

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

**PRELIMINARY DECISION**  
**Emma Creek Subdivision – ADL 419930**

**Proposed Land Offering in the Fairbanks North Star Borough**  
*AS 38.05.035(e), AS 38.05.045*

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

**PUBLIC COMMENT PERIOD ENDS 5:00PM, THURSDAY, FEBRUARY 22, 2024**

**I. Proposed Action(s)**

*Preliminary Decision: Emma Creek Subdivision - ADL 419930*

*Attachment A: Vicinity Map*

*Attachment B: Public Notice*

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

*Draft Mineral Order (Closing) MO 1167*

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 will be offered for sale.

LCS proposes to sell land within the Emma Creek project area for the purpose of providing land for settlement. The project area consists of approximately 80 acres identified for disposal by this proposed action. LCS proposes to develop a subdivision of no more than four parcels varying in size, no smaller than approximately 10 acres. The scope of proposed development includes the option to offer the project area as a single large, approximately 80-acre parcel if determined appropriate. Subdivision design may include additional tracts as necessary. 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 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.

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 2 of 19

Proposed Related Action(s): This related action will be developed separately, however; public notice is being conducted concurrently.

*Mineral Order (Closing)*: DNR proposes to close the project area to new mineral entry. There are no active claims within the project area. Refer to the Mineral Activity and Order(s) subsection of this document for more information on this proposed related action.

The related action will be developed separately. However, approval of the proposed actions is dependent upon one another in that one action will not proceed without approval of all actions.

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. Public notice for all actions is being conducted concurrently.

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 FFD 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*.

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

## **IV. Administrative Record**

The project file, Emma Creek Subdivision - ADL 419930, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Eastern Tanana Area Plan for State Lands (ETAP, adopted 2015) and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan 2022*;

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 3 of 19

- Custom Soil Report for Goldstream-Nenana Area, Alaska and Greater Nenana Area, Alaska (USDA), 2013;
- Soil Survey of Goldstream-Nenana Area, Alaska (USDA), 1977;
- DNR case files: RST 70; and,
- other cases, documents, reports, etc. referenced herein.

### **V. Scope of the Proposal**

The scope of this proposal, under the statutes described in the preceding **Section III**.

**Authority**, is limited and specific to LCS's proposal to offer State-owned land within the defined project area for disposal and to conduct the proposed mineral order as described herein. The scope of this proposal does not include the control of post-patent use 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 Northern Region, approximately 2 miles west of the community of Ester and 8 miles west of the City of Fairbanks, Alaska within Section 11, Township 1 South, Range 3 West, Fairbanks Meridian, within the Fairbanks North Star Borough (FNSB). The project area consists of approximately 80 acres identified for disposal by this proposed action.

The project area is within the FNSB and subject to the borough's platting authority.

*Native Regional and Village Corporations:* The project area is within the boundaries of Doyon Ltd. regional corporation. There are no villages located within 25 miles of the project area.

### **VII. Property Description**

The S1/2SE1/4 of Section 11, Township 1 South, Range 3 West, Fairbanks Meridian, according to the plat filed by the United States Department of the Interior, Bureau of Land Management in Washington D.C. on April 28, 1966, containing 80 acres more or less.

### **VIII. Title**

Title Report No. 4441, current as of May 16, 2013, indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 50-68-0218 dated April 11, 1968. The applicable State case file is GS 36. 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.).

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 4 of 19

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 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**.

Where they exist within the project area, 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 ground field inspections conducted on June 10, 2013, September 8, 2022, and October 26, 2022. 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 project area is situated on a southeast facing slope that descends down to Alder Creek, which flows through the Alder Creek Valley approximately one mile to the south. The elevation within the project area ranges from approximately 1,450 feet above sea level (fasl), near the Old Nenana Highway, and descends to 1,050 fasl at the project's southern boundary.

*View:* The viewshed is oriented towards the Alder Creek Valley to the south. The Alaska Range could potentially be visible from higher elevations in the project area; however, most of the views from clearings consists of the surrounding ridgelines and slopes within the Alder Creek Valley. The northern viewshed is local, constrained by area terrain and mature tree cover.

*Vegetation:* The project area is situated beneath a mature canopy of secondary growth birch and poplar trees mixed with occasional young spruce and isolated thickets of alder. Ground vegetation consists of grasses, fireweed, rosehips, and occasional deciduous and coniferous saplings.

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 5 of 19

*Soils:* Project area soils consist entirely of well drained silt loams within the Steese silt loam complex (97.6%) and the Fairbanks silt loam complex (2.4%). These soils are also susceptible to gullyng with a 20-40-inch depth to restrictive bedrock. The project area falls within the discontinuous permafrost zone, which means 50%-90% of the ground in the region contains permafrost. Although located in the zone of discontinuous permafrost, existing geologic mapping indicates that this area is underlain by schist bedrock covered by several feet of windblown silt (loess) that is generally permafrost free.

*Wetlands:* There are no wetlands in the project area.

*Geologic Hazards:* According to information provided by DNR, Division of Geological and Geophysical Surveys (DGGS), soils are prone to severe degradation if cleared and no steps are taken to control for erosional processes such as soil runoff, gullyng, or permafrost melt. The region's overall seismic hazard is considered moderate. DGGS reported a possible old land slide in the lower central portion of the project area. Standard best building practices should be used to accommodate regional seismic hazards.

*Fire Information:* Pursuant to observations from the 2013 and 2022 field inspections and information received from DNR Division of Forestry (DOF), fire risk in the area is likely high. The project area contains very few heavy fuels such as black and white spruce and is almost entirely covered by mature deciduous trees and isolated thickets of alder. The project area is within the Ester Fire Service Area. Fire history indicates that less than one acre within the vicinity of the project area was burned in 1969 and again in 1993.

Potential for wildland fire is high in interior Alaska and other certain parts of the state. DOF identified the fire risk in areas north and south of the project area as very high. 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 DOF. The current fire management option for the project area is "Critical." The policy on areas with the "Critical" management option reads, "These are the highest priority areas/sites for suppression actions and assignment of available firefighting resources." It also states that there is no guarantee of protection from wildfire in any management option. 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 4305J and is within flood zone X, which is outside the 500-year flood plain. There is potential for seasonal flooding and erosion of parcels adjacent to water bodies, especially in low-lying areas where water can collect, such as at the base of slopes from snow melt after a winter of high snow accumulation, or, from storm runoff draining water downslope where it can collect in low areas on level landforms where buildings and structures may be developed. Overall, field results indicated that the land within the

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 6 of 19

project area appeared well-drained. No active waterbodies exist in the project area. However, two dry gullies, that can act as seasonal drainages leading down into Alder Creek, are visible on aerial images crossing the project area and were observed during fieldwork.

*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). Potential water sources in the area include drilling a well, or water delivery. According to DGGs, arsenic has been found in groundwater within similar geologic settings and there is a possibility that wells dug in the project area may contain unsafe levels of arsenic. There are seven water rights in the vicinity of the project area. Information from local well logs indicate that vicinity well depths range from 150 feet to 410 feet. The nearest well (LAS 4425) is 410 feet in depth and located in or near the northeast corner of the project area. Water quality is unknown. Additional information on wells, water quality, and drinking water may be obtained from the Alaska Department of Environmental Conservation (DEC).

*Utilities:* This area is currently served by the Golden Valley Electric Association (GVEA).

*Waste Disposal:* Waste disposal is available at the Ester Transfer Site (a community waste disposal facility) located in Fairbanks on Little Shot Road, off the Parks Highway, approximately 10 miles from the project area. All on-site wastewater disposal systems must meet the regulatory requirements of the DEC.

### **X. Background:**

The Emma Creek project area was identified after reviewing the ETAP for available settlement lands in or near the City of Fairbanks. The proposed project area is located within the community of Ester and is road accessible via the Parks Highway by way of the Old Nenana Highway. It is situated on approximately 80 acres of land on a well-drained, south-facing slope, above the Alder Creek Valley.

The project area is bordered by private lands to the north and west, and Alaska Mental Health Trust (MHT) lands to the south and east. There are no current State land sales in the vicinity of the project area; however, land sales have taken place in the past. Lands to the east were auctioned in the mid-1960s, and lands to the west were auctioned in the early 1970s. More recently, MHT sold land to the south in 2002 and lands to the west in 2003. Surrounding private parcel sizes average from 4 to 20 acres; the largest private parcel within the area is approximately 40 acres. MHT owns a 485-acre aliquot within Section 14, immediately south of the project area, and an 80-acre parcel to the east.

There are no known 3<sup>rd</sup> party conflicts or unauthorized improvements associated with the proposed project area. DMLW's Water Section reported there is one existing water right in the project area, which could not be located during 2013 and 2022 fieldwork activities. LCS's assessment is that the well is likely located on the private parcel north of the project area. FNSB aerial images show that some unauthorized tree clearing activities may have occurred in the northwest project area. A buried fiber optic cable travels within the Department of Transportation & Public Facilities (DOT&PF) ROW for the Old Nenana Highway through the northeast and northwest corners of the project area. DNR's Alaska Mapper indicates that the Ester-Dunbar Trail (RST 70) also travels through the northwest and northeast corners of the project area. LCS

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 7 of 19

could not identify RST 70 during 2022 project area fieldwork. The section of RST 70 from Standard Creek to Ester Park was destroyed around 1950 when the Old Nenana Highway was constructed over the trail. Comments from PAAD also confirmed that RST 70 lacks a physical presence in the project area due to road construction. For these aforementioned reasons, RST 70 will not be retained separate from the Old Nenana Highway.

A 0.4-mile hiking trail connecting with MHT lands passes through the southern portion of the project area. FNSB's Comprehensive Recreational Trails Plan (CRTP) (adopted 2006) does not show any existing or planned trails in the project area. However, FNSB's proposed 2022 CRTP, which is still undergoing development, indicates a trail is planned to be a part of the proposed Alder Creek Hillside Trails (I-C6). LCS may reserve a trail easement as part of the platting process for the subdivision; however, there is currently no easement crossing MHT lands connecting to this trail.

The proposed offering is consistent with area-wide land management policies and general management intent of the ETAP (adopted 2015) and specific management unit. The unit is designated Settlement and State-owned lands within the unit are appropriate for disposal, including sale, during the planning period. LCS may offer the project area as a single parcel, or up to 4 parcels. In order to offer the property, a combination of survey, subdivision and/or platting actions may be required. The proposed project is consistent with surrounding land use patterns and will provide increased residential opportunities in a popular area while adding additional revenue to the State and FNSB.

## **XI. Planning and Classification**

The project area is within the ETAP (adopted 2015), Fairbanks Region Unit F-39. Lands within this unit are currently designated Settlement, and classified Settlement Land under Land Classification Order No. NC-10-004. The project area consists of all of the management unit. LCS reviewed the general management intent of the area plan Unit F-39 for consistency with the proposed offering.

*Unit F-39 Fairbanks Region Considerations:* Management intent describes that the unit is appropriate for disposal during the current ETAP planning period. The unit is affected by Leasehold Location Order 39 (LLO 39).

*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 provide that public notice will be given for the disposal of land. Public notice is being issued for this proposed action in accordance with AS 38.05.945. Refer to *Attachment B: Public Notice and Section XVII. Submittal of Public Comments* for more information.

Cultural Resources: Management guidelines provide that if determined during agency review by DNR's Office of History and Archaeology (OHA) that a cultural resources survey of the proposed project area is required, further coordination

## Preliminary Decision

Emma Creek Subdivision – ADL 419930

Page 8 of 19

between OHA and DMLW before the land disposal is warranted. Cultural surveys should be considered where OHA reported sites exist or where there is a high potential for sites to exist. The extent and type of cultural survey within the area proposed for disposal shall be determined by OHA in consultation with DMLW. OHA did not identify any high potential areas during agency review; therefore, a cultural survey will not be conducted for the proposed project. Any cultural resources identified during project development will be reported to OHA.

Fish and Wildlife Habitat: ADF&G should be consulted prior to issuing authorizations in an area that may have moose calving and rutting. This applies to land designated Habitat, however, LCS considered this guideline because of the relatively large size and undisturbed nature of the project area. ADF&G did not express any objections or significant comments about the proposal during agency review.

Material Sites: Generally, if a settlement area contains sand and gravel deposits, rock sources or other similar, high value material resources, a material source area should be identified during subdivision design and retained in state ownership for future use. There are no known areas within the project area with high material potential; and thus, LCS does not intend to retain a material site for the proposed project.

Public Access: Prior to disposal of State lands, rights of access will be retained, and reasonable access will be provided across State land to other public or private land. DMLW will ensure access is provided to each parcel and to ensure continued legal access to adjacent State and private land. Access rights across state land through the project area will be retained via existing 50-foot section line easements (SLEs) on state land along the eastern and southern project area boundaries. In collaboration with the FNSB, LCS may reserve an easement along the section of the Alder Creek Hillside Trails within the project area, as part of the subdivision platting process. No SLEs appear to exist on MHT parcels that border the project area in sections 12 and 14, east and south of the project area, respectively.

Settlement: Areawide management guidelines regarding settlement and design include:

- Local Plans. DNR will comply with the Borough comprehensive plan and zoning ordinance (if applicable) regarding the location and density of land development except to the extent that local requirements are inconsistent with an overriding state interest. LCS reviewed the FNSB Comprehensive Plan and found no conflicts.
- Protect Life and Property. DNR should design and develop subdivisions to protect life and property. Sensitive areas (e.g., wetlands, areas with unstable soil, riverbanks subject to active stream erosion, floodways, and floodplains) should be avoided or protected by either retaining them in state ownership or restricting their use through developmental reservations or restrictions. Wildland fire risks in areas with heavy fuels such as black spruce need to be considered. Easements or plat notes can be used for this purpose in lieu of retaining land in state ownership. No sensitive areas are known to exist in the



## Preliminary Decision

Emma Creek Subdivision – ADL 419930

Page 9 of 19

project area. Very few heavy fuels such as black spruce exist in the project area, which is almost entirely covered by deciduous hardwoods.

- Mineral Closing Orders. The ETAP includes an LLO that affects areas classified Settlement that do not have a mineral closing order. The management intent section of parcels designated Settlement should be consulted to determine if a management unit is affected by the leasehold location order recommendation. The proposed project area is affected by LLO 39. The project area will be closed to mineral entry prior to offering.
- Timber Harvests in Areas of Settlement. Elective timber harvests are appropriate in areas designated Settlement if intended to support the costs of subdivision development, provide access to the subdivision, or provide ancillary facilities subject to the other requirements of the Forestry standards in this Chapter. Timber harvests may also be appropriate for purposes of forest health or the clearing of rights-of-way. LCS does not intend to conduct timber harvests in relation to the proposed project.
- Protect and Enhance Recreational, Educational, and Cultural Opportunities. DNR should determine the need for and retain appropriate areas for outdoor recreation, hunting, fishing, trails, campsites, boat launches, historic sites, and areas for scientific study. Areas for intensive and dispersed use are to be preserved. There are no areas of intensive and dispersed use within the project area. In collaboration with the FNSB, LCS may reserve an easement for the Alder Creek Hillside Trails within the project area as part of the platting process for the subdivision.
- Provide State Land for Important Environmental and Resource Development Purposes. Retain appropriate green belts, public-use corridors, water supply areas, riparian buffer areas, wildlife migration corridors, public access sites, material sites, roads, public facilities, and open space to create a desirable land use pattern in developing areas. Because of the large parcel size, and lack of stream corridors, public-use areas, riparian areas, or wildlife corridors etc., LCS does not foresee the need to retain green belts or public-use corridors.
- Cost of Public Service. In accordance with *AS 38.04.010*, year-round settlement to areas should be focused where services exist or can be provided with reasonable efficiency. The project area is within the GVEA service area and is located within 10 miles of services available in Ester and Fairbanks.
- Ensure Access. DNR should ensure that legal, practical public access (roads, trails, or other options most appropriate to the particular situation) is identified and reserved to and within land offerings. The project area is road accessible via the Old Nenana Highway.
- Subdivision Design. Subdivisions will be designed to preserve and enhance the quality of the natural setting and the recreational opportunities that make an area attractive to potential buyers. State subdivision design will take account of site limitations and opportunities such as slope, drainage, soils, erosion, riparian zone and coastal buffer, and other features to ensure that sites offered are buildable and can be developed without the need for extensive public infrastructure. Riparian buffers or building setbacks shall be imposed on all disposals where important riparian areas have been determined to exist. The minimum parcel size of approximately 10 acres

## Preliminary Decision

Emma Creek Subdivision – ADL 419930

Page 10 of 19

should provide enough buildable space on each parcel offered for sale and should account for limitations such as slope or drainage of soils within the project area. No riparian areas exist in the project area.

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

Mineral Activity and Order(s): No mineral activity has been identified on these lands. The mineral estate within the project area is restricted to leasehold location via LLO 39. Mining activity for locatable minerals would be incompatible with the proposed land disposal. To allow new mineral location within the boundaries of the parcels encompassed by this decision could create serious conflicts between land estate and mineral estate users. The entirety of the project area (approximately 80 acres) will be closed to new mineral entry if the mineral order is approved in accordance with *AS 38.05.185 Generally* and *AS 38.05.300 Classification of Land* for a land disposal. The proposed mineral order, if approved, will close the area to new mineral entry only and will not affect current existing mining claims. Closing the entire area to mineral entry is consistent with the management intent of the ETAP.

Mineral orders which close an area to mineral entry, close the applicable area to new exploration and development of locatable minerals. Such mineral orders do not apply to leasable minerals (such as: oil, gas, coal, etc.), or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

Local Planning: The project area is within the FNSB, 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 FNSB Regional Comprehensive Plan. Review of that plan did not indicate any conflicts with the proposed State land disposal. The project area falls within the 2023 FNSB Comprehensive Roads Plan, which shows that no roads are planned to intersect the project area.

According FNSB's 2022 public review draft of the updated CRTP, a portion of the Alder Creek Hillside Trails (I-C6) passes through the southwest and southeast corners of the project area. This plan recommends that a motorized trail network be incorporated through future subdivisions as this area develops to ensure current and future residents along the Old Nenana Highway gain the value of nearby trail recreation and access to the Alder Creek Trail and Alder Creek Valley. I-C6 is intended to be seasonal/winter motorized trail (non-motorized in the summer and open to snowmachines in the winter). However, the plan also states that I-C6 is a Category C trail. FNSB does not require landowners to plat Category C trails across land they are subdividing. Rather, the Trail Plan indicates FNSB requests cooperation in determining a mutually beneficial route for trail users and future landowners in order to improve connectivity and add value to the land. In collaboration with the FNSB, LCS may reserve an easement for FNSB's proposed I-C6 trail as part of the platting process for the subdivision. Management and maintenance of the trail should remain the responsibility of the landowner, future homeowners' association, or trail user group.

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 11 of 19

### **XII. Traditional Use Finding**

The project area is located within the FNSB 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.

### **XIII. Access To, Within, and Beyond Project Area**

Access to the project area is by road via the Old Nenana Highway. The Right of Way (ROW) for the Old Nenana Highway (Fairbanks-Nenana Highway) was established by Amendment No. 2 to Executive Order No. 2665 dated September 15, 1956. E.O. 2665 Am. No. 2 defined the Fairbanks-Nenana Highway as a “through” road having a ROW width of 150 feet each side of centerline. DNR will reserve access along the Old Nenana Highway. 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 subject to the platting authority of the FNSB. Approval of platting actions and dedication of rights-of-way will require separate processes and public notices through the borough. There is an existing trail crossing through the southern portion of the project, and the FNSB draft CRTP has identified trail I-C6 through the southern portion of the project area. In consultation with FNSB, LCS may reserve a trail easement as part of the platting process for the subdivision.

*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*.

LCS has not identified any public, navigable, or anadromous water bodies within the project area. If any such water bodies are discovered, parcels will be subject to access reservations in accordance with *AS 38.05.127 Access to Public or Navigable Water*, and a 100-foot building setback from the OHW of the water body.

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

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 12 of 19

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 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;
- a trail easement within the southern portion of the project area; and,
- 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:* There are no lands identified to be retained in the project area.

## **XIV. Hazardous Materials and Potential Contaminants**

During ground field inspections conducted on June 10, 2013, and again on September 8, 2022, field staff did not observe any environmental hazards within the project area. There are no known environmental hazards present within the project 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, DEC. 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.

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 13 of 19

### **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 FNSB, 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 FFD, 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 3, 2013, through October 15, 2013 (concurrently with other separate, proposed projects). A second agency review was conducted for this project from September 23, 2022, to October 17, 2022. Comments pertinent to this proposed action received during both agency reviews have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent FFD, if one is issued.

DNR DMLW LCS received brief comments of non-objection from the following agencies: DNR Division of Parks and Outdoor Recreation; DNR State Pipeline Coordinator's Office, and DNR Office of Project Management and Permitting.

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

DNR, Division of Parks and Outdoor Recreation (DPOR), Office of History and Archaeology (OHA) Comment: OHA provided the following general comment to all project areas:

State law requires all activities requiring licensing or permitting from the State of Alaska to comply with the Alaska Historic Preservation Act, which prohibits the removal or destruction of cultural resources (historic, prehistoric, and archaeological sites, locations, remains, or objects) on land owned or controlled by the state. This also includes reporting of historic and archaeological sites on lands covered under contract with or licensed by the state or governmental agency of the state.

*DNR DMLW LCS Response:* LCS appreciates your review of our proposal. Should any such inadvertent discoveries be made during the development of this project, OHA will

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 14 of 19

be notified. Additionally, LCS informs potential purchasers that they are required to notify OHA if any such discoveries are made.

*DNR, DPOR, OHA Comment:* OHA provided the following comments specific to the Emma Creek project area: Review of the AHRS database indicated there is one reported cultural resource site (linear feature) potentially running through the identified parcels FAI-02179 the Ester-Dunbar Trail. The segment that runs through this area has been previously determined to lack integrity and therefore we do not anticipate adverse effects to significant cultural resources by the proposed subdivision.

However, please keep in mind that only a very small portion of the state has been surveyed for cultural resources and therefore the possibility remains that previously unidentified resources may be located within the project area. As such, should inadvertent discoveries of cultural resources occur, our office should be notified so that we may evaluate whether the resources should be preserved in the public interest (as specified at Section 41.35.070[d]). Any information provided helps the State better manage Alaska's heritage resources.

Examples of cultural resource sites that could be encountered include (but are not limited to): historical cabin remains (collapsed, standing, or foundations); adits; dredges or other mining equipment; cultural depressions or pits; graves or cemeteries; prehistoric tools or artifacts; and paleontological (fossilized) remains.

*DNR DMLW LCS Response:* OHA will be notified should any previously unidentified cultural resource discoveries occur during fieldwork or project development. Additionally, offering materials typically warn prospective purchasers that the Alaska Historic Preservation Act prohibits the appropriation, excavation, removal, injury, or destruction of any historic, prehistoric (paleontological), or archaeological site without a permit from the Commissioner of DNR (*AS 41.35.200 Unlawful Acts*); and should any sites be discovered, activities that may damage the site must cease and OHA must be immediately contacted.

*Department of Fish and Game (ADF&G) Comment:* ADF&G has no objections to this proposed subdivision. ADF&G recommends that section line easements be reserved. ADF&G also recommends all development should be at least 150 feet outside the Old Nenana Highway corridor to maintain scenic values and public access.

*DNR DMLW LCS Response:* Subdivision design will include section line easements. The Old Nenana Highway ROW extends 150 feet either side of the centerline of the highway in the northeast and northwest corners on a 20 percent slope, with utility and access easements along the boundaries. Most of the project area is between 100 feet to 400 feet from the Old Nenana Highway corridor, development within 150 feet of the highway should not be an issue due to the slope beneath the highway corridor, and the project area's distance from the highway behind existing residential buildings closer to the highway

*Department of Transportation and Public Facilities (DOT&PF) Comment:* Any approaches onto the Old Nenana Highway will need approved driveway permits. They should make the application during the preliminary plat stage.

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 15 of 19

*DNR DMLW LCS Response:* DNR DMLW will work with the contract surveyor, DOT&PF, and the FNSB as necessary and appropriate.

*DOT&PF Comment:* The Alaska Department of Transportation & Public Facilities notes the proposed subdivision includes right-of-way of the Old Nenana Highway. Please coordinate with the Northern Region Office (NRO) in Fairbanks for appropriate access permits and reserved property rights for the Highway as the project progresses. Note there is a permitted fiber optic cable in this section of the Old Nenana Highway.

*DNR DMLW LCS Response:* LCS appreciates your review and comments on the proposed project. As necessary, LCS will continue to consult with DOT as the project develops. LCS noted the fiber optic cable during 2022 fieldwork, which is clearly identifiable along the southern right of way of the highway.

*DNR, Division of Geological and Geophysical Surveys (DGGS) Comment:* Although located in the zone of discontinuous permafrost, existing geologic mapping indicates that this area is underlain by schist bedrock covered by several feet of windblown silt (loess) that is generally permafrost free. Foundation conditions should be good. Although there is mineralization to the northeast, there are no active mining claims and no recognized prospects immediately on the tract in question. Given the mapped geology and the vicinity of known prospects, there is some potential for undiscovered gold mineralization in the area. Elevated levels of arsenic in groundwater are present in similar geologic settings in the Fairbanks District, there is a possibility that any water wells drilled in the proposed subdivision will have unsafe levels of arsenic.

*DNR DMLW LCS Response:* The geologic factors described have been taken into consideration and do not appear to preclude offering the proposed project. LCS will inform potential purchasers that arsenic may exist in the groundwater and that it is their responsibility to investigate further.

*DGGS Comment:* Geologic mapping indicates the proposed Emma Creek Subdivision is underlain by massive, homogeneous, unconsolidated eolian silt (a type of deposit known as “loess”) on bedrock. The silt deposits become thicker downslope, are extremely susceptible to gullying, and may be mildly susceptible to seasonal frost action. The central lower portion of the proposed subdivision was mapped as a possible old landslide.

The subject parcel is located in the zone of discontinuous permafrost, meaning that 50%-90% of the ground surface in the region is underlain by perennially frozen ground (permafrost). Ice content is moderate, and fine-grained silt deposits are subject to thaw slumps, gullies, and water tracks.

The proposed subdivision is in the Fairbanks seismic zone, which has been active in the last 150 years. The Fairbanks seismic zone was the site of three M5–6 earthquakes in 1967. The Salcha seismic zone is roughly 30 miles to the east, with the largest seismic event ever recorded in Interior Alaska being the 1937 M7.3 Salcha earthquake, which produced extensive ground failures in the epicentral area but no known surface rupture. The Minto seismic zone is approximately 10 miles to the west and was the source of the 1995 M6.0 Minto Flats earthquake. The region’s overall seismic hazard potential is moderate. Standard best building practices should be used to accommodate the regional seismic hazard.

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 16 of 19

*DNR DMLW LCS Response:* LCS appreciates your review and comments on the proposed project. LCS will notify potential purchasers of the potential landslide history near the project area. LCS's 2022 fieldwork identified two narrow gullies that bisect a portion of the project area.

*DNR Division of Forestry (DOF) comment:* To the north of the project area is classified as high to very high fire risk and to the south of the project area as very high to extreme. The factors that placed the area into a higher risk include the terrain, flammable vegetation (spruce), and structures. Because of the increased wildland fire risk in this vicinity, Fairbanks Area has constructed hazardous fuel reduction treatment areas a few miles to the west. When developing the subdivision, the State should consider Firewise principles. These principles include two access routes, parcels large enough to create defensible space without having to remove the neighbors' trees. On a steep slope, the suggested 30 feet buffer of cleared land is increased to 100 feet on the downhill side.

*DNR DMLW LCS Response:* Thank you for reviewing and commenting on the proposed project. LCS understands that the risk of wildland fire in the interior during the warm months is constant. The minimum proposed lot size of approximately 10 acres should be large enough to create defensible space around buildings and structures. LCS routinely reminds prospective purchasers of State land that wildland fire is always a risk in materials we distribute ancillary to our land offerings. LCS frequently references the Firewise booklet and makes it available to interested parties. The project area contains very few heavy fuels such as black and white spruce and is covered almost entirely by mature deciduous trees and isolated thickets of alder.

*DNR Division of Oil and Gas (DOG) Comment:* The Division of Oil and Gas does not have any objection to the proposed disposal. There are no oil and gas activities, third-party interests, or pending applications.

Please inform the applicants the State reserves oil, gas, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it conveys in accordance with Section 6(i) of the Alaska Statehood Act and *Alaska Statute 38.05.125*. The State also reserves the right to enter the land for the purposes of exploring for, developing, and producing these mineral resources. A mineral order closing the area to locatable mineral entry, if any, does not apply to leasable mineral resource exploration, development, or production.

*DNR DMLW LCS Response:* LCS thanks you for reviewing and commenting on the proposed project. LCS will notify potential buyers that mineral closing orders do not apply to leasable minerals and that the State reserves all oil, gas, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it sells in accordance with Section 6(i) of the Alaska Statehood Act and *AS 38.05.125*.



## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 17 of 19

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

- Alaska Railroad Corporation
- Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs
- Department of Environmental Conservation;
- Department of Natural Resources;
  - Division of Agriculture;
- University of Alaska Lands Management; and,
- Fairbanks Soil and Water Conservation District

### **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, and draft mineral order.

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, or draft mineral order, 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 draft mineral order including any deletions, minor changes, and summary of comments and LCS responses will be issued as a subsequent FFD, and Mineral Order 1167 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 LCS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the FFD, and Mineral Order 1167. Upon approval and issuance of these actions, a copy of the decision and order will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the request for reconsideration process to any party who provides timely written comment.

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, THURSDAY, FEBRUARY 22, 2024**

## **Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 18 of 19

### **XVIII. Alternatives and Discussion**

LCS is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of up to four parcels varying in size, no smaller than approximately 10 acres, and offer those parcels for sale. This includes the option of offering the entire project area as a single parcel. The development and offering of these parcels may be completed in multiple stages. This proposal includes a mineral order.

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 FFD, will allow LCS to create and design a subdivision up to four parcels, which will provide for the best use and development of the land and financial return to the State. Alternative 1 includes the option to offer a single large parcel if determined appropriate. In order to offer the property, a combination of survey, subdivision, and/or platting actions may be required. The final design and survey of the project area will also conform with the most current FNSB CRP. Alternative 1 provides the greatest opportunity for Alaskans to purchase land within this area. Due to the unique scenic amenities of the area, location relative to the communities of Ester and Fairbanks, and the proximity to existing residential private property, the project area is better 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 3 is not preferred.

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

Recommendation follows.

**Preliminary Decision**

Emma Creek Subdivision – ADL 419930

Page 19 of 19

**XIX. Recommendation**

This Preliminary Decision for the proposed disposal of State lands, and Mineral Order 1167 described throughout this document and its attachments are 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, and/or Mineral Order 1167. If the decision is approved, Mineral Order 1167 will accompany and precede any FFD issued.

/S/ Patrick Hall

Prepared by: Patrick Hall  
Natural Resource Specialist II  
Land Conveyance Section  
Division of Mining, Land and Water  
Department of Natural Resources  
State of Alaska

1/17/2024

Date

/S/ Tim Shilling

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

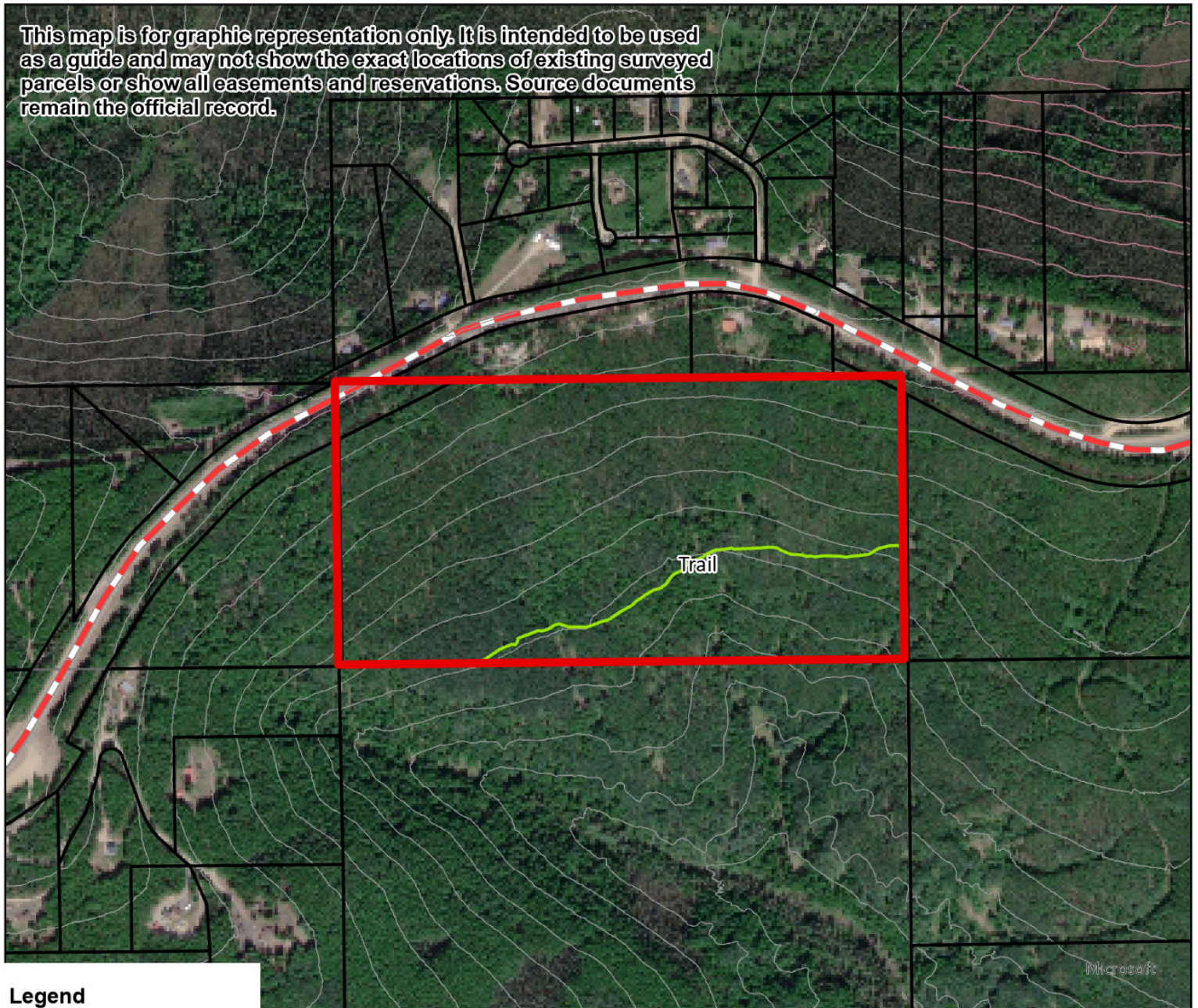
1/17/2024

Date



# Attachment A: Vicinity Map Emma Creek Subdivision ADL 419930

This map is for graphic representation only. It is intended to be used as a guide and may not show the exact locations of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



### Legend

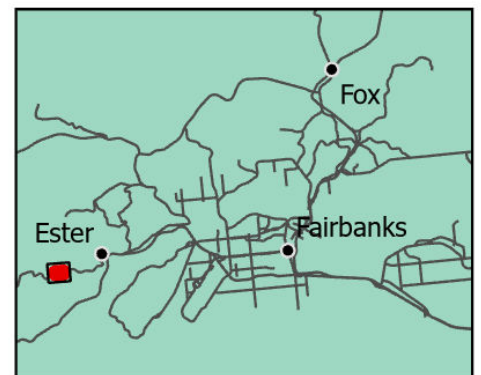
-  Project Area
-  Surrounding Parcels
-  Old Nenana Highway
-  Contours (50-foot)



PH 12/01/22

### Section 11, Township 01S, Range 03W, Fairbanks Meridian

USGS QUAD 1:63.360  
 Fairbanks D-2  
 For more information contact:  
 Patrick Hall  
 Department of Natural Resources  
 Division of Mining, Land, and Water  
 Land Conveyance Section  
 Phone: 907-374-3737  
 Fax: 907-451-2751  
 Email: [land.development@alaska.gov](mailto: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:  
**Emma Creek Subdivision – ADL 419930**

**COMMENT PERIOD ENDS 5:00PM, THURSDAY, FEBRUARY 22, 2024**

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

The project area is located within DNR's Northern Region, approximately 2 miles west of the community of Ester and 8 miles west of the City of Fairbanks, Alaska within Section 11, Township 01 South, Range 03 West, Fairbanks Meridian, within the Fairbanks North Star Borough. The project area consists of approximately 80 acres identified for disposal by this proposed action.

Project size: 80 acres proposed development area.

To obtain a copy of the Preliminary Decision, draft Mineral Order, 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, Thursday, February 15, 2024.

Pursuant to *AS 38.05.945 Notice*, the public is invited to submit comment on either the Preliminary Decision, or Mineral Order, 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 5:00PM, THURSDAY, FEBRUARY 22, 2024.** 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 fax, email, or postal mail. To submit comments or for direct inquiries, contact Patrick Hall, 3700 Airport Way, Fairbanks, AK 99701. fax # 907-451-2751, [land.development@alaska.gov](mailto:land.development@alaska.gov). If you have questions, call Patrick Hall at 907-374-3737.

If no significant change is required, the Preliminary Decision and related action, Mineral Order, including any minor changes and a summary of comments and responses, will be issued as the Final Finding and Decision, and Mineral Order 1167, 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.