

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

FINAL FINDING AND DECISION

of a

Land Offering in the Matanuska-Susitna Borough
Lane Creek Resale Parcel – ADL 54560
AS 38.05.035(e), AS 38.05.045

and its

RELATED ACTION:
Mineral Order 1232 (Closing)
AS 38.05.185 and AS 38.05.300

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated September 20, 2019. The PD (attached) and related action has had the required public review.

I. Recommended Actions

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Sales Section (LSS) recommends offering the Lane Creek Resale Parcel, Tract A of Alaska State Land Survey (ASLS) No. 77-95, for sale as described in the PD. This State-owned parcel will be offered for future sale by a method under *AS 38.05.045 Generally*.

For the purposes of providing land for settlement, DNR will sell the parcel referenced in this decision.

There is one related action with this proposal:

Mineral Order (Closing): DNR DMLW proposes to close the parcel to new mineral entry through Mineral Order (MO) 1232.

Public notice for this related action was conducted concurrently with the notice for the primary action's PD.

II. 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 provides: "It is the policy of the State to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest."

Final Finding and Decision

Lane Creek Resale Parcel – ADL 54560

Page 2 of 4

For related actions, *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

III. Public Participation and Input

All State requirements for public notice and public comment input have been met as covered in detail in **Section V. Summary of Public Notice and Comments**.

IV. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a Traditional Use Finding is required for project areas within the Unorganized Borough. This project area is within an organized borough; therefore, no Traditional Use Finding is required.

V. Summary of Public Notice and Comments

Pursuant to *AS 38.05.945 Notice*, public notice inviting comment appeared on the State of Alaska Online Public Notices website at <https://aws.state.ak.us/OnlinePublicNotices/> and was posted on the DNR, DMLW, LSS website at http://dnr.alaska.gov/mlw/landsale/public_notice/ for the entire public notice period.

Notification was sent directly to area state legislators and to multiple state agencies. Public notice was sent to other interested entities including landowners in the vicinity of the offering; additionally, parties were notified via the DNR Land Sales subscribers lists by email. Information was also posted to Twitter, Facebook, and Instagram. Notices were mailed to the Matanuska-Susitna Borough per *AS 38.05.945(c)(1)*, as well as the Cook Inlet Region Inc. per *AS 38.05.945(c)(2)*. Additionally, notices and a request to post were sent to postmasters and librarians in the vicinity of the offering. Public notice and agency review were conducted concurrently.

The public notice stated that written comments were to be received by 5:00 PM, October 31, 2019 in order to ensure consideration and eligibility to request for reconsideration. For more information, refer to the PD.

DNR, DMLW, LSS received comments from 8 agencies. All comments received during the public comment period are summarized below.

State of Alaska, Department of Fish and Game (ADF&G) Comment: ADF&G supports the 150-foot building setback and 50-foot public access easement upland from the ordinary high-water mark of Lane Creek, an anadromous stream, as recommended in the PD.

DNR, DMLW, LSS Response: LSS appreciates your review of our proposal and your input.

State of Alaska, Department of Transportation and Public Facilities, Right of Way (ROW) Comment: ROW has no objection to the Lane Creek resale, confirms that this parcel is not accessed from a Department of Transportation and Public Facilities managed right of way, and acknowledges the 50-foot public access easement as potential access.

Final Finding and Decision

Lane Creek Resale Parcel – ADL 54560

Page 3 of 4

DNR, DMLW, LSS Response: LSS appreciates your review of our proposal and your input.

DNR, Southcentral Regional Office Easement Management Unit Comment: The Easement Management Unit wants potential buyers to know that access between USS 3415 and the parcel is via State land per *11 AAC 96.020, Generally allowed uses (GAUs)*. A trail developed in this area, in accordance with the GAUs, would not reserve access or suggest acceptance of its alignment by DMLW or other interested organizations. Currently, access in this area is not served by an easement per *11 AAC 51.015, Standards for public easements*, but it is assumed that if additional land is sold along Lane Creek, “to-and-along” easements may be encumbered per *AS 38.05.50* and *11 AAC 51.045*.

DNR, DMLW, LSS Response: LSS appreciates your review of our proposal and your input. When offering this parcel for sale, LSS will clearly describe legal access per GAUs between USS 3415 and the parcel. LSS does not plan on additional disposals in this vicinity of this parcel.

DNR, Division of Oil & Gas (DOG), State Pipeline Coordinator’s Section (SPCS) Comment: SPCS has no concerns, and there are no *AS 38.35* pipeline rights-of-way, applications, or *AS 38.35* proposed pipelines in vicinity.

DNR, DMLW, LSS Response: LSS appreciates your review of our proposal and your input.

DNR, DMLW, Mining Section Comment: The Mining Section supports Alternative 1 and has no comments.

DNR, DMLW, LSS Response: LSS appreciates your review of our proposal and your input.

DNR, Division of Parks & Outdoor Recreation (DPOR) Comment: DPOR has no issues.

DNR, DMLW, LSS Response: LSS appreciates your review of our proposal and your input.

Two other agencies, DNR, Division of Oil and Gas, Leasing Section and the Matanuska-Susitna Borough responded with comments of non-objection.

No public comments were received.

VI. Modifications to Decision and/or Additional Information

The recommended actions have not been modified from the original proposed actions described in the Preliminary Decision.

Recommendation and Approval of the Final Finding and Decision follow.

Final Finding and Decision

Lane Creek Resale Parcel – ADL 54560

Page 4 of 4

VII. Final Finding and Decision

The Department recommends 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 project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The actions are consistent with constitutional and statutory intent for State-owned land and this action is undertaken under relevant authorities.

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended actions as described and referenced herein.

(signature on file)

Recommended by: Rachel Longacre
Section Manager
Land Sales Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

May 7, 2020

Date

(signature on file)

Approved by: Martin W. Parsons
Director
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

May 11, 2020

Date

Brent Goodrum for Corri Feige (signature on file)

Approved by: Corri A. Feige
Commissioner
Department of Natural Resources
State of Alaska

May 20, 2020

Date

Reconsideration Provision

A person affected by this decision who provided timely written comment or public hearing testimony on the preliminary decision may request reconsideration, in accordance with *11 AAC 02*. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in *11 AAC 02.040(c) and (d)* and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Under *11 AAC 02.030*, appeals and requests for reconsideration filed under *11 AAC 02* 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) and (b)*.

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on their own motion, this decision goes into effect as a final order and decision on the 31st calendar day after the date of issuance. Failure of the commissioner to act on a request for reconsideration within 30 calendar days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with *11 AAC 02* before appealing this decision to Superior Court. A copy of *11 AAC 02* may be obtained from any regional information office of the Department of Natural Resources.

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

MINERAL ORDER NO. 1232

 X Closing Lands to Mineral Entry _____ Opening Lands to Mineral Entry

- I. Name of Mineral Order: Lane Creek Resale Parcel – ADL 54560
- II. Reason for Mineral Order: This Mineral Order is based upon the attached *Commissioner’s Administrative Finding*, applicable statutes, and the written justification contained in the following:
 Susitna Matanuska Area Plan, adopted 2011
 Preliminary Decision, Lane Creek Resale Parcel – ADL 54560, Proposed Land Offering in the Matanuska-Susitna Borough, September 20, 2019, and the subsequent Final Finding and Decision
- III. Authority: AS 38.05.185 and AS 38.05.300.
- IV. Location and Legal Description: Tract A of ASLS No. 77-95, which is within the E ½ of the SW ¼ and the W ½ of the SE ¼ of protracted section 7, Township 28 North, Range 4 West, Seward Meridian, containing 4.90 acres, more or less, according to the survey plat filed in the Talkeetna Recording District on June 2, 1981, as Plat No. 81-68, within Alaska’s Third Judicial District.
- V. Mineral Order: This order is subject to valid existing rights and is issued under the authority granted by AS 38.05.185 – AS 38.05.275 and AS 38.05.300 to the Alaska Department of Natural Resources. In accordance with AS 38.05.185(a), I find that the best interests of the State of Alaska and its residents are served by closure of the land described in this mineral order to entry under mineral location and mining laws of the State of Alaska. The above described lands are hereby **closed** to entry under the locatable mineral and mining laws of the State of Alaska.

Concur:	(signature of file)	May 11, 2020
	Martin W. Parsons, Director Division of Mining, Land and Water Department of Natural Resources	Date
Approved:	Brent Goodrum for Corri Feige (signature on file)	May 20, 2020
	Corri A. Feige, Commissioner Department of Natural Resources	Date

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

**ADMINISTRATIVE FINDING
MINERAL ORDER NO. 1232
Closing Lands to Mineral Entry**

LANE CREEK RESALE PARCEL

Pursuant to AS 38.05.035, the State of Alaska, Department of Natural Resources, Division of Mining, Land and Water issued a Final Finding and Decision to convey the Lane Creek Resale Parcel (ADL 54560), State-owned land, into private ownership. As noted in the Preliminary Decision, Lane Creek Resale Parcel – ADL 54560, Proposed Land Offering in the Matanuska-Susitna Borough, issued September 20, 2019, the project area is within management unit S-07 of the South Parks Highway Region of the *Susitna Matanuska Area Plan*. In accordance with the area plan, DMLW proposes to close the parcel to mineral entry. The attached mineral order includes the legal description of the parcel to be closed to mineral entry.

The Division of Mining, Land and Water requests the mineral estate of approximately 4.90 acres, identified in the attached mineral order, be closed to mineral entry and location, in accordance with AS 38.05.300 for a land disposal. Mining activity on the parcel would be incompatible with the current and proposed land estate uses. The land does not contain any known mineral deposits and was not selected for mineral values. There are no mining claims on the land.

Public notice of the comment period for the proposed mineral order was conducted in accordance with AS 38.05.945. The Department did not receive objections regarding the proposed mineral order from the public or agencies during the comment period.

In accordance with AS 38.05.185 (a) and AS 38.05.300, I find that the best interests of the State of Alaska and its residents are served by closure of the land to entry under the mineral location and mining laws of the State of Alaska as described by Mineral Order (Closing) No. 1232.

Concur:	<u>(signature of file)</u> Martin W. Parsons, Director Division of Mining, Land and Water Department of Natural Resources	<u>May 11, 2020</u> Date
Approved:	<u>Brent Goodrum for Corri Feige (signature on file)</u> Corri A. Feige, Commissioner Department of Natural Resources	<u>May 20, 2020</u> Date

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

PRELIMINARY DECISION
Lane Creek Resale Parcel – ADL 54560

Proposed Land Offering in the Matanuska-Susitna Borough
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, THURSDAY, OCTOBER 31, 2019

I. Proposed Actions

Preliminary Decision: Lane Creek Resale Parcel - ADL 54560

Attachment A: Vicinity Map

Attachment B: Area Data Summary Table

Attachment C: Public Notice

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

Draft Mineral Order (Closing) MO 1232

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 the identified State-owned parcel. If approved, Tract A of Alaska State Land Survey (ASLS) No. 77-95, the Lane Creek Resale Parcel, will be offered for sale.

Located within DNR's Southcentral Region, approximately 14 miles North of Talkeetna, the Lane Creek Resale Parcel is within Section 7, Township 28 North, Range 4 West, Seward Meridian, within the Matanuska-Susitna Borough. Tract A is approximately 4.90-acres and is identified for disposal by this proposed action. See *Attachment A: Vicinity Map* for a depiction of the parcel.

In accordance with the Susitna Matanuska Area Plan, Determination SC-09-002-DET16, and the Draft Mineral Order (Closing) MO 1232, for the purposes of providing land for settlement, DNR proposes to sell the Lane Creek Resale Parcel.

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

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

Preliminary Decision

Lane Creek Resale Parcel – ADL 54560

Page 2 of 11

Approval of the related action is dependent on the approval of the proposed action; one action will not proceed without approval of the other.

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

See **Section 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 moves forward with the proposal, a Final Finding and Decision will be issued.

II. Method of Sale

DNR proposes to offer for sale the State-owned parcel 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 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for Amendments and Special Exceptions to Area Plans, Land Classifications, and Mineral Orders.

IV. Administrative Record

The project file, Lane Creek Resale Parcel - ADL 54560, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- *Susitna Matanuska Area Plan for State Lands* (SMAP, adopted August 11, 2011) and associated land classification files;
- Determination SC-09-002-DET16 (signed on February 6, 2019);
- *Chase Comprehensive Plan* (adopted in November 21, 2017), produced by the Matanuska-Susitna Borough Planning Department;
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*.
- Preliminary Land Sales Review Memorandum from the Division of Parks and Outdoor Recreation, Office of History and Archaeology, dated December 11, 2018;
- State case files ADL 54560 and OSL 1627; and
- Other case files, reports, or documents referenced herein.

Preliminary Decision

Lane Creek Resale Parcel – ADL 54560

Page 3 of 11

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 DNR DMLW's proposal to offer the identified State-owned parcel 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.

VI. Description

Location: Within DNR's Southcentral Region, approximately 14 miles North of Talkeetna. See *Attachment A: Vicinity Map and Attachment B: Area Data Summary Table* for additional information.

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

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

Legal Description: Tract A of ASLS No. 77-95, which is within the E ½ of the SW ¼ and the W ½ of the SE ¼ of protracted section 7, Township 28 North, Range 4 West, Seward Meridian, containing 4.90 acres, according to the survey plat filed in the Talkeetna Recording District on June 2, 1981, as Plat No. 81-68, within Alaska's Third Judicial District.

Title: Information from Title Report No. 11617, current as of February 12, 2019, indicates that the State of Alaska received fee title to the land and mineral estate within the project area under Patent 50-70-0029, dated August 13, 1969. On January 4, 1982, the State of Alaska issued patent 6220 for the land estate to Peggy M. Baumeister. On January 19, 2018, a Warranty Deed was issued by Peggy M. Baumeister to DNR for the land estate. The applicable State case files are OSL 1627 and GS 1174. 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.

Preliminary Decision

Lane Creek Resale Parcel – ADL 54560

Page 4 of 11

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 Parcel subsection of this document.

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

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. This is by no means a complete description of the parcel, and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect the parcel prior to purchase to familiarize themselves with the physical characteristics of the land.

Wetlands: No wetlands have been identified within the parcel.

Geologic Hazards: There is potential for discontinuous, ice-rich permafrost to be present in area soils.

Flood Hazard: There is no Flood Insurance Rate Map available for the parcel. As indicated on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Map Index for the Matanuska-Susitna Borough, the FIRM for panel 0200213750C was not printed; this indicates that there are no special flood hazard areas. However, there is always the potential for seasonal flooding and erosion of parcels adjacent to streams, especially in low-lying areas.

Water Resources: All surface and subsurface waters on all lands in Alaska are a public resource, subject to appropriation in accordance with the Alaska Water Use Act (*AS 46.15*). There is one water right on ADL 202944, approximately 1-mile northeast of the Lane Creek Resale Parcel. It allows the owner of ADL 57444 to use 75 gallons per day from Lane Creek, for domestic use on his parcel. There is no well or water quality information available for this area.

Background: In the 1970s and 1980s Peggy M. Baumeister participated in DNR's Open-to-Entry land disposal program and received patent to the parcel of interest in 1982. Since then, the parcel has not been developed and Peggy M. Baumeister has chosen to donate the parcel back to the State of Alaska. In 2018, a Warranty Deed was issued by Peggy M.

Preliminary Decision

Lane Creek Resale Parcel – ADL 54560

Page 5 of 11

Baumeister to DNR for the parcel, and the Land Sales Section (LSS) proposes to authorize its sale.

Planning and Classification: When the Susitna Matanuska Area Plan (SMAP) was adopted, on August 11, 2011, the Lane Creek Resale Parcel was in private ownership; because of this, it was not assigned a management unit or land use designation, and thus not classified in the plan. The Lane Creek Resale Parcel borders management unit S-07 and is adjacent to a past Open-to-Entry state land offering, as well as other state land. Chapter 4 of the SMAP prescribes that if land acquired by the State of Alaska is adjacent to a community or past state land offering, it can be designated Settlement under the SMAP and classified Settlement Land; acquired lands are also to be managed according to the management intent and guidelines applicable to those adjacent lands.

Determination SC-09-002-DET16, signed on February 6, 2019, states that this parcel should be designated Settlement in the SMAP and classified as Settlement Land. The SMAP and Land Classification Order have been amended to reflect this determination. The plan designation, management intent, and management guidelines of unit S-07, within the South Parks Highway Region, shall apply to ADL 54560; lands within this unit are designated Settlement under the SMAP and classified Settlement under Land Classification Order No. SC-09-002.

Management Unit S-07 Considerations: This unit is considered appropriate for land disposal during the planning period.

Area-wide Considerations: LSS reviewed the area plan's guidelines in Chapter 2, Areawide Land Management Policies regarding Settlement, Shorelands and Stream Corridors, Cultural Resources, Fish and Wildlife Habitat, Agriculture, Forestry, Materials Sites, and Recreation and Scenic Resources. These considerations will be incorporated into the offering of this parcel. Reservations will be included in the offering materials as appropriate. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

Offering this parcel for sale would help meet the SMAP goal within the Settlement section of providing private land ownership in the form of seasonal residences for recreation. The area plan recommends a Mineral Closing Order when Settlement Land is being considered for disposal. See Mineral Order and Activity section below for more information.

Shorelands and Stream Corridors, Table 2-1 in the SMAP prescribes a 150-200 foot building setback adjacent to anadromous water bodies. This applies to the parcel as it relates to Lane Creek, an anadromous stream.

The SMAP stresses the importance of identifying, interpreting, and protecting Alaska's cultural resources. According to a Memorandum from the Division of Parks and Outdoor Recreation, Office of History and Archaeology (OHA), dated December 11, 2018, there are no known cultural resource sites on the Lane Creek Resale Parcel, and a cultural resource survey was not recommended.

Preliminary Decision

Lane Creek Resale Parcel – ADL 54560

Page 6 of 11

The remote location and small size of this parcel would make developing it for agriculture, forestry, or a materials site impractical.

Because this parcel was previously held in private ownership, and is only 4.90 acres in size, this proposed resale is not expected to significantly impact Fish and Wildlife Habitat, Recreation, or Scenic Resources.

This proposed offering is consistent with area-wide land management policies and general management intent of the SMAP and specific management unit if the proposed Mineral Order is approved in accordance with *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally*.

Mineral Activity and Order: No mineral activity has been identified on this parcel. The parcel 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. Closing the parcel to mineral entry is consistent with the management intent of the SMAP.

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

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 parcel encompassed by this Decision could create serious conflicts between land estate and mineral estate users. Area plan mineral estate management policy states that, in general, areas scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land estate and mineral estate users.

Local Planning: The project area is within the Matanuska-Susitna Borough and property purchased through this proposed offering will be subject to the applicable taxes, zoning, ordinances, and restrictions of the borough.

The project area is also within the boundary of the *Chase Comprehensive plan*. This plan suggests deferring future land disposals until concerns of carrying capacity and population density within this subsistence area are addressed. DNR DMLW proposes to resell this single parcel, and not to create additional parcels for sale. The proposed resale of this parcel would not significantly increase population density within the subsistence area or dramatically affect the land's carrying capacity.

The plan recommends closing areas with concentrations of land disposals to mineral entry, as well. This is compatible with the SMAP recommendation to close disposal areas to mineral entry, and a proposed mineral closing order has been drafted for this parcel. See the Mineral Activity and Order section of this Preliminary Decision for details.

The plan also recommends identifying feasible and legal access to parcels in the plan area. For parcel access details, see the Access to Parcel section of this document.

Preliminary Decision

Lane Creek Resale Parcel – ADL 54560

Page 7 of 11

Traditional Use Finding: The project area is located within the Matanuska-Susitna Borough and a traditional use finding is therefore not required per *AS 38.05.830 Land Disposal in the Unorganized Borough*. However, information on current or traditional use is welcomed and can be given during the public comment period. See **Section 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 Parcel: From Talkeetna, the Alaska Railroad Hurricane Turn Train can provide transportation to and from a location approximately 14 miles north of Talkeetna, near the confluence of Lane Creek and the Susitna River. From the railroad, there is a 50-foot wide perpetual public access easement along Lane Creek, through US Survey (USS) 3415, land currently owned by the Matanuska-Susitna Borough. State land between USS 3415 and the Lane Creek Resale Parcel is subject to generally allowed uses as provided in *11 AAC 96.020*. Access may also be possible via the Susitna River by boat or snowmobile, but a permit from the Alaska Railroad would be required to cross the railroad right-of-way.

Easements and Setbacks: Per ASLS 77-95, Plat 81-68, the Lane Creek Resale Parcel (Tract A) and the other 3 tracts, are currently subject to a 10-foot pedestrian easement adjacent to Lane Creek.

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*.

Lane Creek, which is adjacent to the Lane Creek Resale Parcel, has been determined to be public water; the SMAP recommends a 50-foot public access easement from the ordinary high water (OHW) of a public or navigable stream. However, a 50-foot easement, as recommended by the SMAP, would not improve access, because the adjoining upstream private parcel will still have a 10-foot pedestrian easement. In addition, state land subject to *11 AAC 96.020 Generally allowed uses* can be used to travel past these parcels.

Building Setbacks From Public or Navigable Water: Lane Creek has been determined to be anadromous by Alaska Department of Fish and Game. If the parcel is sold, DNR DMLW proposes to include, a 150-foot building setback, upland from the OHW of Lane

Preliminary Decision

Lane Creek Resale Parcel – ADL 54560

Page 8 of 11

Creek, in accordance with the SMAP, to protect access, fish and wildlife habitat, and personal property, as a reservation of the proposed offering. Except for utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function, structures and subsurface sewage disposal systems will not be permitted within the building setback.

Hazardous Materials and Potential Contaminants: According to the Environmental Hazard Evaluation Affidavit, signed on January 1, 2018 by Peggy M. Baumeister, the parcel was never lived on and no improvements were ever made. A field inspection by LSS staff has not been done. There are no known environmental hazards present on the parcel; however, the State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances eventually be found. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land prior to bid or application submittal.

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 that this land is designated Settlement for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, 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, DNR will determine if it is in the State's best interest to offer the proposed parcel for sale. In order to offer the property, a combination of survey, and/or platting actions may be required.

The Lane Creek Resale Parcel is located within the Matanuska-Susitna Borough, and therefore survey and platting actions are subject to the relevant borough standards. The borough's platting requirements provide for separate public notice periods and processes for platting actions. These additional opportunities for public involvement may 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.

VII. DMLW and Agency Review

Agency review is being conducted concurrently with the public notice of this Preliminary Decision and proposed action. Agency comments received will be addressed in the Final Finding and Decision along with public comment. In addition, information and comments received from multiple sections within DMLW prior to the agency review and public comment period have been considered and included in the preparation of this preliminary decision.

Preliminary Decision

Lane Creek Resale Parcel – ADL 54560

Page 9 of 11

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 Preliminary Decision and Draft Mineral Order.

In accordance with *AS 38.05.946 (a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945 (c)* may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether 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. 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 1232 without further notice. All related actions will be developed separately. However, approval of any action is dependent upon one another. One action will not proceed without approval of all actions.

Only persons from whom 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 1232. Upon approval and issuance of a Final Finding and Decision for these actions, a copy of the Decision and Mineral 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, THURSDAY, OCTOBER 31, 2019**

IX. Alternatives and Discussion

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Offer the Lane Creek Resale 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; this proposal does not include issuing a mineral order.

Preliminary Decision

Lane Creek Resale Parcel – ADL 54560

Page 10 of 11

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 sell the parcel, which will provide for the best use and development of the land and financial return to the State. Alternative 1 is preferred.

The related action is necessary to allow for the offering of the parcel. The primary action and related action are dependent upon one another, and if DNR DMLW does not approve the project, the related action 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 DMLW from meeting its constitutional, statutory, and legislative goals. Not offering the parcel 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

Lane Creek Resale Parcel – ADL 54560

Page 11 of 11

X. Recommendation

This Preliminary Decision for the proposed disposal of State land and Mineral Order 1232 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 an opportunity for offering State land to the public, and it 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 and agency review may result in changes to the preferred alternative of the proposed disposal of State lands and Mineral Order 1232. If the Decision is approved, Mineral Order 1232 will accompany and precede any Final Finding and Decision issued.

(signature on file)

Prepared by: Justin Wholey
Natural Resource Specialist II
Land Sales Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

September 20, 2019

Date

(signature on file)

Approved by: Rachel Longacre
Section Manager
Land Sales Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

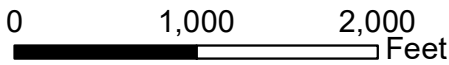
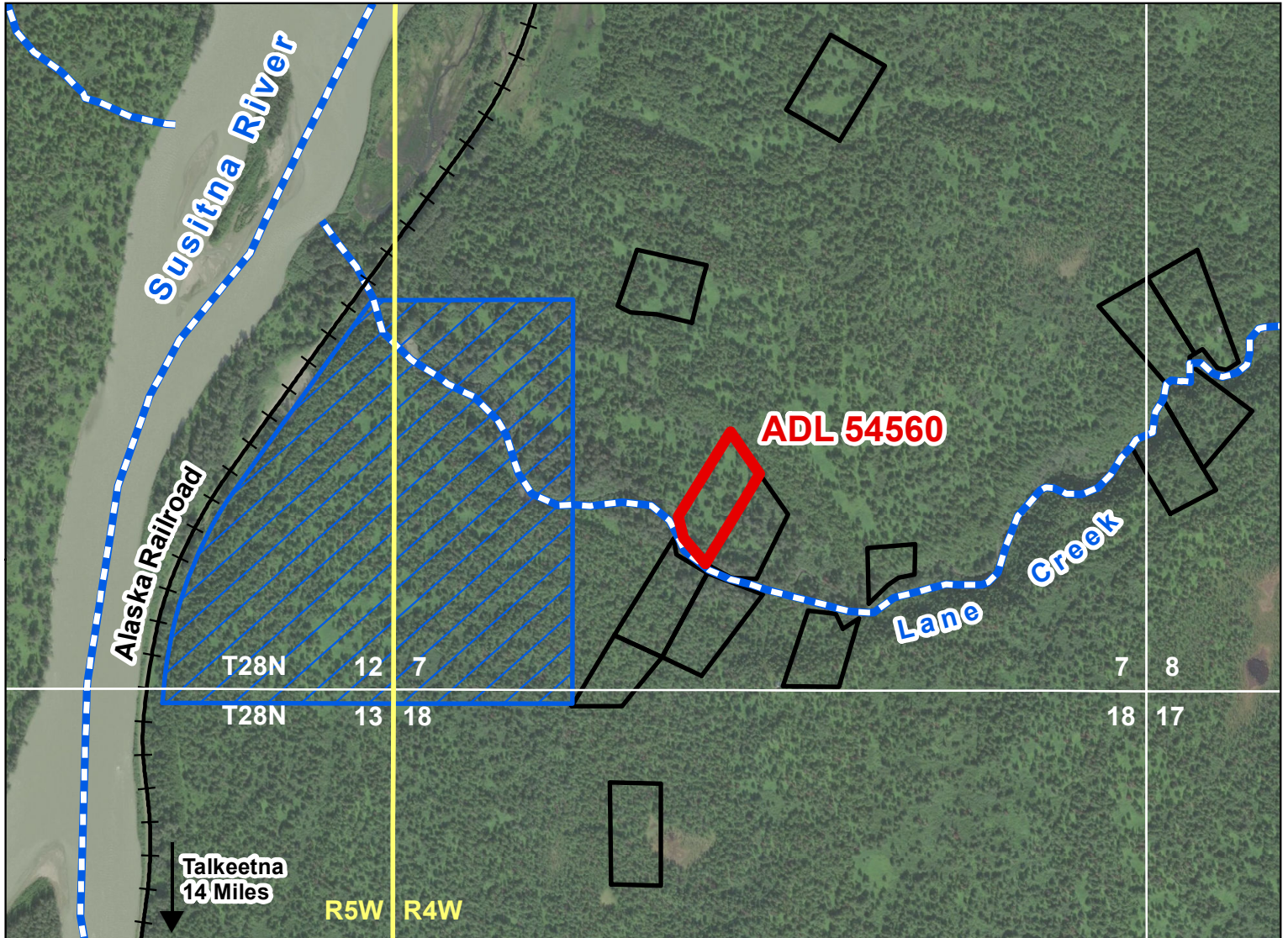
September 20, 2019

Date



Lane Creek Resale Parcel ADL 54560

Attachment A: Vicinity Map within Matanuska-Susitna Borough

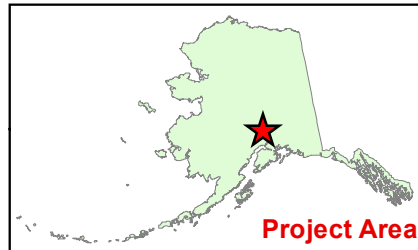


- Project Area
- USS 3415
- Private Parcel
- Anadromous Stream

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.



**Tract A, ASLS No. 77-95
Within Protracted Section 7,
Township 28 North, Range
4 West, Seward Meridian**



JPW 9/4/2019



USGS QUAD 1:63.360
TALKEETNA (C-1) Quadrangle
For more information contact:
Justin Wholey
Department of Natural Resources
Division of Mining, Land, and Water
Land Sales Section
Phone: 907-269-8594
Fax: 907-269-8916
Email: landsales@alaska.gov

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 Matanuska-Susitna Borough
Lane Creek Resale Parcel – ADL 54560**

Offering Information	
Proposed Number of Parcels	1 parcel
Proposed Parcel Size	4.90 acres, more or less.
Proposed Related Actions	Mineral Order (closing) 1232
Project Area	
Location	Approximately 14 miles north of Talkeetna.
Project Area Acreage	4.90 acres, more or less.
USGS Topography Map	USGS Quad Talkeetna C-1
Legal Description	Tract A of Alaska State Land Survey No. 77-95, which is within the E ½ of the SW ¼ & the W ½ of the SE ¼ of protracted section 7, Township 28 North, Range 4 West, Seward Meridian, containing 4.90 acres, more or less, according to the survey plat filed in the Talkeetna Recording District on June 2, 1981, as Plat No. 81-68, within the Third Judicial District, Alaska, and as depicted on Attachment A: Vicinity Map.
Title	Warranty Deed issued by Peggy M. Baumeister to the State of Alaska January 19, 2018. See OSL 1627.
Area Plan and Classification	<i>Susitna Matanuska Area Plan</i> (adopted August 2011), South Parks Highway Region. Parcel was classified as Settlement Land per Determination SC-09-002-DET16, signed on February 6, 2019.
Mineral Order	Project area would be closed to mineral entry prior to offering. See Draft Mineral Order 1232.
Physical Characteristics	
Access	From Talkeetna, Alaska Railroad (AKRR) Hurricane Turn Train to Lane Creek. 50-foot wide perpetual public access easement along Lane Creek, through USS 3415 (Matanuska-Susitna Borough municipal entitlement), and across general state land to parcel.
Terrain and Major Features	Parcel slopes gently upward from Lane Creek.

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Matanuska-Susitna Borough

Lane Creek Resale Parcel – ADL 54560

Page 2 of 2

View	Local view only.
Soils	A majority of non-irrigated capability class IV soils, with some class VI soils.
Wetlands	No known wetlands exist within parcel boundary. Dredging or filling of wetlands may require a permit from the US Army Corps of Engineers.
Vegetation	Forest interspersed with open meadows.
Water Source	Lane Creek is adjacent to the parcel and may provide surface water collection. Surface and subsurface waters on all Alaska lands subject to appropriation in accordance with the Alaska Water Use Act (AS 46.15). Water quality unknown.
Anadromous Waters	Lane Creek is an anadromous stream that is adjacent to the parcel.
Local Management Information	
Fire Protection	Modified fire management option. Not within a Matanuska-Susitna Borough Fire Service Area.
Game Management Unit	13E
Local Authority	Matanuska-Susitna Borough has planning, platting, taxing, and zoning authority for the project area.
Flood Zone	Flood Insurance Rate Map is not available for the parcel.
Utilities	No services exist for the parcel.
Waste Disposal	On-site wastewater disposal systems must meet the regulatory requirements of Alaska Department of Environmental Conservation.
Setbacks, Reserved Areas, Easements, and Conditions	
Building Setbacks	Proposed parcel may be subject to a 150-foot building setback from the ordinary high water (OHW) of Lane Creek, a public and anadromous stream. Water-dependent structures may be allowed within the building setback.
Public Access and Utility Easements	Surveyed parcel is currently subject to a 10-foot pedestrian easement per ASLS 77-95, Plat No. 81-68.
Retained Lands	None
Public or Navigable Water Bodies	Lane Creek is a public water body adjacent to the parcel.
Additional Information	
Native Regional Corporations	Cook Inlet Region Inc.
Villages and Tribal Councils	No Villages or Tribal Councils within 25 miles of the parcel.
Oil and Gas Activity	None
Mining Activity	None within the parcel.
Comments	This parcel was originally purchased through the Open-To-Entry program and conveyed in 1982. The original owner chose to donate the land back to the DNR. The applicable State case files are ADL 54560 and OSL 1627.

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

ATTACHMENT C: PUBLIC NOTICE

Requesting Input for
a Proposed Land Offering:
Lane Creek Resale Parcel – ADL 54560

COMMENT PERIOD ENDS 5:00 PM, THURSDAY, OCTOBER 31, 2019

This surveyed parcel is being proposed for sale in a future offering under the method described in the Preliminary Decision Document and accompanying Draft Mineral Order.

Location: The parcel is located within DNR's Southcentral Region, approximately 14 miles North of Talkeetna; it is located in Section 7, Township 28 North, Range 4 West, Seward Meridian, in the Matanuska-Susitna Borough.

Project size: The parcel is 4.90-acres, more or less.

To obtain the Public Notice, Preliminary Decision, or the Draft Mineral Order, visit <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 (TDD for the hearing impaired: 907-269-8411) or Fairbanks at 907-451-2705 (TDD for the hearing impaired: 907-451-2770), or the Southeast Land Office in Juneau at 907-465-3400 (TDD for the hearing impaired: 907-465-3888), 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, MONDAY, OCTOBER 21, 2019.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decision and/or Mineral Order, for which notice is being conducted concurrently. **The deadline for public comment is 5:00 PM, THURSDAY, OCTOBER 31, 2019.** 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 email, postal mail, or fax. Email: landsales@alaska.gov; Mailing Address: Attn: Lane Creek Resale Parcel, 550 W 7th Avenue, Suite 640, Anchorage, AK 99501; Fax: 907-269-8916. If you have any questions, call Justin Wholey at 907-269-8594.

If no significant change is required, the Preliminary Decision and Draft Mineral Order, including any minor changes, and a summary of comments and responses, will be issued as the Final Finding and Decision and Mineral Order 1232, 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.