

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

PRELIMINARY DECISION
Kaikli Cove Subdivision – ADL 108216

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

RELATED ACTIONS:
None Proposed

PUBLIC COMMENT PERIOD ENDS 5:00PM, THURSDAY, AUGUST 3, 2023

I. Proposed Action

Preliminary Decision: Kaikli Cove Subdivision - ADL 108216
Attachment A: Vicinity Map
Attachment B: Public Notice

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 for sale State-owned land within the identified project area. If approved, surveyed parcels will be offered for sale.

LCS proposes to sell land within the Kaikli Cove Subdivision project area for the purpose of providing land for settlement by developing a subdivision of no more than 60 parcels no smaller than two acres. Subdivision design may include additional tracts as necessary. The project area consists of approximately 165 acres identified for disposal by this proposed action. The project area may be subdivided and offered in multiple stages.

If this proposed primary action is approved, the actual area offered for sale may consist of all or only a portion of the overall project area. After consideration of public comment, the size and boundaries of the project area will be described in a subsequent Final Finding and Decision (FFD), if the project proceeds to that step. Additional adjustments may be made prior to survey/subdivision 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 proposals, which could increase the density of privately-owned parcels within, adjacent to, or near the project area.

Proposed Related Actions: No related actions proposed.

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.

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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

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

Parcels offered through this action are offered fee-simple for the surface estate only. For more information about the land sales program, please visit <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." Pursuant to *AS 38.05.055 Auction Sale or Sealed Bid Procedures*, bidders for commercial land are not required to have been an Alaska resident for one year preceding the date of the sale. In addition, if it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020(h) Land Disposal Bank*.

IV. Administrative Record

The project file, Kaikli Cove Subdivision - ADL 108216, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Prince of Wales Island Area Plan for State Lands (POWIAP, adopted 1998) and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan (2021 Review)*;
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*;
- *USDA, Natural Resource Conservation Service Custom Soil Report for this project, dated June 30, 2021*; and
- DNR case files: National Forest Community Grant (NFCG) land selection No. 234, University of Alaska Agreement/Settlement conveyance ADL 229409, Other State Land (OSL) 1435, potentially hazardous site ADL 107587, Mineral Order (MO) 1045; and, other cases, documents, reports, etc. referenced herein.

V. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding section **III. Authority**, is limited and specific to LCS's proposal to offer State-owned land within the defined project area for disposal 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 subdivision may be conducted in multiple stages.

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VI. Location

The project area is located within DNR's Southeast Region in the community of Naukati Bay, approximately 24 miles north of Klawock within Sections 17 and 18, Township 69 South, Range 80 East, Copper River Meridian, within the Unorganized Borough (UOB). The project area consists of approximately 165 acres identified for disposal by this proposed action. See *Attachment A: Vicinity Map* for more information.

Platting Authority: The project area is within the Unorganized Borough and is subject to the State of Alaska platting authority.

Native Regional and Village Corporations: The project area is within the boundaries of the Sealaska regional corporation. The villages of Klawock and Craig are within 25 miles of this proposed action and notice will be sent to Klawock Heenya Corporation and Shaan-Seet, Inc. village corporations.

VII. Property Description

Government Lots 3 and 4, and N1/2 NW1/4 within Section 17 and the fractional N1/2 Government Lot 3 Section 18, all within Township 69 South, Range 80 East, Copper River Meridian, Alaska according to the plat filed by the United States Department of the Interior, Bureau of Land Management's office in Anchorage, Alaska on July 1, 1999, excluding that portion located within Alaska State Land Survey No. 2001-13, Naukati Commercial Subdivision, recorded as Plat No. 2001-33, Ketchikan Recording District, Alaska, containing approximately 165 acres, more or less.

VIII. Title

Title Report No. 21770, current as of May 28, 2021 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Statutory Quitclaim Deed recorded as Document No. 2010-001377-0, dated April 23, 2010. The applicable State case file is OSL 1435. The parcel is subject to the reservations, easements and exceptions contained in federal patent No. 50-2009-0128, dated February 2, 2009, including one Forest Development Road (FDR) adjacent to the project area that may be utilized for access. The FDR described in the patent is appropriated by the United States, over or upon the lands, together with the right of the United States, its officers, employees, agents, contractees, lessees, permittees, or assignees to the complete enjoyment of all rights, privileges and benefits previously granted, issued, reserved, or appropriated under the Alaska National Interest Lands Conservation Act of December 2, 1980.

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

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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 **XIII. Access To, Within, and Beyond Project Area**.

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

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

IX. Physical Characteristics and Hazards

Information about the project area is based on internal research, information received during agency review, and on-ground field inspections conducted on July 21, 2017, September 22, 2021, and May 19, 2022. This is by no means a complete description of the project area and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect individual parcels prior to purchase to familiarize themselves with the physical characteristics of the land.

Terrain and Major Features: The project area terrain consists of rolling hills, several small creeks, one anadromous stream, and one pond approximately 4.5 acres in size with an outlet stream draining to Kaikli Cove. Elevation ranges from 0 to 230 feet above sea level, with the taller hills furthest from the shoreline in the northwest corner of the project area. Average slopes are approximately 9% with a maximum slope of 35%. The maximum slopes are limited to the northwest corner of the project area. Approximately 0.75 miles of shoreline access with gravelly beaches is available along Kaikli Cove.

View: Some parcels will have views of Kaikli Cove and some parcels will have views of the unnamed pond.

Vegetation: Vegetation within the project area is a temperate rainforest consisting of young growth Sitka alder, Sitka spruce, hemlock, and red and yellow cedar trees. The underbrush consists of ferns, blueberries, skunk cabbage, moss, and additional brush. Timber harvests may occur concurrent with the subdivision process or prior to sale. Parcels in timber harvest areas will be partially cleared.

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Soils: Approximately 90% of soils within the project area consist of poorly drained silt loams with at least 6 inches to the water table. These soils are typically present in depressions on hills or mountains. Approximately 9% of the project area is composed of well-drained silt loams with 18 inches or more to the water table. These soils are typically present on mountains. Soils are non-irrigated capability class six and seven making them generally unsuitable for agricultural cultivation. 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: Freshwater forested/shrub wetlands exist within the center portion of the project area near the pond. In addition, beaver activity has created several small ponds. Any wetlands will be considered in subdivision design. Dredging or filling of wetlands may require a permit from the US Army Corps of Engineers.

Geologic Hazards: Geologic hazards are common throughout Alaska. No hazard information was received from DGGs, and information gathered during field inspection did not indicate any specific geologic hazards for this area. Should any geologic hazards be discovered in the development of this proposal, information will be included in offering materials.

Fire Information: Pursuant to observations from the July 21, 2017 and May 19, 2022 field inspections as well as information received from the DNR Division of Forestry, fire risk in the area is likely low. There is no reported history of fires within the vicinity. The project area is within the Modified Fire Management Option Area.

Fire management options and policies for the area are identified in the Alaska Interagency Wildland Fire Management Plan available from DNR Division of Forestry. The current fire management option for all of the project area is "Modified." The policy on areas with the "Modified" management option reads, "The Modified option provides a management level between Full and Limited. Unlike Full management areas, the intent is not to minimize burned acres, but to balance acres burned with suppression costs and to accomplish land and resource management objectives when conditions are favorable. The allocation of suppression resources is below Critical and Full areas."

The Alaska Interagency Wildland Fire Management Plan also states that there is no guarantee of protection from wildfire in any management option. It is the personal responsibility of the landowner 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). One expired water right has been identified within the vicinity of the project area. There is not well or water quality information within the area. Potential water sources in the area include rainwater catchment or surface water collection from the unnamed pond, anadromous stream, or other creeks. Water quality is unknown.

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Additional information on wells, water quality, and drinking water may be obtained from the Alaska Department of Environmental Conservation.

Utilities: The Naukati Bay area is served by Alaska Power and Telephone for electricity, telephone, and internet. No known services currently exist within the project area.

Waste Disposal: The nearest solid waste disposal locations are Klawock and Thorne Bay, 24 or 30 miles away. All on-site wastewater disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

X. Background:

The state acquired the land within the project area under statehood entitlement, National Forest Community Grant (NFCG) 234 for the purpose of furthering the development and expansion of communities. The State received tentative approval for the land in 1985. In 2008, 1,740 acres of the tentatively approved land in the area, including the land within the project area, was conveyed through Quitclaim Deed No. 1654 to the Board of Regents of the University of Alaska (UA) under case file ADL 229409. Patent No. 50-2009-0128 was issued to the State of Alaska for the land and mineral estates in 2009. Shortly thereafter in 2010, the Supreme Court of Alaska enjoined the State from conveying the land to the UA, and the land included in Quitclaim Deed No. 1654 was conveyed back to the State of Alaska through quitclaim deed. There is no evidence that the University of Alaska developed or utilized land within the project area during their brief ownership. The land is subject to all reservations, easements, restrictions, covenants, conditions, rights-of-way, encumbrances, exceptions, and other matters of record included in the Federal Patent. The reconveyed land was serialized as case file OSL 1435 and all original land classifications remained.

LCS identified the area for this project based on the settlement classification in the POWIAP, the subunit management intent to develop a community, as well as the public interest for settlement land in the Naukati Bay area. Five existing DMLW land sales subdivisions exist in the area. The Naukati Subdivision West and Naukati Subdivision East were surveyed in 1987, the Naukati Commercial and Industrial Subdivisions were approved in 2000 and surveyed in 2001, and the Naukati Subdivision West Addition No. 1 was approved and surveyed in 2004. Collectively these subdivisions established a small permanent community recognized by the State of Alaska Department of Commerce, Community & Economic Development, Division of Community and Regional Affairs, as an Unincorporated Census-Designated Place. The current population of approximately 142 is primarily employed in logging and milling, road building, building construction, vehicle and equipment repair, retail sales, tourism, and commercial fishing. Two community non-profit associations have been organized for planning and local issue purposes.

The north edge of the project area is adjacent to the Naukati Commercial Subdivision. All 17 lots within the Naukati Commercial Subdivision ranging in size from 1.4 to 4.9 acres were initially sold into private ownership between 2002 and 2004, and most have since been developed. In 2006, a water right permit was issued to the owner of an adjacent lot for 500 gallons per day diverted from the pond within the project area. This permit required the grantee to obtain and maintain a permanent right of access to the diversion location, but DMLW records do not show that an easement was granted. That water right permit expired in 2008.

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Aside from the subdivision to the north, the project area is surrounded by state-owned land and Kaikli Cove, a public and navigable waterway that creates the southern border of the project area. A portion of the adjacent state-owned uplands east of the project area are within the Southeast State Forest managed by the DNR Division of Forestry (DOF) as commercial forest. A private non-exclusive easement issued to Alaska Power & Telephone for an above-ground electrical and fiber optic utility line extension is adjacent to the northwest corner of the project area. LCS does not anticipate that the sale of land within the project area will affect the present or potential use of resources on lands in other ownership. Field inspections in 2021 and 2022 revealed man-made trails over extended portions of the project area, which indicates that recreational use by local residents occurs within the project area. One trail route connects from North Prince of Wales Island Road to the shoreline of Kaikli Cove.

Pursuant to AS 38.04.020 parcels in excess of five acres may be created during subdivision design. Parcels in excess of five acres are appropriate to allow additional space around topographical features, potential wetlands, soil conditions, on-site sewage disposal requirements, or water supply and drainage considerations that are unique to the subdivision.

This proposed subdivision will contain a minimum of one commercial parcel. The proposed commercial parcel location is across the highway from the rest of the Kaikli Cove Subdivision project area in Section 17, and is adjacent to existing lots in the Naukati Commercial Subdivision. In accordance with guidance in the POWIAP, the parcel(s) will be oriented for road access. Due to access, sufficient suitable land, and minimal conflicts with other uses, the POWIAP management intent for settlement within subunit 7c calls for a community and commercial/industrial center to be developed near the main road intersection in Sections 7 and 8. That intended commercial subdivision (Naukati Commercial Subdivision) was approved two years after approval of the POWIAP. The POWIAP assigns a settlement designation to the land within the proposed commercial parcel. DMLW has determined that direct access to North Prince of Wales Island Road consistent with the adjacent existing commercial subdivision may provide conveniences for a future small-scale commercial enterprise within Section 17.

Access to the project area will be by road via North Prince of Wales Island Road and/or internal platted rights-of-way connecting to National Forest System Road No. 2060-000. Some portions of the proposed subdivision may also have access via the navigable waters of Kaikli Cove. During their September 22, 2021, field inspection, DOF staff noted that the western portion of the project area contains marketable timber. Before conducting a timber sale, DOF will prepare a Best Interest Finding and Forest Land Use Plan requiring separate processes and public notices. If approved, a timber sale would occur prior to the land offering, and DOF may construct temporary roads for the harvest. If this subdivision is approved and is preceded by a timber sale, final design of the subdivision will be determined in part by the location of forestry roads established through the timber sale. Additional permitting will likely be required for use of the forestry roads for subdivision access.

The proposed subdivision within the project area will help fulfill the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest. The subdivision will provide an excellent opportunity for the public to obtain land for settlement in a scenic area that is accessible from public and navigable water and/or near the Prince of Wales Island road system. The subdivision is consistent with surrounding residential and commercial land use.

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Furthermore, offering land in the area will provide additional opportunities for economic involvement in the growing community of Naukati Bay.

XI. Planning and Classification

The project area is within Prince of Wales Island Area Plan (POWIAP, updated 1998), Unit 7 – Sea Otter Sound, Subunit 7c - Naukati. Lands within this subunit are currently designated Settlement, Public Recreation - Undeveloped, and Crucial Habitat. Those designations lead to classifications of Settlement Land, Public Recreation Land, and Wildlife Habitat Land under Land Classification Order No. SE-98-001. The project area consists of a small portion in the middle of the subunit that encompasses the Naukati Bay community. The project area encompasses the entirety of a parcel designated Settlement, the entirety of a parcel designated Settlement and Public Recreation - Undeveloped, and a portion of a parcel designated Settlement, Public Recreation - Undeveloped, and Crucial Habitat. LCS reviewed the general management intent of the unit and subunit for consistency with the proposed offering.

Unit 7, Subunit 7c Considerations: The subunit management intent states that state-owned uplands will be managed to meet the needs of a developing community, including residential, commercial, public services, and community recreational uses. State lands will be managed to protect important cultural resources. The most important recreation, and fish and wildlife habitat and harvest areas on state lands will also be protected. Lots and tracts in subdivisions not suitable for settlement because of terrain, drainage, or habitat factors are to be retained by the state. These areas will be managed for public recreation. In addition, lands designated fish and wildlife habitat and harvest will be managed to avoid significant impacts to habitats and traditional harvest activities. Impacts on non-designated community harvest areas should be considered when authorizing activities. Furthermore, lots should be oriented for road, rather than water access and should be located as near as practicable to existing settlement areas. Authorized activities should provide sufficient setbacks and buffer strips in Kaikli Cove and upper Naukati Bay to protect important cultural and fish and wildlife resources. Timber harvest is considered appropriate in areas designated Settlement and Settlement Commercial.

LCS has considered the subunit management intent in the planning and design of the proposed subdivision. The Alaska Department of Fish and Game (ADF&G) did not identify any critical habitat areas, but noted that the area is used for deer hunting. Land surrounding the cataloged anadromous stream at the mouth of Kaikli Cove has been excluded from the project area. ADF&G identified an anadromous stream that extends from Kaikli Cove into the project area. This anadromous stream was not mentioned in the area plan, but LCS will retain a minimum 100-foot corridor along each side of the stream.

Area-wide Considerations: LCS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies. LCS will incorporate these considerations 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.

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Coordination and Public Notice: Management guidelines provide that public notice in accordance with AS 38.05.945 is required for decisions involving the sale of State land, and that notice will be given to parties known or likely to be affected by an action. Public notice is being conducted in accordance with AS 38.05.945. Refer to section **XVII. Submittal of Public Comments** for more information.

Cultural Resources: Management guidelines provide that cultural surveys or inventories should be conducted prior to the design of land offerings in areas that the Division of Parks and Outdoor Recreation Office of History and Archaeology (OHA) determines have high potential to contain important cultural sites. LCS has coordinated with OHA early in the development of this proposal and OHA did not identify any known cultural resources within the project. LCS will continue to coordinate with OHA through the design of the subdivision as necessary.

Fish and Wildlife Habitat and Harvest Areas: Management guidelines regarding fish and wildlife habitat provide that all land use activities will be conducted with appropriate planning and implementation to avoid or minimize adverse effects on fish, wildlife, or their habitats. Sufficient suitable land and water to provide for the habitat needs of important fish and wildlife resources should be maintained in state ownership. Public access and impacts to fish and wildlife habitat will be mitigated by reserving public access easements and implementing a building setback from the line of Mean High Water (MHW) of Kaikli Cove and Ordinary High Water (OHW) of the pond, anadromous stream, and any other water bodies determined to be public or navigable waters. Refer to section **XIII. Access To, Within, and Beyond Project Area** for more information.

If, within crucial habitats, a use other than fish and wildlife habitat and harvest is given a primary or secondary designation, the Department policy is: a) that with appropriate design, siting, and operating stipulations, the designated use can be made compatible and significant impacts to the habitat avoided; or b) that the use is of sufficient importance or lacks such feasible alternative that it should be allowed within the habitat consistent with the state's mitigation policies. The project area contains a portion of the parcel co-designated Settlement, Crucial Habitat, and Public Recreation – Undeveloped. The parcel contains an anadromous stream. DMLW intends to retain a 100-foot buffer on each side of the stream. Another anadromous stream is located 200 feet south of the project area border, and is therefore outside of the buffer area. In accordance with the POWIAP, public or navigable water bodies will be subject to a 50-foot-wide continuous easement upland from the MHW or OHW, with an additional minimum 25-foot-wide building setback outside of those buffers or easements. Buffers and easements will be included in the subdivision design to mitigate significant impacts to habitat and access. In addition, DNR DMLW proposes to retain a minimum of two 100-foot public access corridors connecting the shoreline of Kaikli Cove to the pond and a platted road within the project area. The intention of these buffers and retentions is to mitigate impacts to habitat and recreation by retaining and reserving access to and through the project area. Subdivision design will take account of site limitations such as slope, drainage,

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soils, erosion, riparian zone, and other features to ensure that sites offered are buildable in an economic and environmentally acceptable manner.

Forestry: Timber harvest is considered appropriate in areas designated Settlement. Timber harvests may occur concurrent with the subdivision process or prior to sale. Timber harvests may support eventual subdivision development, especially in the design and location of rights-of-way to be platted. DNR Division of Forestry (DOF) must prepare a Forest Land Use Plan (FLUP) and Best Interest Finding before timber harvest decisions are made, and a harvest up to 160 acres must be listed in the Five-Year Schedule of Timber Sales (FYSTS) published by DOF. Land within the project area has been listed in a FYSTS, a draft FLUP, and Preliminary Best Interest Finding were issued for public comment on June 2, 2023. A timber sale in the project area would be in direct support of the subdivision project, in that it would pioneer access into the area, which could then be used for subdivision access (subject to applicable permitting). Beach salvage and salvage of damaged trees may occur. A license is required for beach log salvage. Heritage sites, fish streams, and wildlife habitat should be protected from timber harvest through buffers.

Material Sites: Management guidelines provide that generally, if a settlement area contains high value material resources, a material site should be identified and retained in State ownership. No high-value material resources have been identified within the project area, and no designated material sites exist. Three designated material pits managed by DMLW exist in the Naukati Bay area.

Settlement: Providing suitable public land for year-round residences, community expansion, or industrial/commercial development purposes is a goal of the POWIAP. Land disposals should be sited and planned to minimize the costs of infrastructure and other services resulting from settlement. Disposals should be focused on areas where organized communities exist and where service requirements may be provided by local government or community organizations. The project area is within the community of Naukati and infrastructure exists within the community. If the proposed subdivision is preceded by a timber sale, access will be created, connecting to the existing road infrastructure. Management guidelines regarding settlement address: Planning and Coordination; Isolated Parcels of State Land; Protection, Management, and Enhancement of Other Resources; and Design. These guidelines have been considered in the development of this proposal. Guidelines provide that DNR should retain greenbelts, buffer areas, public use corridors, and other public facilities to create a desirable land use pattern in developing areas. Subdivision design will preserve and enhance the natural setting and will take into account site limitations such as slope, drainage, soils, and erosion to ensure that land is buildable and environmental impact can be mitigated. Within stream corridors, DNR will set a higher priority on protecting public use values than on providing opportunities for private ownership of land.

Shorelines and Stream Corridors: Area-wide management guidelines provide that DNR should reserve public access to waterbodies when transferring land out of state ownership. DMLW will reserve a 50-foot public access easement

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pursuant to *AS 38.05.127* along the MHW of Kaikli Cove as well as along the OHW of the pond and any other water bodies determined to be public water. Pursuant to the POWIAP, DMLW will also reserve a 25-foot building setback outside of buffers or easements. DMLW will retain a minimum 100-foot buffer on each side of the anadromous stream. These buffers will be implemented on any additional anadromous streams or streams with important resident fish, if any are discovered. If any important environmental features are identified, 50-feet on each side of the feature should be reserved as a protection easement. Refer to the *Easements, Setbacks, and Reservations* subsection for more information.

Subsurface Resources: Management guidelines note that all state lands are open to mineral exploration and location unless specifically closed. Mining operations are determined to be in conflict with proposed land disposals, so the project area is closed to mineral entry under Mineral Order (closing) No. 1045.

Trail and Public Access Management: Area-wide management guidelines provide that public access to areas with significant public resource values should be retained or improved by retaining means of access in public ownership, reserving rights of access when selling or leasing state land, or asserting rights-of-way. Reasonable access will be accommodated across state lands to other public and private lands. The state will retain easements as appropriate to maintain access on trails identified through and within the project area, or provide alternate access easements to areas for public use. See the **XIII. Access To, Within, and Beyond Project Area** section for more information.

The proposed offering is consistent with area-wide land management policies and the general management intent of the POWIAP and specific management unit. Land within the project area is designated as Settlement, Public Recreation - Undeveloped, and Crucial Habitat. While Settlement Commercial is not a designation within the project area, DMLW has determined that including a minimum of one commercial parcel in the proposed offering is consistent with the POWIAP goals of meeting the needs of a developing community that includes residential land, commercial land, public services, and community recreational uses, as well as providing road accessible parcels near other settlement areas. The proposed commercial parcel(s) would be adjacent to existing commercial parcels.

Mineral Activity and Orders: No mineral activity has been identified on these lands. The project area is closed to mineral entry under Mineral Order (closing) No. 1045.

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.

Local Planning: The project area is within the Unorganized Borough, and the State does not pursue zoning of private lands.

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XII. Traditional Use Finding

The project area is within the Unorganized Borough, and a traditional use finding is therefore required under *AS 38.05.830 Land Disposal in the Unorganized Borough*. Information obtained from the POWIAP, Agency Review, research, and site inspections indicate that the young growth forest within the project area appears to be currently used for recreation, hiking trails, and deer hunting. 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 new private-property owners. Impacts to existing resource users along public and navigable water ways will be minimized through reservation of a 50-foot-wide public access easement to and along the line of MHW or OHW along with an additional 25-foot-wide building setback outside of that easement. Additionally, any retained lands will provide for continued traditional uses within the project area. DNR DMLW will retain a minimum 100-foot buffer on each side of the anadromous stream within the project area. Additional information on traditional use is welcome during the public comment period and if this proposal is approved, LCS will address the information received in a subsequent Final Finding and Decision, if one is issued. See the section **VIII. Submittal of Public Comments** at the end of this documents and *Attachment B: Public Notice* for details on how to submit comment.

XIII. Access To, Within, and Beyond Project Area

Access to the project area is by the navigable waters of Kaikli Cove. Future access will be reserved from North Prince of Wales Island Road, adjacent state-owned land, and internal platted rights-of-way. DNR DOF may conduct a timber sale within the project area prior to the land offering. A timber sale is a separate process from the action proposed in this PD. If a timber sale occurs, DOF may construct temporary roads for the harvest. Subdivision design may incorporate these roads for access, subject to applicable permitting for the roads as necessary. Subdivision design will take into account topography and access to lands beyond the project area and within the project area boundaries.

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* and *11 AAC 51.045 Easements To and Along Navigable and Public Water*.

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*.

Kaikli Cove and Naukati Bay located adjacent to the project area are navigable water bodies. Although both the 4.5-acre unnamed pond and the anadromous stream within the project area do not meet the size criteria laid out in *11 AAC 51.035 Determination of*

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Navigable and Public Water, the commissioner may determine that a smaller water body is public water. Both the pond and anadromous stream have been determined public consistent with *AS 38.05.965(21) Definitions*, and will be retained in State ownership. Parcels will be subject to access reservations in accordance with *AS 38.05.127 Access to Public or Navigable Water* and a 25-foot building setback outside of easements along the MHW or 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 POWIAP. Land surrounding the anadromous stream will be subject to a minimum 100-foot buffer along each side of the OHW, and a 25-foot building setback outside of the buffer.

Building Setbacks From Public or Navigable Water: If subdivision is deemed feasible, LCS proposes to place a note on the final survey plat describing a building setback upland from the MHW or OHW of public or navigable water to protect access, fish and wildlife habitat, and personal property. 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.

Easements, Setbacks, and Reservations: Subdivision design may include a variety of easements, setbacks, and retained lands, which will be identified on the subdivision plat and included in related documents. Standards for easements are provided in *11 AAC 51.015*.

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

- public access easements;
- utility easements;
- 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* as part of the subdivision development;
- a 50-foot continuous easement upland from the MHW or OHW of public or navigable water bodies in accordance with *AS 38.05.127 Access To Navigable or Public Water*;
- a minimum 25-foot building setback outside of buffers or easements along the MHW or OHW of public or navigable water bodies, in accordance with the area plan; and
- a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5-foot direct line-of-sight easement from the control station to an azimuth mark or other control monument.

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

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Retained Lands: LCS proposes to retain a minimum of two 100-foot public access corridors. These corridors will be retained to connect the shoreline of Kaikli Cove to the pond and to a platted road within the project area for the purpose of pedestrian access to the shoreline of Kaikli Cove. The unnamed pond has been determined public water and will be retained in state ownership. Additionally, 100-foot buffers on each side of the anadromous stream will be retained. Additional tracts may be retained by the state to be utilized for continued public recreation.

XIV. Hazardous Materials and Potential Contaminants

During the ground field inspections conducted on August 15, 2017, and May 19, 2022, field staff observed minimal trash 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 bid or application submittal.

According to the Alaska Department of Environmental Conservation's (DEC) contaminated sites database, one landfill and shooting range site, serialized as DEC Hazard ID No. 26743, exists approximately 650 feet south of the project area. DEC has collected limited soil samples but has not sampled groundwater. Any groundwater contamination from the shooting range is unknown, however, DEC advises it is unlikely that the site would affect the water within the project area as the groundwater flow direction from the site would be directly to the surface water.

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

XV. Survey, Platting, and Appraisal

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

The project area is located within the Unorganized Borough, and therefore survey and platting will be subject to State of Alaska subdivision standards.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR standards will be required within two years of the date fixed for the sale of any parcel developed under this proposed action. Even though the sale of project area parcels in multiple offerings over time will mitigate "flooding" the market, the two-year appraisal requirement must still be followed.

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

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 September 8, 2021 through September 29, 2021. 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: Alaska Mental Health Trust Land Office; Alaska Department of Transportation & Public Facilities; DNR Division of Oil and Gas; and DNR Division of Parks and Outdoor Recreation.

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

Alaska Department of Fish and Game (ADF&G) Comment: ADF&G had no objections to the proposed land offering but stated that the land along the shoreline of Kaikli Cove was co-designated as Habitat in the POWIAP. ADF&G noted that records from the ADF&G Subsistence Section indicate that the area is used by various communities for subsistence deer hunting. ADF&G recommended establishing and maintaining all public use easements listed in the POWIAP.

DNR DMLW LCS Response: LCS appreciates your review of the proposal. Per the POWIAP, land within the project area is designated crucial habitat along with two additional designations. Refer to section **XI. Planning and Classification** for additional information. LCS will utilize design, siting, and operating stipulations to avoid significant impacts to the habitat. The easements and buffers described above will provide public access to the area. Also see the **XIII. Access To, Within, and Beyond Project Area** section for more information.

DNR Division of Forestry (DOF) Comment: DOF walked through the project area on September 22, 2021 to verify the feasibility of a timber sale and road locations. Before determining the feasibility of a sale, DOF must complete a Best Interest Finding and Forest Land Use Plan. While on site, DOF observed a recently used man-made trail system over extended portions of the project area.

DNR DMLW LCS Response: LCS appreciates your review of our proposal. LCS will coordinate with DOF for a possible timber sale in advance of offering.

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

- Department of Environmental Conservation;
- Department of Commerce and Economic Development, Division of Regional and Community Affairs;
- Alaska Soil and Water Conservation District;
- University of Alaska Land Management; and
- Department of Natural Resources;
 - Division of Agriculture;
 - Division of Geological & Geophysical Surveys;
 - Division of Parks and Recreation;
 - Office of History and Archaeology;
 - Office of Project Management and Permitting; and
 - State Pipeline Coordinator's Section;

XVII. Submittal of Public Comments

See Attachment B: Public Notice for specific dates and conditions.

Pursuant to *AS 38.05.945 Notice*, LCS is issuing public notice inviting comment on this Preliminary Decision.

In accordance with *AS 38.05.946(a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945(c)* 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 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, 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 proposal is approved and no significant change is required, the Preliminary Decision including any deletions, minor changes, and summary of comments and LCS responses will be issued as a subsequent Final Finding and Decision without further notice.

Only persons from whom LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Upon approval and issuance of a Final Finding and Decision a copy of the decision will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the appeal 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*.

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**DEADLINE TO SUBMIT WRITTEN COMMENT IS
5:00 PM, THURSDAY, AUGUST 3, 2023**

XVIII. Alternatives and Discussion

LCS is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of no more than 60 parcels no smaller than two acres and offer those parcels for sale. The development and offering of these parcels may be completed in multiple stages.

Alternative 2: (No Action) Do not offer this project area for private ownership. Retain the land in State ownership.

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

Alternative 1 provides a method for DNR to meet the obligations laid out in the Constitution and statute and maximizes public interest. This offering provides an opportunity for the public to obtain land for settlement in a desirable area. This proposal, if approved in a subsequent Final Finding and Decision, will allow LCS to create and design a subdivision which will provide for the best use and development of the land and financial return to the State. Alternative 1 provides the greatest opportunity for more Alaskans to purchase land within this area. Due to the unique recreation amenities of the area, partial waterfront access, the proximity to existing residential private property within the Naukati Bay Community, access to the Prince of Wales Island road system, and the size of the offering, the project area is better suited to subdivision prior to offering. Alternative 1 is preferred.

Alternative 2 does not meet the legislative and public 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 classified for settlement and consistent with the surrounding development. Alternative 2 is not preferred.

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 described throughout this document and its attachments is 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.

signature on file

Prepared by: John King
Natural Resource Specialist 3
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

June 27, 2023

Date

signature on file

Approved by: Tim Shilling
Natural Resource Manager 2
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

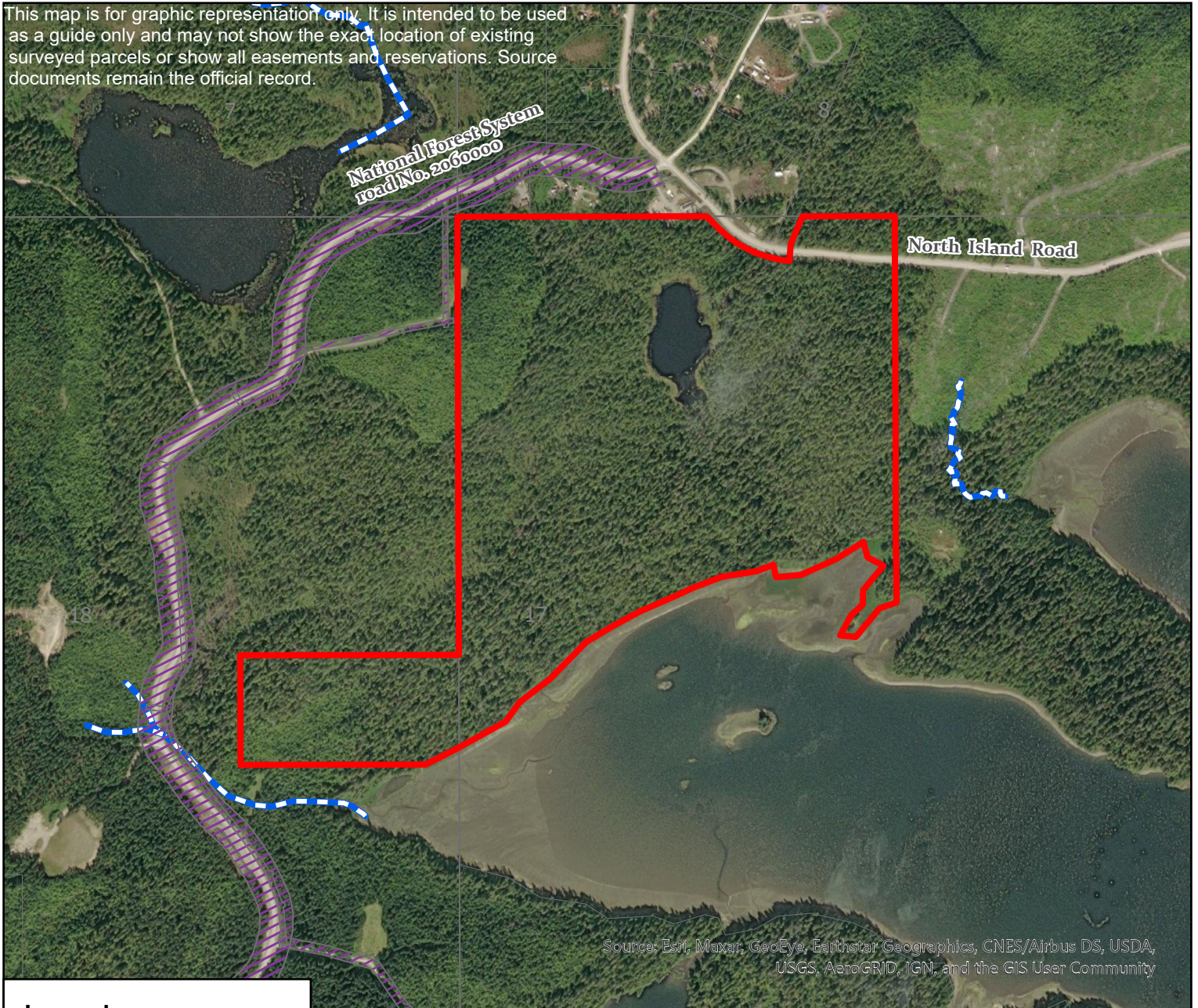
June 27, 2023

Date






Attachment A: Vicinity Map Kaikli Cove Subdivision ADL 108216

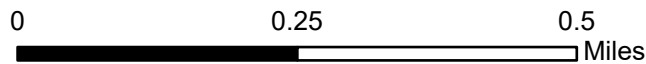
This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



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

Legend

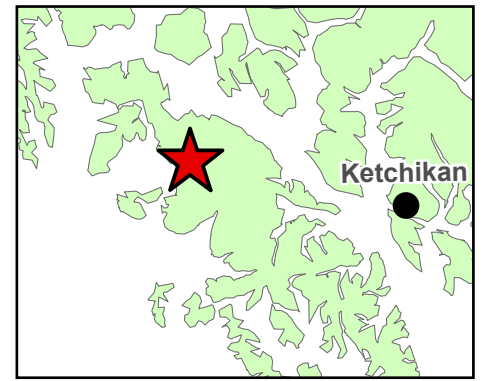
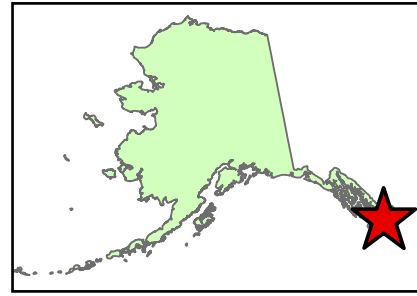
-  Project Area
-  Easements
-  Anadromous Streams



JDK 7/7/2021

**Sections 17 & 18 Township 69 S,
Range 80 E, Copper River Meridian**

USGS QUAD 1:63.360
Craig D-4
For more information contact:
John King
Department of Natural Resources
Division of Mining, Land, and Water
Land Conveyance Section
Phone: 907-465-3511
Fax: 907-500-9011
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:
Kaikli Cove Subdivision – ADL 108216

COMMENT PERIOD ENDS 5:00PM, THURSDAY, AUGUST 3, 2023

This proposed project includes offering for sale surveyed parcels in a future offering under the method described in the Preliminary Decision document. The project may be subdivided and offered in multiple offerings over time.

The project area is located within DNR's Southeast Region in the community of Naukati Bay, approximately 24 miles north of Klawock within Sections 17 and 18, Township 69 South, Range 80 East, Copper River Meridian, within the Unorganized Borough (UOB). See the Vicinity Map for more information.

Project size: Approximately 165 acres identified for disposal by this proposed action.

To obtain a copy of the Preliminary Decision 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, Thursday, July 27, 2023.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decision. **The deadline for public comment is 5:00PM, THURSDAY, AUGUST 3, 2023.** 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 John King: land.development@alaska.gov, fax # 907-500-9011, or P.O. Box 111020 Juneau, AK 99811. If you have questions, call John King at 907-465-3511.

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

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