

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

**FINAL FINDING AND DECISION**

of a  
Land Offering in the Unorganized Borough  
**Kaikli Cove Subdivision – ADL 108216**  
*AS 38.05.035(e), AS 38.05.045*

and its  
**RELATED ACTIONS:**  
**None**

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated June 27, 2023. The PD (attached) has had the required public review.

**I. Recommended Action(s)**

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends offering for sale State-owned land for private ownership within the Kaikli Cove Subdivision project area (ADL 108216), as described in the PD. Surveyed parcels will be offered for future sale by a method under *AS 38.05.045 Generally*.

For the purposes of providing land for settlement in the Kaikli Cove Subdivision project area, LCS may develop a subdivision of no more than 60 parcels no smaller than two acres. This project area is located within the Unorganized Borough and therefore survey, platting, and access to and within the project area will be subject to the State of Alaska platting standards. The project may be subdivided and offered in multiple stages.

There are no related actions with this proposal.

**II. Authority**

DNR has the authority under *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska provides: "It is the policy of the State to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest." Under *AS 38.05.055 Auction Sale Procedures*, land designated commercial, industrial, or agricultural by this decision may be available to non-residents at the land's first offering at auction. 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*.

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### III. Public Participation and Input

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

- Posted under State of Alaska Online Public Notice from June 27, 2023, to August 3, 2023.
- Posted on DNR Land Sales website from June 27, 2023, to August 3, 2023.
- Mailed to postmasters in Coffman Cove, Edna Bay, Klawock, Naukati, and Whale Pass with a request to post for 30 days, per AS 38.05.945(c)(4).
- Mailed to the school in Naukati with a request to post for 30 days.
- Mailed to the Sealaska Regional Corporation per AS 38.05.945(c)(2)-(3).
- Mailed to landowners within one mile of the offering, Naukati Bay Inc. community council, and the Klawock Heenya Corporation, Shaan-Seet, Incorporated, and Central Council of Tlingit and Haida Indian Tribes of Alaska.
- Sent notification to area state legislators and to multiple state agencies; and,
- Notified parties via the DNR Land Sales subscribers lists by email and the DNR Land Sales Facebook account.

The public notice stated that written comments were to be received by 5:00PM, August 3, 2023, in order to ensure consideration and eligibility to appeal. For more information, refer to the PD.

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

### IV. Summary of Comments

DNR DMLW LCS received comments from the State of Alaska, Department of Fish and Game (ADF&G), the State of Alaska, Department of Natural Resources, Division of Parks and Outdoor Recreation (DPOR), and two private individuals. All comments received during the public comment period are summarized below.

Department of Fish and Game (ADF&G) Comment: On June 21, 2023, ADF&G conducted a field inspection within the subdivision project area. Two streams and a pond were sampled with baited minnow traps. The stream in the central portion was found to contain coho juveniles, cutthroat trout, and sculpin. The eastern stream and the pond were found to contain cutthroat trout. None of the waterbodies sampled are included in ADF&G's Anadromous Waters Catalog.

ADF&G agreed with DMLW's proposal to retain "two 100-foot public access corridors connecting the shoreline of Kaikli Cove to the pond and a platted road". ADF&G recommended that one of the two 100-foot public access corridors proposed within the subdivision be located along the eastern stream that flows out of the pond. Additionally, ADF&G recommended that a 100-foot buffer be retained around the pond. A corridor around the eastern stream and the pond would help protect resident fish habitat and provide a travel corridor for wildlife. ADF&G also

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stated that the Division of Forestry has instituted 100-foot no harvest areas along both sides of the central stream as part of their current timber sale proposal.

According to the PD, access to the subdivision will be via internal platted rights-of-way connecting to existing National Forest System Road 2060000, and that the final design of the subdivision will be determined in part by the location of the forestry roads for subdivision access. ADF&G advises that the log culvert stream crossings on the forestry roads will provide efficient fish passage for the short life of the timber sale but should not be considered as long term structures for a subdivision road. Any crossings of fish-bearing streams within the proposed subdivision will require fish habitat permit(s) from the ADF&G Habitat Section.

DNR DMLW LCS Response: LCS appreciates your review of the decision. The pond, the eastern stream, and the central stream have been determined to be public water consistent with *AS 38.05.965(21) Definitions*, and will be retained in State ownership. The pond will have a retained 100-foot buffer around it. DMLW will retain a minimum 100-foot buffer either side of both the easterly and central streams, as depicted on the attached map. Both of these buffers will serve as public access corridors connecting the shoreline of Kaikli Cove to the platted roads. In addition to the buffers, these three waterbodies will be subject to a 25-foot building setback outside of the buffers. The shoreline of Kaikli Cove will be subject to a 50-foot public access easement upland of MHW, and a 25-foot building setback outside of the easement. The buffers, public access easements and building setbacks will help protect resident fish habitat and provide a travel corridor for wildlife.

DNR Division of Forestry intends to close the roads at the end of the timber sale contract per the Forest Resources and Practices Regulations (11 AAC 95.320). DMLW will pursue any required permitting (including fish habitat permits) necessary to reopen and use any existing roads for subdivision access.

### Department of Natural Resources, Division of Parks and Outdoor Recreation (DPOR)

Comment: DPOR has no issues.

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

Individual Comments: Two private individuals commented in favor of the land offering. One individual stated that their family and employees would like to have affordable homes near the paved road and hydropower grid. The commenter stated that housing is an important factor as their business continues to expand in the area, and that a potential land sale may be part of a solution.

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

## V. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a Traditional Use Finding is required for project areas within the Unorganized Borough. This project area is within the Unorganized Borough. As discussed in the PD, there 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. No conflicts with traditional uses of the land have been discovered.

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

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

The recommended action has been modified from the original proposed action described in the PD. Pursuant to information received from ADF&G, LCS will retain a minimum 100-foot buffer around the pond, as well as a minimum 100-foot buffer either side of the central and easterly streams as depicted on the attached map. Any parcels located adjacent to the buffers will be subject to a 25-foot building setback outside of the buffer.

Recommendation and Approval of the Final Finding and Decision follow.

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**VII. Final Finding and Decision**

The Land Conveyance Section recommends proceeding with the action as described in the Preliminary Decision. This action is undertaken under relevant authorities. Offering these parcels for sale will help meet the State’s goal to provide land for settlement for sale to the public and raise revenue for the State.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with *AS 38.05.945 Notice* and comments received were considered. The project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The action is consistent with constitutional and statutory intent for State-owned land and this action is undertaken under relevant authorities.

Signature on File	11/6/2023
Recommended by: Timothy Shilling Natural Resource Manager Land Conveyance Section Division of Mining, Land and Water Department of Natural Resources State of Alaska	Date

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

Signature on File	11/6/2023
Approved by: Christianna D. Colles Director Division of Mining, Land and Water Department of Natural Resources State of Alaska	Date

**Appeal Provision**

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department. Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.