

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

PRELIMINARY DECISION
Hobby Horse Subdivision – ADL 233000

Proposed Land Offering in the Matanuska-Susitna Borough
AS 38.05.035(e), AS 38.05.045

RELATED ACTION(S)
None Proposed

PUBLIC COMMENT PERIOD ENDS 5:00PM, TUESDAY, NOVEMBER 9, 2021

I. Proposed Action(s)

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Attachment A: Vicinity Map

Attachment B: Public Notice

Primary Proposed Action: The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) is to offer for sale State-owned land within the identified project area. If approved, surveyed parcels may be offered for sale.

LCS proposes to sell land within the Hobby Horse project area for the purpose of providing land for settlement by developing a subdivision of no more than four parcels for sale, varying in size no smaller than 7 acres. Subdivision design may include additional parcels to be retained in State ownership as necessary. The project area consists of approximately 40 acres identified for disposal by this proposed action. The project area may be subdivided and offered in multiple stages.

If this proposed primary action is approved, the actual area offered for sale may consist of all or only a portion of the overall project area. After consideration of public comment, the size and boundaries of the project area will be described in a subsequent Final Finding and Decision (FFD), if the project proceeds to that step. Additional adjustments may be made prior to survey/subdivision, as described in the applications to the platting authority, as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with platting requirements. Although actions under this proposal are limited to the stated maximums, additional offerings may be authorized under future proposals, which could increase the density of privately-owned parcels within, adjacent to, or near the project area.

No related actions proposed.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal.

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

II. Method of Sale

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

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

III. Authority

DNR has the authority under *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." In addition, if it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020(h) Land Disposal Bank*. This proposed offering includes the possibility of selling the project area as a single parcel or a subdivision of no more than 4 parcels.

IV. Administrative Record

The project file, Hobby Horse Subdivision - ADL 233000, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- *Susitna Matanuska Area Plan for State Lands (SMAP, adopted August 2011) and associated land classification files;*
- *Matanuska-Susitna Borough Comprehensive Development Plan;*
- *Susitna (Formerly Y) Community Comprehensive Plan;*
- *Alaska Interagency Wildland Fire Management Plan (2020 Review);*
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes;*
- *USDA, Natural Resource Conservation Service Custom Soil Report for this project, dated February 15, 2018;*
- *U.S. Fish and Wildlife Services, National Wetlands Inventory; and*
- *DNR case files: access easement ADL 33042; utility easement ADL 32990; lease/trespass ADL 51621; December 2, 1966 DNR Talkeetna Auction announcement; and, other cases, documents, reports, etc. referenced herein.*

V. Scope of the Proposal

The scope of this proposal, under the statutes described in **Section III. Authority**, is limited and specific to LCS's proposal to offer State-owned land within the defined project area for disposal as described herein. The scope of this proposal does not include the control of post-patent use

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and LCS does not intend to impose deed restrictions for this purpose. The subdivision may be conducted in multiple stages.

VI. Location

The project area is located within DNR's Southcentral Region, approximately 9 miles South of Talkeetna, within Section 5, Township 24 North, Range 4 West, Seward Meridian, within the Matanuska-Susitna Borough (MSB). The project area consists of approximately 40 acres identified for disposal by this proposed action.

Platting Authority: The project area is within the Matanuska-Susitna Borough and subject to the borough's platting authority.

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

VII. Property Description

The SE1/4NW1/4 of Section 5 within, Township 24 North, Range 4 West, Seward Meridian, containing 40 acres more or less, according to the Survey Plat approved by the United States Surveyor General's Office in Juneau, Alaska, on April 23, 1918.

VIII. Title

Title Report No. 10386, current as of February 6, 2018, indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 1213622, dated October 17, 1960. Ownership of the parcel was transferred from the State of Alaska to the Board of Regents of the University of Alaska, with Statutory Quitclaim Deed No. 585 dated 10/21/1983 and transferred back to the State of Alaska with Statutory Quitclaim Deed dated 12/21/1983. The applicable State case files are UNIV 37 and OSL 792. The parcel is subject to the reservations, easements and exceptions contained in the federal patent.

State Reservations of Title:

Retention of and Access to Mineral Estate: In accordance with *Section 6 (i) of the Alaska Statehood Act* and *AS 38.05.125 Reservation [of Rights to Alaska]*, the State retains ownership of the mineral estate that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals (such as gold, copper, and silver, etc.), and leasable minerals (such as oil, gas, coal, etc.).

The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing, and producing these reserved mineral resources. Access reserved to these retained interests is superior to any and all surface uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, *AS 38.05.130 Damages and Posting of Bond* also provides that the land estate owner will be compensated for damages resulting from mineral exploration and development.

Navigable Waters: Per *AS 38.05.126(b) Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the state, both meandered

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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 **Section XIII. Access To, Within, and Beyond Project Area** section of this document.

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

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

IX. Physical Characteristics and Hazards

Information about the project area is based on internal research, information received during agency review, and on-ground field inspections conducted by staff on October 20, 2017, and September 4, 2020. In addition, on May 17, 2021, staff from the DMLW Statewide Abatement of Impaired Lands (SAIL) section conducted a field inspection and issued a field report. This is by no means a complete description of the project area and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect individual parcels prior to purchase to familiarize themselves with the physical characteristics of the land.

Terrain and Major Features: The elevation of the area is approximately 400-feet above sea level. There are undulating hills throughout the majority of the area, elevations range from 396-feet to 436-feet above sea level with moderately steep slopes.

View: Higher elevations may have views of the Alaska Range and Talkeetna Mountains.

Vegetation: During field inspections in October 2017, and September 2020, LCS staff found a majority of the project area well vegetated with a mixed, aspen, birch, and spruce forest. There is an approximately 5-acre area in the southeastern portion of the project area covered with marsh grass and shrubs.

Soils: Soils within the project area generally consist of Class IV Nancy silt loam soils according to a NRCS Custom Soil Resource Report. Most of the area is well drained, there is an area in the southeastern corner of the project area that is poorly drained and the area adjacent to Answer Creek may also be poorly drained.

Wetlands: The National Wetlands Inventory map shows a freshwater emergent wetland within the southeast portion of the project area that drains north into Answer Creek, and a freshwater forested/shrub wetland within the southcentral area. Subdivision design may incorporate the retention of the wetlands in the southeast portion of the project, as well as lands adjacent to Answer Creek to protect access and fish and wildlife habitat. See **Section XVI. DMLW and Agency Review** for comments from ADF&G regarding wetlands.

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Geologic Hazards: Geologic hazards are common throughout Alaska. Information gathered during field inspections did not indicate any specific geologic hazards for this area. Should any geologic hazards be discovered in the development of this proposal, information will be included in offering materials.

Fire Information: Pursuant to observations from the October 20, 2017, field inspection and information received from the Division of Forestry, fire risk in the area is likely high. The project area is within the Talkeetna Fire Service Area #24.

Potential for wildland fire is high in southcentral Alaska and other certain parts of the state. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Offering materials include information regarding wildland fire prevention.

Fire management options and policies for the area are identified in the Alaska Interagency Wildland Fire Management Plan available from DNR Division of Forestry. The current fire management option for the project area is “Critical.” The policy on areas with the “Critical” management option reads, “Wildfires occurring in the Critical Management Option or that threaten critical sites are assigned the highest priority for suppression actions and assignment of available firefighting resources.” It also states that the designation of a fire management option does not ensure protection from wildfire, that a protection response will be based on various factors, and “Ultimately, it is the responsibility of [landowners] to mitigate and minimize risk to their property before it becomes threatened by a wildfire.”

Flood Hazard: The project area is within FEMA Flood Insurance Rate Map Community Panel 3510. The project area is within flood zone A, defined as “No base flood elevations determined.” There is a 1% annual chance of a 100-year flood. There is potential for seasonal flooding and erosion of parcels adjacent to water bodies, especially in low-lying areas.

Water Resources: All surface and subsurface waters on all lands in Alaska are a public resource, subject to appropriation in accordance with the Alaska Water Use Act (AS 46.15). There are several water rights in the vicinity. One of them is located in section 5 on Lot 4 (NWNW). Information from well logs indicate that well depths in the vicinity typically range from 61 to 252-feet deep. Potential water sources in the area include drilled wells and Answer Creek. Water quality is unknown. Additional information on wells, water quality, and drinking water may be obtained from the Alaska Department of Environmental Conservation.

Utilities: This area is currently served by Matanuska Electric Association (MEA).

Waste Disposal: A MSB transfer station is located at mile 11.8 of the Talkeetna Spur Road. All on-site wastewater disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

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X. Background:

This project area was previously offered in the 1966 Talkeetna Auction as a 55-year lease, ADL 51621. A lease was issued in 1970. The lease changed ownership over the years and eventually became a trespass after the lease was terminated in 2007 for non-payment and the lessee continued to live on the property. The lessee illegally sold gravel off the parcel, buried vehicles, and left dilapidated buildings. A number of vehicles were also abandoned on the parcel. DNR's South Central Regional Office (SCRO) cleaned up most of the vehicles in September of 2016, and the house was burned by the Talkeetna Fire Department on February 25, 2017. The project area is currently vacant land with the exception of two sheds and an outhouse. There are still abandoned vehicles on the property.

An October 20, 2017, field inspection found the old homesite, located in the southwest corner of the project area, clean and without trash, after the clean-up efforts by SCRO and the Talkeetna Fire Department. There were two sheds and an outhouse that were not removed still located on the property. No obvious hazardous materials were observed during the field inspection. SCRO also cleaned up numerous vehicles as part of their clean-up effort. During the October site visit, three vehicles were found. A follow-up visit on September 4, 2020, found very little new trash, but one new vehicle was found near the other three abandoned vehicles. The lessee created a borrow pit in the southcentral area just north of Hobby Horse Lane and extracted material over the years. Field inspection photos show the pit being vegetated with young birch trees.

The SAIL Section provided comment during division review recommending that an environmental site assessment be conducted to locate and document buried waste and to recognize potential contamination on disturbed portions of the proposed subdivision. LCS followed up with SAIL and coordinated with them in their efforts to review the past use and the clean-up activities that have taken place on the project area. SAIL completed a desktop review on March 16, 2021, of readily available information to identify contamination and solid waste concerns. Based upon the past use of the property and its intended use as a residential site. SAIL conducted a field inspection on May 17, 2021, and issued a field report on June 8, 2021, that recommended the following information be disclosed to potential purchasers if the parcel is offered for sale:

- The largest clearing has been used to dump vehicles and trash. Although SCRO conducted a clean-up of the area and removed a vast majority of the trash, vehicles remain and magnetic anomalies indicate the presence of buried metal.
- The log woodshed and outhouse are still standing, a shed with glass food jars and miscellaneous household trash has collapsed.
- The former dwelling was burned the Talkeetna fire department, this area could contain a septic system or holding tank with unknown history of use.
- As a former residence, a heating fuel tank could have been on site. It is not known if there were any fuel releases.
- The material site area contained magnetic anomalies throughout, it is unknown what may be buried at the site. The cut bank is unreclaimed and there is evidence of carcass dumping and shooting. Shooting activities on site likely resulted in lead contamination.

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LCS will continue to coordinate with SAIL regarding site status and will alert prospective purchasers of potential property impairments in offering materials.

The State received the Patent to section 5 in 1960. Subsequently the NE1/4 was conveyed as Municipal Entitlement to the MSB. Lot 4 and the SW1/4SE1/4 were conveyed as preference right parcels. The SE1/4SE1/4 was developed as Vita Subdivision and the remainder of section 5 is University land.

The area along the Talkeetna Spur Road is a mix of agriculture, residential, commercial, municipal land, and university land. Although the majority of the parcels are larger parcels, DNR has developed several subdivisions in the general vicinity of Talkeetna that have been very popular. DNR has very few parcels from previous subdivisions that are available for sale, with the majority of them being remote parcels with limited access.

Developed access from Talkeetna Spur Road is via Hobby Horse Lane, at best, a pioneer standard road. MSB code limits a subdivision accessed by a pioneer road to 4 parcels. A subdivision of more than 4 parcels would require an upgrade to the road that would make the subdivision less profitable. This proposal would authorize the sale of the project area as a single parcel or no more than 4 parcels, no smaller than 7 acres. If it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020(h) Land Disposal Bank*. Lot sizes in the vicinity of the proposed project are generally larger than 5-acres in size, with many of them being 40 acres. Although the project area consists of rolling hills, the soils and timber type in the project area may be favorable to agriculture development. To allow for the possibility of small-scale agriculture activities, parcels larger than 5-acres in size would be appropriate.

There appear to be no utilities available on the property, the area is served by Matanuska Electric Association (MEA), and a MSB transfer station is located at mile 11.8 of the Talkeetna Spur Road.

Answer Creek is an anadromous waterbody that flows into the project area from the east, about 225-feet south of the northeast corner, and flows generally south for another 180 feet where it intersects with an unnamed drainage. Answer Creek then flows northwesterly along and through the northern portion of the project area. The unnamed drainage extends from its intersection with Answer Creek south along the eastern side of the project area and south into other lands. The drainage has been dammed by beavers from time to time which floods approximately 5-acres of wetlands in the southeast corner of the project area. Alaska Department of Fish and Game (ADF&G) commented that the unnamed drainage had a high probability of containing fish since it is connected to an anadromous stream and therefore should be considered public. ADF&G also recommended retaining approximately 5-acres of wetlands within the project area to protect fish and wildlife habitat. In order to maintain access and protect fish and wildlife habitat, subdivision design may include retaining up to approximately 15 acres to include all or a portion of the wetlands, the lands along the unnamed drainage into Answer Creek, as well as an isolated area north of Answer Creek located in the northeast corner of the project area.

A majority of the area is well vegetated with a mixed forest of middle aged, birch, aspen and spruce as shown on field inspection photos. The forested terrain is mostly rolling hills ranging in

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elevation from 370 feet-above sea level in the lower areas along Answer Creek, to 436 feet by the borrow pit.

The southwest quarter of the project area, near the old homesite, has a few relatively level areas with class IV soils that may lend themselves to some type of agriculture use. The forested area may also be attractive as a birch sap collection area.

The project area is best suited for sale as a single parcel or subdivided and offered as up to four parcels. The wetlands in the southeast corner of the project area and the setbacks associated with Answer Creek occupy a significant portion (approximately 10 -15 acres) of the overall acreage. The individual lots sizes should be kept as large as possible to offer larger residential/recreational size lots which are consistent with the surrounding area, and have a variety of building sites, good access, and small agriculture possibilities. The larger lot sizes without the requirement for road upgrades will also provide a good rate of return for the State. Not offering the parcel for sale prevents the public from acquiring attractive parcels in a desirable location and does not provide the best return for the State since this parcel will likely continue to be a dump site and be an ongoing burden to the State.

XI. Planning and Classification

The project area is within Susitna Matanuska Area Plan (SMAP, adopted 2011), South Parks Highway Region, Unit S-25. Lands within this unit are currently designated Settlement, and classified Settlement under Plan Determination No. SC-09-002-D14. The project area consists of a portion of the management unit S-25. LCS reviewed the general management intent of the area plan, and management unit S-25 for consistency with the proposed offering.

South Parks Highway Region, Unit S-25 Considerations: Uplands in eastern portion of unit may be appropriate for land disposal. The western and central portions, occupied by the Alaska Railroad and wetlands, respectively, are to be maintained in their present natural state. Protect anadromous streams. Protect trails and RS 2477 routes. Portions of this unit are in selection status; review land status prior to any management or disposal action.

SMAP describes Unit S-25 as originally consisting of two geographically separate parcels within section 7, both have similar characteristics. The easternmost portion is occupied by generally level uplands that have a mixed deciduous-evergreen forest, while the central area is occupied by wetlands and small creeks. The Alaska Railroad bisects the western portion of the parcel, making this area of the parcel essentially inaccessible. Several creeks pass through this portion of the parcel. The Talkeetna Spur Road is situated one mile to the east and several rural residential streets extend to lakes about 0.25 miles from the Spur Road. Anadromous streams occur in the unit. RST- 1691, Hering Trail – Question Creek, crosses this unit.

SMAP incorrectly identified the project area as university land. During consultation with RADS it was determined that the original 55-year Recreational Lease of June 1965, ADL 51621, was terminated and due to *11 AAC 55.277 Existing Classifications* automatically became settlement land. SMAP of Aug 2011 overlooked inclusion of this parcel. A July 24, 2020, Plan Determination, SC-09-002-D14, designates the project area as settlement and classifies it as settlement land, and assigns it to Unit S-25.

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There are no RS2477 trails identified within this parcel, and this parcel is not affected by the Alaska Railroad. Answer Creek, an anadromous stream, does cross through the northeastern portion of the parcel. The anadromous stream will be protected by reserving a 150-foot building setback along Answer Creek and 50-foot public access easement along the stream in accordance with *AS 38.05.127 Access To Navigable or Public Water*, on any parcels offered for sale. Additionally, subdivision design may include retaining the land around the wetlands along the eastern side of the project area together with the lands adjacent to Answer Creek.

Area-wide Considerations: LCS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies. LCS will incorporate these considerations into the design and development of the project. Lands to be retained in public ownership, conditions, and reservations will be included on the plat and in offering materials as appropriate. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

Coordination and Public Notice: Management guidelines encourage review of local comprehensive plans and provide that public notice will be given for the disposal of land pursuant to *AS 38.05.945 Notice*. Public notice for this action is being conducted in accordance with *AS 38.05.945 Notice*. Refer to *Attachment B: Public Notice* and **Section XVII. Submittal of Public Comments**, for more information. The proposed project area is in the MSB, the comprehensive plan has been reviewed as it pertains to land use.

Cultural Resources: Management guidelines provide that if determined by the DNR Office of History and Archaeology (OHA) during an agency review of a proposed land disposal that a cultural survey may be required, further coordination between OHA and DMLW prior to the land disposal is warranted; and that cultural surveys should be considered where OHA reported sites exist or where there is a high potential for such sites to exist. During agency review, OHA did not comment. OHA will be notified should any discovery of cultural resources occur during the development of this project and offering material will include information regarding archaeological sites.

Material Sites: Management guidelines state that generally, if a settlement area contains sand and gravel deposits, or other high value material resources, the material source area should be identified during subdivision design and retained in state ownership for future use. There are several public and private material sites near the project area. Since the project area is small, and there are other material sources available in the vicinity, the retention of a material site is not necessary or appropriate for the project area.

Settlement: Area-wide management guidelines regarding settlement provide guidance regarding planning and coordination with local plans and governments; types of settlement and land offerings; protection, management, and enhancement of other resources; and design. These guidelines have been considered in the development of this proposal. The proposed project will not interfere with any critical

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recreation or environmental resources and DMLW will solicit coordination with local landowners through the public notice and public comment process.

Shorelands and Stream Corridors: Management guidelines encourage subdivision design to incorporate public access and protection of the land adjacent to high value waterbodies. Table 2-1 in the SMAP prescribes a 150-200-foot building setback adjacent to anadromous water bodies. This applies to the parcel as it relates to Answer Creek, an anadromous stream. Subdivision design will incorporate a 150-foot building setback and a 50-foot continuous easement upland from the ordinary high water (OHW) of Answer Creek.

Public Access: Management guidelines cover general public access and management of trails within and between developing areas. In general, before selling State land, DNR will reserve public use easements pursuant to the requirements of *11 AAC 51.015 Standards for Public Easements*. The project area has developed access from Talkeetna Spur Road. No trails have been identified to be reserved within the project area. An access easement is reserved along the west boundary (ADL 33042) and access will be reserved or lands will be retained along Answer Creek and the wetlands in the southeast corner as appropriate.

The proposed offering is consistent with area-wide land management policies and general management intent of the SMAP and specific management unit.

Mineral Activity and Order(s): No mineral activity has been identified on these lands. The project area is closed to mineral entry under Mineral Closing Order (MCO) No. 239.

Mining activity for locatable minerals would be incompatible with the past, current, and proposed land estate uses for land disposals. To allow new mineral location within the boundaries of the parcels encompassed by this decision could create serious conflicts between land estate and mineral estate users. Area plan mineral estate management policy states that, in general, areas scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land estate and mineral estate users.

Local Planning: The project area is within the MSB and property purchased through this proposed offering will be subject to the applicable zoning, ordinances, and restrictions of the borough. The project area is within the boundary of the Susitna (Formerly Y) Community Comprehensive plan, adopted March 2007. Review of that plan did not indicate any conflicts with the proposed State land disposal. The project area is located within the Greater Talkeetna Road Service Area #29 and the Talkeetna Fire Service Area #24.

XII. Traditional Use Finding

The project area is located within the MSB and a traditional use finding is therefore not required per *AS 38.05.830 Land Disposal in the Unorganized Borough*. However, information on current or traditional use is welcomed and can be given during the public comment period. See **Section XVII. Submittal of Public Comments** at the end of this document and *Attachment B: Public Notice* for details on how to submit comment.

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XIII. Access To, Within, and Beyond Project Area

Vehicle access to the project area is by Hobby Horse Lane, located at mile 5 of the Talkeetna Spur Road. Hobby Horse Lane is a 60-foot easement from the Talkeetna Spur Road to and along the south boundary of the project area. The easement is reserved as ADL 33042 and a Right of Way Permit recorded on October 10, 1986 in the Talkeetna Recording District in Book 114, Page 410. The same ADL provides for a 30-foot access easement along the west side of the project area. Subdivision design will take into account topography and access to lands beyond the project area and within the project area boundaries. The project area is located in Greater Talkeetna RSA 029, and subject to the platting authority of the MSB. Approval of platting actions and dedication of rights-of-way will require separate processes and public notices through the borough.

Access To and Along Public or Navigable Waters: In accordance with AS 38.05.127 *Access To Navigable or Public Water*, DNR will determine if a water body is navigable or public and establish easements or rights-of-way as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or rights-of-way under this statute include 11 AAC 51.035 *Determination of Navigable and Public Water*, and 11 AAC 51.045 *Easements To and Along Navigable and Public Water*, and 11 AAC 53.450, *Buffer Strips, Reserved Areas, and Public Easements*.

For the purposes of AS 38.05.127:

- navigable waters are generally lakes larger than 50 acres in size or streams larger than 50 feet in average width;
- public waters are generally lakes larger than 10 acres in size or streams larger than 10 feet in average width; and
- waters may be determined public or navigable consistent with AS 38.05.965 (21) *Definitions*.

Answer Creek has been determined to be public within the project area. Parcels will be subject to access reservations in accordance with AS 38.05.127 *Access to Public or Navigable Water* and a 150-foot building setback from the OHW of the water bodies described above, as well as any additional water bodies identified as public or navigable prior to completion of survey in accordance with the SMAP. In addition, ADF&G noted that the wetlands located along the eastern side of the project area high probability of this wetland containing fish and recommended that LCS consider them public waters. LCS will reserve a 150-foot building setback from the identified wetlands, but does not intend to determine the wetland to be public for the purpose of AS 38.05.127.

Building Setbacks From Public or Navigable Water: If subdivision is deemed feasible, LCS proposes to place a note on the final survey plat describing a building setback upland from the OHW of public or navigable water to protect access, fish and wildlife habitat, and personal property. Structures and subsurface sewage disposal systems will not be permitted within the building setback, except for utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function.

Easements, Setbacks, and Reservations: Subdivision design may include a variety of easements, setbacks, and retained lands, which will be identified on the subdivision plat

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and included in related documents. Standards for easements are provided in *11 AAC 51.015* or by local platting ordinances. Final width and location of easements and reservations will be determined as part of the local platting process, which will include an additional opportunity for public participation.

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

- public access easements;
- utility easements;
- a 50-foot-wide section-line easement on each side of surveyed or protracted section-lines on State-owned land in accordance with *AS 19.10.010 Dedication of Land for Public Highways* and *11 AAC 51.025 Section-line Easements*; section-line easements may be vacated under *AS 19.30.410 Vacation of Rights-of-Way* and *11 AAC 51.065 Vacation of Easements* as part of the subdivision development;
- a 50-foot continuous easement upland from the OHW of public or navigable water bodies in accordance with *AS 38.05.127 Access To Navigable or Public Water*;
- a minimum 150-foot building setback from the OHW of public or navigable water bodies, in accordance with the area plan;
- a 150-foot building setback from the identified wetland areas as appropriate;
- 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.

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

Retained Lands: Subdivision design may include retaining the land around the wetlands along the eastern side of the project area together with the lands adjacent to Answer Creek to protect access, fish and wildlife habitat, and personal property.

XIV. Hazardous Materials and Potential Contaminants

During on site field inspections conducted on October 20, 2017, and September 4, 2020, staff did not observe any environmental hazards within the project area. The project area is an old home site lease. An old shed, small hay shed, and outhouse remain on the property after the clean-up efforts by SCRO and the Talkeetna Fire Department. The old shed is falling down and there is a variety of tools and supplies left in the collapsing shed. Four abandoned vehicles were observed, no visible signs of liquids or chemicals were observed. SAIL staff conducted a field inspection on May 17, 2021, and issued a field report on June 8, 2021 that recommended information on past use and clean-up be disclosed to potential purchasers if the property were offered for sale. Although the site has abandoned vehicles and magnetic anomalies indicate the presence of buried metal, there are no known environmental hazards present within the project

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area; however, the State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances eventually be found. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land prior to bid or application submittal.

LCS recognizes there are potential future environmental risks when previously vacant land is occupied. Many of the activities increasing these potential risks are regulated by other agencies, such as the regulation of septic system installation by the State of Alaska, Department of Environmental Conservation. This risk is no greater than when vacant private land undergoes development. Given that this land was specifically designated Settlement for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, LCS is of the opinion that the benefits of offering the land outweigh the potential risks.

XV. Survey, Platting, and Appraisal

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

This proposed project area is located within the Matanuska-Susitna Borough, and therefore survey and platting will be subject to the relevant subdivision standards. The borough's platting requirements provide for separate public notice periods and processes for platting actions. These additional opportunities for public involvement occur after DNR issues a Final Finding and Decision, if this proposed action is approved.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR standards will be required within two years of the date fixed for the sale of any parcel developed under this proposed action. Even though the sale of project area parcels in multiple offerings over time will mitigate "flooding" the market, the two-year appraisal requirement must still be followed.

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

XVI. DMLW and Agency Review

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. Agency review was conducted from September 28, 2020, through October 20, 2020. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision, if one is issued.

DNR DMLW LCS received brief comments of non-objection from the following agencies:

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DNR Division of Oil and Gas; DNR Division of Parks and Outdoor Recreation; and Department of Transportation and Public Facilities.

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

Department of Fish & Game (ADF&G) comment: ADF&G concurred with the application of a 150-foot building setback and a 50-foot public access easement upland from Answer Creek since it is an anadromous stream and public waters. Additionally, in reference to the wetland located in the southeast corner of the project area, ADF&G stated, “However, given the high probability of this wetland containing fish, these should be considered public waters as well. Therefore, at a minimum the adjacent uplands should be subject to 150 foot building setbacks and 50 foot public access easements. If conveyed into private ownership we would expect requests for the placement of fill in these wetlands, which would reduce the quantity and quality of available fish habitat. Therefore, we recommend retaining the approximate 5 acres of wetlands with the project area, in addition to maintaining the above mentioned building setbacks and access easements.”

DNR DMLW LCS Response: LCS appreciates ADF&G’s review and feedback of the proposed decision. Subdivision design will consider your recommendations and the retention of a portion of the project area to protect the wetlands and fish habitat. LCS will reserve a 150-foot building setback from the identified wetlands. The wetland area described does not meet the standard definition of public water in accordance with *11 AAC 51.035 Determination of Navigable and Public Water*. Due to the highly variable condition and area of these wetlands, LCS does not intend to determine the wetland to be public for the purpose of *AS 38.05.127*. However, LCS may reserve an easement in accordance with the 150-foot building setback if appropriate.

DNR Division of Agriculture (DAg) comment: DAg requested that DMLW consider offering this parcel, or a 20-acre portion of the parcel, with agricultural restrictions.

DNR DMLW LCS Response: LCS appreciates DAg’s review of the proposed decision and the feedback. LCS is aware that the project area contains non-irrigated land capability class IV soils, which are generally considered suitable for agriculture. However, the project area is relatively small, topography is limiting, and the reservations for Answer Creek and the adjacent wetlands all significantly limit the design of a larger parcel or parcels to be restricted to agricultural use. Additionally, selling a large fraction of the project area with agriculture restrictions would greatly diminish the return to the State. LCS intends to highlight the suitability of the soils and site for agriculture practices in the offering materials. However, LCS does not consider it appropriate to amend the classification of the project area (or a portion of) to Agriculture, or to offer the land subject to perpetual agricultural covenants.

DNR Division of Forestry (DOF) comment: DOF recommended including Firewise mitigations and defensible space into development plans, treating any spruce harvested in a manner that reduces habitat for spruce beetle and suggested that development should protect the residual trees and forest by minimizing root zone impacts and soil compaction to protect overall forest health.

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DNR DMLW LCS Response: LCS appreciates DOF's review of the proposed decision and the feedback. Offering materials will encourage Firewise practices and include links to other fire mitigation information. Access to the project area is via Hobby Horse Lane and timber harvest and forest disturbance outside of parcels sold is not anticipated. LCS does not intend to develop the project area other than surveying and offering up to 4 parcels.

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

- Department of Natural Resources;
 - Division of Parks and Outdoor Recreation, Office of History and Archaeology;
 - Division of Geological & Geophysical Surveys;
 - Mental Health Trust Land Office;
 - Office of Project Management and Permitting; and
 - State Pipeline Coordinator's Section;
- Department of Environmental Conservation;
- Department of Commerce, Community, and Economic Development;
- Alaska Railroad;
- University of Alaska.

XVII. Submittal of Public Comments

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

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

In accordance with *AS 38.05.946(a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945(c)* may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether to hold a public hearing.

LCS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the Preliminary Decision, including any deletions, minor changes, and summary of comments and LCS responses will be issued as a subsequent Final Finding and Decision, without further notice.

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

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

DEADLINE TO SUBMIT WRITTEN COMMENT IS 5:00 PM, TUESDAY, NOVEMBER 9, 2021

XVIII. Alternatives and Discussion

LCS is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of no more than 4 parcels, varying in size, no smaller than 7 acres, to be offered for sale. The development and offering of these parcels may be completed in multiple stages.

Alternative 2: (No Action) Do not offer this project area for private ownership. Retain the land in State ownership.

Article VIII, Section 1 of the Alaska Constitution states, "it is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." Furthermore, *AS 38.05.045 Generally* has placed this charge with DNR, and the legislature has provided funding to administer the land sale program.

Alternative 1 provides a method for DNR to meet the obligations laid out in the Constitution and statute, and maximizes public interest. This offering provides an opportunity for the public to obtain land for settlement in a desirable area. This proposal, if approved in a subsequent Final Finding and Decision, will allow LCS to create and design a subdivision which will provide for the best use and development of the land and financial return to the State. Alternative 1 provides the greatest opportunity for more Alaskans to purchase land within this area. Considering the unique amenities of the area, existing access, location relative to the communities of Talkeetna and Willow, and the proximity to existing residential private property, the project area is suited to offering for sale. Alternative 1 is preferred.

Alternative 2 does not meet the legislative and public desire for DNR to offer State-owned land for private ownership. Retention of this land would inhibit DNR from meeting its constitutional, statutory, and legislative goals. Not offering the project area would deny many Alaskans the opportunity to obtain land in an area that is suited to settlement and consistent with the surrounding development. Alternative 2 is not preferred.

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

Recommendation follows.

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XIX. Recommendation

This Preliminary Decision for the proposed disposal of State lands, described throughout this document and its attachments is consistent with the overall management intent for State-owned land. Alternative 1 is the preferred alternative because it provides the maximum opportunity for offering State land to the public and helps meet the mission of the land sales program. The Preliminary Decision described above, as represented by the preferred alternative, has been reviewed and considered. I find that the recommended action may be in the best interest of the State and that it is hereby approved to proceed to public notice.

This is a Preliminary Decision, and analysis of subsequent public review may result in changes to the preferred alternative of the proposed disposal of State lands.

Signature on file

Prepared by: Terry Hess
Natural Resource Specialist III
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

October 5, 2021

Date

Signature on file

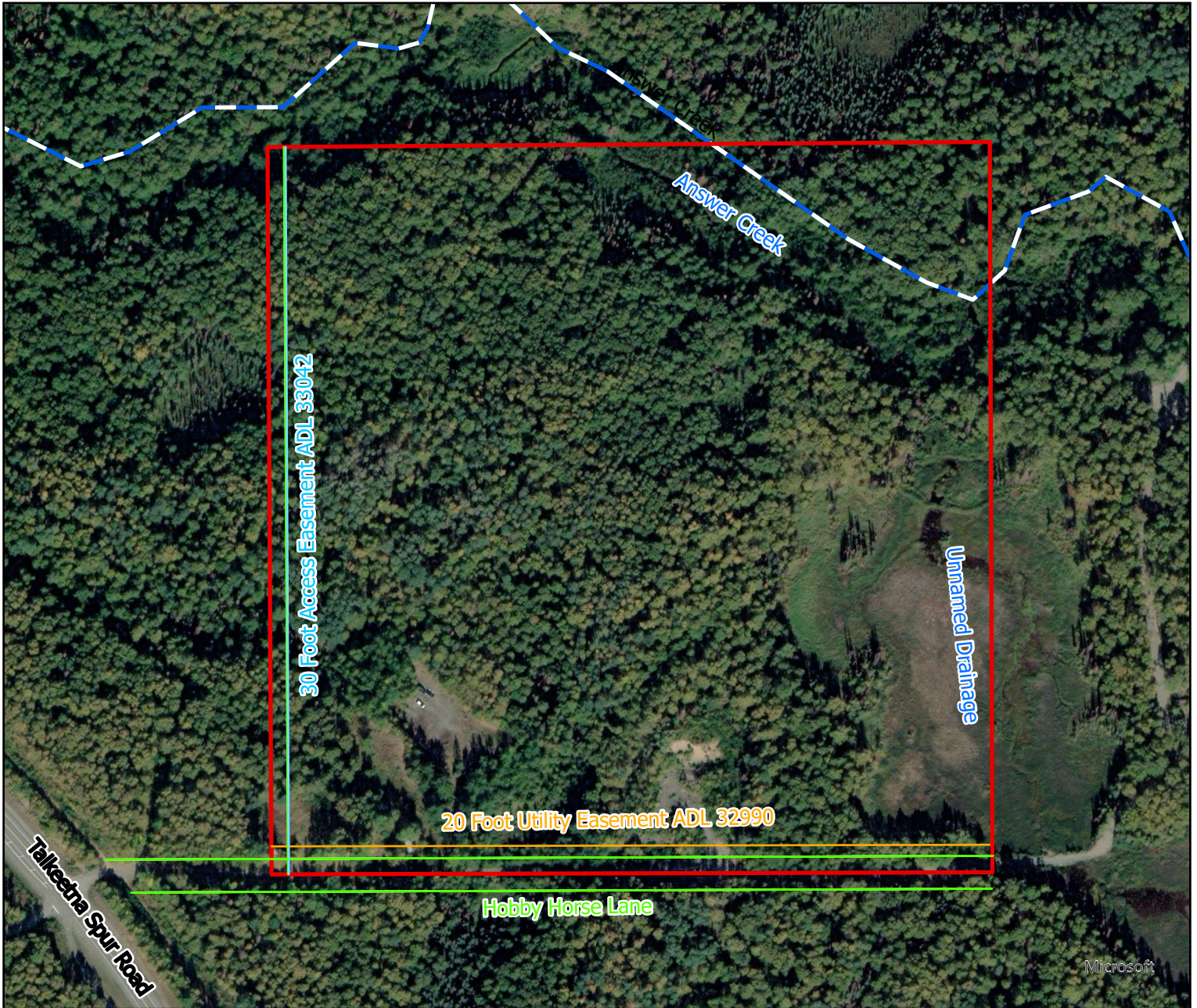
Approved by: Tim Shilling
Natural Resource Manager II
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

October 5, 2021

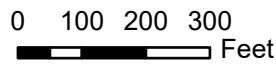
Date



Attachment A: Vicinity Map Hobby Horse Subdivision ADL 233000



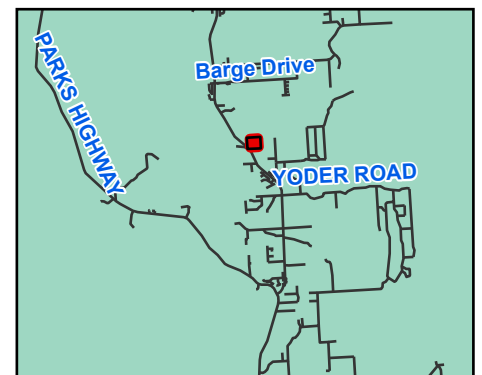
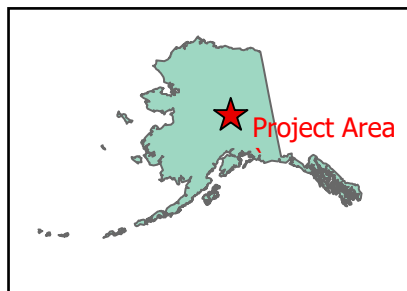
- Project Area
- Anadromous Waters



**Section 5, Township 24 North,
Range 4 West, Seward Meridian**

TMH 9/27/2021

USGS QUAD 1:63.360
Talkeetna A-1
For more information contact:
Terry Hess
Department of Natural Resources
Division of Mining, Land, and Water
Land Sales Section
Phone: 907-269-8591
Fax: 907-269-8916
Email: land.development@alaska.gov



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

ATTACHMENT B: PUBLIC NOTICE

Requesting Input for
a Proposed Land Offering:
Hobby Horse Subdivision – ADL 233000

COMMENT PERIOD ENDS 5:00PM, TUESDAY, NOVEMBER 9, 2021

This proposed project includes offering for sale surveyed parcels in a future offering under the method described in the Preliminary Decision document. The project may be subdivided and offered in multiple offerings over time.

Location: The project area is located within DNR's Southcentral Region, approximately 9 miles South of Talkeetna, within Section 5, Township 24 North, Range 4 West, Seward Meridian, within the Matanuska-Susitna Borough (MSB).

Project size: 40 acres proposed development area.

To obtain a copy of the Preliminary Decision, or instructions on submitting comment, go to <http://landsales.alaska.gov/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907-269-8400, Fairbanks at 907-451-2705, or the Southeast Land Office in Juneau at 907-465-3400 (TTY for the hearing impaired for all locations: 711 for Alaska relay or 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, October 29, 2021.

Pursuant to *AS 38.05.945 Notice*, the public is invited to submit comment on the Preliminary Decision, If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5:00PM, TUESDAY, NOVEMBER 9, 2021.** Only persons from whom DNR DMLW LCS 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 email, fax, or postal mail. To submit comments or for direct inquiries, contact Terry Hess at land.development@alaska.gov, by fax # 907-269-8916, or 550 W. 7th Ave., Ste. 640, Anchorage, AK, 99501. If you have questions, call Terry Hess at 907-269-8591.

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.