

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

FINAL FINDING AND DECISION

Lease Renewal

AS 38.05.070(e)

Noncompetitive Sale to Preference Right Applicant – ADL 407813

AS 38.05.102, AS 38.05.035(e)

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) issued on December 19, 2024. The PD (attached) has had the required public review.

I. Recommended Action

Action 1, Lease Renewal: The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Northern Regional Office (NRO) recommends renewing the lease for ADL 407813 for a 10-year term or until the applicant has either entered into a sale contract or declines to enter into a sale contract, whichever comes first.

Action 2, Noncompetitive Sale: The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends conveying 0.381 acres, more or less, of State-owned land as described in the attached PD, for noncompetitive sale to the applicant, Christine Parke-Sutherland, pursuant to Alaska Statute (AS) 38.05.102 Lessee Preference. The subject parcel is located within DNR's Northern Region, approximately eight miles southwest of Fairbanks in the Fairbanks North Star Borough.

II. Authority

DNR has the authority under AS 38.05.070(e) to renew an existing lease for one additional term not to exceed the initial term. The authority to execute this decision for ADL 407813 has been redelegated to the Regional Manager of the DMLW Northern Regional Office.

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. 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 under State of Alaska Online Public Notice website from December 19, 2024, to January 28, 2025, per AS 38.05.945(b)(3).
- Posted on DNR Land Sales website from December 19, 2024, to January 28, 2025.

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- Mailed to postmasters in Fairbanks at the Mail Trail Road, Fairbanks Street, and Barnette Street post offices with a request to post for 30 days, per AS 38.05.945(b)(3)(C).
- Mailed to the Noel Wien Public Library and the Fairbanks Native Association Inc. Library with a request to post for 30 days, per AS 38.05.945(b)(3)(C).
- Mailed to Doyon, Limited and Tanana Chiefs Conference per AS 38.05.945(c)(2)-(3).
- Emailed to the Fairbanks North Star Borough Mayor's office per AS 38.05.945(c)(1).
- Mailed to the applicant and 114 adjacent landowners within a 0.5-mile radius of the parcel.
- Emailed notice to the Alaska Center for the Environment, Alaska Soil and Water Conservation District, Alaska Miners Association, University of Alaska Land Management Department, Trustees for Alaska, Greater Fairbanks Chamber of Commerce, and all State agencies who received the agency review notice.

The public notice stated that written comments were to be received by 3:00 PM, January 28, 2025, to ensure consideration and eligibility to appeal. For more information, refer to the attached PD.

IV. Comments Received

DNR DMLW LCS received four comments from agencies and one comment from a private individual. The comments received during the public comment period are summarized and addressed below.

DNR DMLW LCS received comments of no objection from the following agencies:

DNR DMLW Resource Assessment and Development Section, the Department of Transportation and Public Facilities, and the Alaska Department of Environmental Conservation (DEC), Contaminated Sites Program.

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

DNR DMLW Realty Services Section (RSS) Comment:

RSS acknowledges and appreciates that a title report request has been submitted. RSS wants to highlight the encroachment of the well house and driveway onto the adjacent parcel (Lot 3A). The PD notes that the encroachments are to be resolved by the customer prior to conveyance. RSS agrees with the conditions being set forth in the PD for conveyance of the parcel and these will be expected for completion as part of the patent process.

Additionally, potential soil contamination in the project area is discussed in the PD and it is noted that DMLW is currently assessing the extent. The RSS Conveyance team requests to be updated on this effort, so impacts, if any, may be considered at time of patent process. Thank you for the opportunity to comment.

DNR DMLW LCS Response: LCS appreciates your review of the proposal. LCS would like to clarify that the potential soil contamination discussed in the PD is located on the neighboring lot (Lot 3A), not the subject parcel. As an update to this potential soil contamination mentioned in the PD, DNR-hired contractors determined the existence and extent of contamination during field activities conducted on July 11, 2024. The results indicated limited areas of soil contamination on Lot 3A that were above DEC's most stringent clean-up levels. The DEC Field Sampling Guidance (August 2024) and

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the DEC-approved work plan outlined the utilized field procedures for clean-up. All analytical results from soil samples collected after remediation in September 2024 were below the DEC clean-up levels. The clean-up is complete, and the DEC Division of Spill Prevention and Response database states that this case is closed and no further action is necessary as of November 29, 2024. The limited contamination in Lot 3A has been remediated and did not extend into Lot 2A nor into the well located on Lot 2A. No further testing of the soil or testing of the well is necessary. Thank you for your comment.

Private Individual Comment: Fuel contamination was found on Lot 3A, the property of the State of Alaska, which is adjacent to Lot 2A. The open well on Lot 2A is so close to the property line that the wellhouse straddles both Lot 2A and Lot 3A. It seems to me that the State should test the well for fuel contamination. Reserving my right to file an appeal of the Final Finding and Decision (FFD).

DNR DMLW LCS Response: LCS appreciates your review of the preliminary decision. To clean up Lot 3A, the neighboring parcel to the subject parcel, a DMLW contractor demolished an old, abandoned cabin and removed an underground heating oil tank; DMLW completed the demolition on June 27, 2024. Upon removal of the fuel tank, soil contamination was suspected. DNR contractors conducted field activities on July 11, 2024, to determine the existence and extent of contamination. The results indicated limited areas of soil contamination on Lot 3A above DEC's most stringent clean-up levels. The DEC, Division of Spill Prevention and Response (SPAR), Prevention, Preparedness, and Response Program approved the DNR contractor's clean-up plan, implemented on September 25, 2024. The DEC Field Sampling Guidance (August 2024) and the DEC-approved work plan outline the utilized field procedures. All analytical results from soil samples collected after remediation in September 2024 were below the DEC clean-up levels.

Regarding the testing of the well, groundwater sampling is typically only conducted when a petroleum-contaminated site is significant, it is not possible to clean-up completely, or when contamination has migrated to or near the water table. In this case, neither DEC nor the contractors recommended testing the groundwater. The clean-up is complete, and the DEC SPAR database states that this case is closed and no further action is necessary as of November 29, 2024. The limited contamination in Lot 3A has been remediated and did not extend into Lot 2A nor into the well located on Lot 2A. No further testing of the soil or testing of the well is necessary. Thank you for your comment.

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. The subject parcel is located within an organized borough; therefore, no Traditional Use Finding is required.

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 recommended actions have not been modified from the original proposed actions described in the Preliminary Decision. Several notes and modifications are made between the PD and this FFD and are described below. These notes and modifications do not change the proposed actions.

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It should be noted that between the issuance of the PD and the issuance of this FFD, LCS has confirmed that the soil contamination in the neighboring lot, Lot 3A, did not extend into the subject parcel. DNR contractors conducted field activities on July 11, 2024, to determine the existence and extent of contamination. The results indicated limited areas of soil contamination above DEC's most stringent clean-up levels, all of which were located within Lot 3A. The DEC, Division of Spill Prevention and Response (SPAR), Prevention, Preparedness, and Response Program approved the DNR contractor's clean-up plan, implemented on September 25, 2024. The DEC Field Sampling Guidance (August 2024) and the DEC-approved work plan outline the utilized field procedures. All analytical results from soil samples collected after remediation in September 2024 were below the DEC clean-up levels. The clean-up in Lot 3A is complete, and the DEC SPAR database states that this case is closed and no further action is necessary as of November 29, 2024.

Title research between the Preliminary Decision and the Final Finding and Decision revealed a Utility and Driveway Easement and Agreement between the former lessees of Lot 2A and Lot 3A, dated November 18, 1981. DMLW has determined that this easement and agreement is invalid and that no perpetual interests were created by the recorded document. A recorded memo dated April 2, 2025, states that "all easement and property interests extinguish upon termination of the respective lease agreements issued by DMLW for each property."

A modification was made to the well house stipulation. The updated stipulation in the FFD states that the well house must be removed or sit entirely on the subject parcel.

In the Preliminary Decision, the applicant was given 5 years after the Final Finding and Decision to complete the stipulations; this has now been changed to 6 years due to a miscalculation.

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. All encroachments onto the neighboring State-owned land (Lot 3A) must be resolved. These encroachments and resolutions include, but are not limited to:
 - 1) According to the 1988 As-Built Survey, a small portion of the well house crosses the boundary between Lot 2A and Lot 3A.
 - The well house must not remain on Lot 3A. It must be removed or sit entirely on the subject parcel.

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- 2) According to the 1988 As-Built Survey, a portion of the driveway crosses the boundary between Lot 2A and Lot 3A.
 - The driveway must be entirely on the subject parcel.
4. Proof of the resolution of the encroachments onto the neighboring lot, Lot 3A, shall be required as a Record of Survey that is acceptable to the standards of the DMLW Survey Section. The Record of Survey shall delineate the lease boundary and identify improvements. The applicant must hire a surveyor and the surveyor must apply to DMLW's Survey Section for Survey Instructions. The applicant's survey must be approved by DMLW and the Fairbanks North Star Borough Platting Authority as outlined in the Survey Instructions. Survey costs shall be borne by the applicant. The Record of Survey showing the resolution of all encroachments must be received within two years after the issuance of the Final Finding and Decision.
5. Upon approval and recording of the survey that demonstrates all encroachments onto the neighboring State-owned parcel have been resolved, a notice to proceed to appraisal will be issued. Within two years from the date of the notice to proceed to appraisal, the applicant must hire an appraiser from DNR's Approved Appraiser list, the appraiser must apply for appraisal instructions issued by DMLW, and the appraiser must submit a completed fair market value appraisal to LCS per the appraisal instructions. The DMLW Appraisal Section must approve the appraisal. Appraisal costs shall be borne by the applicant.
6. Upon approval of the appraisal, a notice to proceed to purchase will be issued to the applicant. Within two years of an approved appraisal, 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); and
 - 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.
7. 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 1-7 above within 6 years after issuance of the Final Finding and Decision, to ensure the applicant has a signed land sales contract before the lease expires on *June 4, 2035*. Failure to do so will 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.

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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. Additional reservations and/or restrictions required through the local platting authority.
3. 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.

Recommendation and approval of the Final Finding and Decision follow.

Final Finding and Decision

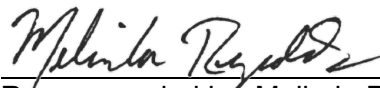
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VIII. Final Finding and Decision

The Northern Regional Office and the Land Conveyance Section recommend proceeding with the actions as described in the Preliminary Decision. These actions are undertaken under relevant authorities. Offering this parcel for sale will help meet the State's goal to provide land for settlement for sale to the public and raise revenue for the State.

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. NRO and LCS recommend proceeding with the proposed actions as described in the Preliminary Decision and this Final Finding and Decision.



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

04/29/2025

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.

Action 1: Lease Renewal, AS 38.05.070(e)



Approved by: AJ Wait
Natural Resource Manager 2
Northern Regional Office
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

04/29/2025

Date

Action 2: Noncompetitive Sale, AS 38.05.102



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

4/29/2025

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 407813

Proposed Lease Renewal
AS 38.05.070(e)
Proposed Noncompetitive Sale to Preference Right Applicant
AS 38.05.035(e), AS 38.05.102

RELATED ACTIONS:
None

PUBLIC COMMENT PERIOD ENDS 3:00 PM, TUESDAY, JANUARY 28, 2025

I. Proposed Actions

Preliminary Decision: Approval of Lease Renewal for ADL 407813

Preliminary Decision: Approval of Noncompetitive Preference Right Parcel Sale ADL 407813

Attachment A: Vicinity Map

Attachment B: Public Notice

Primary Proposed Action 1, Lease Renewal: DNR proposes to renew the lease for ADL 407813 for a 10-year term or until the applicant has either entered into a sale contract or declines to enter into a sale contract, whichever comes first.

Primary Proposed Action 2, 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 Christine Parke-Sutherland 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 to the applicant through a noncompetitive sale. The subject parcel is located within DNR's Northern Region, approximately eight miles southwest of Fairbanks in the Fairbanks North Star Borough. The legal description for the parcel is Lot 2A, Tanana Heights, Alaska Subdivision, according to the Division of Lands Survey Plat of Tanana Heights, Alaska Subdivision located within Section 33, Township 1 South, Range 2 West, Fairbanks Meridian, Alaska, filed in the Fairbanks Recording District on October 8, 1965, as Plat Serial No. 65-7493, containing 0.381 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 – AS 38.05.105 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.

Approval of Action 1 (Lease Renewal) does not guarantee approval of Action 2 (Noncompetitive Sale). The noncompetitive sale cannot move forward without approval of the lease.

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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, the Division moves forward with the proposal, a Final Finding and Decision (FFD) will be issued.

II. Authority

DNR has the authority under AS 38.05.070(e) to renew an existing lease for one additional term not to exceed the initial term. The authority to execute this decision for ADL 407813 has been redelegated to the Regional Manager of the DMLW Northern Regional Office.

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) 407813 constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Eastern Tanana Area Plan (ETAP, adopted August 28, 2015) and associated land classification files;
- DNR case files: ADL 214785 University Agreement; QCD 584 University Settlement; Statutory QCD dated 12/2/1983; OSL 790; Mineral Closing Order 239; and
- Federal patent 1229230.

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 it is in the State's interest to renew the existing lease for sufficient time to allow sale of this parcel, (2) if the applicant and subject parcel themselves qualify for a preference right purchase, (3) if it is in the State's best interest to sell the subject parcel, and (4) 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, approximately eight miles southwest of Fairbanks in the Fairbanks North Star Borough, within Section 33, Township 1 South, Range 2 West, Fairbanks Meridian. See *Attachment A*: Vicinity Map for additional information.

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USGS Map Coverage: Fairbanks D-2

Platting Authority: Fairbanks North Star Borough

Regional Corporation: Doyon, Limited

Village Corporation: None

Federally Recognized Tribes: None

- b. Legal Description: Lot 2A, Tanana Heights, Alaska, Subdivision, according to the Division of Lands Survey Plat of Tanana Heights, Alaska Subdivision location within Section 33, Township 1 South, Range 2 West, Fairbanks Meridian, Alaska, filed in the Fairbanks Recording District on October 8, 1965, as Plat Serial No. 65-7493. Containing 0.381 acres, more or less.
- c. Title: Information from Title Report No. 22168, dated February 15, 2022, indicated the State of Alaska received title to the land and mineral estates under Statutory Quitclaim Deed, dated December 2, 1983, which was acquired through State Selection OSL 790. No third-party interests were identified. The parcel is subject to the reservations, easements, and exceptions contained in the federal patent. An updated title report has been requested.

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.

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

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

Other Conflicts or Pending Interest: None.

d. Background:

The State of Alaska received title to the subject parcel and mineral estates under Statutory Quitclaim Deed, dated December 2, 1983, and accepted December 21, 1983, which was acquired through State Selection OSL 790.

The State issued a 55-year lease for Lots 1A, 2A, and 3A within the Tanana Heights, Alaska, Subdivision, serialized as ADL 39202 on June 5, 1968, to Joe and Bess Pulliam. The lease went through multiple assignments between the years 1970 and 1981. The lease was subsequently partially assigned, and Lot 2A from John W. Regitano was assigned to Christine M. Matthews on January 29, 1982, creating ADL 407813. An amendment to the lease agreement, dated March 11, 1985, changed the name on the lease from Christine M. Matthews to Christine M. Parke-Sutherland.

The subject parcel (Lot 2A) is in the Tanana Heights Subdivision, and a 1988 as-built survey shows a 2-story frame house with a shed, septic system, well, well house, driveway, and buried fuel on the subject parcel. According to this as-built, the well house and the driveway encroach on the neighboring State-owned land, Lot 3A, within the subdivision. According to a 2007 DMLW field inspection, this neighboring lot and the subject parcel shared the septic system due to the small lot sizes. This 2007 field inspection also stated that there were no pipes to indicate the septic system was still functioning. This inspection stated that the well was still open and that the well house was "full of vegetative debris." Photos from 2018 show the well, well house, driveway, and a completely wooded lot. The house on the subject parcel has clearly been removed for quite some time.

On November 1, 2021, Christine Parke-Sutherland applied to DMLW to purchase the subject parcel, ADL 407813, noncompetitively through statutory authority AS 38.05.102 Lessee Preference. In 2023, this lease was extended through June 2025 to allow completion of the preference right adjudication process and, if in the state's interest, enter into a sale contract.

At the time of this PD, the house on Lot 3A (the neighboring parcel to the west of the subject parcel) has been demolished, and the water and wastewater lines leading to the property line between Lots 3A and 2A have been capped. An underground storage tank was removed from the neighboring Lot 3A, and soil contamination from the fuel tank has been discovered upon removal. The DMLW is currently determining the extent of soil contamination and requesting a contractor's clean-up proposal. If the soil contamination extends to Lot 2A, this will be addressed in the FFD, and Ms. Parke-Sutherland will be notified. The encroachment of the well house and the driveway onto the neighboring

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State-owned land of Lot 3A must be resolved by Ms. Parke-Sutherland prior to conveyance.

As of the time of this PD, there are no liens associated with the subject parcel.

e. Planning, Classification, and Mineral Orders:

1. *Planning:* A request for determination of plan designation and classification was submitted to DNR's Resource Assessment and Development Section (RADS) as the parcel was inadvertently omitted from the Eastern Tanana Area Plan (ETAP), adopted on August 28, 2015. On August 24, 2022, Determination NC-10-004D17 was issued by RADS, which added the parcel to ETAP Management Unit F-130, which is designated Settlement, which converts to a classification of Settlement Land.

The ETAP states that the plan's management intent for Unit F-130 is as follows:

Land disposal during the planning period is appropriate.

See Chapter 2 requirements for additional guidance.

Check land status prior to issuing authorizations and check for hazardous materials. (Note: the land should be conveyed to the state after remediation, but it is prudent to review this aspect of the site prior to issuing significant authorizations or preparing a land disposal.)

This unit is affected by LLO 39.

Goals for land classified as Settlement Land include providing suitable public land for transfer to private ownership for settlement purposes by providing seasonal residences for recreation, year-round residences for community expansion, and industrial or commercial development. A sale of the subject parcel supports the management goals of the ETAP by providing an opportunity for private ownership of land currently owned by the state, which allows for the construction of a cabin for seasonal recreational use.

2. *Land Classification Order:* A request for determination of plan designation and classification was submitted to RADS as the parcel was not included in the ETAP. Determination NC-10-004D17 modified the ETAP and LCO NC-10-004 to reflect the determination of the parcel being included in Unit F-130 and classified as Settlement Land.
3. *Mineral Order:* The subject parcel has been previously closed to mineral entry by Mineral Closing Order 239.

Mineral orders which close an area to mineral entry, close the area to new exploration and development of locatable minerals (e.g., gold, copper, platinum, etc.). Such mineral orders do not apply to leasable minerals (e.g., 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

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stipulates that the land estate owner will be compensated for damages resulting from mineral exploration and development.

Mining activity for locatable minerals would be incompatible with current and proposed land estate uses for land disposal. Allowing new mineral location within the boundary of the parcel encompassed by the decision could create conflict between land estate and mineral estate users. ETAP subsurface management policy states that, in general, areas or parcels scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land estate and mineral estate users.

4. *Local Planning*: The project area is zoned "Rural Residential" by the Fairbanks North Star Borough.
5. *Flood Risk*: This parcel is in an area of minimal flood hazard, zone X.
- f. *Traditional Use Findings*: The subject parcel is located within the Fairbanks North Star Borough; therefore, a traditional use finding is not required under AS 38.05.830 Land Disposal in the Unorganized Borough. There are no anticipated significant changes to traditional uses of the land and resources of this area as a result of the proposed action.

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** within this document 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 access to ADL 407813 is via Chena Ridge Road.

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:

- Utility easements; and
- Additional reservations and/or restrictions required through the local platting authority.

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

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- 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: There are no known hazardous materials or potential contaminants on the subject parcel. Fuel tank infrastructure was identified in the 1988 As-Built Survey, but it is unknown if it is still there or was removed with the house. 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. This affidavit releases the State from liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants and for the remediation of the site should such substances ever be identified. Christine Parke-Sutherland recognizes that the subject parcel is conveyed on an “as is” basis and in the condition of the conveyance.

- j. Survey: Preliminary Survey Determination 20215068, dated May 25, 2022, determined the leased land to be surveyed. The subject parcel is surveyed as Lot 2A, Tanana Heights, Alaska, Subdivision, according to the Division of Lands Survey Plat of Tanana Heights, Alaska Subdivision located within Section 33, Township 1 South, Range 2 West, Fairbanks Meridian, Alaska, filed in the Fairbanks Recording District on October 8, 1965, as Plat Serial No. 65-7493, containing 0.381 acres, more or less. As stated in **Section VIII. Stipulations** of this document, a Record of Survey that is acceptable to the standards of the DMLW Survey Section is required as proof of resolution of the stated encroachments onto Lot 3A.
- 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. At the appropriate time, LCS will notify the applicant to begin the appraisal process and provide a list of approved appraisers. The DMLW Appraisal Section will provide appraisal instructions to an approved appraiser. The applicant bears the cost of appraisal. The date fixed for sale under AS 38.05.840(a) Appraisal and the valuation date of the appraisal will be set as the date of inspection by the appraiser.

VI. 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 PD. Agency review was conducted between September 26, 2022, through October 17, 2022. Comments pertinent

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to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision, if one is issued.

DNR DMLW LCS received brief comments of non-objection from the following agencies: Department of Transportation and Public Facilities, DNR Division of Parks and Outdoor Recreation, DNR DMLW Public Access Assertion & Defense, and DNR Division of Oil and Gas.

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

DNR DMLW Resource Assessment & Development Section (RADS): RADS thanked DMLW for the opportunity to review and comment on the project. RADS stated that the subject parcel is in the Eastern Tanana Area Plan Unit F-130, classified as Settlement Land, and is appropriate for disposal. Mineral closing order 239 affects the land, closing the parcel to new mineral entry.

DNR DMLW LCS Response: LCS appreciates the review of this proposed non-competitive sale. Comments from RADS have been incorporated into this PD.

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

- Alaska Department of Fish & Game, Department of Environmental Conservation, DNR Division of Agriculture, DNR Division of Forestry & Fire Protection, DNR Division of Geological and Geophysical Surveys, and DNR State Historic Preservation Office.

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.

All timely, written comments will be considered. If analysis of such comments indicates the need for significant changes to the PD, 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 PD, including any deletions, minor changes, and a summary of comments and responses will be issued as a subsequent FFD without further notice. Approval of Action 1 (Lease Renewal) does not guarantee approval of Action 2 (Noncompetitive Sale). The noncompetitive sale cannot move forward without approval of the lease.

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Only persons from whom DMLW receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the FFD. Upon approval and issuance of a FFD, a copy of the decision will be made available online at <https://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 3:00 PM, TUESDAY, JANUARY 28, 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. All encroachments onto the neighboring State-owned land (Lot 3A) must be resolved. These encroachments and resolutions include, but are not limited to:
 - 1) According to the 1988 As-Built Survey, a small portion of the well house crosses the boundary between Lot 2A and Lot 3A.
 - The well house must sit entirely on the subject parcel.
 - 2) According to the 1988 As-Built Survey, a portion of the driveway crosses the boundary between Lot 2A and Lot 3A.
 - The driveway must be entirely on the subject parcel.
4. Proof of the resolution of the encroachment issues shall be required as a Record of Survey that is acceptable to the standards of the DMLW Survey Section. The Record of Survey shall delineate the lease boundary and identify improvements. The applicant is responsible for the costs of the survey. The Record of Survey showing the resolution of all encroachments must be received within two years after the issuance of the Final Finding and Decision.
5. Upon approval and recording of the survey that demonstrates all encroachments onto the neighboring State-owned parcel have been resolved, a notice to proceed to appraisal will be

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issued. Within two years from the date of the notice to proceed to appraisal, the applicant must hire an appraiser from DNR's Approved Appraiser list. The appraiser must apply for appraisal instructions issued by DMLW and then submit a completed fair market value appraisal to LCS per the appraisal instructions. DMLW Appraisal Section must approve the appraisal. Appraisal costs shall be borne by the applicant.

6. Upon approval of the appraisal, a notice to proceed to purchase will be issued to the applicant. Within the time period specified in this notice, the applicant must submit the following to 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); and
 - 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.
7. 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.

Special Note: The applicant must complete steps 1-7 above within 5 years after issuance of the Final Finding and Decision, in order to ensure the applicant has a signed land sales contract before the lease expires. Failure to do this will result in the loss of the right to purchase this parcel of land or the applicant may need to enter into a new 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 preference right purchase application. The purchase cannot be completed until all the above stipulations have been satisfied.

IX. Discussion and Alternatives

The original 55-year lease was issued in 1968. DMLW finds that the issuance authority qualifies the lease 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. 22168 shows no third-party interests or liens that would conflict with a conveyance of a parcel to the applicant. Therefore, the applicant qualifies under AS 38.05.102 Lessee Preference for a preference right claim.

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The following alternatives were considered:

Alternative 1: Renew Lease and Sell

Approve the proposed conveyance of the approximately 0.381-acre subject parcel to the applicant in accordance with AS 38.05.102 Lessee Preference and renew the existing lease for up to 10 years in accordance with AS 38.05.070(e), to allow for all required stipulations to be completed.

Alternative 2: Lease

Renew the existing lease and continue with a long-term lease agreement.

Alternative 3: Retain

DNR will take no action to renew the lease or to convey and will retain the subject parcel.

Alternative 1 will provide extra time for the leaseholder/applicant to complete the stipulations (Section **VIII**) stated above before the lease expires. This alternative will also provide settlement land to the private sector, generate revenue for the State, mitigate costs related to the management of leased lands, 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 with the assurances required for future planning and passing property to heirs. Therefore, it is in the best interest of the State to renew the lease and 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 renew and continue managing a lease issued to the applicant. The lessee receives control of the leasehold for a given period. There is a possibility DMLW will incur future management costs related to ensuring performance under the lease agreement and administrative costs related to lease administration. In addition, upon lease expiration or relinquishment, the applicant is required to submit and execute a reclamation plan to rehabilitate the land within the leasehold. Due to the nature of the activities and existing improvements, reclamation may be difficult. 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 a sale or lease could have generated. 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 detriment to the applicant. Retaining the subject parcel in state ownership is not in the best interest of the State. This alternative is not preferred.

For the reasons outlined above, Alternative 1 is the preferred alternative. The renewal of the lease and subsequent sale of the subject parcel are beneficial to both the State, and to the

Preliminary Decision

AS 38.05.070(e) Lease Renewal; AS 38.05.102 Preference Right - ADL 407813

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applicant. Alternative 1 provides maximum use for the public benefit by providing land for private settlement, does not disturb or curtail nearby state land uses, and supports the long-term growth and development of the nearby community.

Recommendation follows.

Preliminary Decision

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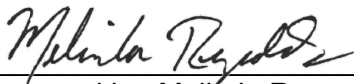
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X. Recommendation and Preliminary Decision

This Preliminary Decision for the proposed lease renewal and 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 lease renewal and 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 once the 10-year lease renewal expires, require the continued annual renewal of the lease to allow additional time to complete the purchase process.

The PD 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.

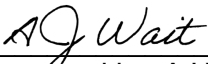


Prepared by: Melinda Reynolds
Natural Resource Specialist
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

12/19/2024

Date of Signature

Primary Proposed Action 1, Lease Renewal, AS 38.05.070(e)



Approved by: AJ Wait
Natural Resource Manager 2
Northern Regional Office
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

12/19/2024

Date of Signature

Primary Proposed Action 2, Noncompetitive Sale, AS 38.05.102



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

12/19/2024

Date of Signature

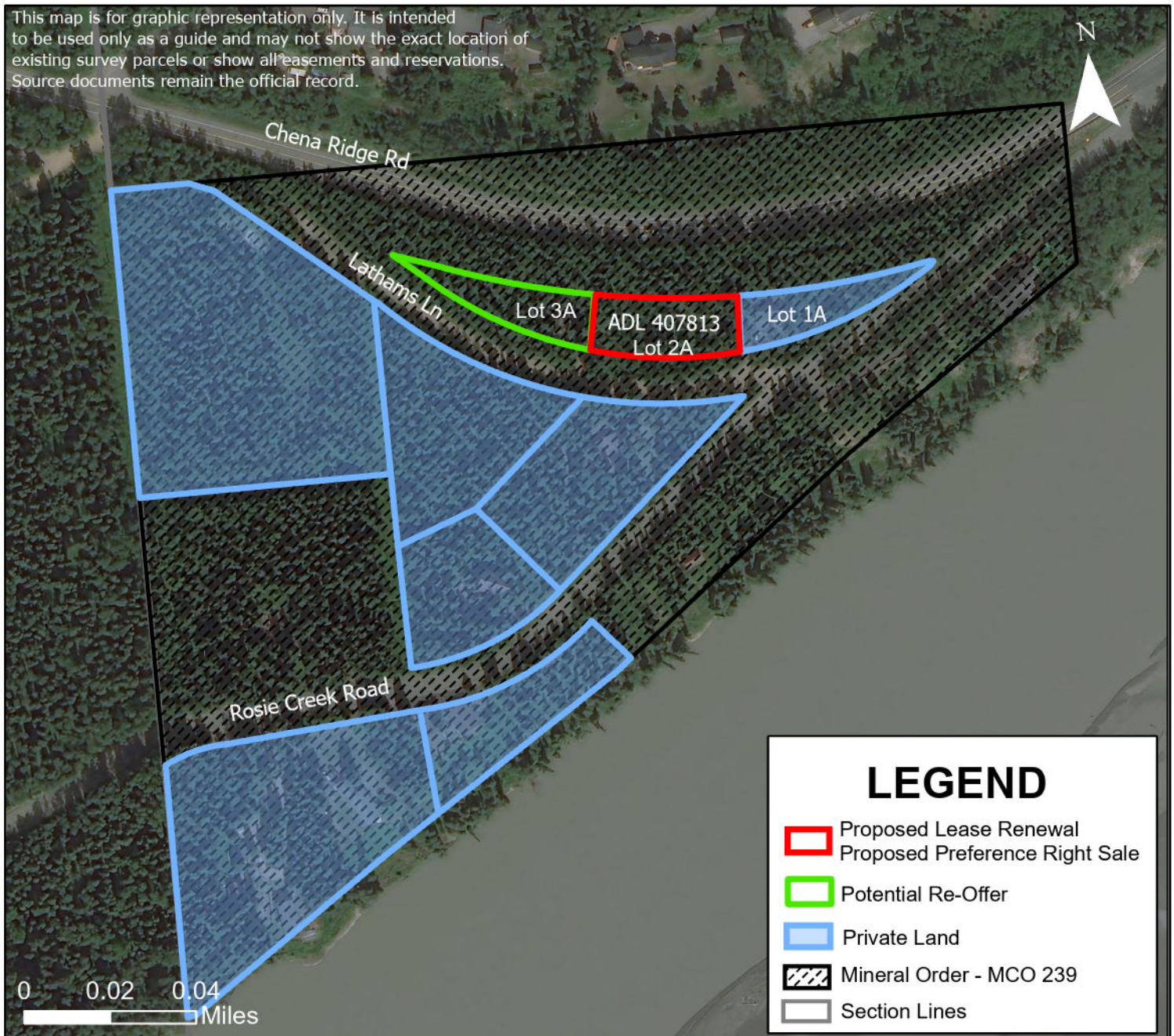


Christine Parke-Sutherland
ADL 407813

Attachment A: Vicinity Map

Proposed Lease Renewal Pursuant to AS 38.05.070(e)
 Proposed Noncompetitive Sale Pursuant to AS 38.05.102

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



Section 33, Township 1 South, Range 2 West, Fairbanks Meridian

USGS Quad 1:63,360 Fairbanks D-2

For more information contact:
 Melinda Reynolds
 Department of Natural Resources
 Division of Mining, Land and Water
 Land Conveyance Section
 Phone: 907-269-5664
 Fax: 907-269-8916
 Email: dnr.noncompland@alaska.gov

MJR 12/03/2024



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

ATTACHMENT B: PUBLIC NOTICE

**Requesting Input for Proposed Lease Renewal and Proposed Noncompetitive Sale to
Preference Right Applicant - ADL 407813
AS 38.05.070(e), AS 38.05.102**

COMMENT PERIOD ENDS 3:00 PM, TUESDAY, JANUARY 28, 2025

The Alaska Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Northern Regional Office (NRO), and Land Conveyance Section (LCS) are conducting a public notice for a lease renewal and a noncompetitive land sale located approximately eight miles southwest of Fairbanks in the Fairbanks North Star Borough. The legal description for the parcel is:

Lot 2A, Tanana Heights, Alaska Subdivision, according to the Division of Lands Survey Plat of Tanana Heights, Alaska Subdivision located within Section 33, Township 1 South, Range 2 West, Fairbanks Meridian, Alaska, filed in the Fairbanks Recording District on October 8, 1965, as Plat Serial No. 65-7493, containing 0.381 acres, more or less.

To obtain the notice, Preliminary Decision (PD), or instructions on submitting comment, go to <https://dnr.alaska.gov/mlw/landsales/> 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 8:30 AM and 4:00 PM in Anchorage at (907) 269-8400 or Fairbanks at (907) 451-2705 or the Southeast Land Office in Juneau at (907) 465-3400 or TTY: 711 for Alaska Relay or 1-800-770-8973 or go to <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, January 21, 2025.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comments on the Preliminary Decision. **The deadline for public comment is 3:00 PM, TUESDAY, JANUARY 28, 2025.** Only persons from whom LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision (FFD). Written comment may be received by fax, email, or postal mail. To submit comments or for direct inquiries, contact Melinda Reynolds by mail at 550 West 7th Avenue, Suite 640, Anchorage, AK 99501, or by fax at (907) 269-8916 or by email at dnr.noncompland@alaska.gov. If you have questions, call Melinda Reynolds at (907) 269-5664.

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

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