

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

**Non-competitive Sale to Preference Right Applicants,
Clifford and Beth Howard**

FINAL FINDING AND DECISION – ADL 225090

pursuant to
AS 38.05.102
AS 38.05.321

This Final Finding and Decision is intended to complement and update the Preliminary Decision for ADL 225090, issued on April 30, 2019, which is attached.

Recommended Action: The Department of Natural Resources (Department), Division of Mining, Land and Water (Division), Land Sales Section (Land Sales) has received an application from Clifford and Beth Howard to purchase ADL 225090, pursuant to *Alaska Statute (AS) 38.05.102*. The Division recommends allowing the parcel to be sold through a non-competitive sale to the applicant, and imposing deed restrictions as required by *AS 38.05.321*, to limit post-patent land use to agricultural purposes. The subject parcel is located approximately 10 miles SE of Talkeetna, Alaska. The current legal description is Government Lot 1, Section 4, Township 24 North, Range 4 West, Seward Meridian, containing approximately 40.19 acres.

Authority: The Department has authority under *AS 38.05.102* to sell state-owned lands, and authority under *AS 38.05.321* to restrict the land to agricultural use, only 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*.

Public Notice and Discussion: Pursuant to *AS 38.05.945*, a public notice announcing the Preliminary Decision for the proposed noncompetitive sale, along with the solicitation for public comment, was published and distributed in compliance with the above statute in the following manner:

- Posted under State of Alaska Online Public Notice from April 30, 2019 to June 6, 2019;
- Mailed, with a request to post for 30 days, to the postmasters of Talkeetna and Trapper Creek, per *AS 38.05.945(c)(4)*;
- Mailed, with a request to post for 30 days, to the libraries of Talkeetna and Trapper Creek;
- Mailed to the regional corporation per *AS 38.05.945(c)(2)*; and
- Mailed to adjacent landowners, community councils, and other state and local agencies.

Comments Received: Agency review was conducted concurrently with public notice. We received one written comment from the public, and no agency comments during the agency review and public comment period. The public comment is addressed as follows:

Individual Comment: The commenter inquired whether the agricultural parcel could be subdivided after sale.

Response: In accordance with AS 38.05.321, when the Department sells land classified as agricultural land, the conveyance document will include a perpetual covenant running with the land that restricts post-patent land use to agricultural purposes, and permits the owner to subdivide the land subject to strict requirements. Subdivided parcels may not be less than 40 acres each and cannot be further subdivided. Since the subject parcel is approximately 40.19 acres, it would not be eligible to subdivide after sale.

Stipulations: The applicant will be required to comply with the following stipulations to complete the proposed land sale:

1. The lessee must remain in good standing with respect to the terms of the lease until the lease is relinquished. If the lessee is not in good standing at any time prior to relinquishment of the lease, the purchase process will be halted until the lessee regains good standing as determined by the Division.
2. Once the Final Finding and Decision is signed and the appeal period is over without an appeal received, a notice to proceed to survey will be issued. The applicant must hire a surveyor and the surveyor must apply to the Division's Survey Section for Survey Instructions.
3. After issuance of the Survey Instructions, the applicant must submit a completed survey to the Division's Survey Section for review. The applicant must have the survey approved by the Department, as set forth in the Survey Instructions.
4. Upon approval and recording of the survey, a notice to proceed to appraisal will be issued. The applicant must hire an appraiser from the approved Department appraiser list. The appraiser must apply for appraisal instructions issued by the Division, and then must submit to the Division a completed fair market value appraisal in accordance with appraisal instructions issued by the Division. The Division must approve the appraisal.
5. Upon approval of the appraisal, a notice to proceed to purchase will be issued to the applicant. Within the time period specified in this notice, the applicant must submit to the Division the following:
 - A completed and signed Declaration of Intent Form;
 - A signed and notarized Relinquishment of Land Lease form; and

- The payoff amount plus a \$265.00 patent application and recordation fee, OR a minimum of 5% of the purchase price as a deposit, plus a \$405.00 land sales contract application and recordation fee. Fees are subject to change.
6. Prior to the completion of the purchase and issuance of a state conveyance document, the applicant must remain in good standing with respect to all terms of the Contract for the Sale of Real Property throughout its term, if such a contract is issued. As an agricultural land sale, the Contract for the Sale of Real Property may include agricultural development requirements to be completed in a specified timeframe. The applicant must also remain in compliance with all applicable state and local ordinances and regulations, including all applicable taxes. Failure to do so may result in termination of the Contract for the Sale of Real Property.

Special Note: The applicant must complete steps 1-5 above by February 5, 2021, in order to ensure the applicant has a signed land sales contract before the lease extension expires on May 5, 2021. Failure to do this will result in the loss of the right to purchase this parcel of land. Additionally, the applicant may need to apply for additional authorizations and incur associated costs to ensure continued use of the parcel.

If extenuating circumstances delay any of the stipulations listed above, the applicant is responsible for notifying the Division of the delay, obtaining approval for the delay from the Division, and providing new timeframes for completion. The subject parcel cannot be purchased until all the above stipulations have been satisfied. Failure to do this could result in the closure of the purchase application.

Final Finding and Decision:

The recommended action has been modified from the original proposed action described in the Preliminary Decision, so it better describes potential survey actions that may be required. Government Lot 1, Section 4, Township 24 North, Range 4 West, Seward Meridian, will require either a Record of Survey or an Alaska State Land Survey (ASLS), to meet the requirements of AS 38.04.045, to sell the parcel to the applicant under AS 38.05.102. Records of Survey would not constitute a subdivision as defined by AS 40.15.900(5), therefore, the applicant would not need to apply for a 40-acre exemption, nor would the Matanuska-Susitna Borough (MSB) need to approve or authorize the 40-acre exemption or the Records of Survey. An ASLS, on the other hand, would need to be approved by the MSB Platting Division. Additional reservations and/or restrictions may be required through the MSB.

Under the authority of the applicable statutes, it is in the best interest of the state to proceed with the recommended action as described in this Final Finding and Decision.

Recommendation and Approval of the Final Finding and Decision follow.

(signature on file)	(7/16/19)
_____ Recommended by: Rachel Longacre Section Manager Land Sales Section Division of Mining, Land and Water Department of Natural Resources State of Alaska	_____ Date

(Kris A. Hess for Martin W. Parsons; signature on file)	(7/19/19)
_____ Approved by: Martin W. Parsons Director Division of Mining, Land and Water Department of Natural Resources State of Alaska	_____ Date

Appeal Provision

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal it, in accordance with 11 AAC 02. Any appeal 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 the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a) and (b). If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the Department on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources.