

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

FINAL FINDING AND DECISION

of a
**Proposed Land Offering in the Matanuska-Susitna Borough
Dog Sled West Subdivision – ADL 231773**
AS 38.05.035(e), AS 38.05.045

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

This Final Finding and Decision complements and updates the Preliminary Decision dated March 4, 2014. The preliminary decision and related action have had the required public review.

The Preliminary Decision approved March 4, 2014 is considered a part of this FFD and is hereby attached.

I. Recommended Actions

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales and Contract Administration Section (LSCAS) recommends offering for sale State-owned land for private ownership within the Dog Sled West Subdivision project area (ADL 231773), as described in the Preliminary Decision. Surveyed parcels will be offered for future sale by a method under *AS 38.05.045 Generally [Land for Sale]*.

For the purposes of providing land for settlement in DNR's Southcentral region of Alaska, if deemed feasible, DNR may develop a subdivision of no more than 2 parcels of at least 1 acre each. This project area is located within the Matanuska-Susitna Borough (MSB) and therefore survey, platting, and access will be subject to the relevant subdivision standards. The project may be subdivided and sold in more than one offering over time.

There is one related action for this project:

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

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

II. Authority

DNR has the authority under *AS 38.05.045 Generally [Sale of Land]* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State as required by *AS 38.05.035 (e) Powers and Duties of the Director*. Article VIII, Section 1,

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of the Constitution of the State of Alaska provides that the state encourage the settlement of its land into private ownership.

For related mineral order action, *AS 38.05.185 Generally [Mining Rights]* allows for closing lands to mineral entry.

III. Public Participation and Input

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

Subdivision design will be submitted to the MSB for review in accordance with Title 43 of their Administrative Codes:

Title 43.10.060(A) Platting Board Procedure The platting board shall act on an application for preliminary plat ... only after holding a public hearing on the application.

Title 43.10.065 Notice: Public Hearing This section details the parameters required for public hearing notification by the MSB.

IV. Traditional Use Findings

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

V. Summary of Public Notice and Comments

Pursuant to *AS 38.05.945 Notice*, public notice inviting comment appeared on the State of Alaska Online Public Notices website at <http://notes.state.ak.us/pn/> and was posted on the DNR DMLW LSCAS website at http://dnr.alaska.gov/mlw/landsale/public_notice/ for the entire public notice period which started March 4, 2014 and ended April 8, 2014. Notification and decision copies were sent directly to area state legislators and to multiple state agencies, and to other interested entities; additionally, several thousand subscribers on the list for public notice and subdivision offering were notified by email. Information was also posted to twitter and Facebook.

Notices were mailed to the Matanuska-Susitna Borough per *AS 38.05.945 (c) (1)*, CIRI native regional corporation per *AS 38.05.945 (c) (2)-(3)*, and local and state Soil and Water Conservation Districts per *AS 41.10.130* and *11 AAC 67.029*. Additionally, notices and Attachment A map with a request to post for 30 days were sent to 5 postmasters and 4 librarians in the vicinity of the offering and to the City of Houston.

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The public notice stated that written comments were to be received by 5:00PM, April 8, 2014 in order to ensure consideration and eligibility for reconsideration. For more information, refer to the Preliminary Decision, Attachment C.

In response to the public notice, DNR DMLW LSCAS received comments from the Alaska Department of Fish and Game (DFG), several DNR DMLW sections, and the DNR DMLW Resource Assessment & Development Section, and one private individual. All comments received during the public comment period are summarized below.

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

“We appreciate DNR taking our recommendations and comments in to consideration, and we would like add that bears are known to fish and concentrate along Montana Creek upstream of the bridge. Anyone wishing to purchase one of these lots should be aware of potential bear encounters. ADF&G has no additional recommendations or concerns at this time.”

DNR DMLW LSCAS Response:

All comments are appreciated, and LSCAS will keep the alert about bears frequenting the area in mind; the offering brochure typically includes a part on wildlife and comment on the potential for wildlife encounters.

Resource Assessment & Development Section (RADS) Comment:

This section provided a brief background and discussion verifying that the project area is a duly appropriate settlement unit and is subject to the parameters of the Southeast Susitna Area Plan. Their recommendation and conclusion were expressed: “The project should move forward as proposed in the preliminary decision. This remains a viable land sale project and offers easily accessible lots in an area that is very popular for year-round recreational opportunities including fishing, dog sledding, snowmobiling, and ATV riding among other uses.”

DNR DMLW LSCAS Response:

Confirmation of the appropriateness of the project under existing conditions is appreciated and LSCAS concurs in the desirability of the site.

DNR DMLW Realty Services Section (RSS), Division of Geological & Geophysical Surveys Engineering Geology Section (DGGS), Office of History and Archaeology (OHA), Division of Agriculture (DOA), and Southcentral Region Office (SCRO) all provided courtesy comments of non-objection:

OHA did emphasize that although there were no concerns or record of cultural resources within the project area, any discovery of historic sites or cultural objects must be reported to OHA.

DNR DMLW LSCAS Response:

Acknowledgement of the public notice and preliminary decision by the responding agencies is appreciated, and their comments and suggestions have been incorporated into the PD and this final decision. LSCAS will continue to advise potential land sale participants of the OHA requirements as a standard part of the offering brochure.

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Individual Comment: Note: these excerpt quotes are presented exactly as submitted.

“Please ensure the public continues to have access along the old road along the side of the proposed subdivision. I understand this is also a 100 foot wide wide section line easement. Many neighbors take walks down to the creek along the old road and I believe at least on person accesses his property this way.” The Y Community Comprehensive Plan “... was very clear that they wanted the area along the creek be preserved as green space for watershed and recreation.”

DNR DMLW LSCAS Response:

LSCAS agrees with retaining the Public Right of Way (ROW) easement for Old Montana Creek Road; however, the proposed subdivision does not include that western part of the road that curves along the creek and ties in with the east-west section line between Sections 5 & 8. In support of the idea of green space, and as mentioned in the PD (p 12), the project has been offset 300 ft. from the current creek location. Please refer to the Preliminary Decision, page 6 for further discussion under Background and under Planning and Classification. The Old Montana Creek Road has an existing 100 foot wide Public ROW, ADL 202857, as shown on Alaska State Land Survey No. 2002-6, plat 2013-2, Talkeetna Recording District. DNR Survey Section has reported that the east-west section line along the north boundary of this project between Sections 5 & 8 has an 83 foot wide section-line easement east of the ¼ corner (33 feet on the north side and 50 feet on the south side) and a 100 foot wide section-line easement west of the ¼ corner (50 feet on both sides). All easements will be retained for access to this project and surrounding properties. The old ROW along the side of the proposed subdivision falls within the Matanuska-Susitna Borough (MSB), Caswell Road Service Area #15. Concerns about maintenance or public use of the portions of interest regarding the old ROW may be pursued with the MSB.

VI. Modifications to Decision and/or Additional Information

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

Recommendation and Approval of the Final Finding and Decision follow.

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VII. Final Finding and Decision

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

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

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

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

July 17, 2014
Date

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

July 18, 2014
Date

/s/
Approved by: Joseph R. Balash
Commissioner
Department of Natural Resources
State of Alaska

July 31, 2014
Date

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Reconsideration Provision

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may request reconsideration, in accordance with *11 AAC 02 Appeals*. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in *11 AAC 02.040 (c) and (d)* and may be mailed or delivered to, Joseph R. Balash, Commissioner, Department of Natural Resources, 550 W. 7th Ave., Suite 1400, Anchorage, Alaska 99501; faxed to 907 269-8918; or sent by electronic mail to dnr.appeals@alaska.gov.

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