

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

FINAL FINDING AND DECISION

of a
**Proposed Land Offering in the Kenai Peninsula Borough
Rolling Hills Hideaway Subdivision – ADL 232333**
AS 38.05.035(e), AS 38.05.045

and its
RELATED ACTION:
Mineral Order (Closing) MO 1190
AS 38.05.185 and AS 38.05.300

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated September 11, 2017. The PD (attached) and related action have had the required public review.

I. Recommended Actions

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales Section (LSS) recommends offering for sale State-owned land for private ownership within the Rolling Hills Hideaway project area (ADL 232333), as described in the PD. Surveyed parcels will be offered for future sale by a method under *AS 38.05.045 Generally*.

For the purposes of providing land for settlement in the Rolling Hills Hideaway project area, DNR may develop a subdivision of no more than 25 parcels varying in size from nominal 2 acres to approximately 11 acres. This project area is located within the Kenai Peninsula Borough and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards. The project may be subdivided and offered in multiple stages.

There is one related action with this proposal:

Mineral Order: DNR DMLW proposes to close the project area to new mineral entry through Mineral Order (MO) 1190.

Public notice for these related actions 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* 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

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Constitution of the State of Alaska provides: “It is the policy of the State to encourage the settlement of its land and 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*.

For related action, AS 38.05.300 *Classification of Land*, and AS 38.05.185 *Generally* allow for mineral orders.

III. Public Participation and Input

All State requirements for public notice and public comment input have been met as covered in detail in Section V. **Summary of Public Notice and Comments**. Further information may lead to alterations of design of this project within the parameters set forth through this decision. Should this project move forward with State approval, final subdivision design and survey will be completed by an Alaska licensed surveyor. The surveyor will submit a platting application including a preliminary plat to the local platting authority prior to survey. This process will be subject to Kenai Peninsula Borough ordinances and codes. During the process, the public will have opportunity at the local level to provide additional comment and feedback prior to final establishment of lot corners and monuments.

Subdivision design will be submitted to the Kenai Peninsula Borough for review in accordance with Title 20 *Subdivisions* of their ordinance.

Section 20.25.090. *Notice*. This section provides for notice of public hearing and notification to affected property owners at least 14 days prior to the public hearing.

Section 20.25.100. *Approval—Commission authority—Notification required*. Within 60 days from date of acceptance by planning director, the commission shall determine if plat complies with provisions and will approve or disapprove and shall notify the subdivider of its action.

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 <https://aws.state.ak.us/OnlinePublicNotices/> and was posted on the DNR DMLW LSS website at http://dnr.alaska.gov/mlw/landsale/public_notice/ for the entire public notice period.

Notification and decision copies were sent directly to area state legislators and to multiple state agencies. Public notice was sent to other interested entities including landowners in the vicinity of the offering; additionally, parties were notified via the DNR Land Sales subscribers lists by email. Information was also posted to Twitter and Facebook. Notices were mailed to the Kenai

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Peninsula Borough per *AS 38.05.945(c)(1)*, as well as Cook Inlet Region Corporation (CIRI) regional corporation per *AS 38.05.945(c)(2)-(3)*. Additionally, notices and a request to post were sent to postmasters and librarians in the vicinity of the offering.

The public notice stated that written comments were to be received by 5:00PM, October 16, 2017 in order to ensure consideration and eligibility for reconsideration. For more information, refer to the Preliminary Decision.

DNR DMLW LSS received comments from four State of Alaska agencies and one private individual. All comments received during the public comment period are summarized below.

Department of Fish and Game (DFG) Comment: They referred to previously submitted [agency review] comments. DFG then suggested that when addressing placement of structures near wetlands in the offering materials, DNR include language discussing the benefits of building setbacks from wetlands, both from the conservation of fish and wildlife habitat and as water drainage/retention areas to preclude water-related adverse effects to structures.

DNR DMLW LSS Response: The review and comments submitted are appreciated and LSS intends to include the suggested discussion in offering materials.

Three agencies, the Alaska Railroad Corporation (ARRC), DNR Division of Parks and Outdoor Recreation (DPOR), and the Alaska Mental Health Trust Land Office (MHTLO) all submitted comments of non-objection.

DNR DMLW LSS Response: LSS appreciates the reviews and comments submitted.

Individual Comment: I have examined the proposal and I know the site well. I wish to object strongly to the development and offerings of these parcel sized lots. The proposed site for development is particularly ill-considered: there is approximately 35 acres of wetlands and is known as a moose habitat to the land owners in the area. The construction of borough maintained roads across wetlands would be detrimental to the existing land owners and wildlife in the area. The commenter enclosed a KPB Parcel Viewer map printed Sep 26, 2017 showing the project area and surroundings, including most of Lake Country Estates subdivision abutting the south side of the project area with his two adjoining lots marked.

DNR DMLW LSS Response: The project area is within Kenai Area Plan (KAP), adopted January 2000, Region 7, Unit 241. Lands within this unit are currently designated Settlement, and classified Settlement under Land Classification Order No. SC-99-002 and it is appropriate to develop this parcel as proposed. DNR plans to limit as much as possible any platted or constructed roadways across wetlands in this project.

Proposed internal ROWs will be platted taking advantage of existing old timber harvest skid roads where feasible. Due to KPB platting requirements, the isolated pockets and fringe areas of wetlands within the proposed project area are not located in a manner affording practical retention and continued management by the state.

Access to the proposed subdivision will be from the Old Sterling Highway near the southwest corner of the project area and will comply with DOT/PF requirements. DNR will

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provide for the approach off the Old Sterling Highway and will include appropriate design for crossing the drainage adjacent to the highway.

All parcels will have sufficient uplands for development without impacting wetlands. These uplands will be adjacent to the platted rights-of-ways (ROWs). If needed, new landowners must meet Corps of Engineers and Department of Environmental Conservation (DEC) requirements regarding use of any wetlands on their parcel.

DFG provided comment during Agency Review, and did not identify the project area as high value moose habitat, or make any recommendations regarding moose habitat. Additionally, land immediately north of the proposed project area (designated general use) and a large block of land to the west and south of the project area (designated resource management) remain in state ownership and serve as habitat.

DFG did request that additional information be included in offering materials on the importance of protecting wetlands through parcel development design. LSS will comply with this suggestion.

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.

Correction to Preliminary Decision data: Additional information obtained from direct contact with Enstar Gas Co. verified that natural gas service is available along the Old Sterling Highway southward from Anchor Point to Homer.

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 and this action is undertaken under relevant authorities.

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

/s/

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

NOV 7, 2018

Date

/s/

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

15 JAN 2018

Date

/s/

Approved by: Andrew T. Mack
Commissioner
Department of Natural Resources
State of Alaska

April 3, 2018

Date

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*. 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 Commissioner, Department of Natural Resources, 550 W. 7th Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 907.269.8918; or sent by electronic mail to dnr.appeals@alaska.gov.

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