

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

**PRELIMINARY DECISION**

Proposed Non-competitive Sale to Preference Right Applicant **ADL 418780**  
pursuant to AS 38.05.035(b)(5)  
Proposed Public Airstrip Easement, **ADL 421158**  
Proposed Public Access Easement, **ADL 421159**  
pursuant to AS 38.05.850

**and**

**PROPOSED RELATED ACTIONS**

Mineral Order (Closing) – AS 38.05.185 and AS 38.05.300

**PUBLIC COMMENT PERIOD ENDS 3:30PM, WEDNESDAY, MARCH 25, 2020**

**I. Proposed Actions**

*Preliminary Decision: Approval of Non-competitive Preference Right Sale ADL 418780*

*Public Airstrip Easement ADL 421158*

*Public Access Easement ADL 421159*

*Attachment A: Vicinity Map*

*Attachment B: Public Notice*

*Public is invited to comment on proposed related actions:*

*Draft Mineral Order (Closing) MO 1222*

Primary Proposed Actions: The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources (Department), Division of Mining, Land and Water (Division), Land Sales Section is approval of a preference right claim and non-competitive sale of state-owned land pursuant to *Alaska Statute (AS) 38.05.035(b)(5)* serialized as ADL 418780. The subject parcel is located approximately 50 miles west of Delta Junction. The legal description for the subject parcel is described as a portion of the SW1/4 of Section 26, Township 10 South, Range 2 East, Fairbanks Meridian, containing approximately five acres or less. See Attachment A: Vicinity Map.

AS 38.05.035(b)(5) allows the granting of state land to a person who occupied and improved that land pre-statehood. A 1972 amendment expanded the statute to cover heirs and devisees. A disposal under this authority shall be of a size consistent with the applicant's prior use, not to exceed five acres.

Public Airstrip Easement (ADL 421158): Concurrently with the sale of subject parcel, the Department proposes to issue a public easement encompassing an airstrip

providing legal access to the subject parcel and other activities in this area. The legal description for the area encompassing the airstrip is as follows: Section 26 and 27, Township 10 South, Range 2 East, Fairbanks Meridian, containing approximately one acre. See Attachment A: Vicinity Map.

Public Access Easement (ADL 421159): Additionally, the Department proposes to issue a public access easement for the existing trail to the airstrip from the subject parcel. The current legal description for the public access easement is within Section 26, Township 10 South, Range 2 East, Fairbanks Meridian, containing approximately one acre. See Attachment A: Vicinity Map.

Proposed Related Action: This preliminary decision is dependent upon adoption of Draft Mineral Order 1222 (closing). The Department proposes to close the subject parcel to new mineral entry pursuant to *AS 38.05.185 and AS 38.05.300*. A draft of Mineral Order No. 1222 accompanies this preliminary decision for public review and is discussed in the Planning, Classification, and Mineral Orders Subsection (V)(e)(3) on page 9 of this document.

This related action will be developed separately; however, public notice is conducted concurrently through this preliminary decision. Approval of proposed actions is dependent upon one another in that one action will not proceed without the approval of all actions.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice* the public will have the opportunity to submit written comment on this proposal for a period of at least 30 days. Public notice for all actions is being conducted concurrently and will include this preliminary decision for non-competitive sale ADL 418780, public airstrip easement ADL 421158, public access easement ADL 421159, and Mineral Order 1222.

See **Section VII. Submittal of Public Comments** and *Attachment B*: Public Notice for details on how to submit a comment for consideration. If, after consideration of timely, written comments, the Department moves forward with the proposal, a Final Finding and Decision will be issued.

## **II. Authority**

The Department has the authority under *AS 38.05.035(b)(5)* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e)* Powers and Duties of the Director. Article VIII, Section 1, of the Constitution of the State of Alaska states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."

The Division has the authority under *AS 38.05.850 Permits* to issue easements on state lands.

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

### **III. Administrative Record**

The administrative record for the proposed actions consists of the case files for this Non-Competitive Purchase ADL 418780, Public Access Easement ADL 412259 ADL, and Public Airstrip Easement 421158. Incorporated by reference are:

- *Department of Natural Resources casefiles: ADL 421158, ADL 421159, ADL 417641, ADL 402439, ADL 416285; and*
- *Department of Natural Resources Yukon Tanana Area Plan (YTAP), adopted January 3, 2014; and*
- *State File GS 2203.*

Also incorporated by reference are additional files and documents listed throughout this decision.

### **IV. Scope of the Decision**

The scope of this decision is limited to determining if the applicant and the subject parcel qualify under the listed statute, if it is in the state's best interest to sell the subject parcel, and if it is in the state's best interest to sell the subject parcel to the applicant. Additionally, the decision examines whether it is appropriate to protect an existing airstrip and access easement that would provide legal access to ADL 418780. Restrictions regarding land use will be handled by the local zoning authority, if any.

The proposed related action will be issued concurrently with the Final Finding and Decision. This action is described in more detail in the Planning, Classification, and Mineral Order Subsection (v)(e)(3) on page 9.

### **V. Description**

- a. Location: The subject parcels are located approximately 50 miles west of Delta Junction between Flume and Slide creeks on USGS Quad Map Fairbanks A-1. See Attachment A: Vicinity Map.

*Native Regional/Village Corporations/Councils*: The regional corporation is Doyon Limited Corporation (Doyon). There are no native village corporations or tribal councils in this area.

*Platting Authority*: The subject parcel and proposed easements are located within the Denali Borough.

- b. Legal Description: The subject parcel is unsurveyed. The current legal description of the subject parcel is described as a portion of the SW1/4 of Section 26 of Township 10 South, Range 2 East, Fairbanks Meridian within the Fairbanks Recording District, Fourth Judicial District, containing approximately 5 acres or less. The parcel will be surveyed prior to disposal.

The proposed mineral order will have the same legal description and boundaries as the subject parcel proposed for noncompetitive sale.

The proposed public airstrip easement (ADL 421158) is located in Sections 26 and 27, Township 10 South, Range 2 East, Fairbanks Meridian within the Fairbanks Recording District, Fourth Judicial District, containing approximately one acre. See Attachment A: Vicinity Map.

The proposed public access easement (ADL 421159) is located in Section 26, Township 10 South, Range 2 East, Fairbanks Meridian within the Fairbanks Recording District, Fourth Judicial District, containing approximately one acre. See Attachment A: Vicinity Map.

- c. Title: Information from Title Report 11751, current as of May 30, 2019, indicates the State of Alaska holds fee title to the land and mineral estate within the project area. The state received title to the land on August 29, 1974 under Tentative Approval (TA) # F-15121. The applicable state file is GS 2203. The parcel is subject to reservations, easements, and exceptions of record, contained in the federal patent.

*State Reservation of Title*: The State retains ownership of all oil, gas, coal, ore, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it sells (AS 38.05.125). 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. Under common law, this access reservation is superior to any and all land uses. The State may also lease them to mineral developers or allow mining locations to be staked. However, Alaska law also provides that the landowner will be compensated for damages resulting from mineral exploration and development (AS 38.05.130).

*Navigable Waters*: Pursuant to AS 38.05.126 (b) *Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the state, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the state." This trust is in accordance with the principles of the Public Trust Doctrine, which are included in Article VIII, Section 14 of the Constitution of the State of Alaska and protected in the United States Constitution. It is vested in the title to this land, is

not transferable, and the State's title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made and access will be reserved per *AS 38.05.127 Access To and Along Public and Navigable Water*. For more information, see Access, Including To and Along Public or Navigable Water subsection of this document.

*Native Interest:* The subject parcel is within the boundaries of Doyon regional corporation. There are no Native interests identified with this parcel.

*Other Conflicts or Pending Interest:*

- On April 24, 2008, the Division's Northern Regional Office (NRO) issued a trespass order on the subject parcel (Slide Creek Camp) serialized as ADL 416285; and
- Mining Claims ADL's 621910 and 621907 located within and around the proposed airstrip and public access easement.

- d. Background and Discussion: William Buzby (father of applicant Brian Buzby) first started backcountry hunting on the subject parcel located in the Slide Creek drainage, herein after referred to as "Slide Creek Camp", in the early 1950's. The "History of the Buzby Family at Slide Creek Camp," written by Edward (William Buzby's brother) and Tiny Buzby identifies 1954 as the year of entry to Slide Creek. Mr. Buzby built two tent platforms with knee walls and wood floors prior to statehood and used the site for mining, commercial guiding, trapping, and as a seasonal residence and year-round operations base from 1957 through his death in 2010. An affidavit provided by Thomas Branton (friend and employee of William Buzby) states that during the initial period of occupancy, William Buzby produced a living for himself and his wife solely from his partnership in the business activities at Slide Creek Camp.

Thomas Branton's affidavit establishes the existence of tent platforms on the site in the early 1950s and subsequent construction of two cabins, an outhouse, a shop, a generator shed, a meat house, a shower, a laundry building, and various other storage buildings. According to Mr. William Buzby's written narrative, he built several buildings on the site prior to 1959. An affidavit written by Edward Buzby (brother of William Buzby) establishes existence of the Slide Creek Camp in 1955.

In 1966, the federal government located several mining claims in the area. Slide Creek Camp was used as a base for mineral exploration and William Buzby was responsible for annual assessment activities, financial and logistical support, and provided, operated, and maintained heavy equipment. According to documentation prepared by Tiny and Edward Buzby, Hallah Oil, Getty Oil, and

Resources Associates based out of Slide Creek Camp during drilling efforts in the 1960s and 1970s. Alaska Pacific Northwest Associates, Grayde Resources, and Atna Resources continued periods of drilling efforts in the 1980s, 1990s and early 2000s.

BLM mining claims FF055837, FF055838, FF055840, FF055842, FF055843, FF055834, and FF055835 for William Buzby show location notices in 1966, location notices filed in 1979, evidence of yearly assessments from 1979 to 1992, and closing notifications in 1995.

The State of Alaska selected the land for transfer from the federal government in 1974 (Tentative Approval F-15121). The Buzby's were unaware of the selection by the state and continued federally mandated assessment work on mining claims for several years after selection. According to Department staff notes, the Buzby family stated that they never filed for state mining claims because they were under the impression that they still held federal claims. William Buzby continued to pay annual mining claim fees, and BLM accepted the fees, after the closure of the mining claims (these fees were later refunded).

A 1995 letter from Robert Buzby, William Buzby's father, to the Bureau of Land Management (BLM) provides evidence that the Buzby's actively mined claims in the area, paid dues, and received notice from BLM in 1975 inquiring as to whether the family "intended to remain with BLM or have Alaska take the claims", to which he requested to remain with BLM. While this letter concerns mining claims in the area and the correspondence is from Robert Buzby, it shows confusion on the part of the family as to what the tentative approval of lands to the state meant for their improvements or mining claims.

In addition to mining exploration, the camp was used for a guiding and trapping business, subsistence activities, as a summer residence, and for limited mining exploration. The camp has been more recently (2003, 2008 as cited by file affidavits) leased by the state and federal wildlife officials as a base for data collection and has been rented by UA graduate students for wildlife management studies. The camp is still used as a year-round base for commercial and recreational activities. In 2009 application materials from William Buzby and 2013 application materials from Brian Buzby they describe the Slide Creek Camp as a "20-man camp".

The Buzby's cleared an airport runway for access to the site. The airport provides access to nearby mining claims, recreational and commercial hunting, wildlife management studies and is not within the preference right parcel. The Buzby's built and maintain a trail from the airport to the Slide Creek Camp. The airport and trail are depicted in attachment A.

A trespass order for Slide Creek Camp was issued by the Department's Northern Region Office (NRO) in 2008. The department proposes to close ADL 416285 (trespass order) after issuance of a Final Finding and Decision for ADL 418780. Closure of ADL 416285 and approval of ADL 418780 will be linked actions for the purpose of appeal.

On April 16, 2009, Mr. William Buzby applied to purchase Slide Creek Camp under AS 38.05.035(b)(5). On September 27, 2010, William Buzby passed away. Brian Buzby, William's son, was ruled as the heir to Mr. William Buzby's preference right application (ADL 418780) by the estate of William Buzby. On May 21, 2013, Brian Buzby applied for a preference right purchase under ADL 418780, officially transferring William Buzby's application to Brian Buzby per probate.

*Discussion:* AS 38.05.035(b)(5) states that, "...when the director determines it is in the best interest of the state and will avoid injustice to a person or the heirs or devisees of a person, disposal of land, by direct negotiation to that person who presently uses and who used and made improvements to that land before January 3, 1959, or the heirs or devisees of the person; the amount paid for the land shall be its fair market value on the date that the person entered the land, as determined by the director; a parcel of land disposed of under this paragraph shall be of a size consistent with the person's prior use, but may not exceed five acres".

As established by affidavit, the original applicant entered upon and made improvements to Slide Creek Camp before statehood, which is a requirement for conveyance under this statute.

Evidence shows a long history of commercial use of the site as a base for mining exploration: both for the original applicant and his family, and as a revenue-earning enterprise supporting commercial mining enterprises. Thomas Branton's affidavit establishes that William made a living from business activities at the site. Department policy requires that the use of the parcel be commercial in nature. The extensive use of the Slide Creek site as a mining base camp for the Buzby family and commercial enterprises establish the commercial nature of the site through 2001. Since that time, the site has been leased to the state and federal government. In Brian Buzby's application, he states the planned use for the site is for a mining camp.

Department policy requires that the use of the site be continuous. The casefile and background show the Buzby family actively uses Slide Creek Camp and has since 1957.

According to William Buzby's obituary, he graduated high school in 1951 and married in 1956. When he entered onto and made improvements to the Slide Creek Camp in 1954, he was an emancipated adult. Department policy requires that disposals under AS 38.05.035(b)(5) be limited to one per family. Robert Buzby, William Buzby's father, received a disposal under this statute at another location in 2007 (Patent No. 19222, State case file 402439). Mildred Buzby, Roberts wife and William's mother, applied for a preference right to the Slide Creek Camp under AS 38.05.035(b)(5) and was denied under the "one per family" rule. Because William Buzby was a married adult entering onto the subject parcel pre-statehood, and participated in business activities supporting his family, the Division finds that conveyance to William Buzby is conveyance to a separate family unit and is allowable under Department policy.

Initially, William Buzby built at least two tent platforms, and possibly cabins, on federal land. He held mining claims from at least 1979-1992. However, the initial and subsequent improvements were and are unauthorized. It is the Department's policy generally to require applicants to be in good standing with the state, and to seek site control for entry and improvements, to be eligible for disposal under this statute. However, the state finds that an adequate resolution to the difficult prospect of either managing these improvements or requiring their removal is to sell the parcel to the Buzby's under this statute.

A final requirement of AS 38.05.035(b)(5) is that disposal to the applicant avoids what would otherwise be considered an injustice. The applicant and his family believe they had a claim to this subject parcel and that the passage of the subject parcel from federal ownership to state ownership negated the family's ability to seek title to the parcel. The family continuously utilized the site for over 50 years before receiving a trespass order from the state in 2008. Removing the improvements and returning the land to its natural state would be expensive for the applicant if he is unable to purchase the parcel, and it would deprive the family access to a site they have visited and lived at for half a century. The Department recognizes that there is value in a families' occupation of a site over time, and that the loss of access to the site would have an impact on the family.

The Department finds that the applicant qualifies under the statutes given the evidence provided above and in compliance with adopted Department policy.

Last, the Buzby family built an unauthorized airport landing strip and access trail. Should this application move forward, survey of the airport and access trail will occur along with survey of the Slide Creek Camp at the applicant's expense. The Department will process easements for the airport and access trail concurrently with this preference right application. These easements solve a

management issue inherent in an unauthorized airport and trail, provide public access to surrounding mining claims and recreational and commercial hunting activities, and provide legal access to the subject parcel. The easements must be approved by the department in order for the purchase of Slide Creek Camp to move forward.

Mining claims ADL's 621910 and 621907 are located within and around the proposed public airstrip and public access easement. The owner of these claims and surrounding claims will be notified of proposed easements and given the opportunity to comment on the proposed actions.

e. Planning, Classification, and Mineral Orders:

1. *Planning:* The subject parcel is in unit P-50 of the Yukon Tanana Area Plan (YTAP), adopted January 3, 2014. Recommended land use within this management unit/region includes subsurface resource development and protection of habitat. The plan designates the subject parcel as Minerals and Wildlife Habitat.
2. *Classification:* YTAP classifies the subject parcel as wildlife habitat and mineral lands. AS 38.05.300 and 11 AAC 55 require that state land be classified prior to disposal or transfer of interests. However, AS 38.05.035(c) allows for the subject parcel to be disposed of under AS 38.05.035(b)(5) without classification or re-classification. This parcel may be sold without a classification of Settlement.
3. *Mineral Order:* The Department proposes to close the subject parcel to new mineral entry in accordance with AS 38.05.185 for land disposals. There are no current mining claims located within the subject parcel. If approved by the Commissioner, Mineral Order 1222 will close the subject parcel to new mineral entry. If the Department approves the preference right sale, the mineral order will accompany the Final Finding and Decision. The approval of the mineral order is a separate action occurring concurrent with the Final Finding and Decision.

Area plan subsurface management policy states that, in general, areas or parcels scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land estate and mineral estate users.

Mineral orders for closures, where they have been established, close the area to exploration and development of locatable minerals such as gold, copper, platinum, etc. Mineral orders do not apply to leasable minerals, including oil and gas, coal, shallow gas, or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, Alaska

law also provides that the surface owner will be compensated for damages resulting from mineral exploration and development (AS 38.05.130).

4. *Local Planning:* A review of Denali Borough Comprehensive Plan showed no conflict within the proposed sale area.
- f. Traditional Use Findings: A traditional use finding is not necessary because the subject parcel is located within an organized borough.
- g. Access, Including To and Along Public or Navigable Water: Management guidelines provide that prior to disposal of state lands, public access will be reserved in accordance with applicable regulations, and reasonable access across state land will be retained when lands are sold.

Access for the Slide Creek Camp is from an existing trail and airstrip previously developed for mining claims in the Slide and Dry Creek drainages. Legal access to the subject parcel is from the existing airstrip, down a section line (see attached map), to Slide Creek river bottom, and a small walk down the creek bed to the subject parcel.

The Department is recommending legal access via creation of state managed easements ADL's 421158 (airstrip) and 421159 (access trail). These easements will be retained in state ownership and the applicant will have the area surveyed with the subject parcel as part of this application. The survey will encompass all improvements and include state-owned easements. The State is not responsible for easement maintenance, construction or upgrades.

The subject parcel is adjacent to Slide Creek. AS 38.05.127 requires that the Commissioner determine if a body of water or waterway is navigable prior to disposing of adjacent land interests. Slide creek is neither listed as navigable or unnavigable. Under the authority of AS 35.05.127 the Division determines Slide Creek to be public water requiring setbacks pursuant to AS 35.05.127 and 11 AAC 51.035-.045.

#### *Easements and Setbacks*

- To ensure free access to and along public waters, a public access easement of 50 feet in width from the ordinary high-water mark will be reserved along Slide Creek.
- A 50-foot building setback as required by chapter 2 of the YTAP. It is recognized that there are numerous existing structures within this setback; these structures may remain and are grandfathered in, but may not be enlarged or rebuilt within the setback.

- A 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5-foot direct line-of-sight easement from the control station to an azimuth mark or other control monument.
- Additional reservations and/or restrictions required through the local platting authority.
- For ADL 421158 an easement shall be 300 ft wide (150 ft each side of centerline) roughly centered on the existing airstrip and shall extend 150 ft each end of the airstrip.
- For ADL 421159 an easement shall be 60 ft wide (30 ft each side of centerline) roughly centered on the existing trail from the edge of ADL 421158 to the edge of ADL 418780, in the Western ½ Section 26, Township 10 South, Range 2 East, Fairbanks Meridian.

Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.

- h. Reservation of Mineral Estate: In accordance with section 6(i) of the Alaska Statehood Act and AS 38.05.125, 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, if any, which could occur, would be consistent with AS 38.05.130 and other applicable statutes and regulations.
- i. Hazardous Materials and Potential Contaminants: There is no known contamination of, or hazardous materials on, the subject parcel. The applicant is expected to inspect the subject parcel to ascertain the quality and condition of the land. The state makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land proposed for conveyance to the applicant. The State does not assume any liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances ever be identified.

The Department recognizes there are potential future environmental risks associated 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 Department of Environmental

Conservation. The risk is no greater than when private vacant land undergoes development. Given this land has been designated as commercial – settlement for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, the Department is of the opinion that the benefits outweigh the potential risks.

- j. Performance Guaranties and Insurance: Not applicable to this decision.
- h. Survey: Upon Department approval for purchase of the parcel, the applicant will be required to complete an Alaska State Land Survey (ASLS) at the applicant's expense. This survey must be approved by the Department and the local platting jurisdiction, if any. The parcel will not exceed five acres.

ADL 421158: A survey acceptable by Department standards shall be completed prior issuance of an easement. The applicant is required to obtain survey instructions from the Department's Survey Section and is required to submit a written request and any associated fees for survey instructions within six months of notification of the effective date of any subsequent Final Decision that approves issuance of this easement. The easement shall be 300 ft wide (150 ft each side of centerline) roughly centered on the existing airstrip and shall extend 150 ft each end of the airstrip.

ADL 421159: A survey acceptable by Department standards shall be completed prior issuance of an easement. The applicant will be required to obtain survey instructions from the Department's Survey Section and is required to submit a written request and any associated fees for survey instructions within six months of notification of the effective date of any subsequent Final Decision that approves issuance of this easement. The easement shall be 60 ft wide (30 ft each side of centerline) roughly centered on the existing trail from the edge of ADL 421158 to the edge of ADL 418780, in the Western ½ Section 26, Township 10 South, Range 2 East, Fairbanks Meridian.

- i. Appraisal: ADL 418780: If the purchase is approved, the subject parcel will be sold at the market value required under *AS 38.05.035(b)(5)* which is based on the "date of entry" (date first entered onto the land). The date of entry was June 10, 1954. At the appropriate time, the Division will notify the applicant to begin the appraisal process and will provide a list of approved appraisers. The Appraisal Unit will provide appraisal instructions to an approved appraiser. The applicant bears the cost of appraisal.

## **VI. Agency Review**

Agency review is conducted concurrent with the public notice of this preliminary decision. Agency comments received will be addressed in the Final Finding and Decision along with public comment.

## **VII. Submittal of Public Comments**

Pursuant to *AS 38.05.945*, the Department is issuing public notice inviting comment on this Preliminary Decision and the proposed related actions.

In accordance with *AS 38.05.946(a)*, a municipality or corporation entitled to receive notice under *AS 38.05.945(c)* may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

The Division will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the proposed primary actions or proposed related actions, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposals are approved and no significant change is required, the Preliminary Decision and proposed related actions, including any deletions, minor changes, and summary of comments and Division's responses will be issued as a subsequent Final Finding and Decision, and Mineral Order 1222 without further notice. All related actions will be developed separately. However, approval of any action is dependent upon one another. One action will not proceed without approval of all actions.

Only persons from whom the Division receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision, and Mineral Order 1222. Upon approval and issuance of a Final Finding and Decision, a copy of the decision, orders, and amendment will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the appeal process to any party who provides timely written comment.

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

**DEADLINE TO SUBMIT WRITTEN COMMENT IS  
3:30 PM, WEDNESDAY, MARCH 25, 2020**

## VIII. Stipulations

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

1. A notice to proceed to survey will be issued if no appeals are received, or when appeals are resolved, after issuance of a Final Finding. Within six months from the date of the notice to proceed to survey, the applicant must hire a surveyor and the surveyor must apply to the Division's Survey Section for survey Instructions.
2. Within three years 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 and the local platting jurisdiction, if any, as set forth in the Survey Instructions.
3. Upon approval and recording of the survey, a notice to proceed to appraisal will be issued. Within two years from the date of the notice to proceed to appraisal, the applicant must hire an appraiser from the Department's Approved Appraiser list. The appraiser must apply for appraisal instructions issued by the Division, and then must submit a completed fair market value appraisal to the Division in accordance with the appraisal instructions.
4. 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 the following to the Division:
  - A completed and signed Declaration of Intent Form;
  - A signed and notarized Veterans Land Discount form (if applicable);
  - Payoff amount plus patent application and recordation fees OR minimum 5% of the purchase price as deposit plus land sales contract application and recordation fees. Fees are established under to 11 AAC 05.100 & 200 and are subject to change. Some fees have been reduced by Director's Order Number 3;
  - For easement ADL's 421158 and 421159, the applicant must pay a one-time land use fee for each acre and each fractional acreage thereof, which shall not be prorated, pursuant to 11 AAC 05.070(d)(2)(B).
5. 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. 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.

If the applicant is unable to complete the stipulations in the timeframe specified above, the Division may decide to close this purchase application or require an amended decision, including further public notice, prior to the completion of the purchase unless the delay and extenuating circumstances are pre-approved by the Division.

## **IX. Alternatives**

The following alternatives were considered.

### Alternative 1: Sell

Offer the subject parcel for sale as proposed in this decision in accordance with AS 38.05.035(b)(5) and AS 38.05.850.

In providing for short-term and long-term needs of present and future generations, it is the State's policy to manage state-owned lands in such a way that establishes a balanced approach to facilitate a combination of uses on state lands that is consistent with the public interest and make land available for both the public and private individuals of the State. The subject parcel with the addition of state administered easements, ADL's 421158 and 421159, will provide for; 1) settlement land to the private sector, 2) generate revenue for the state, 3) and bring about final resolution to a parcel of land that has been difficult for the state to manage.

Therefore, since this land meets the relevant statutory requirements and is in the best interest of the state to sell, the parcel is recommended for sale as proposed in this decision. This is the preferred alternative.

### Alternative 2: Retain

The Department may take no action and retain the subject parcel.

Under alternative 2, the Department expends resources managing the land and the improvements on the land, while forgoing the income that could have been generated by a sale. Since Mr. Buzby has invested a substantial amount of time and money to develop the subject parcel, and since the subject parcel and structures are considered unauthorized, this creates a "burden" between the applicant and the landowner involving said improvements. If the state were to retain the subject parcel, any unauthorized structures on state-owned lands must be removed and the land remediated back to a state that is acceptable to the Department. The State would need to undertake a separate process to remedy the conflict prior to repurposing the land for maximum use consistent with the public interest. Given the complexity of retaining the subject parcel and preventing an inequity considering the Buzby's use and occupation of the land since the 1950's timeframe, retaining the subject parcel is not in the best interests of the state. This alternative is not preferred.

**X. Recommendation and Decision**

The proposed action, along with the state administered easements recognized in Alternative 1, is in the overall best interest of the state and is consistent with the requirements under AS 38.05.035(b)(5). Alternative 1 provides accessible, quality land for private ownership and will generate revenue for the state.

After public notice, the subsequent review process may result in changes to the preferred alternative. A Final Finding and Decision will address any significant issues or concerns raised during the public review process.

The State does not guarantee the condition or usefulness of the subject land. The land is offered "as is" with no guarantees, expressed or implied, as to its suitability for any planned or potential use, or as to the availability of any public or private services.

If conditions for which this application was made change before the proceeding to purchase, either by contract or payment in full, an amended decision, including further public notice, may be required prior to the completion of the purchase.

The proposed action may be in the best interests of the state and the Preliminary Decision is hereby approved to proceed to Public Notice in accordance with AS 38.05.945.

**Prepared by:**

[signature on file] \_\_\_\_\_  
Jane Boer  
Natural Resource Specialist  
Land Sales Section  
Department of Natural Resources  
State of Alaska

2/19/2020  
Date of Signature

**Approved by:**

[signature on file] \_\_\_\_\_  
Rachel Longacre  
Section Manager  
Land Sales Section  
Department of Natural Resources  
State of Alaska

2/19/2020  
Date of Signature



# Brian Buzby- ADL 418780

# Attachment A: Vicinity Map

Preliminary Decision for a Proposed Noncompetitive Sale Pursuant to AS 38.05.035(b)(5)

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.

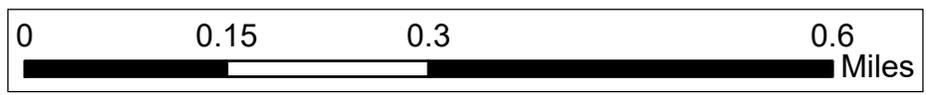
ADL 421158  
300 Foot Airstrip Easement

ADL 418780  
Slide Creek Camp

ADL 421159  
60 Foot Trail Easement

 ADL 418780 (approximate)  
 Mining Claim  
 Section

Slide Creek

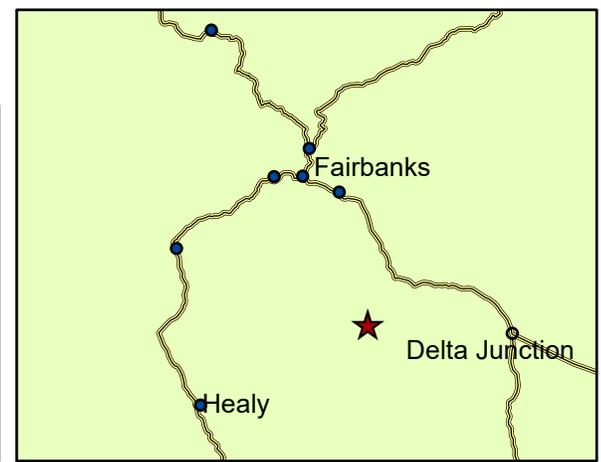
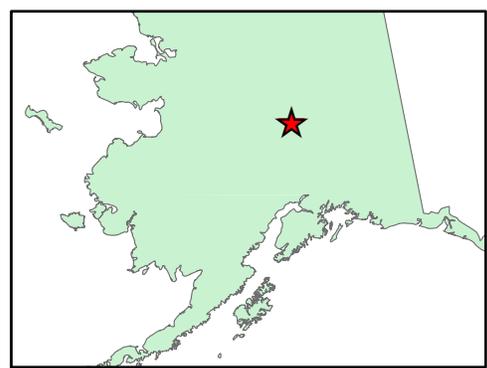


JRE 5/8/2019

### Section 26, Township 10 South Range 2 East, Fairbanks Meridian

USGS QUAD 1:63,360  
Fairbanks A-1  
Township 10 South, Range 2 East,  
Fairbanks Meridian

For more information contact:  
Department of Natural Resources  
Division of Mining, Land, and Water  
Land Sales Section  
John Easton  
Phone: 907-269-5639  
Fax: 907-269-8916  
Email: john.easton@alaska.gov



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

**PUBLIC NOTICE**

Requesting Input for Proposed Non-competitive Sale to  
Preference Right Applicant ADL 418780  
A Preliminary Decision under AS 38.05.035(b)(5),  
Public Airstrip Easement (ADL 421158), Public Access Easement (ADL 421159) under  
AS 38.05.850, and Proposed Related Actions:  
Mineral Order (Closing) – AS 38.05.185 and AS 38.05.300

**COMMENT PERIOD ENDS 3:30PM, WEDNESDAY, MARCH 25, 2020**

The Alaska Department of Natural Resources, Division of Mining Land and Water (DNR DMLW), is conducting a public notice for a non-competitive land sale located approximately 50 miles west of Delta Junction on Slide Creek within USGS Quad Map Fairbanks A-1. The Subject parcel is located within Section 26 of Township 10 South, Range 2 East, Fairbanks Meridian.

To obtain the notice, Amended Final Finding and Decision, or instructions on submitting comment, go to <http://dnr.alaska.gov/mlw/landsale/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907.269.8400 or Fairbanks at (907) 451-2705 or the Southeast Land Office in Juneau at (907) 465-3400 or TTY: 711 for Alaska Relay or 1-800-770-8973 or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, Friday, March 6, 2020.

Pursuant to *AS 38.05.945 Notice*, the public is invited to submit comment on draft Mineral Order (MO 1222), Preliminary Decision (ADL 418780), Public Airstrip Easement (ADL 421158), or Public Access Easement (ADL 421159) 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 3:30PM, WEDNESDAY, MARCH 25, 2020.** Only persons from whom DNR DMLW receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Written comment may be received by fax, email or postal mail. To submit comments or for direct inquiries, contact Jane Boer, 550 West 7<sup>th</sup> Ave, Suite 640, Anchorage, AK 99654 or by fax at (907) 269-8916 or by email at [jane.boer@alaska.gov](mailto:jane.boer@alaska.gov).

If no significant change is required, the preliminary decision, including any minor changes and a summary of comments and responses, will be issued as the final finding and decision without further notice. A copy of the final finding and decision will be sent to any persons who commented timely on the preliminary decision.

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