

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

PRELIMINARY DECISION

**Proposed Land Offering in the Unorganized Borough
Snake Lake Remote Recreational Cabin Sites Project Area - ADL 231555**
AS 38.05.045, and AS 38.05.600

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

COMMENT PERIOD ENDS 5PM JANUARY 30, 2014

I. Proposed Actions

Primary Proposed Action(s): The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water is to offer for disposal State-owned land for sale within the defined project area. This document and the following attachments describe the details of the project area and this proposal, with supporting documentation retained in the case file.

Attachment A: Vicinity Map

Attachment B: Area Data Summary Table

Attachment C: Public Notice

Located within the Department's Southcentral Region approximately 20 miles northwest of Dillingham and 8 miles west of Aleknagik, the project area is within the Unorganized Borough. The project area encompasses approximately 40 square miles (~25,395 acres) in an area generally surrounding the northern tip of Snake (Nunavaugaluk) Lake, within portions of Township 10 South, Ranges 57 and 58 West, Seward Meridian.

Pursuant to the management intent contained within the Bristol Bay Area Plan (BBAP) , adopted April 2005, amended September 2013, and the related Land Classification Order No. SC-04-002, which classifies the area as Settlement, the Division proposes to offer up to 50 authorizations to stake parcels generally ranging from 5 to 20 acres as described in **Section II. Method of Sale** of this document. While the area plan indicates that the entire project area is appropriate for disposal during the life of the plan, at this time, the Division would dispose of no more than 1,000 acres under this proposal, if approved. In fact, the Division may reduce the actual staking area prior to offering to make adjustments as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with staking instructions. The adjusted project area will be described in the brochure or staking packet.

Although the total disposal authorized under this proposal will not exceed the stated maximums, the offerings and development may be conducted over time. Further, additional offerings that

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could increase the density of privately-owned parcels within or near the project area may be authorized through separate future proposals, authorized and conducted as required under statute and regulation. As such, the Division makes no guarantees that the project area will remain remote or that settlement will be dispersed indefinitely and purchasing a parcel created through this offering does not provide any rights to the buyers to deny future disposals and developments.

Proposed Related Action(s): There is one related action with this proposal.

Mineral Order (Closing): No mineral activity has been identified within the project area. Mineral Closing Order (MCO) No. 304 closed a total of ~900 acres in Section 10 and the E1/2 Section 9, Township 10 South, Range 58 West, Seward Meridian to mineral exploration.

To minimize potential conflicts between land estate and mineral estate users, the Division proposes a mineral order to close the project area to new mineral entry. Closing the entire area to mineral entry is consistent with the management intent of the BBAP. As such, this Related Action would close the remainder (approximately 12,435 acres) of the project area to new mineral entry in accordance with *AS 38.05.185 Generally [Mining Rights]* and *AS 38.05.300 Classification of Land*.

Related Actions, if any, are developed separately from the proposed primary action of this Preliminary Decision. However, approval and succession of the primary proposed action detailed in this Preliminary Decision are contingent on the completion of Related Actions, as described throughout this document. Refer to the Mineral Order 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 actions and the comment periods for all actions will be conducted concurrently. 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 public input the proposed actions are approved, the Department will issue a Final Finding and Decision, which will be sent to those parties that submitted timely, written comments.

II. Method of Sale

AS 38.05.600 Remote Recreational Cabin Sites authorizes the Department to conduct leasing and sale of land for Remote Recreational Cabin Sites. *11 AAC 67.800 - 11 AAC 67.845 Remote Recreational Cabin Sites* and other related regulations describe how the Division offers authorizations to select and stake Remote Recreational Cabin Sites in designated areas during the specified offering period. The Division offered this program annually between 2001 through 2010 and then offered biennially beginning in 2012.

After approval of a Remote Recreational Cabin Sites disposal through a Best Interest Finding process such as this, the Division plans a future announcement of an offering of staking authorizations and the availability of land sales brochures pursuant to *AS 38.05.945 Notice*. The brochures generally describe simultaneous offerings of multiple areas; the relevant

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application period; and the related procedures, conditions, and eligibility requirements. Participants submit applications and the Division conducts a drawing, a method of sale that offers all eligible parties an equal chance at acquiring a staking authorization for an area. Authorizations to stake a parcel of State-owned land within a designated project area during a specified period are awarded to applicants drawn first. Authorized stakers are then issued a staking packet that includes instructions for properly staking a parcel and other information pertaining to the program and specific staking area. Authorized stakers then enter onto the land, stake a parcel of their choice in compliance with the staking instructions, and file a lease application. If approved, a short-term lease is issued and the lessee makes quarterly, prorated payments to cover associated development costs and an annual lease fee of \$100. While under lease, the parcel is then surveyed, platted, and appraised, typically over a three- to four-year period. Upon successful completion of the lease terms and upon completion of the survey, platting, and appraisal, the lessee is given the option to convert from lease to sale at a purchase price based on the appraised value, plus associated fees, with credits given for the survey and platting deposits collected while the parcel is under lease. The lessee's other option is to renew the lease for a second term at a cost of \$1,000 per year, which does not contribute to paying down the purchase price. A lessee in good standing can opt to purchase the parcel at any time during this optional renewal term, but if the lessee does not purchase the parcel by the time the renewed lease term expires, their interest is subject to termination.

After the staking period closes and lease applications have been received from authorized stakers, the Division may identify and survey additional Administrative Parcels in a project area. Additionally, the Division may opt to complete the survey on staked parcels relinquished, terminated, or expired before converting to sale. Such Administrative Parcels would generally be surveyed for future offering under *AS 38.05.045 Generally [Sale of Land]*. Although Administrative Parcels are not restricted to the size requirements stated for staked parcels, the total number of acres and authorizations will not exceed the maximum number specified for disposal under this proposal.

Offering administrative parcels under *AS 38.05.045 Generally [Sale of Land]* allows the Division to offer its surveyed parcels under a uniform set of statutes, administrative regulations, and policies, usually in a statewide offering of varied parcels to increase administrative efficiencies and improve the effectiveness of marketing efforts. Successful buyers may purchase the properties by highest sealed bid or by application at prices based on their appraised value. Appraised values account for the benefits of the surveying and platting. Without the inclusion of this additional method of sale in this proposal, sales of parcels initially developed under *AS 38.05.600 Remote Recreational Cabin Sites* and *11 AAC 67.815 (b) Offering Remote Recreational Cabin Sites* would require purchasers to reimburse the Division for the cost of surveying, platting, and appraising the site within 30 days of being notified of a successful purchase, in addition to the usual minimum down payment. That is to say, that the State would not finance the reimbursable survey, platting, and appraisal costs. To maintain this requirement without allowing for the differing method of sale of subdivided parcels under *AS 38.05.045* would create an unrealistic burden upon purchasers and hinder the marketability of the property.

III. Authority

The State of Alaska, Department of Natural Resources has the authority under *AS 38.05.045 Generally [Sale of Land]* and *AS 38.05.600 Remote Recreational Cabin Sites* to sell State-

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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*.

In order to facilitate these sales, of State-owned land, the Division is also authorized to close land to mineral location under *AS 38.05.185 Generally (Mining Rights)* and *AS 38.05.300 Classification of Land*.

IV. Administrative Record

The project file for the Snake Lake project area, ADL 231555, constitutes the administrative record for this action. Also incorporated by reference are:

- Bristol Bay Area Plan for State Lands (BBAP) adopted April 2005, amended September 2013, and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan*, amended October 1998;
- *2013 Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*; and
- *1979 Exploratory Soil Survey of Alaska*.

V. Scope of the Decision

The scope of this proposal, under the statutes and regulations described in **Section III**. **Authority** of this document, is limited to the Division's proposal to offer State-owned land within the project area for sale through a future, public Remote Recreational Cabin Sites offering or other method of sale. The Division proposes to open the area for the described number of authorizations to stake parcels under *AS 38.05.600 Remote Recreational Cabin Sites* and *11 AAC 67.800 - 11 AAC 67.845 Remote Recreational Cabin Sites*. The Division may also identify and survey additional parcels in a project area to be sold under *AS 38.05.045 Generally [Sale of Land]*. The Division does not intend to impose deed restrictions to control post-patent land use.

There may be Related Actions with this proposal as described in **Section I. Proposed Actions** of this document. Related Actions, if any, are developed separately from the proposed primary action of this Preliminary Decision. However, approval and succession of the primary proposed action detailed in this Preliminary Decision are contingent on the completion of Related Actions, as described throughout this document.

VI. Description

Location: Located within the Department's Southcentral Region approximately 20 miles northwest of Dillingham and 8 miles west of Aleknagik, the project area is within the Unorganized Borough. The project area encompasses approximately 40 square miles (~25,395 acres) in an area generally surrounding the northern tip of Nunavaugluk (Snake) Lake, within portions of Township 10 South, Ranges 57 and 58 West, Seward Meridian. The Togiak National Wildlife Refuge and Wilderness reserved by Public Land Order (PLO) 5179, dated March 16, 1972 and designated by Public Law 96-487, December 2, 1980 is located 1 mile west of the project area. See Attachment A: Vicinity Map for a graphic depiction of the approximate location of the project area. See Attachment B: Area Data Summary Table for additional information.

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Borough/Municipality: The project area is within the Unorganized Borough and is subject to the State of Alaska platting authority.

Native Regional and Village Corporations: Bristol Bay Native Corporation (BBNC) is the regional corporation for the project area. Dillingham and Aleknagik are both located within 25 miles of the project area. As such, notification will be distributed to Choggiung, Limited; Curyung Tribal Council; Bristol Bay Native Association, Incorporated; Aleknagik Natives, Limited; and Native Village of Aleknagik, all of whom potentially pursue traditional uses within the project area. The lands adjacent to the project area to the east are managed by Aleknagik Natives, Inc. per Interim Conveyance 286, dated February 15, 1980.

Legal Description: The project area, depicted in Attachment A: Vicinity Map, encompasses approximately 25,395 gross acres within the Bristol Bay Recording District, Third Judicial District, State of Alaska, described as:

- Township 10 South, Range 57 West, Seward Meridian,
 - Section 5-10, all;
 - Section 14-18, all;
 - Section 20-24, all;
 - Section 26-28, all;
 - Section 34, all; and
- Township 10 South, Range 58 West, Seward Meridian,
 - Sections 1-5: all;
 - Section 8: all;
 - Section 9: all excluding USS 9235 and ASLS 85-85;
 - Sections 10-11: all, excluding ASLS 85-85;
 - Section 12: all;
 - Sections 13-14: all north of Snake Lake;
 - Sections 16-17: all excluding USS 9235;
 - Section 20, all;
 - Sections 21-23: all south of Snake Lake;
 - Section 26: all excluding ASLS 85-85;
 - Sections 27-29, all;
 - Sections 33-34, all; and
 - Section 35: all, excluding ASLS 85-85.

Title: Information from Title Reports 4824 and 4826, current as of September 27, 2013, indicates the State of Alaska holds tentative approval to the land and mineral estate within the portion of the project area. These lands were acquired under Statehood entitlement, General Purpose Grant, under the Act of July 7, 1958, 72 Stat. 339 as amended. The State received tentative approval per TA 1982-0314 dated September 27, 1982 and TA 1979-0008 dated September 14, 1979, both recorded in the Bristol Bay recording district as documents

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2009-000444-0 and 2008-000406-0, respectively. When patented to the State, the patent will contain a reservation for canals and ditches under the act of August 30, 1890 (26 Stat. 391), and a reservation to the United States of a right-of-way for the construction of railroad, telegraph, and telephone lines under the act of March 12, 1914 (38 Stat. 305).

Title for parcels on tentatively approved lands will be conditioned upon the State of Alaska receiving patent from the Federal government. In accordance with *11 AAC 67.015 Land Available*, in addition to selling, leasing, or granting patented land, DNR may conditionally sell, lease, or grant land that has been tentatively approved by the Federal government for patent to the State, but that is not yet patented.

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 the State]*, 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 staked. However, *AS 38.05.130 Damages and Posting of Bond* also provides that the owner of the land estate will be compensated for damages resulting from mineral exploration and development.

Navigable Waters: Per *AS 38.05.126 (b) Navigable and Public Waters*, “the State has full power and control of all of the navigable or public water of the State, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the State.” This trust is in accordance with the principles of the Public Trust Doctrine, which are included in *Article VIII, Section 14 of the Alaska Constitution* and also 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, refer to the [Access To, Within, and Beyond Project Area](#) subsection of this document.

According to the title report, the Bureau of Land Management determined in 1979 that Snake Lake is navigable for title purposes. Nearby Lake Aleknagik and Snake River (outside the project area) as well as the unnamed lake in Section 8, Township 10 South, Range 58 West, Seward Meridian do not appear to have such a determination. However, these water bodies still appear to meet the definition of a public water body and thus may be used for public access points or public use of the related resources. In addition, any anadromous streams identified within the project area are considered public, for more information on these streams see the information in the [Access To, Within, and Beyond Project Area](#) section.

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Where they are known, private parcels and third-party interests on State-owned land will be depicted on staking maps in land sales brochures and enclosed in staking packets distributed to authorized stakers.

Physical Characteristics and Hazards: The following paragraphs describe the area's physical characteristics and hazards. In addition to file research and agency review, a field inspection was conducted by air on June 7, 2010. See Attachment B: Area Data Summary Table for additional information.

Geologic Hazards: There is potential for seasonal flooding and erosion of parcels adjacent to streams. Per the Alaska Division of Geological and Geophysical Surveys, the project area is in a zone of sporadic permafrost, meaning that permafrost underlies 10-50% of the landscape. Although volcanic ash is noted in the local soil composition, there have been no recent volcano warnings from the Alaska Volcano Observatory Website.

Fire Hazards: The Alaska Interagency Coordination Center Fire information Map does not show any fire history within the vicinity of the project area.

Potential for wildland fire is high in some areas of Alaska. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. The Department provides all entrants with information regarding wildland fire prevention and encourages them to locate parcels in defensible areas such as hardwood stands with access to water, such as those areas along the creeks and ponds and isolated patches remaining after prior wildland fire activity.

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 is northwest corner of the project area is "Limited" and "Limited" for the remainder of the project area. "Limited" protection is the lowest level of wildfire suppression. Full protection is provided on fires that threaten high-value natural resource, cultural, or historical sites or uninhabited private property, and is second in priority only to critically designated areas. A more detailed description of the "Full" and "Limited" management options can be found at <http://forestry.alaska.gov/fire/fireplans.htm> It is important to note, however, that the DNR Division of Forestry warns that there is no guarantee property will be spared from harm from a wildland fire, even if the area is designated "Full" fire management option.

Flood Hazard: There is potential for seasonal flooding and erosion of parcels adjacent to water bodies, especially in low-lying areas. Interested parties are encouraged to research this issue and inspect the project area prior to applying. We will continue to investigate and consider reserving areas prone to excessive flooding from staking.

Background: In the current Bristol Bay Area Plan (BBAP), the project area is designated Settlement as Management Unit R05-04: Snake Lake. This Unit is considered appropriate for disposal during the planning period.

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The proposed Snake Lake project area has not been previously offered for staking. In accordance with the 1984 BBAP, Snake Lake Subdivision was surveyed in 1985, creating 65 parcels as ASLS 85-85. These parcels were subsequently included in various State offerings starting in 1986. Thirteen parcels were transferred to the University of Alaska via a settlement agreement. At the time of this Preliminary Decision, 11 parcels were still owned by the State and may be offered in future land sale auctions. A native allotment (USS 9235) located on the northwest end of Snake Lake at the mouth of Killian Creek, was conveyed into private ownership via BLM Patent 50-96-0627, dated August 20, 1996. During the aerial field inspection on June 7, 2010, two cabins were spotted on both the east and west side of Snake Lake, outside the project area. We are not aware of any authorized, third-party interests within the project area.

Planning and Classification: The general management intent of the area plan unit and subunit were reviewed for consistency with the proposed offering. The original Bristol Bay Area Plan for State Lands (BBAP), adopted in 1984, designated the project area as Settlement, allowing for up to 8,500 acres to be sold from 7 Settlement areas in the unit. In the current Bristol Bay Area Plan (BBAP) for State Lands, adopted April 2005 and amended September 2013, the area is designated Settlement and appropriate for disposal during the planning period. Development is to conform to Remote Settlement Guidelines in the BBAP with no acreage restrictions.

The general management intent of the area plan unit and subunit were reviewed for consistency with the proposed offering. The project area is within the BBAP: Management Region 5: Dillingham, Snake Lake, Nushagak Bay, Management Unit R05-04: Snake Lake. Lands within this unit are classified Settlement under Land Classification Order No. CL-SC-04-002.

Guidelines in Chapter 2 of the area plan regarding Remote Settlement; Shorelines, Stream Corridors and Coastal Areas; Fish and Wildlife Habitat and Harvest Areas; Heritage Resources; Public Access Easements, Neighborhood Trails, and Public Access; and other land and resource uses have been reviewed and the indications therein will be incorporated in the development of this project. Specific to the proposed offering, BBAP defines this area as appropriate for Remote Settlement based on criteria that includes settlement areas that are most suitable for residential or recreational use because they are further away from communities and the road system with generally more difficult access by water or air and typically more challenges to development than other types of management units. For these reasons, this parcel is appropriate for the dispersed, low-density settlement pattern created through a Remote Recreational Cabin Sites offering.

Of note, three unnamed streams, one within Sections 8,16, and 17, Range 58 West, Seward Meridian; one within Sections 26 and 27, Township 10 South, Range 58 West, Seward Meridian; and one within Sections 5,10, 15, and 16 of Township 10 South, 57 West, Seward Meridian are identified as anadromous. BBAP calls for riparian buffers to be retained in public ownership along anadromous and high-value, resident fish streams and waters. These buffers are to be at least 100 feet along each side of the anadromous stream or water, with discretion given to DNR DMLW to increase the widths up to 300 feet if consultation with the State of Alaska, Department of Fish and Game (DFG) indicates that larger widths are necessary to protect fisheries, wildlife, or habitat). We will address this issue in the Setbacks, Reserved Areas, and Easements subsection of this document. Lands to be retained in public ownership,

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conditions, and reservations will be described in the land sale brochure and area-specific staking instructions and maps.

The proposed offering is consistent with area-wide land management policies and general management intent of the BBAP 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 Order: No mineral activity has been identified within the project area. Section 10 and the E1/2 Section 9, Township 10 South, Range 58 West, Seward Meridian within the Snake Lake project area, for a total of 900 acres, are closed to mineral entry under Mineral Closing Order (MCO) No. 304. The remainder of the project area will be closed to mineral entry (approximately 24,475 acres) if the related action is approved in accordance with *AS 38.05.185 Generally [Mining Rights]* and *AS 38.05.300 Classification of Land* for a land disposal. Closing the entire area to mineral entry is consistent with the management intent of the BBAP.

Mineral orders that close an area to mineral entry, where they have been established, close that area to new exploration and development of locatable minerals such as gold, copper, platinum, etc. Such mineral orders do not apply to non-locatable minerals, including oil and gas leasing, coal leasing, shallow gas leasing, or exploration licensing for such, nor do they preclude reasonable land estate 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 proposed land disposal. 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 and mineral estate users. When appropriate, land sales brochures generally note mineral activity identified in the vicinity of an offering.

To minimize potential conflicts between land estate and mineral estate users, the Division proposes a mineral order to close the project area to new mineral entry. Closing the entire area to mineral entry is consistent with the management intent of the BBAP. As such, this Related Action would close the remainder (~12,435 acres) of the project area to new mineral entry in accordance with *AS 38.05.185 Generally [Mining Rights]* and *AS 38.05.300 Classification of Land*.

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 owner be compensated for damages resulting from mineral exploration and development.

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Local Planning: Where they exist, local zoning and related ordinances govern any land use restrictions, as with other private land. The entirety of the project area is within the Unorganized Borough and subject to the State of Alaska platting authority. The Division does not intend to impose deed restrictions to control post patent use.

Coastal Issues: Notification of this proposal will be distributed to Native Regional and Village entities and comment received during the public comment period will be considered.

Traditional Use Finding: In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a traditional use finding is required. Information obtained from the area plan and prior research indicates the lands within the management unit are primarily used for recreation, hunting, and fishing. The area contains anadromous streams, bear denning sites, and moose rutting and calving areas. The Division invites comment on uses of State-owned land in the project area during the public comment period and we will address information received in a subsequent Final Finding and Decision, if one is issued.

Offering this project area may lead to changes in hunting, fishing, and recreational uses of the area. However, the Division does not anticipate changes in the types of traditional uses of the land. The change in pressure on resources is minimized by offering opportunity for low-density settlement over a large project area; proximity to retained, State-owned lands; and protection of riparian and lakefront habitat with setbacks and easements along public and navigable water bodies. Impacts on existing resource users will be minimized by protecting public access along public or navigable water bodies and by limiting the number of staking authorizations and acreage to be disposed.

Access To, Within, and Beyond Project Area: Primary access to the area is by plane or boat via Snake Lake and over land via Generally Allowed uses on State-owned Land. There may be winter access by snowmachine and summer access via ATV. It may be possible to access the project area via Lake Aleknagik, however; there are Native-owned lands located on portions of the western side of Lake Aleknagik. If the public wish to access the project area through these lands, they will need to contact Choggiung Limited for information about uses and access on Native-owned land. This information will be included in staking packets issued to authorized stakers. DNR may reserve sites for public use and limit water frontage on fly-in lakes to protect access to, within, and beyond the project area. Such reserved areas will be depicted on the staking map distributed to authorized stakers. Refer to the Setbacks, Reserved Areas, and Easements subsection of this document for additional information.

Review of the title report and land status records indicates there are no easements issued by the Division in the area, nor are there any RS 2477 trails (RST) listed under *AS 19.30.400 Identification and Acceptance of Rights-of-Way* in the area, i.e. rights-of-way listed in Department land records as RST routes.

Additional legal access to, within, and through the project area is via travel across unreserved State-owned land, along section-line easements, or other easements reserved in conveyances to third parties. Access across unreserved State-owned land without a permit, along with pertinent restrictions, is governed by *11 AAC 96 Provisions for General Land Use Activity*.

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As appropriate and at the Division's discretion, the following easements may be reserved:

- reserve an easement centered on existing trails that have not been assigned an ADL or RST number, or are not otherwise serialized, that traverse through or along any staked site (authorized stakers will be instructed not to stake across surveyed section or township lines or across trail easements that have been assigned an ADL or RST number, this reservation of easements for existing trails will also apply to traplines identified while in the field);
- on each side of surveyed or protracted section lines that are within or along staked sites;
- along interior parcel lines in order to ensure access between staked parcels; and
- for survey to control monuments within parcels in order to allow for access to recover monuments of record for the purposes of surveying and establishing property boundaries in the vicinity of a parcel.

The width of these easements will be discussed at the end of the Setbacks, Reserved Areas, and Easements subsection of this document. The Division will continue to research the location and status of access to and through the project area throughout the public comment period and up through the parcel survey. The reader is referred to the Setbacks, Reserved Areas, and Easements subsection of this document for more detailed information.

Access To and Along Public or Navigable Water. In accordance with AS 38.05.127 *Access to Navigable or Public Water*, the Division will determine if a body of water or waterway is a navigable or public waterway and will establish easements or right-of-ways as necessary to ensure unobstructed access to and along the body of water.

Lakes larger than 10 acres or streams larger than 10 feet in width are public and lakes larger than 50 acres or streams larger than 50 feet in width are navigable for purposes of AS 38.05.127 *Access to Navigable or Public Water*. In addition, waters may be determined public or navigable water consistent with AS 38.05.965 (18) *Definitions [General Provisions]*.

Attachment A: Vicinity Map shows Aleknagik Lake, Snake Lake, Killian Creek, Bear Creek, Eagle Creek, Ice Creek, the unnamed stream in Sections 26 and 27 of Township 10 South, 58 West, Seward Meridian, and the unnamed stream in Sections 10, 15, and 16 of Township 10 South, 57 West, Seward Meridian as water bodies determined to be public or navigable near the project area. If, at the time of field survey, a water body not depicted or identified on Attachment A is determined to be public or navigable and within or adjacent to a parcel, a public access easement will be reserved upland from the ordinary high-water (OHW) mark, in accordance with AS 38.05.127 *Access to Navigable or Public Water* and 11 AAC 51.035 *Determination of Navigable and Public Water*. 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. This is unlikely to occur given that staked parcels can only be up to 20 acres in size. However, as Administrative Parcels may be larger than 20 acres and water bodies smaller than 10 acres may be administratively determined public if they contain important public resources, it is possible that this type of public use access easement may be reserved and may affect some parcels.

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Reserved areas will be depicted on a staking map provided to authorized entrants, where appropriate.

If at the time of survey, a water body depicted or identified on Attachment A is determined to not be public or navigable, the public access will be extinguished. However, if preservation of public access is required, a public access easement in accordance with *11 AAC 51.015 Standards for Public Easements* will be imposed on lands adjacent to the water body. Refer to the Setbacks, Reserved Areas, and Easements subsection and **Section VII. Agency Comments** in this document for additional information.

The Division will continue to research the location and status of navigable and public waters within the project area throughout the public comment period and up through the parcel survey. The public is invited to comment on use of water resources in the project area to aid in making the navigable and public water determination.

For the purposes of reserving access to public or navigable water under *AS 38.05.127 Access to Navigable or Public Water* and in accordance with its associated regulations, *11 AAC 51.035 Determination of Navigable and Public Water - 11 AAC 51.045 Easements to and Along Navigable and Public Water*:

- a continuous easement extending upland from the OHW mark, where practical, will be reserved within parcels along waters determined to be public or navigable (an alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult).

Setbacks, Reserved Areas, and Easements: The Division may identify building setbacks, staking setbacks, reserved areas (including sites for public use and access), and easements at any time before staking instructions are issued. In addition, the Division may continue to research and identify easements throughout the staking and survey period. Of note, *staking* setbacks differ from *building* setbacks in that staking setbacks leave an area of land in State ownership, while building setbacks and easements place development restrictions on land that will be conveyed to the buyer. Restrictions and encumbrances will be identified in the staking instructions, depicted on staking maps, and noted in the brochure, where possible.

Staking Setbacks and Reserved Areas: Staking setbacks and Reserved areas may be designated for public use, access, or to protect valuable resources. Staking will not be allowed within these areas. The following staking setbacks and reserved areas will apply to this offering:

Staking Setbacks and Reserved Areas: Reserved areas and staking setbacks may be designated for public use, access, or to protect valuable resources. Staking will not be allowed within these areas. The Division may identify additional staking setbacks and reserved areas until staking instructions are issued. The following staking setbacks and reserved areas will apply to this offering:

- staking setback from the OHW mark of Snake Lake, Killian Creek, Bear Creek, Eagle Creek, Ice Creek; the unnamed stream in Sections 26 and 27 of Township 10 South, Range 58 West, Seward Meridian; and the unnamed stream in Sections 10, 15, and

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16 of Township 10 South, Range 57 West, Seward Meridian for the purposes of preserving the scenic nature of the area in compliance with the plan; protecting waters identified as anadromous or important to fish and wildlife migration, spawning, or habitat activities; protecting public access; and encouraging settlement away from potentially unstable banks where erosion, flooding, and accretion may be occurring;

- reserved sites for public use and access where appropriate; and
- reserved areas to protect any historic or archeological sites located within the project area.

The Division may identify additional staking setbacks and reserved areas until staking instructions are issued.

Building Setbacks From Public or Navigable Water: The Division proposes placing a note on the final survey plat describing a building setback, upland from the OHW mark of public and navigable water, to preserve access, conserve fish and wildlife habitat, and protect personal property from wakes, flood, erosion, or ice build up. Structures and subsurface sewage disposal systems would not be permitted within the building setback. Exceptions to this restriction include utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for permitted uses that must be in or adjacent to the water body in order to function. The building setback is proposed as follows:

- building setback from the OHW mark of all water bodies determined to be public or navigable.

These restrictions would apply to all parcels created under this offering throughout all stages, from staking through lease, contract, and patent. The public is invited to comment on the proposed plat note and the Division will continue to develop and apply criteria as needed.

Easements: As discussed throughout the preceding sections of this document, parcels may be subject to a variety of easements, both during the lease period and after sale. This may include, but is not limited to, existing trails (with or without assigned ADL numbers), rights-of-way, section-line easements, and public access and utility easements. Throughout the staking period and survey process, the Division will continue to research the status, location, and condition of access routes and additional easements may be identified. Final width and location of easements and reservations will be determined as part of the platting process. Easements will be noted on the plat.

As discussed throughout this Setbacks, Reserved Areas, and Easements subsection of this document, parcels created through this offering could be subject to the following setbacks, reserved areas, and easements at the Division's discretion:

- 60-foot access easement centered on existing trails that are not assigned an ADL or RST number (or otherwise serialized) through and along staked parcels;
- 100-foot access easement centered on any surveyed or protracted section lines;
- 30-foot public access and utility easement along all interior parcel lines;

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- 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 of 5 feet around the control monument, and as applicable, a 5-foot wide direct line-of-sight easement from the control station to an azimuth mark or other control monument;
- 50-foot continuous public access easement, where practical, upland from the OHW mark of public or navigable water bodies per *AS 38.05.127 Access to Navigable and Public Waters* (an alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult);
- 100-foot staking setback from the OHW mark of Snake Lake, Killian Creek, Bear Creek, Eagle Creek, Ice Creek; the unnamed stream in Sections 26 and 27 of Township 10 South, Range 58 West, Seward Meridian; and the unnamed stream in Sections 10, 15, and 16 of Township 10 South, Range 57 West, Seward Meridian the purposes of preserving the scenic nature of the area in compliance with the plan; protecting waters identified as anadromous or important to fish and wildlife migration, spawning, or habitat activities; protecting public access; and encouraging settlement away from potentially unstable banks where erosion, flooding, and accretion may be occurring;
- reserved sites for public use and access where appropriate;
- reserved areas to protect any historic or archeological sites located within the project area; and
- 100-foot building setback from the OHW mark of all water bodies determined to be public or navigable.

Hazardous Materials and Potential Contaminants: Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land. The State of Alaska 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 be eventually found.

There are no known environmental hazards present within the project area. The Division 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 that this land was specifically designated for settlement and disposal, and given the high degree of interest from both the legislature and citizens in the sale of State-owned land, the Division is of the opinion that the benefits outweigh the potential risks.

Staking Instructions and Lease: The Remote Recreational Cabin Sites program authorizes applicants drawn first to stake a parcel within a project area and issue leases to successful applicants while the parcels are surveyed, platted, and appraised, in accordance with *11 AAC 67.800 - 11 AAC 67.845 Remote Recreational Cabin Sites*. Letters awarding staking authorizations to enter onto the land and staking instructions will be issued in accordance with *11 AAC 67.820 Staking Instructions*. These staking instructions will include general requirements for staking a parcel of land, specific requirements for individual staking areas, and

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staking maps depicting existing parcels, reserved areas, staking setbacks, and access routes, where known and practical.

To preserve their interest in the staked parcels and continue in the process to eventual ownership, stakers must apply for a lease after staking a parcel. Upon issuance, the lease authorizes the lessee to enter and enjoy exclusive, private, recreational use the property between staking and purchase while the survey, platting, and appraisal are completed. During the term of the lease the leasehold may not be used for commercial purposes or as a permanent residence. Lessees will be allowed to construct buildings on the property, but will be warned of the risks of constructing prior to survey completion solidifying the location of the property boundaries. Noncompliance with zoning requirements (if there are any) or mislocation of the parcel or improvements does not vest any preference right to the land improperly entered.

Survey, Platting, and Appraisal: Survey, platting, and appraisal of staked and Administrative Parcels will be completed prior to sale. The Division proposes to issue survey contracts to conduct the survey and the costs will be prorated by acreage for each parcel.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting Division standards will be required within two years of the date fixed for the sale of parcels developed under this proposal.

In accordance with *11 AAC 67.825 Lease Application; Priority*; *11 AAC 67.835 (4) Lease Conditions*; and *11 AAC 67.840 Deposits, Refunds, and Credits*; lessees will be required to pay a deposit for the cost of surveying, platting, and appraising a staked and leased Remote Recreational Cabin Sites parcel. Current regulations provide two options for the survey: the lessee could either make quarterly payments or, if the Division determines it would be in the State's best interest, place a cash performance bond of \$1,000 to ensure the lessee's completion of survey, platting, and appraisal of the site on their own.

Generally, it would not be cost-effective for either the Division or applicants to allow individual surveys in the same staking area where State-issued survey contracts are active. For this reason, the Division has not determined the cash performance bond to be in the State's best interests at this time. However, if a project area received so few applications that a State-issued survey contract would not be cost-effective or if a separate survey contract is required to resolve platting issues, the Division may opt to offer the second option to lessees at the time of survey.

Other Constraints: There are no known constraints at the time of this Preliminary Decision. The Division will continue to research and identify constraints throughout the public comment period and up through the point of offering.

VII. Agency Comments

To gather comments and additional information, we conducted agency review of several projects simultaneously from May 28, 2013 through June 28, 2013. All comments pertaining to the Snake Lake project area received during this period are addressed in the paragraphs below.

DNR DMLW Southcentral Region Office (SCRO) Easement Unit Comment: SCRO Easements provided the following general comments pertaining to the Remote Recreational Cabin Sites project areas distributed for simultaneous agency review:

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Comment: It is unclear whether the easements, setbacks, and restrictions will be used in all instances. We encourage their use wherever they can be applied. Access easements along lot lines will keep the private properties from becoming barriers to use of public lands and we encourage their use.

Response: Per *11 AAC 67.845 Access*, each remote site staked under *11 AAC 67.815 (c) Offering Remote Recreational Cabin Sites* is subject to an access and utility easement 15 feet wide, or as required by the platting authority, along each boundary. For this project area, the RRCS program has chosen to increase this easement for consistency with neighborhood service road and existing road easement widths as noted in *11 AAC 51.015(1) (D) and (E) Standards for Public Easements*, should roads be developed within these easements in the future. These easements will be dedicated on the survey plat. Please see the Easements, Setbacks, and Reserved Areas section of this document for more information.

Comment: Implementation of the waterway setbacks will allow greater access to those waterways and is encouraged to preserve and enhance the quality of the waterways and use to the public now and in the future.

Response: In accordance with the BBAP, a staking setback will be placed on all anadromous streams. All other public and navigable waterbodies will be subject to a building setback from the OHW mark and a continuous public access easement, upland from the OHW mark per *AS 38.05.127 Access to Navigable and Public Waters, as described in the Easements, Setbacks, and Reserved Areas* section of this document.

Comment: We encourage a broad view of access routes in these areas where platted access routes may be laid out after an initial round of staking. This could set main roads that connect to the access easements along the parcels, arterial roads with driveway easements for staked lots, or another road scheme as appropriate. This would help to plan for future access in the area for use by the landowners, the public, and future buyers.

Response: As many of our project areas are very remote with the intent of encouraging low density, dispersed settlement, platting of a broad view of access routes would not be cost effective (possibly making the project area fiscally infeasible). Existing trails deemed appropriate for public access will be platted at the time of survey when they are located within or adjacent to staked parcels. Applicants will be directed to contact the SCRO Easement Unit for additional information on applying for and reserving access across State-owned land.

Comment: Where areas may be prone to heavy all-terrain vehicle (ATV) use for access (nearer to roads or existing ATV trails), we encourage measures to reduce damage to public lands. Possible measures include: platting access easements before opening the area to staking and clarifying the route to stakers. Also, emphasizing access available and noting requirements for any uses allowed in *11 AAC 96 Provisions for General Land Use Activity* (e.g. paths with rutting, improvements to paths, etc).

Response: When possible, legal access within the staking area will be shown on the staking maps included in the staking packets. It is important to note that while access may be

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legally reserved, it may not yet be improved. Due to the nature of the Remote Recreational Cabin Sites stakings, DNR is unable to determine the final location of the staked parcels, and therefore is unable to ascertain viable locations for easements prior to staking. All existing trails developed prior to the time of survey and located within or adjacent to staked parcels will be platted. A copy of the "Generally Allowed Uses On State Land" Fact Sheet is also included in staking packets distributed to authorized stakers. Applicants will be directed to contact the SCRO Easement Unit for addition information on applying for and reserving access across State-owned land. For more information, please refer to comments from DFG DSF and our related response later in this section.

Comment: SCRO requests that we list relevant DNR contacts for applications for access easements.

Response: We concur. Both the brochure and staking instructions direct applicants to contact DNR for easement and permit information. Contact information for the DNR Public Information Centers in Anchorage and Fairbanks and the Juneau Land Counter is also included.

DNR Division of Forestry (DOF) Comment: DOF notes the growing importance of considering wildfire risk while developing or staking remote cabin parcels. DOF noted that DNR's recommendation to locate parcels in hardwood stands or near water bodies is a step in the right direction and encourage an emphasis on fire risk disclosure and management within the offering.

Response: Thank you for your response. Refer to *Fire Hazards* subsection and Attachment B: Area Data Summary Table of this document for more information.

DNR DMLW Public Access and Defense Unit (PAAD) Comment: There appear to be no RSTs or Department of Transportation & Public Facilities trails identified in this area.

Response: We concur, thank you for your response.

DNR DMLW Resource Assessment and Development Section (RADS) Comment: The project area lies within Unit R05-04 of the Bristol Bay Area Plan (BBAP) and is considered appropriate for disposal. There are management guidelines for Remote Settlement listed in the BBAP, as well as the requirement listed in the management intent to adhere to certain guidelines to protect caribou and moose calving and rutting areas.

Response: Thank you for your response. We have reviewed the Remote Settlement management guidelines, as well as the management intent for the project area. In accordance with the BBAP, we will place a staking setback from the OHW mark of Snake Lake, Killian Creek, Bear Creek, Eagle Creek, Ice Creek, the unnamed stream in Sections 26 and 27 of Township 10 South, Range 58 West, Seward Meridian; and the unnamed stream in Sections 10, 15, and 16 of Township 10 South, Range 57 West, Seward Meridian within the staking area to protect both moose and fish habitats. The low density of a Remote Recreational Cabin Sites development is expected to minimize disruption to caribou and moose activities in the area.

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Comment: At the time DNR requested Agency Review for this project, the BBAP was undergoing an amendment process. RADS advises awareness of any changes that may impact this project area.

Response: The amendment was adopted in September 2013 and we have reviewed the final documents. For this management unit (R05-04), there were no changes that impact this project area.

Comment: The project area lies on some lands for which the State does not have patent and are only tentatively approved.

Response: Upon Tentative Approval of conveyance of land to the State of Alaska from BLM, management of those lands is also transferred to the State. Tentatively Approved lands will be conveyed via quitclaim deed if the State has not received title prior to conveyance. More information will be provided in the offering brochure and staking packets. Refer to the Title subsection of this document for more information.

DNR State Pipeline Coordinator's Office (SPCO) Comment: There are no *AS 38.35 Right-of-Way Leasing Act* pipeline rights-of-way or related applications in the project area.

Response: Thank you for your response.

DNR Division of Geological and Geophysical Surveys (DGGS) Mineral Surveys Section Comment: There are no significant Alaska Resource Data Files localities in the vicinity of the Snake Lake project area. It is unlikely there will be any future interest in the area by mineral exploration companies.

Response: Thank you for your response. See the Mineral Order and Retained Interest subsections of this document for more information.

Comment: Proposed staking area is in the zone of sporadic permafrost, meaning that permafrost underlies 10-50% of the landscape.

Response: Thank you for your response. See the Physical Characteristics and Hazards subsection of this document for more information.

DNR Mental Health Trust Land Office (TLO) Comment: TLO reviewed the information and has no objections to the proposal. TLO does not have any land in the proposed project area.

Response: Thank you for your response.

DNR Division of Oil and Gas (DOG) Comment: DOG recommends DNR make potential applicants aware that the State reserves oil, gas, coal, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it sells in accordance with Section 6 (i) of the Alaska Statehood Act and *AS 38.05.125 Reservation [of Rights to the State]*. The State also reserves the right to enter the land for the purposes of exploring for, developing, and producing these mineral resources and the proposed mineral order closing the area to mineral entry will not apply to these mineral resources.

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Response: Thank you for your response. See the *Mineral Order and Retained Interest* subsections of this document for more information. Similar information is routinely included in offering brochures.

Comment: Currently there are no authorizations or pending applications for exploration licenses or oil and gas leases in this project area. However, State-owned lands in the area are available for exploration licensing under the Division of Oil and Gas Exploration Licensing Program.

Response: Thank you for your response. See the *Mineral Order and Retained Interest* subsections of this document for more information. Similar information is routinely included in offering brochures.

The Department of Fish and Game (DFG), Division of Sport Fish (DSF) provided the following general comments pertaining to the Remote Recreational Cabin Sites project areas distributed for simultaneous agency review:

DFG Comment: DFG expressed concerns with an increase of privately-owned cabins creating an increase of trespass incidents and damage to fish and wildlife habitat and water quality through poorly planned trails and access routes. These poorly planned routes often lead to widening trails and unnecessary crossing of streams and wetlands.

DNR and DFG share a common goal to provide access while protecting fish and wildlife habitat. In working with DNR, DFG has several recommendations:

- Access points and trails be identified and reserved prior to staking, if possible.
- DNR should continue to work with affected boroughs, community groups, and DFG to develop consistent and legally established access both to and within staking areas.
- All easements and legal access should be noted and depicted on staking material, conveyance documents, plats, and maps.

Response: DNR recognizes that an increase in private property ownership will likely lead to an increase in backcountry travel and resource use. Impacts on existing resources will be minimized by protecting public access along public or navigable water bodies, protecting riparian and shoreline habitat with building setbacks along water bodies determined to be public or navigable, reserving public access sites, and limiting the number of authorizations.

DNR will identify and reserve access across State-owned lands within the project area as needed. We will continue to research, identify, and where feasible, reserve existing and proposed access routes throughout the public comment period and up through the parcel survey. Moreover, the Division will identify and reserve sites for public access to assist in mitigating these shared concerns. The offering brochure, staking map, staking packet, and supplementary information will describe any identified access routes, and provide information about conditions and limitations, where available. Setbacks, reserved areas, and easements for individual parcels will be depicted on survey plats. Refer to the Access To, Within, and Beyond Project Area and Setbacks, Reserved Areas, and Easements

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sections of this document for more information. Access across unreserved State-owned land is anticipated and is subject to conditions in *11 AAC 96 Provisions for General Land Use Activity*. Restrictions on general land use, including restricting access across unreserved State-owned land, is beyond the scope of this decision.

Comment: DFG noted that any work conducted below the OHW mark of anadromous streams that may use, divert, obstruct, pollute, or change the natural flow or bed of a specific river, lake, or stream, or any activity that uses wheeled, tracked, or excavation equipment in the bed of creeks will require a Fish Habitat Permit from the appropriate Division of Habitat Office.

Response: The offering brochure generally addresses activities that may require a Fish Habitat Permit and directs potential applicants to the DFG Division of Habitat for more information. Additionally, authorized stakers are provided with the Generally Allowed Uses on State Land Fact Sheet, which indicates some uses that may require additional permits and encourages users to research these requirements.

Comment: DFG suggested that DNR DMLW schedule the staking period so as not to coincide with open hunting periods.

Response: DNR recognizes that the staking period will be concurrent with some hunting seasons for big and small game. Due to multiple, overlapping hunting seasons of long duration, limiting the staking period to periods where there is no open season is not feasible, as it would greatly decrease the opportunity for entrants to access the area and stake a parcel. A longer, continuous staking period that would overlap open hunting seasons provides entrants greater opportunity to access the area and successfully stake a parcel. In general, a longer staking period should minimize conflicts among surface users as pressure to access an area and stake a parcel is less acute.

DFG provided the following comments specific to the Snake Lake project area:

DFG Comment: The Snake Lake project area is currently used for recreation, hunting, and fishing, and contains bear denning sites and some moose habitat. In accordance with management guidelines in the BBAP, parcels will be subject to a 100-foot staking setback from all anadromous fish streams and lakes, as well as a 100-foot building setback and a 50-foot-wide public access easement. DFG has no objections and concurs with all of the proposed easements and setbacks listed in the review materials.

Response: We have reviewed the BBAP and complied with the recommendations therein. For specific information refer to the Setbacks, Reserved Areas, and Easements subsection of this document.

Comment: DFG recommends that an area larger than the 100-foot staking setback provides be retained in State ownership at the confluence of Killian Creek and Snake Lake to protect fish habitat and to continue to provide good fishing opportunities for the public.

Response: USS 9235 is located at the confluence of Killian Creek and Snake Lake. This parcel is not State-owned and therefore will not be included in the staking area. Please see

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Attachment B: Vicinity Map for a corrected depiction showing that the Snake Lake project area does not include the confluence of Killian Creek and Snake Lake located in Sections 9, 16, and 17 of Township 10 South, Range 58 West Seward Meridian. We are considering Providing a reserved site extended back from USS 9235 into the project area to maintain public use if needed.

Other Agencies: The following agencies or groups were invited to participate in agency review but we did not receive any comments in response:

- State of Alaska;
 - Department of Natural Resources;
 - Division of Agriculture;
 - Division of Mining Land and Water;
 - Appraisals Section;
 - Mining Section;
 - Realty Services Section;
 - Survey Section and;
 - Water Section;
 - Division of Parks and Outdoor Recreation;
 - Department of Commerce, Community , and Economic Development;
 - Department of Environmental Conservation; and
 - Department of Transportation and Public Facilities.

VIII. Submittal of Public Comments

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

Pursuant to *AS 38.05.945 Notice*, the Department will issue public notice inviting comment on this Preliminary Decision and any Related Actions. 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 Department Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

The Division will consider all timely, written comments. If the comments indicate the need for significant changes to the Preliminary Decision or any Related Actions, additional public notice for the affected lands will be given before a Final Finding & Decision is issued. 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 our responses, will be issued as a subsequent Final Finding and Decision without further notice. Related Actions, if any, are developed separately from the proposed primary action of this Preliminary Decision.

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However, approval and succession of the primary proposed action detailed in this Preliminary Decision are contingent on the completion of Related Actions, as described throughout this document.

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

DEADLINE TO SUBMIT WRITTEN COMMENT IS: 5PM JANUARY 30, 2014

IX. Alternatives and Discussion

The Division is considering the following alternatives:

1. Offer this project area, or a portion of the project area, for dispersed settlement staking under the Remote Recreational Cabin Sites program as proposed. Offer additional surveyed parcels identified by the Division after the staking period closes or staked parcels that were not converted from lease to sale under *AS 38.05.045 Generally [Sale of Land]*, if deemed feasible. The number of staked and additional surveyed parcels will not exceed the total number of authorizations offered, nor total number of acres to be sold.
2. Do not offer the project area for staking under the Remote Recreational Cabin Sites program. Survey parcels as a planned subdivision prior to offering at auction.
3. Do not offer the area at this time. Retain the land in public ownership.

Article VIII, Section 1 of the Alaska Constitution states, in part, that "...it is the policy of the State to encourage the settlement of its land..." Furthermore, *AS 38.05.045* has placed this charge with the Commissioner of DNR. *Alternative 1* is the alternative that maximizes public interest. In accordance with the approved area plan, this area is designated Settlement. This offering provides a desirable opportunity to obtain remote property. There are very few opportunities to obtain private land in the vicinity of this offering.

Allowing additional parcels and parcels that are not converted from lease to sale to be surveyed and sold under *AS 38.05.045 Generally [Sale of Land]* will maximize the opportunities for the transfer of State-owned land into private ownership under a uniform set of conditions. Dispersed, low-density staking is the best alternative for this settlement area since it is a remote location with little or no infrastructure; the amount of contiguous high-quality acreage suitable for a large number of adjacent sites is low due to varying topography; and under the Remote Recreational Cabin Sites program, entrants may choose individual sites within the staking area that suit their needs.

Alternative 2 is not preferred. High-quality sites suitable for individual settlement are discontinuous within the project area. There are few large areas with contiguous and high-quality acreage that could accommodate large numbers of adjacent parcels with suitable building sites and consolidated access.

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Alternative 3 is not preferred. The Legislature and the public have indicated a desire for the Division to offer remote State-owned land for private ownership. Not offering the project area would deny many Alaskans the opportunity to stake and obtain land in an area that has been designated Settlement.

Recommendation follows.

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X. Recommendation

This Preliminary Decision for the proposed 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 are in the best interest of the State. It is hereby recommended to proceed to public notice.

/s/

Peter Burton
Natural Resource Specialist II
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

December 24, 2013

Date

/s/

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

December 24, 2013

Date



Attachment A: Vicinity Map

to the Preliminary Decision for a Proposed Land Offering
in the Unorganized Borough
Snake Lake RRCS Staking Area - ADL 231555



USGS QUAD 1:63,360
Dillingham B-8, Goodnews Bay B-1

Seward Meridian,
Township 10 South, Range 57 West;
Township 10 South, Range 58 West

For more information contact:
Peter Burton
DNR Division of Mining, Land, and Water
Land Sales and Contract Administration Section
550 W. 7th Ave, Ste 640
Anchorage, AK 99501
Phone 907.269.8602
Fax 907.269.8916
Email: landsales@alaska.gov

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.

	Project Area		Public Waters
	Townships		Mineral Closing Order
	Section		Existing Parcels



**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 Unorganized Borough
Snake Lake Remote Recreational Cabin Sites Project Area - ADL 231555
AS 38.05.045, and AS 38.05.600**

Offering Information	
Number of Authorizations	50 authorizations
Parcel Size	5 to 20 acres each
Net Offering	up to 1,000 acres
Proposed Related Action(s)	Mineral Order (Closing) for entirety of the project area
Project Area	
Location	Southcentral Region, within Unorganized Borough ~20 miles northwest of Dillingham 8 miles west of Aleknagik around the northern tip of Snake (Nunavaugaluk) Lake
Gross Project Area	25,395 acres, more or less
USGS Topography Map	Dillingham B-8, Goodnews Bay B-1
MTRS	Seward Meridian, within portions of: Township 10 South, Range 57 West, Sections 5-10, 14-18, 20-24, 26-28, and 34; Township 10 South, Range 58 West, Sections 1-5, 8, 9 excluding USS 9235 and ASLS 85-85, 12, 13-14 north of Snake Lake, 16-17 excluding USS 9235, 20, 21-23 south of Snake Lake, 26 excluding ASLS 85-85, 27-29, 33-34, and 35 excluding ASLS 85-85
Title	General Purpose Grant, under the Act of July 7, 1958, 72 Stat. 339 as amended, Tentative Approval (TA) 1982-0314 dated September 27, 1982 and TA 1979-0008 dated September 14, 1979, both recorded in the Bristol Bay recording district as documents 2009-000444-0 and 2008-000406-0, respectively, reserving canals and ditches under the act of August 30, 1890 (26 Stat. 391) and to the United States of a right-of-way for the construction of railroad, telegraph, and telephone lines under the act of March 12, 1914 (38 Stat. 305)
Area Plan	Bristol Bay Area Plan for State Lands (BBAP), April 2005, amended September 2013 Unit R05-04 Snake Lake Classified Settlement through CL-SC-04-002

Attachment B: Area Data Summary Table

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Mineral Orders	Section 10 and the E1/2 Section 9, Township 10 South, Range 58 West, Seward Meridian within the Snake Lake project area, for a total of 900 acres, are closed to mineral entry under Mineral Closing Order (MCO) No. 304. The remaining portion of the project area will be closed to mineral entry before offering as a Related Action.
Physical Characteristics	
Access	Fly in or boat to Snake lake or Aleknagik Lake Fly in to land Overland by all-terrain vehicle/snow machine Summer access may be limited by wet trail conditions
Terrain and Major Features	Project area surrounds northern tip of Snake Lake Terrain is varied from low lake shorelines and valleys to benches, foothills, and steep valleys and mountains
View	Views of Snake Lake or of the various mountains in the region throughout the project area
Climate	Nearest weather station: King Salmon (~100 miles southeast of the project area) Average summer temperature range of are 46-64°F in July Average winter temperature range 9-17°F in January Average annual precipitation is 25 inches with 83 inches of snowfall
Soils	primarily gravelly drift or colluvium with a thin layer of loess, or a mixture of loess and volcanic ash, with 10%-50% permafrost Courtesy notice will be sent to the nearest Soil & Water Conservation District
Vegetation	white spruce and paper birch and low shrubs and tundra lichens on the lower elevations willows and alders with some black spruce at middle elevations low alpine shrubs and low to tall shrubs at higher elevations
Water Source	Snake Lake, Aleknagik Lake, Killian Creek, Bear Creek, Eagle Creek, Ice Creek, various streams and lakes throughout the project area, water quality is unknown
Anadromous Waters	Snake Lake, Aleknagik Lake (outside the project area), Killian Creek, Bear Creek, Eagle Creek, Ice Creek, the unnamed stream within Sections 26 and 27, Township 10 South, Range 58 West, Seward Meridian, and the unnamed stream in Sections 10, 15, and 16 of Township 10 South, Range 57 West, Seward Meridian are listed in the <i>2013 Catalog of Waters Important for Spawning, Rearing, or Migration of Anadromous Fishes</i>
Local Management Information	
Fire Management Option	Full for all project area except Limited near the northwest corner of Snake Lake stakers will be urged to locate parcels in hardwood stands or near water bodies to reduce potential for fire

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Game Management Unit	17C
Local Authority	State of Alaska exercises authority for planning and platting lands within the Unorganized Borough
Flood Zone	Federal Emergency Management Agency Flood Insurance Rate Maps are not available for the project area
Utilities	None known
Waste Disposal	All on-site waste water disposal systems must meet the regulatory requirements of the State of Alaska, Department of Environmental Conservation
Setbacks, Reserved Areas, Easements, and Conditions	
Allowed Uses	Remote Recreational Cabin Sites are for recreational use only, no commercial use or permanent residence is allowed while under lease, however, once the parcel is under purchase contract or conveyed into private ownership these restrictions no longer apply
Reserved Areas	Reserved areas may be imposed prior to staking to protect commonly used access points, for recreational use, and to protect a specific resource or authorization identified in the area plan or agency review, as will be continually researched up to the point of offering and depicted on the staking map While specific reserved areas have not been identified at this time, staking will not be allowed within any areas (as will be depicted on the staking maps) reserved for the following purposes: <ul style="list-style-type: none">• any reserved sites deemed appropriate around important public features such as public waters; and• reserved areas to protect any historic or archeological sites located within the project area.
Public or Navigable Water Bodies	Waters determined public or navigable within the project area: <ul style="list-style-type: none">• Snake Lake, Aleknagik Lake (outside the project area), Killian Creek, Bear Creek, Eagle Creek, Ice Creek, the unnamed stream within Sections 26 and 27, Township 10 South, Range 58 West, Seward Meridian, and the unnamed stream in Sections 10, 15, and 16 of Township 10 South, Range 57 West, Seward Meridian. While Aleknagik Lake is located outside the project area, it is a likely access point for stakers and recreationalists Additional water bodies may be determined to be public or navigable at the time of survey
Staking Setbacks	Staking will not be allowed within: <ul style="list-style-type: none">• 100-foot of the OHW mark of the water bodies determined to be anadromous in this document.
Public Access and Utility Easements	Staked parcels may be subject to the following: <ul style="list-style-type: none">• 60-foot access easement centered on existing trails that have not been assigned an ADL or RST number (or otherwise serialized) through and along staked parcels;

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	<ul style="list-style-type: none"> • 100-foot access easement centered on any surveyed or protracted section lines; • 30-foot public access and utility easement along all interior parcel lines; • 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 of 5 feet around the control monument, and as applicable, a 5-foot wide direct line-of-sight easement from the control station to an azimuth mark or other control monument; and • 50-foot continuous public access easement, where practical, upland from the OHW mark of public or navigable water bodies per <i>AS 38.05.127 Access to Navigable and Public Waters</i> and (an alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult).
Building Setbacks	<p>Parcels will be subject to:</p> <ul style="list-style-type: none"> • a 100-foot building setback from the ordinary high-water (OHW) mark of water bodies determined to be public or navigable, water-dependent structures may be allowed within the building setback
Improvements	<p>Prior to construction of any structure or waste disposal system, stakers will be instructed to contact the platting authority for any permits or for required setbacks from water bodies, lot lines, and easements</p>
Additional Information	
Native Regional Corporations	<p>Bristol Bay Native Corporation (BBNC) is the regional corporation for the project area</p>
Villages and Tribal Councils	<p>Choggiung, Limited; Curyung Tribal Council; Bristol Bay Native Association, Incorporated; Aleknagik Natives, Limited; and Native Village of Aleknagik</p>
Oil and Gas Activity	<p>none identified</p>
Mining Activity	<p>none identified within the project area</p>
Comments	<p>Snake Lake Subdivision (1985) surveyed adjacent to the project area resulted in many of the parcels offered for sale in the past, with several already conveyed to private ownership Lands adjacent to the project area to the east are managed by Aleknagik Natives, Inc. per Interim Conveyance 286, dated February 15, 1980 2 mile west of the project area is the Togiak National Wildlife Refuge and Wilderness reserved by Public Land Order (PLO) 5179, dated March 16, 1972; and designated by Public Law 96-487, dated December 2, 1980, for more information, see http://www.fws.gov/alaska/nwr/togiak/index.htm</p>

ATTACHMENT C: PUBLIC NOTICE

of the
Preliminary Decision

for a
**Proposed Land Offering in the Unorganized Borough
Snake Lake Remote Recreational Cabin Sites Project Area - ADL 231555**
AS 38.05.045, and AS 38.05.600

and
Related Proposed Mineral Order (Closing)
AS 38.05.185 and AS 38.05.300

COMMENT PERIOD ENDS 5PM JANUARY 30, 2014

As described in the Preliminary Decision document, the Division proposes to offer up to 50 authorizations to stake parcels generally ranging from 5 to 20 acres and create Administrative Parcels within the defined project area. The offerings and development may be conducted in multiple offerings over time but will not exceed 1,000 acres under this proposal. As a Related Action, the Division would close the area to new mineral entry. The project areas is located approximately 20 miles northwest of Dillingham, 8 miles west of Aleknagik, around the northern tip of Snake (Nunavaugaluk) Lake, encompassing approximately 40 square miles (~25,395 acres) within portions of Township 10 South, Ranges 57 and 58 West, Seward Meridian.

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/mlw/landsale/public_notice/. 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 4PM January 23, 2014.

Pursuant to *AS 38.05.945 Notice*, the public is invited to submit comment on these proposed action(s) 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 5PM JANUARY 30, 2014.** Only persons from whom the Division's Land Sales and Contract Administration Section 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 to 907.269.8916, email to dnr.rrcs@alaska.gov, or postal mail to LSCAS, ATTENTION: SNAKE LAKE RRCS PROPOSAL, 550 W. 7th Ave., Ste. 640, Anchorage, Alaska 99501. For direct inquiries, contact Peter Burton at 907.269.8602.

If no significant change is required, the Preliminary Decision, including any minor changes and a summary of comments and responses, will be issued as a subsequent 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. Please post until 5PM January 30, 2014.