

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

PRELIMINARY DECISION
Pyrite Subdivision – ADL 420836

Proposed Land Offering in the Fairbanks North Star Borough
AS 38.05.035 (e), AS 38.05.045

RELATED ACTION(S):
None Proposed

PUBLIC COMMENT PERIOD ENDS 5:00PM, TUESDAY, NOVEMBER 7TH, 2017

I. Proposed Action(s)

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Attachment A: Vicinity Map

Attachment B: Area Data Summary Table

Attachment C: Public Notice

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), Land Sales Section (LSS) is to offer for sale State-owned land within the identified project area. If approved, surveyed parcels will be offered for sale.

Located within DNR's Northern Region, approximately three miles northeast of North Pole, the project area is within Section 36, Township 1 South, Range 2 East, Fairbanks Meridian, within the Fairbanks North Star Borough (FNSB). The project area consists of approximately 80 acres identified for disposal by this proposed action. See *Attachment A: Vicinity Map* for a depiction of the project area.

In accordance with the governing area plan and for the purposes of providing land for settlement, DNR proposes to sell land within the Pyrite Subdivision project area. In order to offer these lands for sale, if approved and deemed feasible, DNR may develop a subdivision of no more than 15 parcels no smaller than 160,000 square feet (approximately 3.67 acres). This proposed project area is located within the FNSB and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards. The project area may be subdivided and offered in multiple stages.

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 project area will be described in a subsequent Final Finding and Decision, if the project proceeds to that step. Additional adjustments may be made prior to subdivision, as described in the applications to the platting authority, as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with platting requirements. Although actions under this proposal are limited to the stated maximums,

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additional offerings in the vicinity may be authorized under future proposals, which could increase the density of privately-owned parcels within or near the project area.

Proposed Related Action(s): No related actions proposed.

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.

Public Open House: DNR DMLW will be holding a Public Open House to discuss the proposal and share information about the project area. The public Open House will be held at 6:00 PM, October 17th, at the North Pole Public Library.

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, DNR DMLW moves forward with the proposal, a Final Finding and Decision will be issued.

II. Method of Sale

DNR DMLW proposes to offer for sale land within the project area as described herein, through a future offering under *AS 38.05.045 Generally*.

Parcels offered through this action are offered fee-simple for the surface estate only. For more information about the land sales program, please visit the website at <http://landsales.alaska.gov>.

III. Authority

DNR has the authority under *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." 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, Pyrite Subdivision - ADL 420836, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Eastern Tanana Area Plan for State Lands (ETAP, adopted 2015) and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan 2016*;
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*;
- *Soil Survey of Greater Fairbanks Area, Alaska, USDA, Natural Resource Conservation Service, 2004*; and

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- *Custom Web Soil Survey Report for this project, USDA, Natural Resource Conservation Service dated July 25, 2017.*

V. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section III**.

Authority, is limited and specific to DNR DMLW's proposal to offer State-owned land within the defined project area for disposal 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 may be conducted in multiple stages.

VI. Description

Location: within DNR's Northern Region, approximately three miles northeast of North Pole accessible from Plack Road and Farmall Drive. See *Attachment B: Area Data Summary Table* for additional information.

Platting Authority: The project area is within the FNSB and subject to the borough's platting authority.

Native Regional and Village Corporations: The project area is within the boundaries of the Doyon regional corporation. There are no villages located within 25 miles of the project area.

Legal Description: The NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, Township 1 South, Range 2 East, Fairbanks Meridian, Alaska accepted for the Director on February 2, 1955 by the Cadastral Engineering Staff Officer; located within the Fairbanks Recording District, Fourth Judicial District, Alaska.

Title: Information from Title Report No. 9807, current as of June 26, 2017 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 1227153, dated June 4, 1962. The applicable State case file is SCH 154. The parcel is subject to the reservations, easements and exceptions contained in the federal patent.

This project is on school trust land and subject to Department Order (DO) 143. However, the school trust litigation for which DO 143 was written has been resolved and is no longer a factor. DO 143 is in the process of being rescinded and replaced. The actual sale of parcels from the project will occur after the DO 143 rescinding process is complete. Therefore, the current version of DO 143 does not apply and its directive will not be followed. If there is a delay in rescinding DO 143, parcels from the project will be withheld from sale until DO143 is fully rescinded.

State Reservations of Title:

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 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, etc.), and leasable minerals (such as oil, gas, coal, etc.).

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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 land estate 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 Constitution of the State of Alaska 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.

The Bureau of Land Management has not made a navigability determination for waters within the affected townships for title purposes.

Where they exist within the project area, State third-party interests will be described in land sales brochures.

Physical Characteristics and Hazards: Attachment B: Area Data Summary Table describes the project area's physical characteristics. Information about the project area is based on internal research, information received during agency review, and a field inspection conducted by foot on June 27, 2017. 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.

Soils: The USDA Natural Resource Conservation Service (NRCS) reports that the shallow soils within the project area generally consist of well-drained sands and loams of the Jarvis-Salchaket complex. The northern portion of the project area includes a significant fraction of soils from the Mosquito-Noonku complex, which typically contain very poorly drained fine sands and fine sandy loams. The immediate vicinity of the former material extraction site consists of poorly drained Tanana mucky silt loam. All of these soil types are classified by the NRCS as very limited for residential development due to shallow groundwater and potential for ponding and flooding. The Tanana soil type is further limited due to potential for permafrost, and the Mosquito-Noonku soil type is further limited due to its organic matter content and potential for permafrost.

DNR's Division of Geological and Geophysical Surveys (DGGS) reports that the project area is underlain by river sediments of sand and gravel covered by silt up to 15 feet thick and is within the zone of discontinuous permafrost common to Interior Alaska.

Permafrost within the silt may have significant ice content, making it thaw unstable (i.e.

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will subside if vegetative clearing, heated structures, or other changes thaw the permafrost). This ice content and subsidence risk may be more significant within the former slough deposits within the northern half of the project area. In addition, the potential exists for significant frost jacking from seasonally-frozen ground within these silts.

Housing developments to the south, east, and west of the project area appear to be primarily within the Jarvis-Salchaket soils, whereas not much development appears to be within the Mosquito-Noonku soils. During the June 27, 2017 field inspection, a resident of the subdivision immediately east of the project area reported that houses in the vicinity are built using on-grade foundations (e.g. crawlspaces) and he built a mounded septic system leach field due to the shallow groundwater. LSS personnel observed that the developed houses immediately west of the project area appeared to have on-grade foundations and conventional septic systems.

Wetlands: Wetlands exist within the northern half of the project area and immediately north of the main pond. Impacts to wetlands will be minimized by locating access to avoid wetlands where possible, and designing parcels with sufficient buildable acreage such that wetlands may be avoided. Accordingly, parcels created in this portion of the proposed subdivision will be larger to help development avoid wetland areas.

Geologic Hazards: According to information provided by DNR DGGS, the project area is within the Fairbanks seismic zone, which has been active within the last 150 years and has had earthquakes of magnitudes between 5 and 6. The nearby Salcha seismic zone has had the largest recorded seismic event within Interior Alaska (magnitude 7.3), which resulted in extensive ground failure near its epicenter. The risk posed by building within an active seismic zone should be accommodated by following appropriate construction best practices. While there are currently no residential building code requirements within the project area, the City of Fairbanks and the City of North Pole have building codes that specify the seismic design category D1 from the International Residential Code (IRC). The International Code Council makes the IRC available for public access on their website.

Fire Hazards: Pursuant to observations from the June 27, 2017 field inspection, fire risk in the area is at least moderate due to the concentrated areas of spruce trees and lack of substantial fire breaks. There are no records of any wildland fires within the project area. The project area is within the North Star Fire Service Area.

Potential for wild land fire is high in interior Alaska. Landowners with structures are encouraged to follow the Alaska Wild Land Fire Coordinating Group *Firewise Alaska* recommendations. Offering materials include information regarding wild land fire prevention.

Fire management options and policies for the area are identified in the Alaska Interagency Wildfire Management Plan available from DNR Division of Forestry. The current fire management option for most of the project area is Full. The policy on areas with the Full management option reads, "Wildfires occurring in the Full Management option are assigned a high priority for suppression actions and assignment of available firefighting resources, but are below wildfires within or threatening a Critical

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Management option area or site”. It also states that the designation of a fire management option does not ensure protection from wildfire, and that a protection response will be based on various factors. “Ultimately it is the personal responsibility of the [landowner] to mitigate and minimize risk to their property and structures and to be ‘Firewise’.”

Flood Hazard: The project area is within FEMA Flood Insurance Rate Map Number 02090C4470J. The project area is within flood zone “other”, defined as protected from the one-percent-annual chance or greater flood hazard by a levee system, but that overtopping or failure of any levee system is possible. There is potential for seasonal flooding and erosion of parcels adjacent to water bodies, especially in low-lying areas.

Water Resources: All surface and subsurface waters on all lands in Alaska are a public resource, subject to appropriation in accordance with the Alaska Water Use Act (AS 46.15). There are two water rights in the vicinity for private water wells in the subdivisions immediately east and west of the project area. Information from well logs indicate that well depths in the vicinity typically range from 30 to 50 feet. Water quality is unknown. The sulfolane plume originating from the North Pole Refinery is approximately 2.5 miles west of the project area based on groundwater monitoring results from 2016, published by the Alaska Department of Environmental Conservation. Regional groundwater flow in the area is generally northwesterly, thus the plume is flowing from the refinery away from the project area.

Background: The proposed Pyrite subdivision was identified by LSS when looking for areas of state land appropriate for residential development relatively close to Eielson Air Force Base. There are plans to deploy more personnel at Eielson, which has led to an anticipated housing shortage in the Fairbanks and North Pole areas.

The southerly portion of the proposed subdivision was formerly used as a material site. Material extraction created a pond approximately two acres in area, and also created two trenches that expose the groundwater table south of the pond which are partially obscured by vegetation. Based on the June 27, 2017 field inspection, the pond perimeter is used by the public for recreation, but the trenches do not seem to be commonly used. The access to the pond currently in use include several points from both Plack Road and Farmall Drive.

A public access easement (ADL 402374) follows along the western, southern, and eastern boundaries of the northern 40 acres of the proposed subdivision. The portion of the easement that runs east-west through the center of the proposed subdivision appears to have some use, based on the vegetation and disturbance of the ground cover. There are three public utility easements along the south border of SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 36: ADL 2089, a 50-foot easement to GVEA for electrical transmission lines; ADL 400839, 30-foot public utility easement north of, parallel to, and contiguous with the 50-foot road/section line easement; and ADL 417484, an easement to GCI for coax utility on existing GVEA poles. These easements will be retained or included in subdivision design as appropriate.

DNR DMLW inspections of the closed material site in 2016 and 2017 have documented the presence of trash from illegal dumping within the cleared area near the pond. The trash is mostly comprised of yard waste, such as grass clippings and tree limbs, the shell of an abandoned car, mattress springs, and miscellaneous construction debris. DNR DMLW has

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received complaints from residents in the area about illegal dumping and loud parties taking place within the project area. Appropriate subdivision design and offering of parcels for sale will protect public use of the pond area for recreation while reducing the tendency for illegal dumping of yard waste and other trash.

The surrounding land ownership within Section 36 is private, except for 160 acres north of the project area which remains in state ownership for potential future subdivision. The immediately adjacent subdivisions were created after the state sold the land in the late 1970s and early 1980s. The parcels within these subdivisions are generally one acre in area and zoned Rural Residential, except for the Berggren Subdivision which has parcels ranging from 3.6 to 3.8 acres consistent with its RE-4 zoning. Several parcels in the vicinity are substantially larger (nominal 40 acres) because they were not subdivided further after purchase from the state. Two of these large parcels directly accessible from area roads have developed, whereas three others farther from the area roads appear to have no development.

LSS proposes to offer up to 15 parcels for sale within the Pyrite subdivision that are no smaller than 160,000 square feet (approximately 3.67 acres). Such parcel sizes are compliant with the FNSB Rural Estate 4 (RE-4) zoning of the project area, which requires a minimum lot size of 160,000 square feet. LSS anticipates that the parcels in the northern half of the project will need to be larger (e.g. possibly 10 to 20 acres) due to the potential for wetlands and poor soils for building development in this part of the proposed subdivision. Parcel sizes in this range would be consistent with the existing pattern of development within the area while provided good economic return to the state versus offering large tracts (i.e. nominal 40 acre parcels).

Planning and Classification: The general management intent of the area plan and management unit were reviewed for consistency with the proposed offering. The project area is within the Eastern Tanana Area Plan (ETAP, adopted August 28, 2015), Fairbanks Region, Unit F-58. Lands within this unit are currently designated Settlement, and classified Settlement Land under Land Classification Order No. NC-10-004 and Determination NC-10-004-D02. The project area consists of the southern 80 acres of the 240 acre F-58 management unit.

Unit F-58 / Fairbanks Region Considerations: The management unit is within Section 36, which is subject to School Trust litigation and subject to Department Order (DO) 143. However, the school trust litigation for which DO 143 was written has been resolved and is no longer a factor. DO 143 is in the process of being rescinded and replaced. The actual sale of parcels from the project will occur after the DO 143 rescinding process is complete.

The management intent for F-58 states that land disposable is considered appropriate, but the feasibility for development should be evaluated prior to issuing the Preliminary Decision. Based on file research and the June 27, 2017 field inspection, LSS finds the proposed Pyrite Subdivision area to be appropriate for development, although parcels created within the northern portion will need to be relatively large to provide sufficient buildable area. Portions of management unit F-58 north of the proposed Pyrite Subdivision are of lower land quality, and are being

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evaluated separately to determine what portions are feasible to develop or to retain in state ownership (ADL 420837).

Moose and waterfowl habitat are within the management unit. Impacts to wildlife habitat are minimized by focusing development within the southernmost 80 acres of the management unit, adjacent to the surrounding developed subdivisions. The Alaska Department of Fish and Game (ADF&G) did not express concern about wildlife habitat during agency review of the proposed Pyrite Subdivision.

The southern half of the project area was originally unclassified state land in the ETAP, but became classified Settlement Land and included into Unit F-58 by determination NC-10-004-D02, signed August 15, 2017. Chapter 4 of the ETAP provides direction for the designation of state lands not included in the area plan, or lands subsequently acquired by the state but not designated or classified in the area plan. This direction states that parcels in or immediately adjacent to existing community or past state land offerings should be designated Settlement and classified Settlement Land. Following the requirements of Chapter 4, a determination for assigning designation and classification can be made without formal area plan amendment or revision of the Land Classification Order.

Area-wide Considerations: LSS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies regarding Coordination and Public Notice, Cultural Resources, Fish and Wildlife Habitat, Material Sites, Public Access, and Settlement. 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 included on the plat and in offering materials as appropriate. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

Coordination and Public Notice: Management Guidelines provide that public notice will be given for the disposal of land as required under *AS 38.05.945 Notice*, and recommends coordination with the borough and other land owners. Public notice is being issued for this proposed action in accordance with *AS 38.05.945*. Refer to Attachment C: Public notice and **Section VIII. Submittal of Public Comments** for more information

Cultural Resources: Management Guidelines provide that if the state Office of History and Archaeology (OHA) determines that a cultural survey may be required during an agency review of a proposed land disposal, further consultation is warranted between OHA and DMLW prior to the sale. Cultural resource surveys should be considered in areas where OHA reports cultural resource sites exist, or where there is a high potential for such sites to exist. Agency review for this project included OHA, and OHA stated that the Alaska Heritage Resources Survey database indicated no reported cultural resources within the project area. Should any potential cultural resources be discovered by LSS during the development of this project, OHA will be notified. LSS will make information known to the public during offerings that OHA offices should be notified upon any inadvertent discoveries of cultural resources by the purchaser.

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Fish and Wildlife Habitat: Management Guidelines provide that the ADF&G should be consulted prior to issuing authorizations in an area that may have moose calving and rutting. This applies to land designated or co-designated Habitat, however, LSS considered this guideline because management unit F-58 contains moose habitat. The proposed subdivision is limited to the southernmost 80 acres of the management unit, adjacent to the surrounding developed subdivisions. Furthermore, ADF&G did not express concern about wildlife habitat during agency review of the proposed Subdivision.

Material Sites: Management Guidelines provide that settlement areas containing material resources should have an identified source area for retention in state ownership for future use. The Alaska Department of Transportation (DOT) material site inventory shows that the material site (MS 620-006-2) within the project area as active, however, DNR DMLW does not consider this site a designated material site. Prior to conducting agency review, DNR coordinated with DOT to reconcile this conflicting information, and DOT stated that it does not have a continuing interest in the material site, and that DNR can proceed to disposal without DOT objection.

Public Access: Management Guidelines provide that prior to disposal of state lands, public access will be reserved in accordance with the applicable regulations, and reasonable access across state land will be retained when lands are sold. The state will dedicate rights-of-way and reserve public access and/or utility easements as appropriate to maintain access through and within the project and retain utility corridors. The existing public access easements through the proposed subdivision will be retained or modified, if necessary, based on public input and subdivision design.

Settlement: Management Guidelines pertaining to settlement include planning and coordination with regard to local governments; local plans, and access; protection of life and property; and protection of resources such as sensitive areas, habitat, scenic features, and other resources. Management Guidelines also provide that design should retain appropriate green belts, public-use corridors, riparian buffers, wildlife migration corridors, and provide an open space system designed to protect or maintain important uses and values. This proposal has considered these guidelines as addressed throughout this document. The subdivision design will take into account site limitations such as slope, drainage, soils and riparian buffers. The proposed project will not interfere with any critical recreation or environmental resources, will be done with coordination with local plans, and DMLW will solicit coordination with local landowners through the public notice and public comment process. See the Coordination and Public Notice subsection for more information.

In planning for land offerings, consideration should be made of the FNSB comprehensive plan and zoning ordinance. The proposed Pyrite Subdivision is within a larger area zoned as RE-4, and the proposed land offering constraints reflect this zoning.

Subdivision design should preserve and enhance the quality of the natural setting and recreational opportunities that are attractive to potential purchasers. As part of

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the proposed subdivision, LSS proposes to reserve in state ownership the pond and a parking area for public access and recreation.

The proposed offering is consistent with area-wide land management policies and general management intent of the ETAP and specific management unit. The unit is designated Settlement and State-owned lands within the unit are appropriate for disposal, including sale, during the planning period.

Mineral Activity and Order(s): No mineral activity has been identified on these lands. The project area is closed to mineral entry under Mineral Closing Orders 383 and 67A03.

Mineral orders which close an area to mineral entry, close the applicable area to new exploration and development of locatable minerals. Such mineral orders do not apply to leasable minerals (such as: oil, gas, coal, etc.), 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 for locatable minerals 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: The project area is within the FNSB and property purchased through this proposed offering will be subject to the applicable zoning, ordinances, and restrictions of the borough. The project area is within the boundary of the FNSB Regional Comprehensive Plan and FNSB Comprehensive Road Plan. Review of these plans did not indicate any conflicts with proposed land disposal.

The project area is within an Groundwater Damage Protection overlay designation established by the FNSB under Chapter 18.92.070 of its code. Overlay designations apply to specific areas within the borough to provide unique regulations on land use development. The restrictions imposed by an overlay designation are in addition to the restrictions from the underlying zoning. The Groundwater Damage Protection designation prohibits construction of structures and basements to reduce damage caused by elevated groundwater. According to FNSB Chapter 18.92.070(B):

Any new construction or any additions to existing basements and structures below natural elevation of the ground surface is prohibited, except as permitted in this subsection. The placement of foundations, footings or crawlspace below the natural elevation of the ground surface is permitted, except that crawlspace shall not be used for mechanical and electrical equipment or storage purposes of any kind below the surface of the natural elevation of the exterior ground surface.

Traditional Use Finding: The project area is located within the FNSB and a traditional use finding is therefore not required per *AS 38.05.830 Land Disposal in the Unorganized*

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Borough. However, information on current or traditional use is welcomed and can be given during the public comment period. See the **Section VIII. Submittal of Public Comments** at the end of this documents and *Attachment C: Public Notice* for details on how to submit comment.

Access To, Within, and Beyond Project Area: Developed roadway access to the project area is by Plack Road and Farmall Drive. The project area is adjacent to the Moose Meadows Road Service Area. Farmall Drive and the portion of Plack Road adjoining the project area are not within the Moose Meadows Road Service Area. DOT maintains Plack Road at a priority level of three, meaning that it may take up to 48 hours to clear the road after a winter storm. ADL 402374 is a public access easement located along the west, south, and east borders of NE¼ SW¼ Section 36. This easement provides legal access from Parham McCormick Road west of the project area; Farmall Drive east of the project area; and Repp Road, approximately ½ mile north of the project area. These easements will be retained for the proposed subdivision and incorporated into subdivision design, unless modified to create alternative access. Subdivision design will take into account topography and access to lands beyond the project area boundaries. The project area is subject to the platting authority of the FNSB. Approval of platting actions and dedication of rights-of-way will require separate processes and public notices through the borough.

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 water body is navigable or public and establish easements or rights-of-way as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or rights-of-way 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 waters 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 (21) *Definitions*.

DNR has not identified any public, navigable, or anadromous water bodies within the project area. The approximately two-acre pond created by material extraction is currently used by the public for recreation. To preserve public access and recreational use, a minimum of 50% of the pond water frontage will be reserved in public ownership. Additionally, any parcels adjacent to the pond will be subject to a minimum of a 50-foot building setback from the OHW of the pond and a public easement along the pond perimeter for pedestrian access and recreation. See the *Easements, Setbacks, and Retained Lands* section for more information.

If subdivision is deemed feasible, DNR DMLW proposes to place a note on the final survey plat describing a building setback upland from the OHW of the pond to protect

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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.

Easements, Setbacks, and Retained Lands: Subdivision design may include a variety of easements, setbacks, and retained lands, which will be identified on the subdivision plat and included in related informational documents. Final width and location of easements and reservations will be determined as part of the local platting process, which will include an additional opportunity for public participation.

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

- a public access easement through or along surveyed parcels;
- a public easement to allow for pedestrian access and recreation along the perimeter of the approximately two-acre pond;
- a 50-foot-wide public access easement ADL 402374 along the west, south, and east borders of NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 36;
- a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with *AS 19.10.010 Dedication of Land for Public Highways* and *11 AAC 51.025 Section-line Easements*; section-line easements may be vacated under *AS 19.30.410 Vacation of Rights-of-Way* and *11 AAC 51.065 Vacation of Easements* as part of the subdivision development;
- an utility easement through or along surveyed parcels;
- public utility easements ADLs 2089, 400839, and 417484 along the south border of SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 36;
- a 5-foot 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 5' direct line-of-sight easement from the control station to an azimuth mark or other control monument;
- a minimum 50-foot building setback from the approximately two-acre pond as appropriate; and
- additional reservations and/or restrictions required through 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: In May 2017, DNR DMLW received a report from a local resident of sewage dumping within the project area. DNR DMLW personnel inspected the area on May 19, 2017, but were unable to identify evidence of the reported dumping. LSS personnel conducted a ground field inspection on June 27, 2017, field staff did not observe any environmental hazards within the project area. Several areas

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of brush cuttings and grass clippings had been dumped around the cleared area of the former material site. An abandoned vehicle shell was observed, but it did not have reservoirs that could hold fluids; no hazardous materials were apparent. There are no known environmental hazards present within the project area, however, the State makes no representations and no warranties, express or 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 future 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. This risk is no greater than when vacant private land undergoes development. Given that this land was specifically designated Settlement for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, DNR is of the opinion that the benefits of offering the land outweigh the potential risks.

Survey, Platting, and Appraisal: After evaluation of public comment and conditions of the land, DNR will determine if it is in the State's best interest to offer the proposed project area. In order to offer the property, a combination of survey, subdivision, and/or platting actions may be required.

This proposed project area is located within the FNSB, and therefore survey and platting will be subject to the relevant subdivision standards. The borough's platting requirements provide for separate public notice periods and processes for platting actions. These additional opportunities for public involvement occur after an approved Final Finding and Decision, if one is issued.

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. Even though the sale of project area parcels in multiple offerings over time will mitigate "flooding" the market, the two year appraisal requirement must still be followed.

Project research and development includes consideration of economic factors utilizing market data and project development costs compiled by DNR staff, which determines the economic feasibility of a project. Since it commonly takes several years for the project development process, AS 38.05.840 ensures the current market conditions are addressed in order to obtain a realistic minimum bid for the sale of State land.

VII. DMLW and Agency Review

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. Agency review was conducted from July 27, 2017 through August 16, 2017.

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Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision, if one is issued.

DNR DMLW LSS received brief comments of non-objection from the following agencies: Alaska Railroad; Mental Health Trust Land Office; DNR Division of Forestry; DNR Division of Oil and Gas; DNR Division of Parks and Outdoor Recreation.

DNR DMLW LSS Response: LSS appreciates your review of the proposal.

Department of Fish and Game (ADF&G) Comment: ADF&G reviewed the subdivision proposal and staff visited the area to evaluate the pond for potential fish stocking. The pond appears to be fairly deep and provides fish and wildlife habitat. The pond area has multiple access points and parking. ADF&G needs guaranteed public access reserved to and along the lake shore in order to plan for fish stocking. To achieve this, ADF&G recommends a 50-foot wide public access easement around the entire pond, with 20 feet closest to the water providing pedestrian access only, and the remaining 30 feet remaining as a vegetative buffer to support waterfowl and introduced fish habitat. Additionally, ADF&G recommends ensuring legal access from Plack Road and Farmall Drive, and providing vehicle day-use parking on the south end of the pond with an area approximately 475 feet west of Farmall Drive and 150 feet south of the pond.

DNR DMLW LSS Response: Thanks for your review of the proposal and considering ways to provide public recreational use of the pond area. LSS agrees that the pond area is currently used by the public and agrees with the concept of preserving public access and recreational use. LSS will seek public input on the concept and will coordinate with ADF&G during the subdivision design process.

DNR Division of Geological and Geophysical Surveys (DGGS): DGGS noted that the project area is underlain by river sediments of sand and gravel covered by silt up to 15 feet thick and is within the zone of discontinuous permafrost. If there is permafrost within the silt, it may have significant ice content and may subside if thawed. This ice content and subsidence risk may be more significant within the former slough deposits within the northern half of the project area. Additionally, potential exists for significant frost jacking from seasonally-frozen ground within these silts. The project area is within the Fairbanks seismic zone, which has been active within the last 150 years and has had earthquakes of magnitudes between 5 and 6. The nearby Salcha seismic zone has had the largest recorded seismic event within Interior Alaska (magnitude 7.3), which resulted in extensive ground failure near its epicenter. The risk posed by building within an active seismic zone should be accommodated by following appropriate construction best practices.

DNR DMLW LSS Response: LSS appreciates DGGS's review of the proposal. This information has been incorporated into this document will be made available to potential land purchasers through offering materials.

DNR Division of Parks and Outdoor Recreation, Office of History and Archaeology (OHA) Comment: OHA reviewed the Alaska Heritage Resources Survey database and found no reported cultural resource sites within the proposed subdivision area. However, only a small

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portion of Alaska has been surveyed for cultural resources, therefore OHA should be notified of any inadvertent discoveries of cultural resources occurring during the duration of the project.

DNR DMLW LSS Response: LSS appreciates OHA's review of the proposal. LSS will notify OHA if we become aware of any cultural resources within the project area. Offering materials will inform potential purchasers to notify OHA if any cultural resources are identified.

The following agencies or groups were included in the agency review but no comment was received:

- Department of Natural Resources;
 - Division of Agriculture;
 - Office of Project Management and Permitting; and
 - State Pipeline Coordinator's Office;
- Department of Commerce, Community and Economic Development;
- Department of Environmental Conservation;
- Department of Transportation and Public Facilities;
- Fairbanks Soil and Water Conservation District; and
- University of Alaska Land Management.

VIII. Submittal of Public Comments

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

Pursuant to *AS 38.05.945 Notice*, DNR is issuing public notice inviting comment on this Preliminary Decision.

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.

LSS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals 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 LSS responses will be issued as a subsequent Final Finding and Decision without further notice.

Only persons from whom DNR DMLW LSS 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://landsales.alaska.gov/> and sent with an explanation of the appeal process to any party who provides timely written comment.

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DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact the Department’s Public Information Center. For more information refer to *Attachment C: Public Notice*.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS
5:00 PM, TUESDAY, NOVEMBER 7TH, 2017**

X. Alternatives and Discussion

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of up to 15 parcels no smaller than 160,000 square feet (approximately 3.67 acres), and offer those parcels for sale. The development and offering of these parcels may be completed in multiple stages.

Alternative 2: (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, “it is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.” Furthermore, *AS 38.05.045 Generally* has placed this charge with DNR, and the legislature has provided funding to administer the land sale program.

Alternative 1 provides a method for DNR to help meet the obligations laid out in the Constitution and statute, and maximizes public interest. This offering provides an opportunity for the public to obtain land for settlement in a desirable area. This proposal, if approved in a subsequent Final Finding and Decision, will allow DNR DMLW to create and design a subdivision which will provide for the best use and development of the land and financial return to the State.

Alternative 1 provides the greatest opportunity for more Alaskans to purchase land within this area. Due to the location relative to the communities of North Pole and Fairbanks, the proximity to existing residential private property, and the anticipated housing shortage in the vicinity of Eielson Air Force Base, the project area is better suited to subdivision and sale than retaining in state ownership. Alternative 1 is preferred.

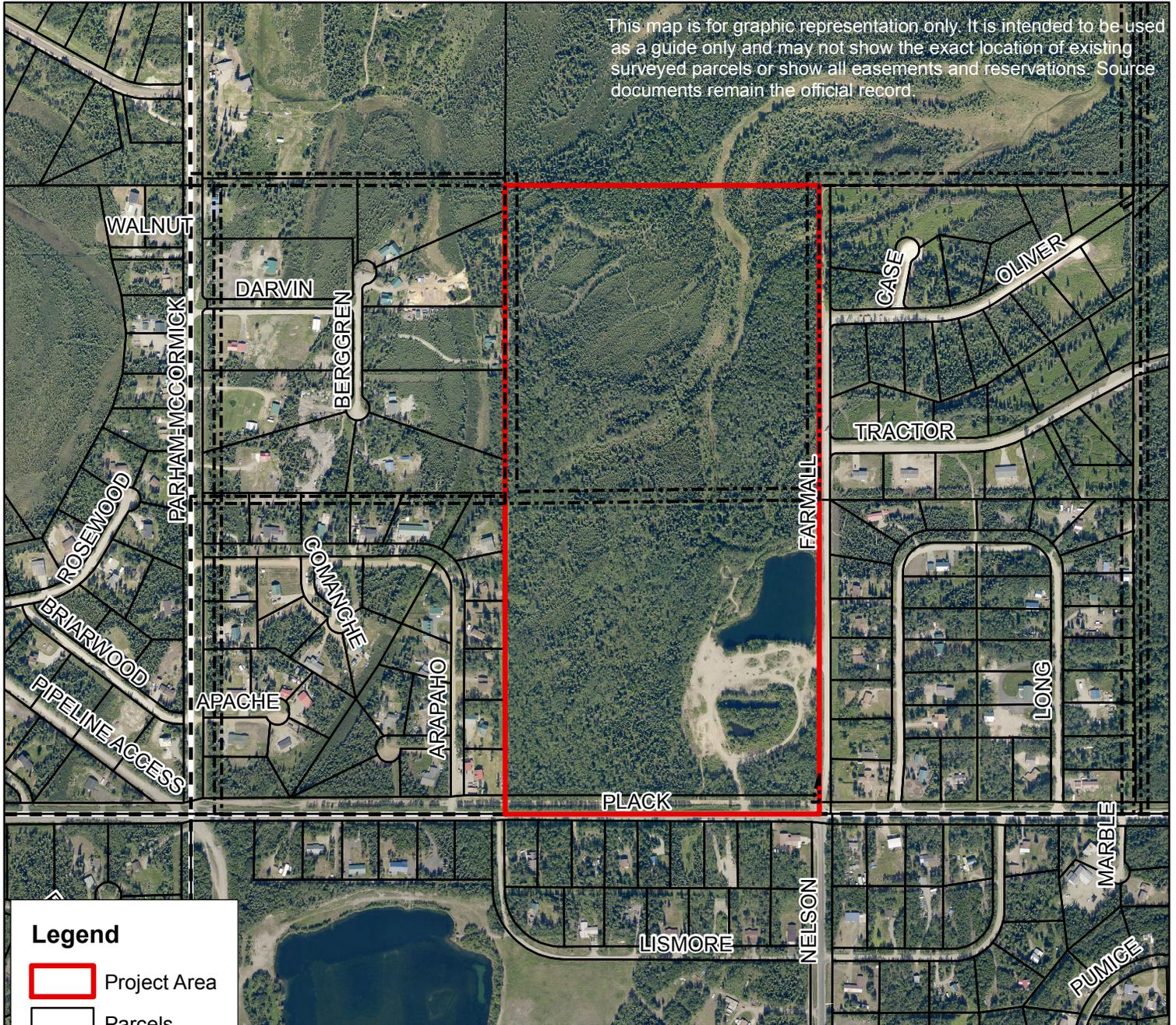
Alternative 2 is not preferred. The Legislature and the public have indicated a desire for DNR DMLW to offer State-owned land for private ownership. Retention of this land would inhibit DNR DMLW from meeting its Constitutional, statutory, and legislative obligations. Not offering the project area would deny many Alaskans the opportunity to obtain land in an area that is suited to settlement and consistent with the surrounding development, and would not help address the projected housing shortage to occur within the communities of Fairbanks and North Pole.

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



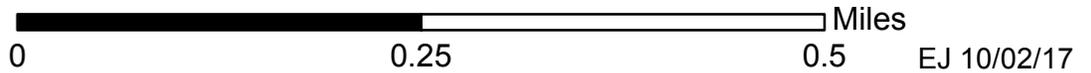
Attachment A: Vicinity Map Pyrite Subdivision ADL 420836

This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



Legend

-  Project Area
-  Parcels
-  Easement
-  Sections

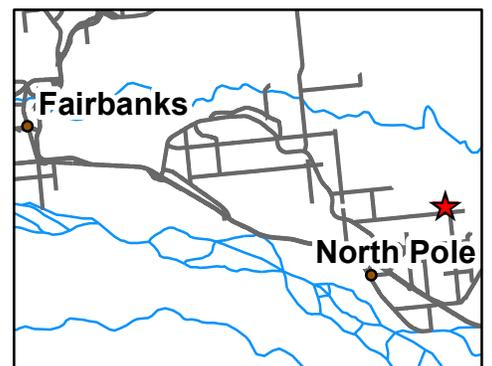


Section 36, Township 1 South, Range 2 East,
Fairbanks Meridian

EJ 10/02/17

USGS QUAD 1:63,360

Fairbanks D-1
For more information contact:
Elle Jones
Department of Natural Resources
Division of Mining, Land and Water
Land Sales Section
Phone 907.451.3011
Fax 907.451.2751
Email: land.development@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 in the Fairbanks North Star Borough
Pyrite Subdivision – ADL 420836**

Offering Information	
Proposed Number of Parcels	Up to 15 parcels.
Proposed Parcel Size	Varying in size, no smaller than 160,000 square feet (approximately 3.67 acres).
Proposed Related Actions	None proposed.
Project Area	
Location	North Pole vicinity. Main access is from Plack Road, approximately three miles east of Badger Loop Road.
Project Area Acreage	Approximately 80 acres.
USGS Topography Map	USGS Quad Fairbanks D-1 SW
Legal Description	NE¼ SW¼ and SE¼ SW¼ Section 36, within Township 1 South, Range 2 East, Fairbanks Meridian
Title	Patented state-owned land, patent #1227153, dated 6/4/1962
Area Plan and Classification	Eastern Tanana Area Plan (ETAP), adopted August 28, 2015, Management Unit F-58 and Determination NC-10-004-D02, signed August 15, 2017. Classified settlement land.
Mineral Orders	Mineral estate closed to mineral entry by MCO 383 and MCO 67A03.
Physical Characteristics	
Access	Primary developed access via Plack Road. Accessible by informal road connections to Farmall Drive. Public access easements exist on the east and west boundaries of NE¼ SW¼ Section 36, and the south boundary of SE¼ SW¼ Section 36. See Attachment A: Vicinity Map.
Terrain and Major Features	Very flat terrain. Material extraction created one approximately two-acre pond and two trenches that expose the groundwater table.
View	Some areas have a view of the pond created by former material site extraction within SE¼ SW¼ Section 36.

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Fairbanks North Star Borough

Pyrite Subdivision – ADL 420836

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Climate	Fairbanks and North Pole area has a subarctic climate with long, cold winters and short, warm summers. Winters last from approximately October until April. The average winter low temperature is -17°F in January, with a record low of -66°F. The average summer high temperature is 73°F in July, with a record high of 96°F. The average annual precipitation (rainfall equivalent) is approximately 11 inches; the average annual snowfall is 65 inches.
Soils	Soils in the majority of the subdivision area are well drained silt or sandy loams underlain by gravelly sands. The northern portion of the project area includes a significant fraction of very poorly drained fine sands and fine sandy loams. Soils near the former material site are poorly drained silt loams underlain by soil horizons mixed by frost action. The subdivision area has the potential for discontinuous permafrost, and the northern portion of the project area in particular has the potential for ice-rich permafrost (i.e. thaw unstable soil). 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.
Wetlands	Wetland areas are within NE¼ SW¼ and immediately north of the main pond within SE¼ SW¼ of Section 36. Dredging or filling of wetlands may require a permit from the US Army Corps of Engineers.
Vegetation	Generally mixed spruce and deciduous trees of moderate density and heights up to approximately 40 feet. Understory vegetation is wild rose, fireweed, horsetail, Labrador tea, with occasional wild iris. Disturbed soils are being invaded by sweet clover.
Water Source	Potable water could be obtained by private well or delivered water. Two private wells west of the proposed subdivision have recorded drill logs. Both wells were 50 feet deep and had a static water level at six feet deep after completion. Water quality is unknown.
Anadromous Waters	None within the proposed subdivision area.
Local Management Information	
Fire Management Option	Full. No records of any fires within the proposed subdivision area. The project area is within the North Star Fire Service Area.
Game Management Unit	20B
Local Authority	The Fairbanks North Star Borough exercises authority for planning, platting, taxes, and zoning for the project area.
Flood Zone	The Federal Emergency Management Agency Flood Insurance Rate Map is number 025009, panel 4470J. The proposed subdivision is in the "other" flood zone, which is described as protected from the one-percent-annual chance or greater flood hazard by a levee system, but that overtopping or failure of any levee system is possible.
Utilities	This area is currently served by the Golden Valley Electric Association.
Waste Disposal	All on-site waste water disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Fairbanks North Star Borough

Pyrite Subdivision – ADL 420836

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Setbacks, Reserved Areas, Easements, and Conditions	
Improvements	Prior to construction of any structure, driveway, or waste disposal system, purchasers should contact the platting authority for any permits or for required setbacks from water bodies, lot lines, zoning restrictions, and easements.
Building Setbacks	A minimum 50-foot building setback from the approximately two-acre pond as appropriate.
Easements	<p>Parcels may be subject to the following:</p> <ul style="list-style-type: none">• a public access easement through or along surveyed parcels;• a public easement to allow for pedestrian access and recreation along the perimeter of the approximately two-acre pond;• a 50-foot-wide public access easement ADL 402374 along the west, south, and east borders of NE$\frac{1}{4}$ SW$\frac{1}{4}$ Section 36;• a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with <i>AS 19.10.010 Dedication of Land for Public Highways</i> and <i>11 AAC 51.025 Section-line Easements</i>; section-line easements may be vacated under <i>AS 19.30.410 Vacation of Rights-of-Way</i> and <i>11 AAC 51.065 Vacation of Easements</i> as part of the subdivision development;• an utility easement through or along surveyed parcels;• public utility easements ADLs 2089, 400839, and 417484 along the south border of SE$\frac{1}{4}$ SW$\frac{1}{4}$ Section 36;• a 5-foot 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 5' direct line-of-sight easement from the control station to an azimuth mark or other control monument; and• additional reservations and/or restrictions required through the local platting authority.
Retained Lands	Some portion of the land immediately adjacent to the approximately two-acre pond may be retained in public ownership.
Public or Navigable Water Bodies	None identified.
Additional Information	
Native Regional Corporations	Doyon Limited, Inc.
Villages and Tribal Councils	None within 25 miles.
Oil and Gas Activity	None known.
Mining Activity	None known.

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Fairbanks North Star Borough

Pyrite Subdivision – ADL 420836

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Comments	<p>This project is on school trust land and subject to Department Order (DO) 143. However, the school trust litigation for which DO 143 was written has been resolved and is no longer a factor. DO 143 is in the process of being rescinded and replaced. The actual sale of parcels from the project will occur after the DO 143 rescinding process is complete. Therefore, the current version of DO 143 does not apply and its directive will not be followed. If there is a delay in rescinding DO 143, parcels from the project will be withheld from sale until DO143 is fully rescinded.</p> <p>The eastern portion of SE¼ SW¼ Section 36 was formerly used as a material site (MS 620-006-2). This resource extraction created the approximately two-acre pond and trenches within this portion of the proposed subdivision. The material site is no longer active, and consultation with DOT indicated no objection to the proposed offering.</p>
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ATTACHMENT C: PUBLIC NOTICE

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

PUBLIC NOTICE

Requesting Input for a Proposed Land Offering:
Pyrite Subdivision – ADL 420836
a Preliminary Decision

COMMENT PERIOD ENDS 5:00PM, TUESDAY, NOVEMBER 7TH, 2017

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 multiple offerings over time.

Location: Within DNR's Northern Region, approximately three miles northeast of North Pole accessible from Plack Road and Farmall Drive.

Project size: approximately 80 acres.

Proposed Offering: up to 15 parcels no smaller than 160,000 square feet (approx. 3.67 ac.).

To obtain the notice, Preliminary Decision, or instructions on submitting comment, go to <http://landsales.alaska.gov/> 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 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 Office 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, FRIDAY, OCTOBER 27TH, 2017.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decision. **The deadline for public comment is 5:00PM, TUESDAY, NOVEMBER 7TH, 2017.** Only persons from whom DNR DMLW LSS 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 by fax, email or postal mail. To submit comments or for direct inquiries, contact Elle Jones, 3700 Airport Way, Fairbanks, Alaska 99709, fax # 907.451.2751, land.development@alaska.gov. If you have questions, call Elle Jones at 907.451.3011.

DNR DMLW will be holding a Public Open House to discuss the proposal and share information about the project area. The public Open House will be held at 6:00 PM, October 17th, at the North Pole Public Library.

Attachment C: Public Notice

to the Preliminary Decision

for a Proposed Land Offering in the Fairbanks North Star Borough

Pyrite Subdivision – ADL 420836

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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 commented timely on the preliminary decision.

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