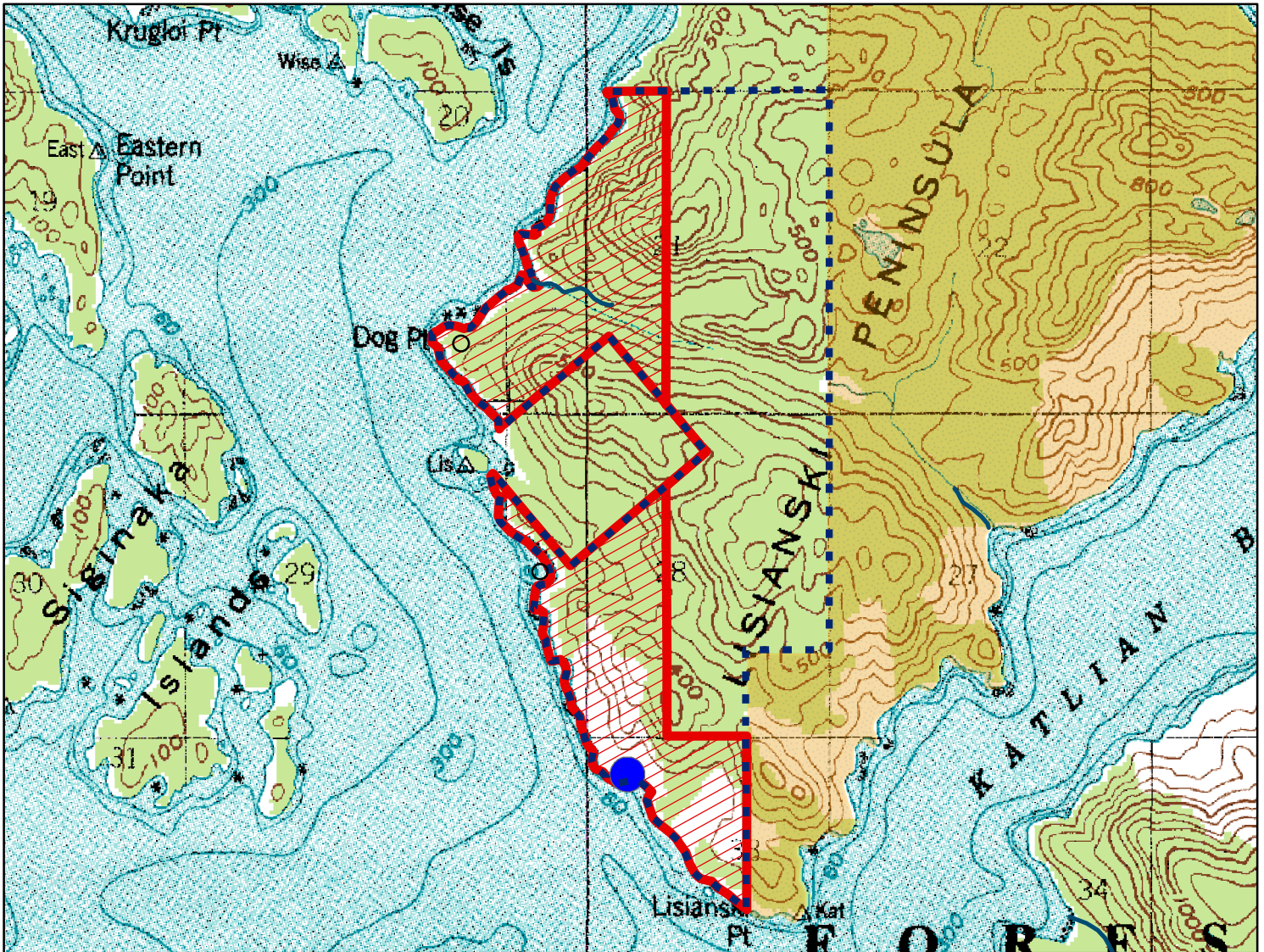
February 10, 2014

Date

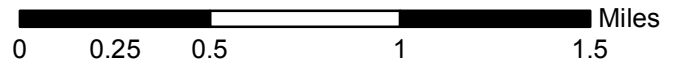


Attachment A: Vicinity Map

to the Preliminary Decision for a
Proposed Land Offering in the City and Borough of Sitka
Nakwasina Sound Subdivision - ADL 108062

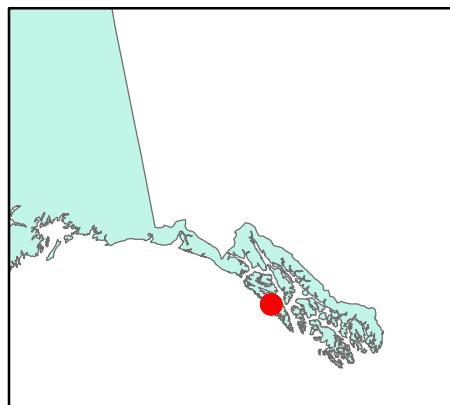


hbf 2/5/14



Within Sections 20, 21, 28, 29 and 33 Township 54 South, Range 63 East, Copper River Meridian, AK

- Lighthouse
- Anadromous Stream
- NSEAP B-08 Unit
- Mental Health Trust Land
- Project Area



USGS QUAD 1:63,360

Sitka A-5

For more information contact:

Blair French

State of Alaska

Department of Natural Resources

Division of Mining, Land, and Water

3700 Airport Way

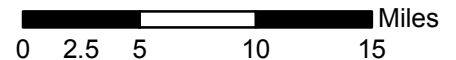
Fairbanks, AK 99709

Phone: (907)451-3011

Fax: (907)451-2751

Email: subdivision.sales@alaska.gov

This map is for graphic representation only. It is intended to be used as a guide only, and may not show the the exact location of all existing easements, reservations, or third party interests.



**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 in an Organized Borough
Nakwasina Sound Subdivision – ADL 108062**

Offering Information	
Proposed Number of Parcels	Up to 50 parcels
Proposed Parcel Size	Varying in size, no smaller than 2.5 acres.
Proposed Related Actions	<p>Area Plan Amendment: change the designation from Gu (General Use) to Se (Settlement) for approximately 485 acres of the approximately 1090 acre B-08 unit.</p> <p>Land Classification Order: reclassify the 485 acre project area within the B-08 unit from Gu to Se. Refer to the <u>Planning and Classification</u> subsection of this document for more information on this proposed related action</p>
Project Area	
Location	Approximately 8 miles north-northwest of Sitka
Project Area Acreage	485 acres
USGS Topography Map	USGS Quad Sitka A5
Legal Description	That portion of Tract A1 , Township 54 South, Range 63 East, Copper River Meridian, AK within the following protracted sections: Section 20; the W1/2 of Section 21; the W1/2 of Section 28; Section 29; and the W1/2NE1/4, NW1/4, and NW1/4SE1/4 of Section 33; according to the BLM Supplemental Township Plat Officially Filed on July 28, 2010; located within the Sitka Recording District, First Judicial District, Alaska.
Title	Tentatively Approved State-owned land
Area Plan and Classification	Northern Southeast Area Plan (NSEAP) (adopted 2002), Unit B-08. Lands are classified Resource Management.
Mineral Orders	MO 1118 (closed)
Physical Characteristics	
Access	Primary access to the proposed waterfront lots in Nakwasina Sound Subdivision will be via the public waters of Sitka Sound. Additional upland access may be provided in the form of dedicated public access easements or platted Rights of Way.

Attachment B: Area Data Summary Table

to the Preliminary Decision and its Related Actions
for a Proposed Land Offering in the Organized Borough
Nakwasina Sound Subdivision – ADL 108062
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Terrain and Major Features	Areas of steep to moderate slopes occur throughout the project area. Steeper slopes generally occur inland.
View	Territorial, Sitka Sound and Nakwasina Sound
Climate	Southeast temperate rainforest
Soils	USDA, Soil Conservation Service Exploratory Soil Survey of Alaska: SO18, Humic, Lithic Cryorthods-Humic Cryorthods, & RM1, Rough Mountainous Land. 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.
Vegetation	Typical temperate rainforest vegetation comprised mainly of spruce and hemlock with (sometimes thick) stands of alder, blueberry, moss and fern in the understory.
Anadromous Waters	AWC# 113-43-10060 exists within the northern half of the project area. No other streams were identified during the September 9, 2010 field visit. Should additional streams be identified throughout the design phase, DNR DMLW will evaluate the appropriateness of buffers for such water bodies.
Local Management Information	
Fire Management Option	Limited
Game Management Unit	GMU 4
Local Authority	City and Borough of Sitka. The City and Borough of Sitka currently exercises authority for planning, platting, taxes, and zoning for the project area.
Flood Zone	Flood Zone D.
Utilities	No services presently exist within the project area.
Waste Disposal	All on-site waste water disposal systems must meet the regulatory requirements of the 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.
Building Setbacks	Parcels are subject to a building setback from the ordinary high water mark (OHW) or mean high water (MHW) mark of water bodies determined to be public or navigable. Water-dependent structures may be allowed within the building setback. Area plan guidelines and DMLW riparian protection guidelines will be consulted during the decision process to determine additional setbacks and other restrictions.

Attachment B: Area Data Summary Table

to the Preliminary Decision and its Related Actions
for a Proposed Land Offering in the Organized Borough
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Public Access and Utility Easements	Parcels may be subject to the following: <ul style="list-style-type: none">• a public access and utility easement along interior parcel boundaries;• an easement centered on any surveyed or protracted section lines; section line easements may be vacated under <i>AS 19.30.410</i> and <i>11 AAC 51.065</i> as part of the subdivision design process• a 50-foot continuous easement upland from the OHW mark or MHW mark of public or navigable water bodies;• a 100-foot building setback from the OHW mark or MHW mark of public or navigable water bodies;• a 100-foot building setback from the OHW mark of anadromous water bodies;• 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.
Public or Navigable Water Bodies	Sitka Sound, Nakwasina Sound, and an unnamed Anadromous stream (AWC #113-43-10060). 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.
Additional Information	
Native Regional Corporations	Sealaska Corporation
Villages and Tribal Councils	Shee Atiká, Incorporated, 8 miles from the project area.
Oil and Gas Activity	None known
Mining Activity	None known

ATTACHMENT C: PUBLIC NOTICE

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

PUBLIC NOTICE

for a Preliminary Decision of a Proposed Land Offering:
Nakwasina Sound Subdivision – ADL 108062
and its Proposed Related Actions:
Amendment to the Northern Southeast Area Plan, Land Classification Order

COMMENT PERIOD ENDS 5:00PM, THURSDAY, MARCH 20, 2014

This proposed project includes offering for sale surveyed parcels in a future offering under the method and the related actions as described in the Preliminary Decision document. The project may be subdivided and offered in phases.

Location: Located within the Department's Southeast Region, approximately 8 miles northwest of Sitka, the project area includes the portions of Tract A1, Township 54 South, Range 63 East, Copper River Meridian, AK within the following protracted sections: Section 20; the W1/2 of Section 21; the W1/2 of Section 28; Section 29; and the W1/2NE1/4, NW1/4, and NW1/4SE1/4 of Section 33; according to the BLM Supplemental Township Plat Officially Filed on July 28, 2010. The project area consists of approximately 485 acres identified for disposal by this proposed action.

Project size: ~485 acres proposed development area, up to 50 parcels no smaller than 2.5 acres.

To obtain the notice, Preliminary Decision, or instructions on submitting comment, or to request auxiliary aids, services, or special accommodations, go to <http://notice.alaska.gov> or <http://landsales.alaska.gov>. For assistance in obtaining the documents by an alternative method, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907.269.8400 (TDD for the hearing impaired: 907.269.8411) or Fairbanks at 907.451.2705 (TDD for the hearing impaired: 907.451.2770), or the Southeast Land Section in Juneau at 907.465.3400 (TDD for the hearing impaired: 907.465.3888), or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, Wednesday, March 12, 2014.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on these proposed actions for which notice is being conducted concurrently. If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5:00PM, THURSDAY, MARCH 20, 2014.** Only persons from whom DNR DMLW LSCAS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Written comment may be received

Attachment C: Public Notice

to the Preliminary Decision and its Related Actions
for a Proposed Land Offering in the Organized Borough
Nakwasina Sound Subdivision – ADL 108062
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by fax, email or postal mail. To submit comments or for direct inquiries, contact Blair French:
fax at 907.451.2751, email landsales@alaska.gov, or call 907.451.3011.

If no significant change is required, the preliminary decision, including any minor changes and a summary of comments and responses, will be issued as the final finding and decision without further notice. A copy of the final finding and decision will be sent to any persons who comments on the preliminary decision.

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