

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

PRELIMINARY DECISION
Alma Lakes Remote Recreational Cabin Sites
ADL 421360

Proposed Land Offering in the Denali Borough
AS 38.05.035 (e), AS 38.05.045, AS 38.05.600

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

PUBLIC COMMENT PERIOD ENDS 5:00PM, WEDNESDAY, MARCH 24, 2021

I. Proposed Action(s)

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Attachment A: Vicinity Map

Attachment B: Public Notice

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

Draft Mineral Order No. 1246 (Closing)

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 Conveyance Section (LCS) is to offer authorizations to stake parcels through the Remote Recreational Cabin Sites (RRCS) program.

LCS proposes to sell land within the Alma Lakes RRCS project area for the purpose of providing land for settlement. DNR may offer authorizations to stake up to 30 parcels ranging from 5 to 20 acres in this project area, for a maximum of 600 acres sold through this offering under *AS 38.05.600 Remote Recreational Cabin Sites*, if approved and deemed feasible.

Although the total disposal authorized under this proposal will not exceed the stated maximums, the development and offering of the project area may be completed in multiple stages. This proposed project area is located within the Denali Borough 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 staking area may consist of all or only a portion of the overall project area. After consideration of public comment, the size and boundaries of the staking area will be described in a subsequent Final Finding and Decision, if the project proceeds to that step. Additional adjustments may be made up to or throughout the staking period, as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with platting requirements. Although actions under this proposal are limited to the stated maximums, additional offerings may be authorized under future

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proposals, which could increase the density of privately-owned parcels within, adjacent to, or near the project area.

Proposed Related Action(s): These related actions will be developed separately; however, public notice is being conducted concurrently.

Mineral Order (Closing): DNR proposes a mineral order to close Sections 22-27 and 34-36 of the project area to new mineral entry. The remainder of the project area is covered by Mineral Order (Closing) 369. Refer to the Reservation of Mineral Estate subsection of this document for more information on this proposed related action. These related actions will be developed separately.

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 and related action. Public notice for all actions is being conducted concurrently.

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

II. Method of Sale

AS 38.05.600 Remote Recreational Cabin Sites authorizes DNR to conduct leasing and sale of land for Remote Recreational Cabin Sites. *11 AAC 67.800 - 11 AAC 67.845 Remote Recreational Cabin Sites* and other related regulations describe how DNR offers authorizations to select and stake Remote Recreational Cabin Sites in designated areas during the specified offering period.

After approval of a RRCS disposal, LCS plans a future announcement of an offering of staking authorizations and the availability of offering brochures pursuant to *AS 38.05.945 Notice*. The brochures generally describe simultaneous offerings of multiple areas; the relevant application period; and the related procedures, conditions, and eligibility requirements. Participants submit applications and LCS conducts a drawing, a method of sale that offers all eligible parties an equal chance at acquiring a staking authorization for an area. Authorizations to stake a parcel of State-owned land within a designated project area during a specified period are awarded to applicants drawn first.

Authorized stakers are provided staking materials that include instructions for properly staking a parcel in accordance with *11 AAC 67.820 Staking Instructions*. These staking instructions include general requirements for staking a parcel of land; specific requirements for individual staking areas; and staking maps depicting existing parcels, reserved areas, staking setbacks, and access routes, where known and practical. Authorized stakers then enter onto the land, stake a parcel of their choice in compliance with the staking instructions, and file a lease application.

Stakers must apply for a lease after staking a parcel to preserve their interest and continue in the process to eventual ownership. If approved, a short-term lease is issued and the lessee makes quarterly, prorated payments to cover associated development costs and an annual

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lease fee. Upon issuance, the lease authorizes the lessee to enter and enjoy exclusive, private, recreational use of the property between staking and purchase while the survey, platting, and appraisal are completed, typically over a three to four-year period. During the term of the lease the leasehold may not be used for commercial purposes or as a permanent residence. Lessees will be allowed to construct buildings on the property, but will be warned of the risks of constructing prior to survey completion solidifying the location of the property boundaries. Noncompliance with zoning requirements (if any) or mislocation of the parcel or improvements does not vest any preference right to the land improperly entered.

Upon successful completion of the lease terms and upon completion of the survey, platting, and appraisal, the lessee is given the option to convert from lease to sale at a purchase price based on the appraised value, plus associated fees, with credits given for the survey and platting deposits collected while the parcel is under lease. The lessee's other option is to renew the lease for a second term at the cost listed in regulation, which does not contribute to paying down the purchase price. A lessee in good standing can opt to purchase the parcel at any time during this optional renewal term, but if the lessee does not purchase the parcel by the time the renewed lease term expires, their interest expires.

After the staking period closes and lease applications have been received from authorized stakers, LCS may identify and survey additional administrative parcels in a project area. Additionally, LCS may opt to complete the survey on staked parcels relinquished, terminated, or expired before converting to sale. Such administrative parcels would generally be surveyed for future offering under *AS 38.05.045 Generally*. Although administrative parcels are not restricted to the size requirements stated for staked parcels, the total number of acres and parcels will not exceed the maximum number specified for disposal under this proposal.

Offering administrative parcels under *AS 38.05.045 Generally* allows LCS to offer administrative parcels under a uniform set of statutes, administrative regulations, and policies. This is usually in a statewide offering of varied parcels to increase administrative efficiencies and improve the effectiveness of marketing efforts. Successful buyers may purchase the properties by highest sealed bid or by application at prices based on their appraised value. Appraised values account for the benefits of the surveying and platting. Without the inclusion of this additional method of sale in this proposal, sales of parcels initially developed under *AS 38.05.600 Remote Recreational Cabin Sites* and *11 AAC 67.815 (b) Offering Remote Recreational Cabin Sites* would require purchasers to reimburse LCS for the cost of surveying, platting, and appraising the site within 30 days of being notified of a successful purchase, in addition to the usual minimum down payment. That is to say, that the State would not finance the reimbursable survey, platting, and appraisal costs. To maintain this requirement without allowing for the differing method of sale of subdivided parcels under *AS 38.05.045* would create an unrealistic burden upon purchasers, hinder the marketability of the property, create confusion with the public, and be an inefficient use of staff time and resources.

Parcels offered through this action are 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 38.05.600 Remote Recreational Cabin Sites* and *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*

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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." In addition to *AS 38.05.600 Remote Recreational Cabin Sites*, *11 AAC 67.805 Designating Areas for Remote Recreational Cabin Sites*, and *11 AAC 67.815 Offering Remote Recreational Cabin Sites* apply.

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

IV. Administrative Record

The project file, Alma Lakes Remote Recreational Cabin Sites - ADL 421360, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Yukon Tanana Area Plan for State Lands (YTAP, adopted January 3, 2014) and associated land classification files;
- Alaska Interagency Wildland Fire Management Plan (2017 Review);
- Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes;
- United States Fish and Wildlife Service (USFWS) National Wetlands Inventory (Updated January 2020);
- Exploratory Soil Survey of Alaska, United States Department of Agriculture, Soil Conservation Service (Issued February 1979); and
- DNR case files: RST 343; RST 491; Bearpaw Remote Recreational Cabin Sites ADL 417397; and, other cases, documents, reports, etc. referenced herein.

V. Scope of the Proposal

The scope of this proposal, under the statutes and regulations described in the preceding **Section III. Authority**, is limited and specific to LCS'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 LCS does not intend to impose deed restrictions for this purpose. The offering of the project area may be conducted in multiple stages

VI. Location

The project area is located within DNR's Northern Region, located just east of Bearpaw River, approximately 44 miles east of Lake Minchumina and 48 miles west of Healy (by air). The project area is within Township 10 South, Range 16 West, Fairbanks Meridian, within the Denali Borough. The project area encompasses approximately 9,160 acres. See Attachment A: Vicinity Map for a depiction of the project area.

Platting Authority: The project area is within the Denali Borough and subject to the borough's platting authority.

Native Regional and Village Corporations: The project area is within the boundaries of the Doyon regional corporation. There are no villages located within 25 miles of the project area.

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VII. Property Description

The project area's property description is defined as:

- Township 10 South, Range 16 West, Fairbanks Meridian,
 - Section 3, that portion of Government Lots 1 and 2 in the projected S1/2, Government Lot 3, and Government Lot 4;
 - Section 10, Government Lots 1 & 2; excluding Tracts A & B of ASLS 90-22, according to Plat No. 92-78 recorded on July 30, 1992 in the Fairbanks Recording District, also excluding ASLS 87-274, according to Plat No. 89-65 recorded on July 26, 1989 in the Fairbanks Recording District;
 - Sections 11 & 12, all;
 - Section 13, excluding Tracts A & B of ASLS 87-105, according to Plat No. 94-38 recorded on April 6, 1994 in the Fairbanks Recording District, also excluding Tracts J & K of ASLS 2007-21, according to Plat No. 2011-10 recorded on January 24, 2011 in the Fairbanks Recording District;
 - Sections 14-15, all;
 - Section 22, Government Lots 1 & 2;
 - Section 23, Government Lots 1 & 2;
 - Section 24, Government Lots 1 & 2;
 - Section 25, Government Lots 1 & 2;
 - Section 26, Government Lots 1-4;
 - Section 27, all;
 - Section 34, all;
 - Section 35, Government Lots 1 & 2;
 - Section 36, Government Lots 1 & 2;

According to the plat filed by the United States Department of the Interior, Bureau of Land Management in Anchorage, Alaska, on May 11, 1987, containing approximately 9,160 acres more or less, as depicted on the attached map.

Property Description of the Mineral Order:

- Township 10 South, Range 16 West, Fairbanks Meridian,
 - Section 22, Government Lots 1 & 2;
 - Section 23, Government Lots 1 & 2;
 - Section 24, Government Lots 1 & 2;
 - Section 25, Government Lots 1 & 2;
 - Section 26, Government Lots 1-4;
 - Section 27, all;
 - Section 34, all;
 - Section 35, Government Lots 1 & 2; and,
 - Section 36, Government Lots 1 & 2;

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According to the plat filed by the United States Department of the Interior, Bureau of Land Management in Anchorage, Alaska, on May 11, 1987, containing approximately 5,163 acres more or less.

VIII. Title

Information from Title Report No. 20916, current as of May 8, 2020 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Tentative Approval (Section 3, Government Lots 1 & 2), dated October 3, 1980, for Patent 50-89-0028 (Sections 3, Government Lots 3 & 4; Section 10, Government Lots 1 & 2; Section 11-16, all), and Patent 50-20090-0243 (Section 22, Government Lots 1 & 2; Section 13, Government Lots 1 & 2; Section 24, Government Lots 1 & 2; Section 25, Government Lots 1 & 2; Section 26 Government Lots 1-4; Section 27; Section 34-36, all), dated May 11, 1987. The applicable State case file is GS 2404. 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 Bureau of Land Management has determined the Bearpaw River is navigable within the project area. For title purposes, five lakes are considered navigable (greater than 50 acres), consistent with 11 AAC 51.035. See Attachment A: Vicinity Map for a depiction of public and navigable water bodies.

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Where they exist within the project area, private parcels and State third-party interests will be described in land sales brochures and information included in staking materials provided to authorized stakers.

IX. Physical Characteristics and Hazards

Information about the project area is based on internal research, information received during agency review, and a flyover inspection was conducted by Appraisal staff in August of 2020. 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 the project area prior to staking to familiarize themselves with the physical characteristics of the land.

Terrain and Major Features: Much of the project area is between 450-650 feet above sea level, with relatively small changes in elevation. Natural features in the area include the Bearpaw River and the Alma Lakes.

View: The project area may have views of the Alaska Range and Bearpaw Mountain.

Vegetation: Riparian areas support stands of white spruce mixed with poplar. Low, wet areas off of the river include tussocks and mats of moss. There are stands of black spruce, particularly in transition areas between marshes and lakeshore habitat.

Soils: According to the Exploratory Soil Survey of Alaska, the dominant soils in the project area are shallow over ice-rich permafrost, though some areas have well drained soils on terraces where the permafrost is deep or absent. The poorly drained soils are on low terraces in broad valleys and long foot slopes and consist of silty loess and alluvium. In these areas, the depth to ice-rich perennially frozen material is 10-20 inches below the surface. Areas with well drained soils (consisting of thick deposits of silty loess) are found on terraces and low bluffs along major rivers (such as Bearpaw River). In these areas, permafrost is either deep or absent. 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.

Wetlands According to the U.S. Fish and Wildlife Service National Wetlands Inventory, wetlands may exist in much of the project area. Freshwater forested/shrub wetlands exist throughout the project area, while freshwater emergent wetlands are concentrated along the Bearpaw River. Areas of higher elevation appear to have a lower concentration of wetlands. Dredging or filling of wetlands may require a permit from the U.S. Army Corps of Engineers. Stakers are encouraged to avoid wetland areas in locating their parcels.

Geologic Hazards: According to information provided by DNR, Division of Geological and Geophysical Surveys, the proposed project area is in an area of glacial outwash blanketed by windblown silt (loess) and sand deposited by winds during the last major glacial period. The area is in a zone of sporadic permafrost, meaning that 10-50% of the ground surface has the potential to be underlain by perennially frozen ground (permafrost). The proposed project area is located approximately 20 miles southwest of the boundary of the Minto Flats seismic zone, which was the source of the 1995 M6.0 Minto Flats earthquake. Standard best building practices should be used to accommodate the regional seismic hazard.

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Fire Information: Fire history indicates that the southern portion of the project area was burned in the 2013 Sandless Lake fire and the northeastern portion of the project area was burned in the 2009 Bearpaw fire. In addition, there was a small fire (approximately 0.10 acres) which occurred in 2019.

Potential for wild land fire is high in interior Alaska and other certain parts of the state. Offering materials encourage stakers to locate parcels within hardwood stands or near water sources to help mitigate fire risk. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Offering materials include information regarding wild land fire prevention.

Fire management options and policies for the area are identified in the Alaska Interagency Wildfire Management Plan available from DNR Division of Forestry. The current fire management option for the project area is “Limited.” The Operational Guidelines for areas with the “Limited” management option reads, “Wildfires occurring within the Limited Management Option will be allowed to burn within predetermined areas. By allowing fire to spread naturally, a natural mosaic of fire footprint and intensity can be maintained.” The plan also states that there is no guarantee of protection from wildfire in any management option, that response to a wildfire will be based on various factors, and that “Ultimately, it is the responsibility of [landowners] to mitigate and minimize risk to their property and structures and to be ‘Firewise’”.

Flood Hazard: There is no Flood Insurance Rate Map available for the project area. There is potential for seasonal flooding and erosion of parcels adjacent to water bodies, 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). No water rights have been identified within the vicinity of the project area. There is no well or water quality information within the area. Hauled water is assumed to be the primary source for potable water.

Utilities: No known services exist within the project area.

Waste Disposal: Waste will need to be hauled out of the project area for disposal. All on-site waste water disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

X. Background

The northern portion (Sections 3, 10-15) of the proposed Alma Lakes project area was previously part of the Bearpaw RRCS project area, which was offered in 2007. Several parcels in the Alma Lakes project area were staked during the Bearpaw RRCS offering and conveyed into private ownership. This private property is represented in the vicinity map attached to this Preliminary Decision.

The Alma Lakes project area contains many float plane accessible lakes and two RS2477 trails which may provide some access within the project area. The Rex-Roosevelt Trail (RST-491) is 65 miles long and runs across the Teklanika, Shushana, and Toklat Rivers, onto the Athabaskan Settlement of Bearpaw. RST-491 runs through the project area in

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Sections 2, 11, and 13. The Kobi-Kantishna Trail (RST-343) is approximately 50 miles long and runs generally southwestward through the historic townsites of Diamond, Glacier, and onto Kantishna. RST-343 runs through the project area in Section 36.

The Alma Lakes project area is generally broad and level, a variety of small, discontinuous ridges throughout. Elevation ranges between 400 and 600 feet above sea level, and pockets of wetlands are scattered throughout the project area. Wetland areas have poorly drained soils and shallow permafrost. Recent interest has been expressed by the general public in offering RRCS project areas near Bearpaw Mountain and within the Denali Borough. The Alma Lakes RRCS project area allows for stakers to obtain remote Alaskan property, ranging from river front, lake front, or near RS2477 trails, in which to enjoy a variety of backcountry recreational activities.

XI. Planning and Classification

The project area is within Yukon Tanana Area Plan (YTAP, adopted January 3, 2014), Kantishna Region East, Management Unit K-57. Lands within this unit are currently designated Settlement, and classified Settlement Land under Land Classification Order No. CL NC-10-005. The project area consists of the eastern portion of the management unit.

Unit K-57 Considerations: Development within this unit should concentrate adjacent to the two rivers and uplands that have better drained soils and should avoid those areas with wetlands and that are considered especially important moose wintering and calving habitat in the southwestern part of the unit. Consult with ADF&G prior to initiating significant new projects. Avoid anadromous streams and protect riverine areas.

Parcels are typically staked in close proximity to access (i.e. the Bearpaw River or floatplane accessible lakes). Staking materials typically recommend stakers avoid wetland areas when selecting a parcel. Although some small portions of wetland areas may be included within staked parcels, it is likely that most stakers will avoid wetland areas or minimize the amount of wetlands within their parcels. ADF&G was consulted during the development of this proposal.

Area-wide Considerations: LCS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies. These considerations will be incorporated into the design and development of the project. Lands to be retained in public ownership, conditions, and reservations will be included on the plat and in offering materials as appropriate. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

Coordination and Public Notice: Management guidelines require notice pursuant to AS 38.05.945 Notice; and review of local comprehensive plans. Public notice for this action is being conducted in accordance with AS 38.05.945 Notice. The proposed subdivision is in the Denali Borough, and the Denali Borough Comprehensive Plan was reviewed.

Cultural Resources: Management guidelines provide call for coordination with DNR Division of Parks and Outdoor Recreation, Office of History and Archaeology (OHA) and that cultural surveys should be considered where OHA reported sites exist or where there is a high potential for such sites to exist. During agency review, OHA indicated that

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there are no known or reported cultural resource sites within the identified area; OHA did not recommend a cultural resource survey. OHA will be notified should any discovery of cultural resources occur during the development of this project and offering material will include information regarding archaeological sites.

Settlement: This section provides management guidelines regarding planning and coordination with local plans and governments; types of settlement and land offerings; protection, management, and enhancement of other resources; and design. These guidelines have been considered in the development of this proposal. The proposed project will not interfere with any critical recreation or environmental resources.

Fish and Wildlife Habitat: Areawide management guidelines for Fish and Wildlife Habitat do not address any specific management intent or management guidelines specific to settlement. However, management guidelines provide that DNR and the Alaska Department of Fish and Game (ADF&G) will evaluate the use or development of state lands and the benefits or impacts it may have. ADF&G was consulted during agency review and stated no objection to the proposed project.

Forestry: Management guidelines provide that timber harvests are considered appropriate in areas designated Settlement if intended to support the costs of subdivision development, provide access to the subdivision, or for other appropriate purposes. Given the recent fire history and remoteness of the area, LCS is not proposing any timber harvest in advance of RRCS offering.

Material Sites: Management guidelines states that generally, if a settlement area contains high value material resources, the material source area should be identified during subdivision design and retained in state ownership for future use. No high value material resources have been identified in the project area.

Stream, Corridors, Shorelands, and Wetlands: Management guidelines establish access easements, building setbacks, and buffers in order to ensure opportunities for a variety of recreational activities within publicly owned stream corridors, protect fish and wildlife habitats along waterbodies, protect water quality, and provide for needed water dependent uses. The width of each access easement, building setback, and buffer varies and is specific to its primary purpose and the potentially impacted waterbody. The proposed project area encompasses a number of waterbodies, including a portion of the Bearpaw River, and 29 lakes which are considered navigable or public by 11 AAC.51.035. The applicable easements and setbacks are listed in **Section VI. Description, Easements, Setbacks, and Reserved Areas.**

Management guidelines provide for an easement or buffer 50 feet on each side of sensitive environmental features such as riverine or lacustrine wetlands. Refer to the *Building Setbacks From Public or Navigable Water* section for more information. According to the U.S. Fish and Wildlife Service National Wetlands Inventory, wetlands may exist in much of the project area. Freshwater forested/shrub wetlands exist throughout the project area, while freshwater emergent wetlands are concentrated along the Bearpaw River. Areas of higher elevation appear to have a lower concentration of wetlands. Currently, none of the of the wetlands have been identified as high-value or

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significant hydraulic features. Stakers are encouraged to avoid wetland areas in locating their parcels.

Subsurface Resources: This section provides management guidelines regarding mineral closures and oil and gas resources. The YTAP recommends mineral closures prior to land offering. Sections 3, 10-15 of the project area are already closed to mineral entry under Mineral Order (Closing) 369. Refer to the Mineral Activity and Order(s) section for more information. The attached draft Mineral Order 1246 closes the remainder of the project area to mineral entry. During the agency review for this project, DNR Division of Oil and Gas (DOG) expressed no objection to the proposed disposal, and noted there are no DOG authorizations or pending applications in the immediate vicinity.

Public Access: Management guidelines cover general public access and management of trails within and between developing areas. In general, before selling State land, DNR will reserve public use easements pursuant to the requirements of *11 AAC 51.015 Standards for Public Easements*. There are two known RS 2477 trails within the project area, the Rex-Roosevelt Trail (RST-491) and the Kobi-Kantishna Trail (RST-343). Staking setbacks will be imposed for these trails. No other trails have been identified within the project area; however, LCS will, at its discretion, reserve an easement centered on existing trails that are active at the time of staking. LCS will continue to research access, and will coordinate with the DNR DMLW Northern Region regarding additional public access easements, as appropriate.

The proposed offering will be consistent with area-wide land management policies and general management intent of the YTAP 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(s): No mineral activity has been identified on these lands. Sections 3, 10-15 of the project area are closed to mineral entry under Mineral Order (Closing) 369. The remainder of the project area (Sections 22-27, 34-36; approximately 5,163 acres) will be closed to new mineral entry if the Mineral Order 1246 is approved in accordance with *AS 38.05.185 Generally* and *AS 38.05.300 Classification of Land* for a land disposal. According to the YTAP, Sections 22-27, 34-36 of the project area are covered under the Leasehold Location Order No. 33. 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 YTAP.

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 parcels encompassed by this decision could create serious conflicts

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between land estate and mineral estate users. The YTAP states that areas designated Settlement should be closed to mineral entry prior to sale.

Local Planning: The project area is within the Denali Borough 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 Denali Borough Comprehensive plan. Review of that plan did not indicate any conflicts with proposed land disposal.

XII. Traditional Use Finding

The project area is located within the Denali 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 the **Section XVII Submittal of Public Comments** at the end of this document and Attachment B: Public Notice for details on how to submit comment.

XIII. Access To, Within, and Beyond Project Area

Primary access to the project area is via floatplane or ski-plane to the lakes within the area. The northwestern portion of the project area may be accessed via the Bearpaw River, depending on river depth and conditions. The northeastern portion of the project area can be accessed by RST 491 (Rex-Roosevelt Trail) and the southeastern portion of the project area can be accessed by RST 343 (Kobi-Kantishna Trail), both of which are primarily winter trails.

Additional legal access to, within, and through the project area is via travel across unreserved State-owned land, along section line easements, or other easements reserved in conveyances to third parties. Access across unreserved State-owned land without a permit, along with pertinent restrictions, is governed by *11 AAC 96 Provisions for General Land Use Activity*.

LCS will, at its discretion, reserve an easement centered on existing trails that have not been assigned an ADL or RST number, or otherwise serialized, through or along any staked site. Section line easements will be reserved on each side of surveyed or protracted section lines that are within or along staked sites. Stakers will be instructed not to stake across surveyed section or township lines, across trail easements that have been assigned an ADL or RST number, or other trails or access routes identified within the staking area. Easements along interior parcel lines will also be reserved in order to ensure access between staked parcels. Additionally, a survey easement will be reserved to control monuments within parcels in order to allow for access to recover monuments of record for the purposes of surveying and establishing property boundaries in the vicinity of a parcel.

Project design will take into account 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 Denali Borough. Approval of platting actions and dedication of rights-of-way will require separate processes and an additional opportunity for public participation 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*

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and Public Water and 11 AAC 51.045 Easements To and Along Navigable and Public Water. In general, a continuous easement extending upland from the ordinary high water mark will be reserved within parcels along waters determined to be public or navigable. An alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult.

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*.

Attachment A: Vicinity Map identifies water bodies determined to be public or navigable for the purposes of this proposal. Within the project area, Bearpaw river is navigable, and LCS has identified five lakes which are considered navigable (greater than 50 acres), and 24 lakes which are considered public (greater than 10 acres), consistent with 11 AAC 51.035. The public is invited to comment on use of water resources in the project area to aid in making the public water determination.

Parcels will be subject to access reservations in accordance with AS 38.05.127 *Access to Public or Navigable Water* and a 50-foot building setback from the OHW of the water bodies described, as well as any additional water bodies identified as public or navigable prior to completion of survey in accordance with the YTAP. If, at the time of survey, a water body not identified as public on Attachment A is determined to be public or navigable and is located within or along a staked parcel, a public access easement will be reserved upland from the ordinary high water mark, in accordance with AS 38.05.127 *Access to Navigable or Public Water and 11 AAC 51.035 Determination of Navigable and Public Water*. If a water body determined to be public is located entirely within a parcel, a public use access easement from the parcel boundary to and along the water body will be reserved and dedicated at the time of field survey. This is unlikely to occur given that staked parcels can only be up to 20 acres in size. However, as administrative parcels may be larger than 20 acres and water bodies smaller than 10 acres in size may be administratively determined public if they contain important public resources, it is possible that this type of public use access easement may be reserved.

If at the time of survey, a water body identified as public on Attachment A is determined to not be public or navigable, the public access will be extinguished. However, if public access is required, a public access easement in accordance with 11 AAC 51.015 *Standards for Public Easements* will be imposed on or adjacent to the water body. Refer to the [Easements, Setbacks, and Reserved Areas](#) subsection for additional information.

[Easements, Setbacks, and Reserved Areas](#): The project area may include a variety of easements, setbacks, and reserved areas, which will be identified in offering materials, staking instructions, and related informational documents. LCS will continue to research and identify easements, setbacks, or reservations throughout the staking and survey period as necessary to protect resources, third party interests, public use, or access. Of note, staking

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setbacks differ from building setbacks in that staking setbacks leave an area of land retained in State ownership, while building setbacks and easements are on land conveyed to the staker and place development restrictions thereon. Restrictions and encumbrances will be identified in the staking instructions, depicted on staking maps, and noted in the brochure, where possible. Final width and location of easements and reservations will be determined as part of the local platting process.

Building Setbacks From Public or Navigable Water: If the offering is deemed feasible, LCS proposes to place a note on the final survey plat describing a building setback upland from the OHW of public or navigable water to protect access, fish and wildlife habitat, and personal property. Structures and subsurface sewage disposal systems will not be permitted within the building setback. 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 may be allowed within the building setback. Parcels under lease will also be subject to this building setback. The following building setback will apply to parcels created as a result of this offering:

- a 50-foot building setback from the OHW of all public or navigable water bodies;
- a 100-foot building setback from OHW of Bearpaw River, on each side in accordance with YTAP.

Staking Setbacks and Reserved Areas: Reserved areas and staking setbacks may be designated for public use, access, or to protect valuable resources. Staking will not be allowed within these areas. Staking setbacks and reserved areas will be described in offering information and staking instructions. LCS may identify additional staking setbacks and reserved areas as necessary throughout the staking period. The following staking setbacks and reserved areas will apply to this offering:

- a 50-foot staking setback from the centerlines of both RST-491 and RST-343.

Easements: Parcels may be subject to a variety of easements, both during the lease period and after sale. This may include, but is not limited to, existing trails (with or without assigned ADL numbers), rights-of-way, section line easements, and public access and utility easements. Throughout the staking period and survey process, LCS will continue to research the status, location, and condition of access routes, and additional easements may be identified. Final width and location of easements and reservations will be determined as part of the platting process. Easements will be noted on the plat. Parcels may be subject to a variety of reservations or restrictions where appropriate, such as:

- a public access and utility easement along parcel boundaries;
- an easement centered on existing trails through or along staked parcels;
- a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with *AS 19.10.010 Dedication of Land for Public Highways* and *11 AAC 51.025 Section-line Easements*; section-line easements may be vacated under *AS 19.30.410 Vacation of Rights-of-Way* and *11 AAC 51.065 Vacation of Easements*;

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- a 50-foot continuous easement upland from the OHW of public or navigable water bodies in accordance with *AS 38.05.127 Access To Navigable or Public Water*;
- 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' 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.

These easements and reservations will apply both during the lease period, and after sale. Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.

XIV. Hazardous Materials and Potential Contaminants

During an aerial field inspection conducted in August 2020, 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 familiarize themselves with the condition and quality of the land prior to staking.

LCS 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 was specifically 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, the Department is of the opinion that the benefits of offering the land outweigh the potential risks.

XV. 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.

Survey, platting, and appraisal of staked parcels will be completed prior to sale. DMLW proposes to issue survey contracts to conduct the survey, and the survey costs will be prorated by acreage for each parcel. DMLW may also identify and survey additional parcels in a project area to be sold under *AS 38.05.045 Generally*. The number of staked and additional surveyed parcels will not exceed the total number of parcels offered, nor total number of acres to be sold.

This proposed project area is located within the Denali Borough, 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.

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These additional opportunities for public involvement occur after a Final Finding and Decision is issued, if this proposed action is approved. In accordance with *11 AAC 67.810 Local Review of Staking Areas*, the platting authority may review the proposed offering, and may modify the plat review process as necessary for this action.

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

In accordance with *11 AAC 67.825 Lease Application: Priority* and *11 AAC 67.835 Lease Conditions*, lessees will be required to make payments during the lease period toward the cost of survey, platting, and appraisal.

XVI. 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 July 6, 2020 through July 20, 2020. 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 LCS received brief comments of non-objection from the following agencies: Department of Fish and Game; Department of Transportation and Public Facilities; DNR Division of Oil and Gas; DNR Division of Parks and Outdoor Recreation; and DNR, Division of Parks and Recreation, Office of History and Archeology.

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

DNR Division of Geological and Geophysical Surveys (DGGS): DGGS states records of several mineral occurrences within the township, but outside of the proposed project area. The proposed project area is in a lowland area with no known mineralization or exposed bedrock and has a lack of current mineral-industry interest. DGGS states that the proposed project area is in an area that has very low oil and gas potential, and no exposures of coal-bearing strata are known in the vicinity.

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

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

- Department of Environmental Conservation;
- Alaska Association of Conservation Districts;
- Alaska Railroad;
- University of Alaska Land Management;
- Department of Natural Resources;
 - Division of Agriculture;
 - Division of Forestry;
 - Mental Health Trust Land Office;
 - Office of Project Management and Permitting; and
 - State Pipeline Coordinator's Section.

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XVII. Submittal of Public Comments

See Attachment B: 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.

LCS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision and 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 LCS responses will be issued as a subsequent Final Finding and Decision and Mineral Order 1246 without further notice. All related actions will be developed separately.

Only persons from whom DNR DMLW LCS 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 1246. Upon approval and issuance of a Final Finding and Decision and this action, 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.

LCS 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 B: Public Notice.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS
5:00 PM, WEDNESDAY, MARCH 24, 2021**

XVIII. Alternatives and Discussion

LCS is considering the following alternatives:

Alternative 1: (Preferred) Offer authorizations to stake up to 30 parcels ranging from 5 to 20 acres in the Alma Lakes project area, for a maximum of 600 acres sold through this offering under *AS 38.05.600 Remote Recreational Cabin Sites*. DNR DMLW may also identify and survey additional parcels in a staking area, up to the maximum number of parcels/maximum acreage listed above. The development and offering of the project area may be completed in multiple stages. This proposal includes the mineral order.

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Alternative 2: Do not offer the project area under the RRCS program. Survey parcels prior to offering to the public under *AS 38.05.045*.

Alternative 3: (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* and *AS 38.05.600 Remote Recreational Cabin Sites* has placed this charge with DNR, and the legislature has provided funding to administer the land sale program.

Alternative 1 provides a method for LCS to help meet the obligations laid out in the Constitution and statute, and maximizes public interest. This offering provides a unique opportunity for Alaskans to obtain remote property in a desirable area. Alternative 1 provides the greatest opportunity for Alaskans to purchase land within this area which suits their needs.

Dispersed, low density staking is the best alternative for this area since it is a remote location with little or no infrastructure; the amount of contiguous high-quality acreage suitable for a large number of adjacent sites is low due to varying topography. Under designated parameters, entrants may choose individual sites within the staking area that suit their needs. Allowing additional parcels and parcels that are not converted from lease to sale to be surveyed and sold under *AS 38.05.045 Generally* will maximize the opportunities for the transfer of State-owned land into private ownership under a uniform set of conditions. Alternative 1 is preferred.

Alternative 2 is not preferred. High-quality sites suitable for individual settlement are discontinuous within the project area. There are few large areas with contiguous and high-quality acreage that could accommodate large numbers of adjacent parcels with suitable building sites and consolidated access. The area is better suited to dispersed settlement, and allowing entrants to select individual locations to suit their needs.

Alternative 3 is not preferred. The Legislature and the public have indicated a desire for DNR to offer State-owned land for private ownership. Retention of this land would inhibit DNR from meeting its Constitutional, statutory, and legislative goals. Not offering the project area would deny many Alaskans the opportunity to obtain land in an area that is suited to settlement.

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

Recommendation follows.

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XIX. Recommendation

This Preliminary Decision for the proposed disposal of state lands and Mineral Order 1246 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 and Mineral Order 1246. If the decision is approved, Mineral Order 1246 will accompany and precede any Final Finding and Decision issued.

(signature on file)

Prepared by: Kaitlyn Fuqua
Natural Resource Specialist II
Land Conveyance Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

02/17/2021

Date

(signature on file)

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

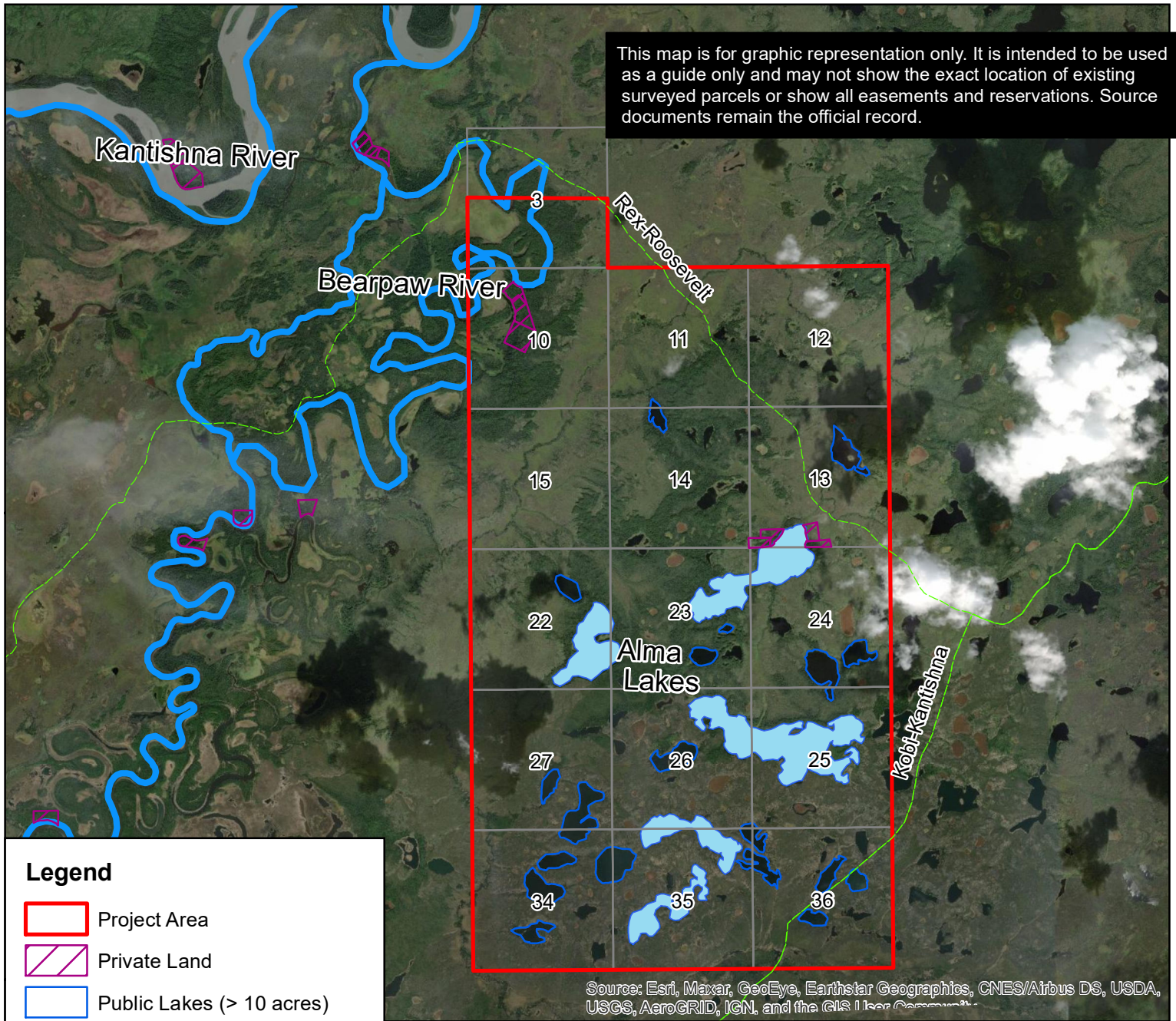
02/17/2021

Date








Attachment A: Vicinity Map Alma Lakes Remote Recreational Cabin Sites ADL 421360

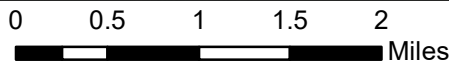
This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



Legend

-  Project Area
-  Private Land
-  Public Lakes (> 10 acres)
-  Navigable Lakes (> 50 acres)
-  RS2477 Trails

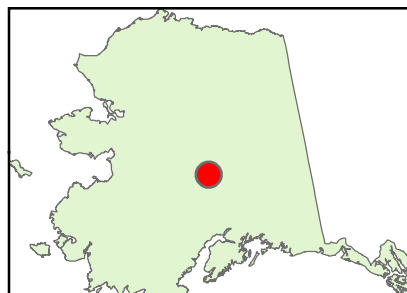
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



KF 6/2/2020

Township 10 South, Range 16 West, Fairbanks Meridian

USGS QUAD 1:63.360
Kantishna River A-2
For more information contact:
Kaitlyn Fuqua
Department of Natural Resources
Division of Mining, Land, and Water
Land Sales Section
Phone: 907-451-3011
Fax: 907-451-2751
Email: land.development@alaska.gov



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

ATTACHMENT B: PUBLIC NOTICE

Requesting Input for
a Proposed Land Offering:
Alma Lakes Remote Recreational Cabin Sites – ADL 421360

COMMENT PERIOD ENDS 5:00PM, WEDNESDAY, MARCH 24, 2021

This proposed project includes offering for sale Remote Recreational Cabin Sites (RRCS) in a future offering under the method described in the Preliminary Decision document, including the proposed related actions. The project may be subdivided and offered in multiple offerings over time.

Location: The project area is located within DNR's Northern Region, located just east of Bearpaw River, approximately 44 miles east of Lake Minchumina and 48 miles west of Healy (by air). The project area is within Township 10 South, Range 16 West, Fairbanks Meridian, within the Denali Borough.

Proposed Offering: up to 30 parcels sized from 5 to 20 acres

To obtain a copy of the Preliminary Decision, Draft 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, Fairbanks at 907-451-2705, or the Southeast Land Office in Juneau at 907-465-3400 (TTY for the hearing impaired for all locations: 711 for Alaska relay or 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, WEDNESDAY, MARCH 17, 2021.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decision, and Draft 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, MARCH 24, 2021.** Only persons from whom DNR DMLW LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Written comment may be received by email, fax, or postal mail. To submit comments or for direct inquiries, contact Kaitlyn Fuqua at land.development@alaska.gov, or 3700 Airport Way, Fairbanks, AK, 99709. If you have questions, call Kaitlyn Fuqua at 907-451-3011.

If no significant change is required, the Preliminary Decision and related actions including any minor changes and a summary of comments and responses, will be issued as the Final Finding and Decision and Mineral Order 1246 without further notice. A copy of the Final Finding and

Attachment B: Public Notice

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Decision and related actions will be sent to any persons who commented timely on the Preliminary Decision.

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