

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

FINAL FINDING AND DECISION

Noncompetitive Sale to Preference Right Applicant – ADL 415712

AS 38.05.102, AS 38.05.035(e)

RELATED ACTION

None

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) issued on January 15, 2025. The PD (attached) has had the required public review.

I. Recommended Action

The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends conveyance of a parcel of state-owned land into private ownership pursuant to Alaska Statute (AS) 38.05.102 Lessee Preference. LCS recommends allowing the parcel to be sold through a non-competitive sale to the applicant. The parcel is located east of the Parks Highway between mileposts 288 and 289, approximately four miles east of Anderson. The parcel encompasses the applicant's lease and is surveyed as Lot 2 in Block 1 of Alaska State Land Survey No. 2021-20, Missile Club Subdivision, according to the plat recorded in the Nenana Recording District on April 4, 2023, as Plat 2023-2, containing 11.32 acres, more or less.

II. Authority

DNR has the authority under AS 38.05.102 Lessee Preference to sell state-owned lands only if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by AS 38.05.035(e) Powers and Duties of the Director. Article VIII, Section 1, of the Constitution of the State of Alaska states, "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." The authority to execute this decision has been redelegated to the Section Chief of the DMLW Land Conveyance Section.

III. Public Participation and Input

Pursuant to AS 38.05.945 Notice, public notice inviting comment on the PD for the proposed action was published and distributed in the following manner:

- Posted on the State of Alaska Online Public Notice website from January 15 to February 18, 2025.
- Posted on the Public Notices page of the DMLW Alaska State Land Sales website from January 15 to February 18, 2025.
- Mailed to postmasters in Anderson and Nenana post offices with a request to post for 30 days, per AS 38.05.945(c)(4).
- Mailed to the Nenana Public Library with a request to post for 30 days.
- Mailed to Doyon, Limited, Nenana Native Association, and Toghottthele Corporation per AS 38.05.945(c)(2)-(3).
- Emailed to the Denali Borough and mailed to the City of Anderson offices per AS 38.05.945(c)(1).

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- Mailed to the applicant and adjacent landowners within the vicinity.
- Emailed notice to the Fairbanks Soil and Water Conservation District, University of Alaska Land Management, and State agencies who received the agency review notice.

The public notice stated that written comments were to be received by 4:00 PM, February 18, 2025, to ensure consideration and eligibility to appeal. For more information, refer to the attached PD.

IV. Comments Received

DNR DMLW LCS received comments from the State of Alaska, Department of Transportation & Public Facilities (DOT&PF), DNR Division of Parks & Outdoor Recreation (DPOR), DNR Division of Oil & Gas (DOG), and DNR Division of Geological & Geophysical Surveys (DGGs) during the public comment period. The comments from DOT&PF and DPOR were brief comments of non-objection. LCS did not receive any written comments from the public. The comments from DGGs and DOG are summarized and addressed below.

DNR DOG Comment: DOG has no third-party interests in the vicinity of the parcel and does not object to the proposed conveyance. Please inform the applicant that the state will retain the mineral estate and that mineral closing orders do not apply to leasable minerals such as oil and gas.

DNR DMLW LCS Response: Thank you for your input. LCS has provided the applicant information about State reservations of title and the applicability of mineral orders on the mineral estate. The applicant will be further notified through this decision.

DNR DGGs Comment: The regional surficial geology surrounding the project area consists generally of coarse gravelly alluvium and silty alluvium with some sand. There are also swamp deposits consisting of peat with organic silt and sand. The project area is within the broader region of discontinuous permafrost with the potential for thaw degradation to be problematic locally. They note there is some potential for construction material resources in the area, but the potential presence of silt makes the area not a high-priority target for such resources. The seismic hazard potential in the area is moderate, which can be accommodated by standard best building practices. The potential for radon gas to accumulate in occupied structures is high in the area; buildings should be tested to compare to action levels. The project area has been subject to volcanic ash fall within the last century.

DNR DMLW LCS Response: Thank you for your input about the geologic resources and hazards in the vicinity of lease ADL 415712. The improvements within the leased parcel were built several decades ago and generally have avoided wetter soil. When the state acquired the land in this section, DOT&PF declined to accept two former federal material sites due to excessive overburden over sand and gravel resources, which corresponds well with DGGs's observations about construction material resources. The applicant will be provided with this information through this decision.

V. Traditional Use Finding

In accordance with AS 38.05.830 Land Disposal in the Unorganized Borough, a Traditional Use Finding is required for project areas within the Unorganized Borough. This subject parcel is within the Unorganized Borough. As discussed in the PD, the project area vicinity is currently used for settlement, limited commercial enterprise, and wild resource harvesting. Residents of Anderson and Nenana report using areas in the vicinity of the project area for harvest of wild

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resources. There are no anticipated significant changes to traditional uses of the land and resources of this area as a result of the proposed action.

No conflicts with traditional uses of the land have been discovered. Public review brought forth no new information indicating traditional use conflicts that were not apparent at the PD stage.

VI. Modifications to Decision

The applicant's survey cost specified in the PD was in error. Upon DNR approval for preference right purchase of this parcel, the applicant will be required to pay \$1,685.

VII. Stipulations

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

1. As a condition of sale, the applicant must sign an affidavit acknowledging the condition of the land and releasing the State from related liability due to the presence of potential hazards.
2. The lessee must remain in good standing with respect to the terms of the lease until the lease is relinquished. If the lessee is not in good standing at any time prior to the relinquishment of the lease, the purchase process will be halted until the lessee regains good standing as determined by DMLW.
3. This leasehold was surveyed concurrently with the Missile Club Subdivision (ADL 421397). Upon DNR approval for preference right purchase of this parcel, the applicant will be required to pay their portion of the survey costs to DMLW, which amounts to \$1,685.
4. This parcel was appraised concurrently with several Missile Club Subdivision parcels. The appraisal report, approved on February 16, 2024, set the value of the subject parcel at \$27,300. Pursuant to AS 38.05.840, the purchase of the parcel must occur within two years of the date of approval of the appraisal report, or a new appraisal may be required. Upon DNR approval of the purchase of this parcel, the applicant will be required to submit their portion of the appraisal costs to DMLW, which amounts to \$641.
5. To allow the purchase of the parcel to proceed, after issuance of this Final Finding and Decision and if no appeals are received, or after any appeals are resolved, the applicant must submit the following to LCS:
 - A signed and notarized affidavit acknowledging the condition of the land and releasing the State from related liability.
 - A completed and signed Declaration of Intent Form.
 - A signed and notarized Relinquishment of Land Lease form.
 - A completed Veteran's Land Discount form (if eligible).
 - Payoff amount plus patent application and recordation fees OR minimum 5% of the purchase price as a deposit plus land sales contract application and recordation fees. Fees are established under 11 AAC 05.100 Land Disposals and 11 AAC 05.200 Recorder's Office and are subject to change. Some fees have been reduced by Director's Order Number 3.

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6. Prior to the completion of the purchase and issuance of a state conveyance document, the applicant must remain in good standing with respect to all terms of the Contract for the Sale of Real Property throughout its term, if such contract is issued. The applicant must also remain in compliance with all applicable state and local ordinances and regulations, including all applicable taxes. Failure to do so may result in termination of the Contract for the Sale of Real Property.

Special Note: The applicant must complete steps 1 - 5 above by Monday, February 16, 2026. Failure to do this may result in the loss of the right to purchase this parcel of land or the applicant may need to enter into another lease and incur associated costs.

If extenuating circumstances delay any of the stipulations listed above, the applicant is responsible for notifying LCS and receiving approval from LCS for the delay with new timeframes for completion to be given. Failure to do this could result in the closure of the purchase application. The purchase cannot be completed until all the above stipulations have been satisfied.

Restrictions and Reservations

Conveyance document will be issued subject to the following restrictions and reservations:

1. Valid existing rights, including reservations, easements, and exceptions in the U.S. Patent, or other state or federal conveyance, and in acts authorizing the issue thereof; easements, rights-of-way, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any.
2. Reservation of the mineral estate pursuant to Section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation; and reservation of reasonably necessary access to the mineral estate in accordance with AS 38.05.130 Damages and Posting of Bond.
3. A section line easement fifty (50) feet in width within the subject parcel along its eastern boundary, pursuant to AS 19.10.010 Dedication of Land for Public Highways, 11 AAC 51.025 Section Line Easements, and AS 19.25.010 Use of Rights-of-way for Utilities.
4. A 30-foot-wide public utility easement exists within the subject parcel along its southwestern boundary parallel to Cecil's Way.
5. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945 (1988).

Recommendation and approval of the Final Finding and Decision follow.

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VIII. Final Finding and Decision

The Land Conveyance Section recommends proceeding with the action as described in the Preliminary Decision and amended herein. It is in the best interest of the State of Alaska to convey the land to Dixie Gates subject to the reservations, exceptions, and restrictions, as stated in this decision. This action is undertaken under relevant authorities.

The findings presented above have been reviewed and considered. Public notice has been accomplished in accordance with AS 38.05.945 Notice, and comments received were considered. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. LCS recommends proceeding with the proposed action as described in the Preliminary Decision and this Final Finding and Decision.



Recommended by: Colin Craven
Natural Resource Specialist
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

April 10, 2025

Date

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



Approved by: Hannah Uher-Koch
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

April 10, 2025

Date

Appeal Provision

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department.

Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>

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

PRELIMINARY DECISION
ADL 415712

Proposed Noncompetitive Sale to Preference Right Applicants
AS 38.05.035(e), AS 38.05.102

RELATED ACTIONS:
None

PUBLIC COMMENT PERIOD ENDS 4:00 PM, TUESDAY, FEBRUARY 18, 2025

I. Proposed Action

Preliminary Decision: Approval of Noncompetitive Preference Right Parcel Sale ADL 415712

Attachment A: Vicinity Map

Attachment B: Public Notice

Attachment C: Draft Affidavit Acknowledging Condition of Lands and Releasing the State from Related Liability.

Proposed Action, Noncompetitive Sale: The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) has received an application from Dixie Gates to purchase a parcel of state-owned land pursuant to Alaska Statute (AS) 38.05.102 Lessee Preference. The proposed decision will allow the parcel to be sold through a noncompetitive sale to the applicant. The parcel is located east of the Parks Highway between mileposts 288 and 289, approximately four miles east of Anderson. The parcel is within SE1/4 NE1/4 of Section 36, Township 6 South, Range 8 West, Fairbanks Meridian, containing 11.32 acres, more or less. See *Attachment A: Vicinity Map* for a depiction of the subject parcel.

AS 38.05.102 Lessee Preference allows the granting of a preference right purchase or lease to those holding leases authorized under AS 38.05.070-105 Alaska Land Act and who are currently in good standing. A 1981 amendment to AS 38.05.070 Generally made this section inapplicable to short-term leases.

Proposed Related Actions: There are no proposed related 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.

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

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II. Authority

DNR has the authority under AS 38.05.102 Lessee Preference to sell state-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by AS 38.05.035(e) Powers and Duties of the Director. Article VIII, Section 1, of the Constitution of the State of Alaska states, "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." The authority to execute this decision has been redelegated to the Section Chief of the DMLW Land Conveyance Section.

III. Administrative Record

The case file for Alaska Division of Lands (ADL) 415712 constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Yukon Tanana Area Plan (YTAP), adopted January 3, 2014, and associated land classification files.
- *Harvest and Use of Subsistence Resources in 4 Communities in the Nenana Basin*, 2015. (2017). Alaska Department of Fish and Game Division of Subsistence, Technical Paper No. 429.
- DNR case files: land sale project ADL 421397, mineral order (MO) 1250, easement ADL 20529, state selection GS 15.
- Federal case file F-85976-DD.

IV. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section II. Authority** is limited and specific to determining the following: (1) if the applicant and subject parcel themselves qualify, (2) if it is in the State's best interest to sell the subject parcel, and (3) if it is in the State's best interest to sell the subject parcel to the applicant. The scope of this decision does not include the control of post-patent use and LCS does not intend to impose deed restrictions for this purpose. Restrictions regarding land use will be handled by the local zoning authority, if any.

V. Description

- a. Location: The subject parcel is located within DNR's Northern Region east of the Parks Highway between mileposts 288 and 289, approximately four miles east of Anderson in the Unorganized Borough, within Section 36, Township 6 South, Range 8 West, Fairbanks Meridian. See *Attachment A*: Vicinity Map for additional information.

USGS Map Coverage: Fairbanks B-5

Platting Authority: State of Alaska

Regional Corporation: Doyon, Limited

Federally Recognized Tribe: Nenana Native Association

Village Corporation: Toghotthele Corporation

- b. Legal Description: Lot 2 in Block 1 of Alaska State Land Survey No. 2021-20, Missile Club Subdivision, according to the plat recorded in the Nenana Recording District on April 4, 2023, as Plat 2023-2, containing 11.32 acres, more or less.

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- c. Title: Information from Title Report No. 23721, current as of November 8, 2024, and amended on January 14, 2025, indicated the State of Alaska received title to the land and mineral estate under Tentative Approval F-024563, dated December 15, 1995, which was acquired through State Selection GS 15. No third-party interests were identified. The parcel is subject to the reservations, easements, and exceptions contained in federal tentative approval.

State Reservation 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, the State retains ownership of all oil, gas, coal, ore, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals (such as gold, copper, 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 land 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 landowner 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 Access, including Access To and Along Public or Navigable Water subsection of this document.

Native Interest: The subject parcel is within the boundaries of the Doyon, Limited regional corporation and federally recognized tribe, Nenana Native Association. There are no Native interests identified with this parcel.

Other Conflicts or Pending Interest: None.

- d. Background: While the land was under federal ownership, the Bureau of Land Management (BLM) issued an occupancy lease agreement with Cecil Gates in September 1989, serialized as F-85976-DD. After the State received title to the land under tentative approval, BLM notified DNR and Mr. Gates that the State had assumed the responsibility for the lease. Once the lease was transferred to the State, it was

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amended to change the name of the lessor from BLM to the State. The State serialized the lease for the subject parcel as ADL 415712, issued on August 23, 1996. The lease expired in September 2009 but has been kept current by monthly extensions at the request of the leaseholder. The lease remains in good standing.

The subject parcel has been occupied since the lease issuance and used as a primary residence for the applicant till approximately September 2019 when Mr. Gates passed. Shortly after, his wife, Dixie Gates, moved from the subject parcel to live elsewhere in Alaska. Arrangements were made to winterize the primary house and to monitor the property on the subject parcel.

Improvements on the subject parcel documented during 2020 and 2021 field inspections include:

- A two-story, gable-roof, wood-frame house with wood lap siding and a concrete foundation.
- A small gable-roof, wood-frame storage shed sheathed in plywood.
- A large single-story, gable-roof, wood-frame garage sheathed in plywood.
- A small metal frame and panel storage shed (collapsed).
- The burned remnants of a structure containing significant scrap metal roofing and appliances.
- A large, tall pole barn with a shed roof with obvious structural deficiencies that is mostly enclosed with plywood sheathing.
- A two-story building with a gambrel roof that appears to be used as a house and for storage.
- At least two satellite dishes on steel poles and a metal tripod structure of significant height presumably used for communication equipment.
- A water well and wastewater system.

On May 4, 2021, Dixie Gates applied to purchase the subject parcel, ADL 415712, noncompetitively through statutory authority AS 38.05.102. DMLW determined that because Ms. Gates was not listed on the lease, LCS could not adjudicate the application until she provided court documents establishing herself as the personal representative for Mr. Gates' estate. On July 24, 2024, Ms. Gates provided documents from the Superior Court for the State, Fourth Judicial District, establishing her as the personal representative of the estate of Mr. Gates. DMLW assigned the lease for the subject parcel to Ms. Gates on January 10, 2025.

As of the time of this preliminary decision issuance, there are no liens associated with the subject parcel.

e. Planning, Classification, and Mineral Orders:

1. *Planning:* The subject parcel is located within YTAP, Parks Highway and West Alaska Range Region, Unit P-22, adopted January 3, 2014. The plan designates the subject parcel as Settlement which converts to a classification of Settlement Land.

The YTAP states the management intent for Unit P-22 as follows:

“Land disposals in this unit are appropriate during the planning period. Only portions of this unit may be appropriate for settlement, given the wide distribution

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of wetlands. Determine suitability for settlement prior to the preparation of a Preliminary Decision.”

A sale of the subject parcel supports the management goals of the YTAP by providing an opportunity for private ownership of land currently owned by the State for the continued year-round use as a residence and in support of a vital, self-sustaining, diverse economy for the communities in the surrounding area.

2. *Land Classification Order:* The State classified the subject parcel as Settlement Land under Classification Order NC-10-005 based on the YTAP adopted January 3, 2014.

3. *Mineral Order:* The subject parcel is closed to mineral entry by Mineral Order 1250.

Mineral orders which close an area to mineral entry, close the area to new exploration and development of locatable minerals such as gold, copper, platinum, etc. 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 mineral exploration and development.

4. *Local Planning:* The project area is within the Unorganized Borough. The State does not pursue zoning of private lands.

5. *Flood Risk:* There are no FEMA flood maps available for this area.

f. Traditional Use Findings:

The subject parcel is located within the Unorganized Borough and a traditional use finding is required under AS 38.05.830 Land Disposal in the Unorganized Borough. Information obtained from the YTAP, adjudicatory research, and agency review indicates that the surrounding area is currently used for settlement, limited commercial enterprise, and wild resource harvesting. According to ADF&G Division of Subsistence research, residents of Anderson and Nenana report using areas in the vicinity of the subject parcel for the subsistence harvest of wild resources (ADF&G Technical Paper Number 429). Anderson residents reported contemporary subsistence search and harvest areas for non-salmon fish, moose, grouse, and ptarmigan within the vicinity of the Parks Highway between Nenana and Anderson. Anderson residents also reported hunting and trapping small land mammals within a region that encompasses the project area. Nenana residents reported contemporary subsistence search and harvest areas for moose and black bear and gathering of berries and greens within the project area vicinity east of the Parks Highway.

The subject parcel is located near the Parks Highway and has been leased for longstanding residential use. LCS assumes that significant wild resource harvests take place in the broader surrounding area versus within the subject parcel. There are no anticipated changes to traditional uses of the land and resources of this area as a result of the proposed action.

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Additional information on traditional use is welcome during the public comment period and if this proposal is approved, LCS will address the information received in a subsequent FFD, if one is issued. See **Section VII. Submittal of Public Comments** and *Attachment B: Public Notice* for details on how to submit comment.

g. Access, including Access To and Along Public or Navigable Water:

Public Access: Legal and constructed access to ADL 415712 is via Cecil's Way, a gravel road that connects to the Parks Highway south of milepost 289.

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, 11 AAC 51.045 Easements To and Along Navigable and Public Water, and 11 AAC 53.450, Buffer Strips, Reserved Areas, and Public Easements.

DNR has not identified any public, navigable, or anadromous water bodies within the subject parcel. If any such water bodies are discovered, the parcel will be subject to access reservations in accordance with AS 38.05.127 Access to Navigable or Public Water.

Easements and Setbacks:

- A 50-foot-wide section-line easement exists within the subject parcel along its eastern boundary.
- A 30-foot-wide public utility easement exists within the subject parcel along its southwestern boundary parallel to Cecil's Way.

These easements are depicted on the Missile Club Subdivision plat and described in the plat notes.

h. Reservation of Mineral Estate: In accordance with section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation, the State, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with AS 38.05.130 Damages and Posting of Bond and other applicable statutes and regulations.

i. Hazardous Materials and Potential Contaminants:

During field inspections conducted on August 15, 2019, September 16, 2020, and May 10, 2021, DMLW staff observed potential environmental hazards within the subject parcel. The subject parcel has several items of note located on the leasehold:

- An above-ground heating oil tank next to the two-story, lap-sided house.
- Several automotive batteries and drums stored on pallets or on the ground.
- A garage filled with electronics, various containers, and miscellaneous debris stored too densely to accurately describe.

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- Burned or collapsed structures that could not be safely inspected for potential hazardous materials.
- Several abandoned automobiles.

There is no known contamination of, or hazardous materials on, the subject parcel beyond the items mentioned above. The applicant is expected to inspect the subject parcel to ascertain the quality and condition of the land. The State makes no representations and no warranties, expressed or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land proposed for conveyance to the applicant. The State does not assume any liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances ever be identified.

The applicant will be required to submit an affidavit acknowledging the condition and history of the site prior to purchase. See *Attachment C: Draft Affidavit Acknowledging Condition of Lands and Releasing the State from Related Liability*.

- j. Survey: This leasehold was surveyed concurrently with the Missile Club Subdivision, (ADL 421397). Upon DNR approval for preference right purchase of this parcel, the applicant will be required to pay their portion of the survey costs to DMLW, which amounts to \$14,029.56.
- k. Compensation/Appraisal: If the purchase is approved, the parcel will be sold at fair market value as required by AS 38.05.840(a) Appraisal. This parcel was appraised concurrently with several Missile Club Subdivision competitive sale parcels. The appraisal report, approved on February 16, 2024, set the value of the subject parcel at \$27,300.00. Pursuant to AS 38.05.840, the purchase of the parcel must occur within two years of the date of approval of the appraisal report, or a new appraisal may be required.

Upon DNR approval of the purchase of this parcel, the applicant will be required to submit their portion of the appraisal costs to DMLW, which amounts to \$641.00.

VI. DMLW and Agency Review

Agency review is being conducted concurrently with the public notice of this preliminary decision. Agency comments will be addressed in the final finding and decision along with public comment. The subject parcel is within the larger Missile Club Subdivision project area (ADL 421397). The Missile Club Subdivision agency review was conducted in September 2020 and public notice of its preliminary decision was published in January 2021.

VII. 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) Notice may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

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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 proposals are approved and no significant change is required, the preliminary decision, including any deletions, minor changes, and a summary of comments and LCS responses will be issued as a subsequent FFD without further notice.

Only persons from whom LCS receives timely, written comment during the identified comment period will be eligible to file a request for appeal of the FFD. Upon approval and issuance of a FFD, 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.

DNR 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 DNR's Public Information Center. For more information refer to *Attachment B: Public Notice*.

DEADLINE TO SUBMIT WRITTEN COMMENT IS 4:00 PM, TUESDAY, FEBRUARY 18, 2025

VIII. Stipulations

If approved for conveyance, the applicant will be required to comply with the following stipulations to complete the land sale:

1. As a condition of sale, the applicant must sign an affidavit acknowledging the condition of the land and releasing the State from related liability due to the presence of potential hazards.
2. The lessee must remain in good standing with respect to the terms of the lease until the lease is relinquished. If the lessee is not in good standing at any time prior to the relinquishment of the lease, the purchase process will be halted until the lessee regains good standing as determined by DMLW.
3. The survey of the subject parcel was completed concurrently with the survey of the Missile Club Subdivision in support of land sale project ADL 421397. Survey costs shall be borne by the applicant. The applicant's pro-rated survey costs are \$14,029.56.
4. The subject parcel was appraised concurrently with several other Missile Club Subdivision parcels in support of land sale project ADL 421397. This appraisal is valid till February 16, 2026. Appraisal costs shall be borne by the applicant. The applicant's portion of these appraisal costs is \$641.00.
5. Once the Final Finding and Decision is signed and the appeal period is over without an appeal received, a notice to proceed to purchase will be issued to the applicant. Within the

Preliminary Decision

AS 38.05.102 Preference Right – ADL 415712

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time period specified in the proceed to purchase notice, the applicant must submit the following to LCS:

- A signed and notarized affidavit acknowledging the condition of the land and releasing the State from related liability.
 - A completed and signed Declaration of Intent form.
 - A signed and notarized Relinquishment of Land Lease form.
 - A completed Veteran's Land Discount form (if eligible).
 - Payoff amount plus patent application and recordation fees OR minimum 5% of the purchase price as a deposit plus land sales contract application and recordation fees. Fees are established under 11 AAC 05.100 Land Disposals and 11 AAC 05.200 Recorder's Office and are subject to change. Some fees have been reduced by Director's Order Number 3.
6. Prior to the completion of the purchase and issuance of a state conveyance document, the applicant must remain in good standing with respect to all terms of the Contract for the Sale of Real Property throughout its term, if such a contract is issued. The applicant must also remain in compliance with all applicable state and local ordinances and regulations, including all applicable taxes. Failure to do so may result in termination of the Contract for the Sale of Real Property.

If extenuating circumstances delay any of the stipulations listed above, the applicant are responsible for notifying LCS and receiving approval from LCS for the delay with new timeframes for completion to be given. Failure to do this could result in the closure of the purchase application. The purchase cannot be completed until all the above stipulations have been satisfied.

IX. Discussion and Alternatives

The lease for ADL 415712 was created by the BLM in 1989. The BLM later transferred the land to the State, and the State agreed to honor the previously issued lease in 1996. The acceptance of the lease amendments was approximately concurrent with the State acquisition of the land, creating the leasehold of state land under the State's authority of AS 38.05.070 - .105 as amended. At the time of the transfer, the leases were amended to show the State as the lessor and were signed by the lessee. DMLW finds that the issuance authority qualifies the leases for preference right claims under AS 38.05.102 Lessee Preference.

The preference right applicant and current leaseholder of the subject parcel is in good standing with the terms of the lease as of the writing of this document. Title Report No. 23721 showed no third-party interests or liens. Therefore, the applicant qualifies under AS 38.05.102 Lessee Preference for a preference right claim.

The following alternatives were considered:

Alternative 1: Sell

Approve the proposed conveyance of the subject parcel to the applicant in accordance with AS 38.05.102 Lessee Preference.

Alternative 2: Lease

Continue with a month-to-month lease agreement.

Preliminary Decision

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Alternative 3: Retain

DNR will take no action and retain the subject parcel.

Alternative 1 will provide settlement land to the private sector, generate revenue for the State, mitigate costs related to the management of leased land, and is compatible with area plan management intent. The sale of the parcel allows the applicant's improvements to remain *in situ* and provides the applicant assurances required for future planning and passing property to heirs. Therefore, it is in the best interest of the State to sell the parcel as proposed in this decision.

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." Alternative 1 provides a method for DNR to meet the obligations laid out in the Constitution and statute and supports DNR's goal of providing lands for private settlement and supporting economic growth throughout Alaska. This is the preferred alternative.

Under Alternative 2, DNR will continue administering month-to-month lease extensions to the applicant. The lessee receives control of the leasehold for a given period. As the applicant qualifies and receives the senior citizen's discount, under this option the State currently does not earn revenue from the leasehold, in addition to incurring future management costs related to ensuring performance under the lease agreement and administrative costs related to lease administration. This is not in the best interest of the State. This alternative is not preferred.

Under Alternative 3, the State would need to expend resources managing the land, while forgoing the income that could have been generated by sale. If the State chooses to neither sell nor lease the land to the current leaseholder, they will be required to remove existing infrastructure from the land that was approved under a residential lease approved by the State and restore the land to its original condition. The applicant may lose improvements if they are immobile, causing the applicant detriment. Retaining the subject parcel in state ownership is not in the best interests of the State. This alternative is not preferred.

For the reasons outlined above, Alternative 1 is the preferred alternative. The sale of the subject parcel is beneficial to both the State and to the prospective applicant. The sale provides land for settlement to the applicant and is the site of useful improvements. It provides maximum use for the public benefit in that it provides land for private settlement, the proposed parcel use does not disturb or curtail nearby state land uses, and it supports the long-term growth and development of the nearby communities.

Recommendation follows.

Preliminary Decision

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X. Recommendation and Preliminary Decision

This preliminary decision for the proposed disposal of State lands described throughout this document is consistent with the overall management intent for state-owned lands. Alternative 1 is the preferred alternative because it is the maximum best use of state land, addresses a land claim under preference right statutes, and helps meet the mission of the land sales program.

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. A Final Finding and Decision will address any significant issues or concerns during the public review process. If the applicant is unable to complete the stipulations, DMLW may decide to close this purchase application or require the continued renewal for the lease to allow additional time to complete the purchase process.

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.



Prepared by: Colin Craven
Natural Resource Specialist
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

January 15, 2025

Date of Signature



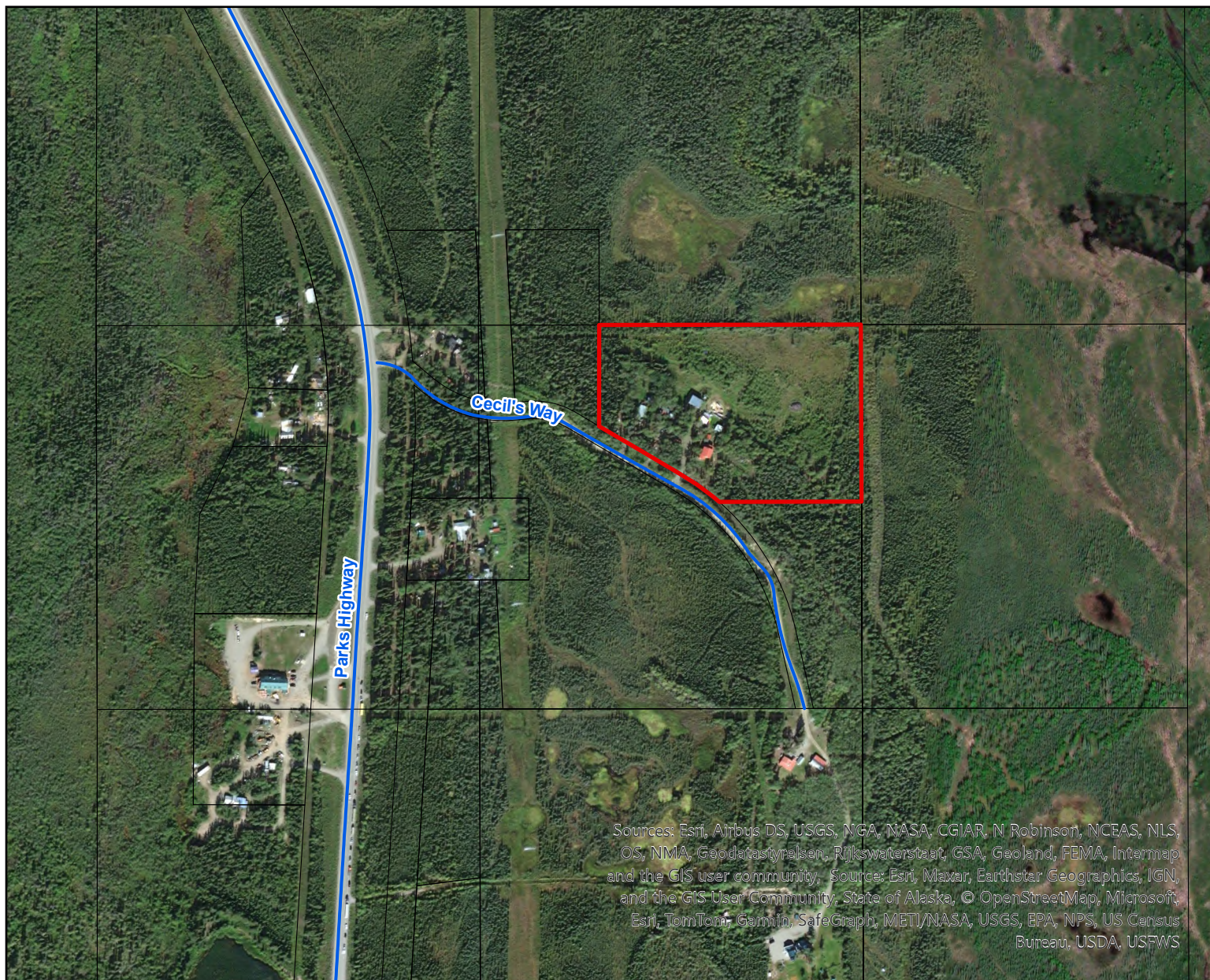
Approved by: Hannah Uher-Koch
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

January 15, 2025

Date of Signature



Attachment A: Vicinity Map Dixie Gates Preference Right ADL 415712



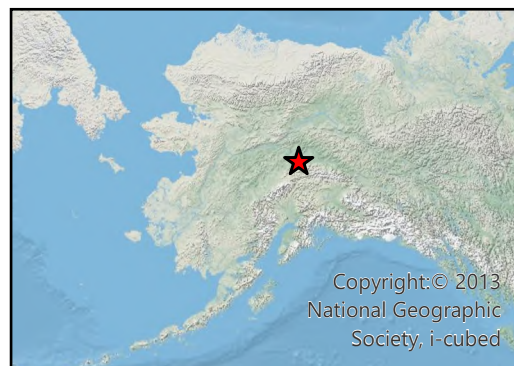
- Parcel Boundaries
- Project Area
- Roads

0 0.125 0.25 Miles

Section 36, Township 6 South, Range 8 West, Fairbanks Meridian

CMC
Oct 3, 2024

For more information contact:
Colin Craven
Department of Natural Resources
Division of Mining, Land, and Water
Land Conveyance Section
907.451.2730
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 Noncompetitive Sale to Preference Right Applicant

ADL 415712

COMMENT PERIOD ENDS 4:00PM, TUESDAY, FEBRUARY 18, 2025

The Alaska Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) is conducting public notice for a noncompetitive land sale located east of the Parks Highway between mileposts 288 and 289, approximately four miles east of Anderson. The property legal description is:

Lot 2 in Block 1 of Alaska State Land Survey No. 2021-20, Missile Club Subdivision, according to the plat recorded in the Nenana Recording District on April 4, 2023, as Plat 2023-2, containing 11.32 acres, more or less.

To obtain a copy of the Preliminary Decision, or instructions on submitting comment, go to <https://landsales.alaska.gov/> or <https://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 8:00AM and 4:30PM 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: 711 for Alaska relay or 800-770-8973), or go to <https://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, Tuesday, February 11, 2025.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decision. **The deadline for public comment is 4:00PM, Tuesday, February 18, 2025.** 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 Colin Craven: land.development@alaska.gov, fax # 907-451-2751, or 3700 Airport Way, Fairbanks, AK, 99709. If you have questions, call Colin Craven at 907-451-2730.

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.

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

Attachment C

**AFFIDAVIT ACKNOWLEDGING CONDITION OF LANDS AND RELEASING THE STATE
FROM RELATED LIABILITY**

ADL 415712

I, Dixie Gates, whose address is 1195 Rock Jasmine Court, Apt B, North Pole, Alaska, 99705, being first duly sworn under oath, state and declare as follows:

1) I am the fee simple purchaser of state-owned lands that I have heretofore leased from the State of Alaska, Department of Natural Resources (DNR). The legal description of the land I am acquiring (hereinafter "the acquired property") is as follows:

Lot 2 in Block 1 of Alaska State Land Survey No. 2021-20, Missile Club Subdivision, according to the plat recorded in the Nenana Recording District on April 4, 2023, as Plat 2023-2, containing 11.32 acres, more or less.

2) As a longtime lessee of the acquired property, I have been aware of the history and condition of the site.

3) I accept full responsibility for any claim, cause of action, liability, required remedial action, or required response action arising in connection with any contamination. In the event of any such claim or action I agree to hold the State of Alaska and DNR harmless. Further, I release DNR from any liability arising in connection with any contamination.

4) I affirm that in the event of any future sale, assignment, or other transfer of my ownership interest in the acquired property to another person or entity, I will disclose any potential contamination.

ADL 415712

Affidavit Acknowledging Condition of Land
and Releasing the State from Related Liability

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Sworn and Affirmed this ____ day of _____, 2025, in _____, Alaska.

Dixie Gates

Signature

Date

STATE OF ALASKA)
) ss.
____ Judicial District)

THIS IS TO CERTIFY that on the _____ day of _____, 2025,
before me personally appeared **Dixie Gates** known to me to be the person executing this
affidavit and acknowledged voluntarily signing the same.

Notary Public in and for the State of Alaska
My Commission Expires: _____

STATE BUSINESS - NO CHARGE

RETURN TO:

**Land Conveyance Section
DNR Division of Mining, Land and Water
550 W, 7th Ave. Suite 640
Anchorage, AK 99501**