

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

**FINAL FINDING AND DECISION**

of a  
Land Offering in the Unorganized Borough  
**Habanero Subdivision – ADL 421223**  
*AS 38.05.035(e), AS 38.05.045*

and its  
**RELATED ACTION(S):**  
**Mineral Order 1238 (Closing)**  
*AS 38.05.185 and AS 38.05.300*

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated June 23, 2020. The PD (attached) and related action has had the required public review.

**I. Recommended Action(s)**

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyances Section (LCS) recommends offering for sale State-owned land for private ownership within the Habanero Subdivision project area (ADL 421223), as described in the PD. Surveyed parcels will be offered for future sale by a method under *AS 38.05.045 Generally*.

For the purposes of providing land for settlement in the Habanero project area, LCS may develop a subdivision of no more than 50 parcels, varying in size, no smaller than five acres. This project area is located within the Unorganized Borough and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards. The project may be subdivided and offered in multiple stages.

There are is one related action with this proposal:

Mineral Order: DNR proposes to close the project area to new mineral entry through Mineral Order (MO) 1238.

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."

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For the related action, *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**

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

- Posted under State of Alaska Online Public Notice from June 23, 2020 to July 28, 2020.
- Posted on DNR Land Sales website from June 23, 2020 to July 28, 2020.
- Mailed to postmasters in Manley Hot Springs and Nenana with a request to post for 30 days, per *AS 38.05.945(c)(4)*.
- Mailed to the library in Nenana with a request to post for 30 days.
- Mailed to the Doyon regional corporation per *AS 38.05.945(c)(2)-(3)*.
- Sent notification to area state legislators and to multiple state agencies.
- Notified parties via the DNR Land Sales subscribers lists by email.

The public notice stated that written comments were to be received by 5:00PM, July 28, 2020 in order to ensure consideration and eligibility to appeal. For more information, refer to the PD.

Should this project move forward, final subdivision design and survey will be completed by an Alaska licensed surveyor. The Habanero Subdivision project is within the Unorganized Borough and outside of any local platting authority. Within an organized borough or local platting authority, platting ordinances typically provide for an additional opportunity for review and comment on proposed platting actions. The scope of such a review is limited and specific to review of the project's adherence to the local platting ordinance, and is the sole prerogative of a political subdivision of the State which establishes platting authority and the applicable ordinances governing such actions.

### **IV. Summary of Comments**

DNR DMLW LCS received one brief comment of support from a private individual. No other comments were received for the project during the public comment period.

DNR DMLW LCS Response: Thank you for taking the time to review and comment.

### **V. 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 the Unorganized Borough. As discussed in the PD, there would be an increase in the density of the population in the area. There are no anticipated significant changes to traditional uses of the land and resources of this area as a result of the proposed action, other than a possible increase in the various traditional activities which may be practiced by private-property owners. Impacts on existing resource users will be minimized by protecting public access along the shore of Chili Pepper Lake and by protecting riparian and shoreline habitat with building setbacks from the lakeshore as directed in the area plan. No conflicts with traditional uses of the

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

**VI. Modifications to Decision and/or Additional Information**

The recommended action has not been modified from the original proposed action(s) described in the PD. Recommendation and Approval of the Final Finding and Decision follow.

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**VII. Final Finding and Decision**

The Land Conveyances Section recommends proceeding with the action as described in the Preliminary Decision. This action is undertaken under relevant authorities. Offering these parcels 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.

(signature on file)

7/30/2020

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Recommended by: Timothy Shilling  
Competitive Land Sales Manager  
Land Conveyances Section  
Division of Mining, Land and Water  
Department of Natural Resources  
State of Alaska

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Date

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 action(s) as described and referenced herein.

(signature on file)

8/5/2020

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

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Date

(signature on file)

8/6/2020

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

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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. 7<sup>th</sup> Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto: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.