

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

**PRELIMINARY DECISION**  
**Thimbleberry Subdivision – ADL 108913**

**Proposed Land Offering in the City and Borough of Sitka**  
*AS 38.05.035 (e), AS 38.05.045*

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

**PUBLIC COMMENT PERIOD ENDS 5:00PM, WEDNESDAY, FEBRUARY 19, 2020**

**I. Proposed Action(s)**

*Preliminary Decision: Thimbleberry Subdivision - ADL 108913*

*Attachment A: Vicinity Map*

*Attachment B: Area Data Summary Table*

*Attachment C: Public Notice*

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

*Draft Mineral Order (Closing) MO 1219*

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

Located within DNR's Southeast Region, approximately 2.5 miles southeast of downtown Sitka on Shotgun Alley, the project area is within that portion of Lot 14, USS 3557 excluding ADL 108858, located in Section 5, Township 56 South, Range 64 East, Copper River Meridian, within the City and Borough of Sitka (CBS). The project area consists of approximately ½-acre identified for disposal by this proposed action. See *Attachment A: Vicinity Map* for a depiction of the project area.

In accordance with the governing area plan and proposed related action, for the purposes of providing land for settlement, DNR proposes to sell land within the Thimbleberry Subdivision project area. In order to offer this land for sale, if approved and deemed feasible, DNR may develop a subdivision including this proposed parcel, and the adjacent parcel proposed for non-competitive sale (ADL 108858). This proposed project area is located within the CBS and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards.

If this proposed primary action is approved, the actual area offered for sale may consist of all or only a portion of the overall project area. After consideration of public comment, the size and boundaries of the project area will be described in a subsequent Final Finding and

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Decision, if the project proceeds to that step. Additional adjustments may be made prior to subdivision, as described in the applications to the platting authority, as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with platting requirements.

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

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

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

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal. Public notice for all actions is being conducted concurrently and will include this project, the Preliminary Decision for non-competitive sale (ADL 108858), and Mineral Order 1219.

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

## **II. Method of Sale**

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

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

## **III. Authority**

DNR has the authority under *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."

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

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### IV. Administrative Record

The project file, Thimbleberry Subdivision - ADL 108913, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Northern Southeast Area Plan for State Lands (NSAP, adopted 2002) and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan* (March 2019 Review);
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*;
- *USDA, Natural Resource Conservation Service Custom Soil Report for this project, dated September 18, 2018*; and
- DNR case files: access easements ADL 56088, trespass road ADL 108549, and non-competitive sale ADL 108858, and other case files, reports, documents, etc. referenced herein.

### V. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section III. Authority**, is limited and specific to the DNR DMLW's proposal to offer State-owned land within the defined project area for disposal and to conduct the proposed mineral order as described herein. The scope of this proposal does not include the control of post-patent use and DNR DMLW does not intend to impose deed restrictions for this purpose. The subdivision may be conducted in multiple stages.

### VI. Description

Location: The project area is within DNR's Southeast Region, approximately 2.5 miles southeast of downtown Sitka. See *Attachment A: Vicinity Map and Attachment B: Area Data Summary Table* for additional information.

*Platting Authority*: The project area is within the City and Borough of Sitka and is subject to the borough's platting authority.

*Native Regional and Village Corporations*: The project area is within the boundaries of the Sealaska Regional Corporation. The village of Sitka is within 25 miles of this proposed action, and notice will be sent to Shee Atika, Inc. (Sitka Urban Corp.) village corporation, and to Sitka Tribe of Alaska traditional council.

Legal Description: That portion of Lot 14, USS 3557 excluding ADL 108858, within Section 5, Township 56 South, Range 64 East, Copper River Meridian, located within the Sitka Recording District, First Judicial District, Alaska.

Legal Description of the Mineral Order: Lot 14, USS 3557, within Section 5, Township 56 South, Range 64 East, Copper River Meridian, located within the Sitka Recording District, First Judicial District, Alaska, containing 0.76 acres more or less. Mineral Order 1219 includes the entirety of Lot 14, USS 3557; it includes both projects ADL 108858 (non-competitive land sale) and ADL 108913 (competitive land sale), separate State land disposals which are being processed concurrently.

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Title: Information from Title Report No. 11687, current as of February 26, 2019 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 1217355, dated February 21, 1961. The applicable State case file is GS 420. The parcel is subject to the reservations, easements and exceptions contained in the federal patent.

### *State Reservations of Title:*

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

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

*Navigable Waters*: Per *AS 38.05.126 (b) Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the state, both meandered 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 To, Within, and Beyond Project Area](#) subsection of this document.

The State Selection file GS 420 did not address State navigability determination or federal navigability determination.

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

Physical Characteristics and Hazards: Attachment B: Area Data Summary Table describes the project area's physical characteristics. Information about the project area is based on internal research, information received during agency review, and a ground field inspection conducted on April 26, 2018. This is by no means a complete description of the project area and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect individual parcels prior to purchase to familiarize themselves with the physical characteristics of the land.

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*Soils:* Soils within the project area consist entirely of well drained loams (highly organic silt loam, silt loam, cobbly silt loam, to bedrock at 18-26 inches).

*Wetlands:* No wetlands have been identified within the project area.

*Geologic Hazards:* Geologic hazards are common throughout Alaska. Information gathered during field inspection did not indicate any specific geologic hazards for this area other than potential tidal and seasonal storm activity associated with marine action of the relatively protected portion of Thimbleberry Bay across Shotgun Alley from the parcel. Should any geologic hazards be discovered in the development of this proposal, information will be included in offering materials.

*Fire Information:* Pursuant to observations from the April 26, 2018 field inspection and the nature of the region's temperate rainforest and marine environment, fire risk in the area is likely low. There is no reported history of fires within the project area or immediate vicinity. The Sitka Fire Department serves the project area.

Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Offering materials include information regarding wildland fire prevention.

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

*Flood Hazard:* The project area is within FEMA Flood Insurance Rate Map Community Panel 02220C0417C. The project area is within flood zone AE, defined as 100-year floodplain where Base Flood Elevations (BFE) are provided. BFE is the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. BFE is shown on the Flood Insurance Rate Map for zone AE and for numerous other zones.

*Water Resources:* All surface and subsurface waters on all lands in Alaska are a public resource, subject to appropriation in accordance with the Alaska Water Use Act (AS 46.15). Five surface water rights have been identified within the vicinity of the project area. There is not well or water quality information within the area. Water quality is unknown.

Background: LSS is proposing to survey and offer for competitive sale the eastern portion of Lot 14, USS 3557 (ADL 108913), containing approximately ½ acre. This action is being proposed concurrently with the proposal for the non-competitive sale of the western portion of Lot 14, USS 3557 (ADL 108858), containing approximately ¼ acre.

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LSS identified this project for potential offering pursuant to an application for a Preference Right (non-competitive land sale ADL 108858) in 2018, for part of Lot 14, USS 3557. DNR staff conducted a ground field inspection on April 26, 2018. Based on this inspection and initial research, LSS determined that Lot 14, excluding ADL 108858, is appropriate for competitive sale.

In 1971, the CBS obtained an easement (ADL 56088) from the State for the development of what is now Shotgun Alley. ADL 56088 encompasses the entirety of lots 14-18 of U.S. Survey 3557. Shotgun Alley was constructed through lots 15-18, but only through a portion of Lot 14, before continuing south along State tidelands. The tidelands are located outside of ADL 56088, and were not authorized for road construction. The unauthorized fill and construction of State tidelands was serialized as ADL 108549 (trespass).

In 1985, CBS informed the owner of 210 Shotgun Alley (Lot 2 of Mo Johnson Subdivision) that there was legal access across ADL 56088 to 210 Shotgun Alley. In 1989, the owner of 210 Shotgun Alley inquired with the State to lease or purchase an interest in a portion of Lot 14. In January 1990, DNR's Southeast Regional Office informed the applicant that CBS had the authority through ADL 56088 to allow the applicant to build a driveway to access 210 Shotgun Alley and authorize the installation of utilities. No action was taken regarding the request for purchase. In May 2017, the applicant submitted an application to DNR for a private easement (ADL 108774) for his driveway, parking, water, electric, cable, telephone utilities, and landscaping related to his property. On September 1, 2017 DNR noted that the request involved an existing driveway running across ADL 56088 issued to the CBS. On October 9, 2018 DNR closed the application for the private easement, stating that the parcel was to be conveyed to the applicant by non-competitive sale under ADL 108858. However, DNR cannot approve the sale of the requested land until CBS vacates or releases the portion of ADL 56088 affecting Lot 14, USS 3557. The concurrent actions of ADL 108858 and ADL 108913 are now being processed with the intent that the portion of ADL 56088 affecting Lot 14 will be released by CBS in exchange for DNR providing fee simple dedication for that portion of Lot 14 needed to accommodate CBS requirements for Shotgun Alley, and easements for the CBS owned sewer and other utilities. Neither parcel within the Thimbleberry Subdivision may be sold until Lot 14 is released from ADL 56088.

The proposed Thimbleberry Subdivision is located in a developed residential neighborhood and has access and utilities readily available. It will fit into CBS's SF/SFLD (single-family and single-family low-density) Title 22 zoning. It is situated on forested, well-drained ground, and immediately surrounding parcels are of comparable size. The proposed subdivision will be designed to comply with CBS subdivision ordinance requirements, including dedicating that portion of Lot 14 needed to accommodate CBS requirements for Shotgun Alley and utility easements. Other than the existing developments from the adjacent parcel owner, Shotgun Alley, and utilities, Lot 14 has no other known public uses. If completed, the City and Borough of Sitka will benefit by the proposed sales (ADLs 108858 and 108913) that will reserve utility and access easements and add private parcels to their tax rolls.

Planning and Classification: LSS reviewed the general management intent of the area plan and management unit for consistency with the proposed offering. The project area is within Northern Southeast Area Plan (NSAP, adopted 2002), Southern Region, Baranof Island

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Area. This parcel was not designated in the NSAP and therefore was designated Gu (General Use) by default. DNR's Resource Assessment and Development Section (RADS) issued Determination SC-01-02-D11 on January 29, 2018 which added this parcel to Baranof Unit B-45 lands. NSAP currently designates these lands Settlement - Commercial, and Land Classification Order No. SC-01-02 classifies them Settlement land. Thimbleberry Subdivision project area consists of a portion of the B-45 management unit.

*Unit B-45 Considerations:* Management intent states this unit is to be managed for development or utility purposes or disposal out of State ownership.

*Area-wide Considerations:* LSS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies. DNR DMLW will incorporate these considerations into the design and development of the approximately 1/2-acre project area as appropriate. As appropriate, the plat and offering materials will include information on lands to be retained in public ownership, conditions, and reservations. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

*Coordination and Public Notice:* Management guidelines state that, as required by statute, public notice will be given for decisions involving the sale of land. Public notice for this proposed land sale is being conducted in accordance with *AS 38.05.945*. See section **VIII. Submittal of Public Comments** and *Attachment C: Public Notice* for more information.

*Cultural Resources:* Management Guidelines provide that as determined by the Division of Parks and Outdoor Recreation (DPOR) Office of History and Archaeology (OHA), cultural surveys or inventories should be completed prior to land offerings. LSS coordinated with OHA early in the development of this proposed project. OHA stated there are no known cultural resources sites within the identified area. No cultural resource survey was recommended. The LSS routinely includes information about reporting archaeological resources in the offering brochures for land sales projects.

*Forestry:* There are management guidelines pertaining to settlement which generally allow for timber harvest on settlement lands, specifically timber harvest in support of settlement. Although allowed by the plan, given the size of the parcel, existing access, and adjacent development, LSS considers timber harvest inappropriate for this proposal.

*Materials:* Management guidelines state that if a settlement area contains high value material resources, a pit area should be identified during subdivision design and retained in state ownership for future use. LSS has not identified any high value material resources within the project area, and given the small size of the project area, feels retention of a pit area would be inappropriate.

*Settlement:* Area-wide management guidelines regarding settlement include: planning and coordination regarding private markets and local government entities; pacing of sales over time; management of acquired or isolated parcels of State land; protection, management, and enhancement of other resources; and design. LSS has

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considered these guidelines in the development of this proposal. CBS will be included in the Public Notice of this project, and this project will comply with the local platting authority requirements for subdivisions. Settlement guidelines state that public lands within a 100-year floodplain should remain in public ownership. However, because the parcel has good access via Shotgun Alley and is relatively flat land that is conducive to development matching current land use in the area, LSS believes that this parcel is appropriate for sale. The development of this project, in conjunction with non-competitive land sale under ADL 108858, will provide land for private ownership expansion, protect utility and other easements, and facilitate improving access to existing private property.

Shorelands, Stream Corridors, and Coastal Areas: Management guidelines provide for buffers, easements, and setbacks from waterbodies and tidelands. There are no waterbodies within the project area. The proposed parcel will be separated from the tidelands by a developed road, and as such, no buffers, easements, or setbacks are necessary. See also discussion on AS 38.05.127 easements under Access To, Within, and Beyond Project Area below.

Subsurface Resources: Mineral Development Guidelines state that mining operations are judged to be incompatible with future settlement and settlement related activities. Other areas recommended for settlement were closed to mineral entry through the adoption of the NSAP; however, this area was not identified for settlement at that time. Therefore, DNR is proposing a mineral order to close this parcel to mineral entry, consistent with the management intent of the plan. See also Mineral Activity and Order below.

Trails and Public Access Management: Management guidelines state that DNR will retain access in public ownership and reserve rights of access when State land is sold. LSS intends to retain access along that portion of Shotgun Alley within Lot 14. Other public access may be reserved as necessary and will be addressed in the platting process.

The proposed offering will be consistent with area-wide land management policies and general management intent of the NSAP and specific management unit if the proposed mineral order is approved in accordance with AS 38.05.300 *Classification of Land*, and AS 38.05.185 *Generally*.

Mineral Activity and Order: No mineral activity has been identified on these lands. The entirety of Lot 14, USS 3557, containing approximately 0.76 acres, will be closed to new mineral entry if the mineral order is approved in accordance with AS 38.05.185 *Generally* and AS 38.05.300 *Classification of Land* for a land disposal. The mineral order includes the project area for the proposed competitive sale (ADL 108913) and the proposed non-competitive sale (ADL 108858). The proposed mineral order, if approved, will close the area to new mineral entry only and will not affect current existing mining claims. Closing the entire area to mineral entry is consistent with the management intent of the NSAP.

Mineral orders which close an area to mineral entry, close the applicable area to new exploration and development of locatable minerals. Such mineral orders do not apply to leasable minerals (such as: oil, gas, coal, etc.), or exploration licensing for such, nor do they



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preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

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

Local Planning: The project area is within the CBS and property purchased through this proposed offering will be subject to the applicable zoning, ordinances, and restrictions of the borough. The project area is within the boundary of the Sitka Comprehensive Plan 2030 and the Sitka Comprehensive Plan 2030, *Technical Plan, Public Hearing Draft* April 4, 2018. LSS reviewed these plans and did not find any conflicts with the proposed State land disposal.

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

Access To, Within, and Beyond Project Area: Access to the project area is via public roadways within the CBS to Shotgun Alley. Subdivision design will consider topography and access to lands beyond the project area and within the project area boundaries. The project area is subject to the platting authority of the CBS. Approval of platting actions and dedication of rights-of-way will require separate processes and public notices through the borough.

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

For the purposes of *AS 38.05.127*:

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

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DNR has not identified any public, navigable, or anadromous water bodies within the project area. If any such water bodies are discovered, parcels will be subject to access reservations in accordance with *AS 38.05.127 Access to Public or Navigable Water*, and a 25-foot building setback outside of the access easement in accordance with the NSAP.

A portion of Lot 14 was surveyed to MHW of Thimbleberry Bay to the southwest. CBS placed fill in the tidelands for the construction of Shotgun Alley. The tideland fill created a fixed and limited boundary for the record of the meander of Lot 14 and moved the MHW line to the seaward side of the fill. That portion of Shotgun Alley within Lot 14 will be dedicated through the proposed platting action. Since the Right of Way (ROW) for Shotgun Alley will lie between Thimbleberry Bay and the parcel proposed for sale, it is not necessary to reserve an additional access easement along Thimbleberry Bay in accordance with *AS 38.05.127 Access to Public or Navigable Water* or a building setback adjacent to the easement. Access to and along Jamestown Bay within the northwesterly portion of Lot 14 will be addressed in the Preliminary Decision for the proposed non-competitive sale (ADL 108858). Should a portion of the access easement from Shotgun Alley to Jamestown Bay lie within the parcel proposed for competitive sale (ADL 108913), it will be addressed in the final platting action.

*Easements, Setbacks, and Retained Lands:* Subdivision design may include a variety of easements, setbacks, and retained lands, which will be identified on the subdivision plat and included in related documents. Final width and location of easements and reservations will be determined as part of the local platting process, which will include an additional opportunity for public participation.

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

- public access easements;
- utility easements;
- a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5-foot direct line-of-sight easement from the control station to an azimuth mark or other control monument; and,
- additional reservations and/or restrictions required through the local platting authority.

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

Hazardous Materials and Potential Contaminants: During a ground field inspection conducted on April 26, 2018, DNR DMLW field staff did not observe any environmental hazards within the project area. There are no known environmental hazards present within the project area; however, the State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances eventually be found. Interested parties are encouraged to inspect the property and

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familiarize themselves with the condition and quality of the land prior to bid or application submittal.

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

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

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

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR DMLW standards will be required within two years of the date fixed for the sale of any parcel developed under this proposed action.

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

## **VII. DMLW and Agency Review**

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. Agency review was conducted from March 15, 2019 through April 25, 2019, concurrent in part with agency review for the non-competitive sale (ADL 108858) conducted from April 10, 2019 through April 25, 2019. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision, if one is issued.

DNR DMLW LSS received brief comments of non-objection from the following agencies: *DNR Division of Forestry; DNR Division of Oil and Gas; DNR Division of Parks and Outdoor Recreation, Operations and from the Office of History and Archaeology; DNR Division of Agriculture; State Pipeline Coordinator's Section; DNR Appraisals; Division of Geological & Geophysical Surveys; DNR DMLW Appraisals; DNR DMLW Resource Assessment and Development Section; and DNR DMLW Realty Services Section.*

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*DNR DMLW LSS Response:* LSS appreciates your review of our proposal.

*Alaska Department of Fish and Game (ADF&G) Comment:* The office had no objection on the proposed action. However, they did note that ADF&G receives regular reports of brown bear activity in this area from late spring through the fall. The parcel is a likely wildlife travel corridor as it is a pinch point between Jamestown and Thimbleberry bays.

*DNR DMLW LSS Response:* LSS appreciates your review of our proposal. We intend to place a statement about bear activity in the offering brochure.

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

- Department of Environmental Conservation;
- Department of Natural Resources;
  - Mental Health Trust Land Office;
  - Office of Project Management and Permitting;
- Department of Transportation and Public Facilities;
- Department of Commerce, Community and Economic Development;
- Alaska Railroad;
- Alaska Association of Conservation Districts; and,
- Southeast Soil and Water Conservation District.

## **VIII. Submittal of Public Comments**

**See Attachment C: Public Notice for specific dates and conditions.**

Pursuant to *AS 38.05.945 Notice*, DNR is issuing public notice inviting comment on this proposed competitive sale (ADL 108913) Preliminary Decision and draft mineral order, concurrently with public notice of the Preliminary Decision for the proposed non-competitive sale (ADL 108858).

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

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

If the proposals are approved and no significant change is required, the Preliminary Decision and draft mineral order including any deletions, minor changes, and summary of comments and LSS responses will be issued as a subsequent Final Finding and Decision, and Mineral Order 1219 without further notice. All related actions will be developed separately. However, approval

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of any action is dependent upon one another. One action will not proceed without approval of all actions.

Only persons from whom DNR DMLW LSS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the Final Finding and Decision, and Mineral Order 1219. Upon approval and issuance of these actions, a copy of the decision and order will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the request for reconsideration process to any party who provides timely written comment.

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 the Department's Public Information Center. For more information refer to *Attachment C: Public Notice*.

### **DEADLINE TO SUBMIT WRITTEN COMMENT IS 5:00 PM, WEDNESDAY, FEBRUARY 19, 2020**

#### **IX. Alternatives and Discussion**

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of one parcel and offer the parcel for sale. This proposal includes the mineral order.

Alternative 2: (Status Quo) Do not offer this project area for private ownership. Retain the land in State ownership.

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

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

The related action is necessary to allow for the offering of the project area. The primary action and related action are dependent upon one another, and if DNR DMLW does not approve the project, the related actions will not be processed.

Alternative 2 is not preferred. The Legislature and the public have indicated a desire for DNR DMLW to offer State-owned land for private ownership. Retention of this land would inhibit DNR

**Preliminary Decision**

Thimbleberry Subdivision – ADL 108913

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DMLW from meeting its constitutional, statutory, and legislative goals. Not offering the project area would deny Alaskans the opportunity to obtain land in an area that is suited to settlement and consistent with the surrounding development.

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

Recommendation follows.

**Preliminary Decision**

Thimbleberry Subdivision – ADL 108913

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**X. Recommendation**

This Preliminary Decision for the proposed disposal of State lands and Mineral Order 1219 described throughout this document and its attachments are consistent with the overall management intent for State-owned land. Alternative 1 is the preferred alternative because it provides the maximum opportunity for offering State land to the public and helps meet the mission of the land sales program. The Preliminary Decision described above, as represented by the preferred alternative, has been reviewed and considered. I find that the recommended action may be in the best interest of the State and that it is hereby approved to proceed to public notice.

This is a Preliminary Decision, and analysis of subsequent public review may result in changes to the preferred alternative of the proposed disposal of State lands or Mineral Order 1219. If the decision is approved, Mineral Order 1219 will accompany and precede any Final Finding and Decision issued.

[signature on file]

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

January 14, 2020

Date

[signature on file]

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

January 14, 2020

Date






# Attachment A: Vicinity Map Thimbleberry Subdivision ADL 108913 and ADL 108858

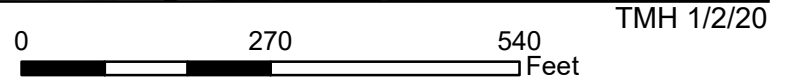
This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

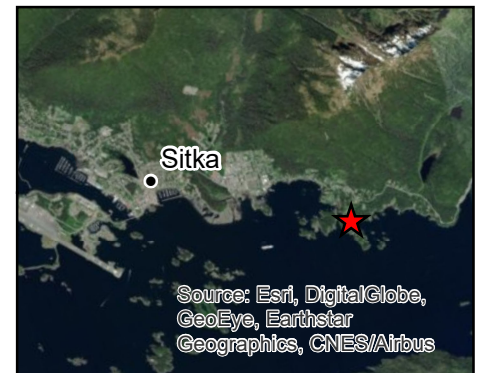
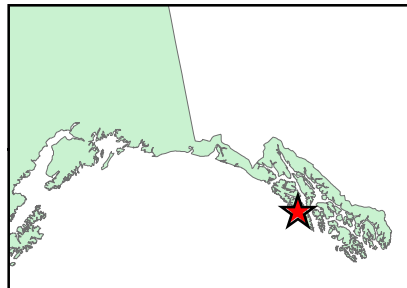
### Legend

-  ADL 108913
-  ADL 108858
-  ADL108549 -Trespass



### Section 5, Township 56 South, Range 64 East, Copper River Meridian

USGS QUAD 1:63.360  
Sitka A-4  
For more information contact:  
Terry Hess  
Department of Natural Resources  
Division of Mining, Land, and Water  
Land Sales Section  
Phone: 907-269-8591  
Fax: 907-269-8916  
Email: [land.development@alaska.gov](mailto:land.development@alaska.gov)



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus



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

**ATTACHMENT B: AREA DATA SUMMARY TABLE**

to the  
**Preliminary Decision**

for a  
**Proposed Land Offering in the City and Borough of Sitka  
Thimbleberry Subdivision – ADL 108913**

<b>Offering Information</b>	
<b>Proposed Number of Parcels</b>	1 parcel
<b>Proposed Parcel Size</b>	Approximately ½ acre
<b>Proposed Related Actions</b>	Mineral order (closing)
<b>Project Area</b>	
<b>Location</b>	Approximately 2.5 miles southeast of downtown Sitka on Shotgun Alley
<b>Project Area Acreage</b>	Approximately ½ acre
<b>USGS Topography Map</b>	USGS Quad Sitka A-5
<b>Legal Description</b>	That portion of Lot 14, USS 3557 excluding ADL 108858, within Section 5, Township 56 South, Range 64 East, Copper River Meridian
<b>Title</b>	Patented State-owned land, patent no. 1217355
<b>Area Plan and Classification</b>	Northern Southeast Area Plan (NSAP, adopted 2002). Lot 14 of USS 3557 is classified Settlement Land per Determination SC-01-02-D11.
<b>Mineral Orders</b>	None. Project area will be closed to mineral entry prior to offering.
<b>Physical Characteristics</b>	
<b>Access</b>	Access to the parcel is by road from Sitka to Shotgun Alley.
<b>Terrain and Major Features</b>	Terrain is nearly level to steep slopes with dense vegetative cover of Sitka spruce and undergrowth typical of southeast Alaskan rain forest; there is exposed bedrock at the corner where Shotgun Alley bends around the parcel. The parcel is located on a peninsula between Thimbleberry Bay and Jamestown Bay.
<b>View</b>	The parcel overlooks Thimbleberry Bay.
<b>Soils</b>	Soil consists of complex loam and silt loam, and soils are well drained. Depth to lithic bedrocks is approximately 18 to 26 inches. Known soil concerns will influence the project's design and feasibility and such features will be described in the project file and offering materials where relevant.

**Attachment B: Area Data Summary Table**

for a Proposed Land Offering in the City and Borough of Sitka

Thimbleberry Subdivision – ADL 108913

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<b>Wetlands</b>	No wetlands have been identified within the project area. Dredging or filling of wetlands may require a permit from the US Army Corps of Engineers.
<b>Vegetation</b>	Typical rain forest with Sitka spruce and mossy or sparse under growth.
<b>Water Source</b>	City and Borough of Sitka (CBS) water available.
<b>Anadromous Waters</b>	None.
<b>Local Management Information</b>	
<b>Fire Protection</b>	Critical fire management option. The Sitka Fire Department serves the area.
<b>Game Management Unit</b>	4
<b>Local Authority</b>	CBS holds authority for planning, platting, taxes, and zoning for the project area.
<b>Flood Zone</b>	Flood Insurance Rate Map 02220C0417C. The project area is within Flood Zone AE – Base Flood Elevations determined, 100-year floodplain.
<b>Utilities</b>	The area is CBS currently served with water, wastewater, and electric utilities by the City and Borough of Sitka
<b>Waste Disposal</b>	Solid waste disposal is available through the City and Borough of Sitka, contracted by Alaska Waste.
<b>Setbacks, Reserved Areas, Easements, and Conditions</b>	
<b>Building Setbacks</b>	None identified. Project design will comply with any setback requirements of the platting authority.
<b>Public Access and Utility Easements</b>	Parcels may be subject to the following: <ul style="list-style-type: none"> <li>• public access easements;</li> <li>• utility easements;</li> <li>• a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5-foot direct line-of-sight easement from the control station to an azimuth mark or other control monument; and,</li> <li>• additional reservations and/or restrictions required through the local platting authority.</li> </ul>
<b>Retained Lands</b>	None identified.
<b>Public or Navigable Water Bodies</b>	None within the project area. Lot 14 is situated between Jamestown Bay to the northwest, and Thimbleberry Bay to the southeast. If additional water bodies are deemed public or navigable within the project area prior to platting, DNR DMLW will comply with statutory requirements to provide access to and along said water bodies.
<b>Additional Information</b>	
<b>Native Regional Corporations</b>	Sealaska Regional Corporation
<b>Villages and Tribal Councils</b>	Shee Atika Corporation (Sitka Urban Corp.) village corporation; and the Sitka Tribe of Alaska traditional council
<b>Oil and Gas Activity</b>	None known.

**Attachment B: Area Data Summary Table**

for a Proposed Land Offering in the City and Borough of Sitka

Thimbleberry Subdivision – ADL 108913

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<b>Mining Activity</b>	None known.
<b>Comments</b>	<p>The proposed non-competitive sale (ADL 108858) consists of the western portion (approximately ¼-acre) of Lot 14, USS 3557, and the competitive land sale action (ADL 108913) consists of the eastern portion (approximately ½-acre) of Lot 14. LSS proposes a single mineral order (MO 1219) to close the entirety of Lot 14 to mineral entry (0.76 acres more or less).</p> <p>Lot 14 is situated between Jamestown Bay to the northwest, and Thimbleberry Bay to the southeast. The constructed way of Shotgun Alley is located between the Thimbleberry Subdivision project area and Thimbleberry Bay, partially within Lot 14, and partially within tideland fill. ADL 56088 is a public easement for Shotgun Alley, including the entirety of Lot 14, though Shotgun Alley is constructed mostly outside of Lot 14. LSS is proposing to dedicate that portion of Shotgun Alley within Lot 14. Prior to the offering of the Thimbleberry Bay Subdivision, that portion of ADL 56088 within lot 14 must be released from the easement.</p>

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

**ATTACHMENT C: PUBLIC NOTICE**

Requesting Input for  
Proposed Land Offering:  
**Thimbleberry Subdivision – ADL 108913  
Non-competitive Sale – ADL 108858  
and Mineral Order 1219**

**COMMENT PERIOD ENDS 5:00PM, WEDNESDAY, FEBRUARY 19, 2020**

DNR is conducting public notice for the proposed competitive sale of a single surveyed parcel (ADL108913) in a future offering, the non-competitive sale of a parcel pursuant to an application for preference right purchase (ADL 108858), and the related mineral order (MO 1219); as described in the Preliminary Decision documents.

Location: within DNR's Southeast Region, approximately 2.5 miles southeast of downtown Sitka.

Project size: approximately 0.76 acres. The proposals include the subdivision of a 0.76-acre parcel into an approximately ½-acre parcel proposed for competitive land sale, and an approximately ¼-acre parcel for non-competitive sale. A single mineral order (closing) will encompass the entire 0.76 acres.

To obtain the notice, Preliminary Decisions, Mineral Order, or instructions on submitting comment, go to <http://landsales.alaska.gov/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907-269-8400, or Fairbanks at 907-451-2705, or the Southeast Land Office in Juneau at 907-465-3400 (TTY for all locations: 711 for Alaska Relay or 1-800-770-8973), or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, FRIDAY, FEBRUARY 7, 2020.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decisions and/or Mineral Order for which notice is being conducted concurrently. If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5:00PM, WEDNESDAY, FEBRUARY 19, 2020.** Only persons from whom DNR DMLW LSS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the Final Finding and Decision. Written comment may be received by fax, email or postal mail. To submit comments or for direct inquiries, contact DNR DMLW Land Sales Section, 550 W. 7<sup>th</sup> Ave., Suite 640, Anchorage, AK 99501, fax # 907-269-8916, [land.development@alaska.gov](mailto:land.development@alaska.gov). If you have questions, call Terry Hess at 907-269-8591.

**Attachment C: Public Notice**

Thimbleberry Subdivision ADL 108913  
Non-competitive Land Sale ADL 108858  
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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.