

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

FINAL FINDING AND DECISION

of a
Noncompetitive Public and Charitable Sale – ADL 234114
AS 38.05.035(e), AS 38.05.810(a)(1)

and its
RELATED ACTIONS
Mineral Order 1270 (Closing)
AS 38.05.185 and AS 38.05.300
Amendment to the Northern Southeast Area Plan SE-02-001A12
AS 38.04.065
Land Classification Order SE-02-001A12
AS 38.04.065 and AS 38.05.300

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated September 22, 2023. The PD (attached) and related actions have had the required public review.

I. Recommended Actions

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends conveying 0.435 acres, more or less of state-owned land as described in the attached PD, to the United States Coast Guard, pursuant to Alaska Statute (*AS*) 38.05.810(a)(1) *Public and Charitable Use*. The parcel is located on Japonski Island, in Sitka, Alaska, within Section 2, Township 56 South, Range 63 East, Copper River Meridian, Alaska, containing 0.435 acres.

There are three related actions with this proposal:

Mineral Order (Closing): DNR proposes to close the subject parcel to new mineral entry through Mineral Order Closing (MO) 1270. There are no mining claims within the subject parcel.

Northern Southeast Area Plan Amendment SE-02-001A12: DNR proposes to amend the Northern Southeast Area Plan (NSEAP, adopted October 15, 2002). The amendment will create unit B-24a. Unit B-24a will be designated as Public Facilities - Transfer (Pt). Unit B-24a will encompass the subject parcel only.

Land Classification Order (LCO) CL. SE-02-001A12: In relation to the Area Plan Amendment, DNR proposes to classify the subject parcel in a Land Classification Order from Reserved Use Land to Resource Management Land.

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

Final Finding and Decision

AS 38.05.810(a)(1) Public and Charitable Use – ADL 234114

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II. Authority

DNR has the authority under AS 38.05.810(a)(1) *Public and Charitable Use* to sell or otherwise dispose of state land to a state or federal agency or political subdivision. DNR has the authority under AS 38.05.810(a) to sell or otherwise dispose of state land for less than the appraised value. AS 38.05.810(a) states, "The commissioner shall ensure, by regulation, deed restriction, covenant, or otherwise, that disposals of land under this subsection serve a public purpose and are in the public interest."

AS 38.05.810(g) states, "The commissioner shall retain a reversionary interest on each sale or other disposal granted under (a) or (e) of this section. The commissioner may waive the reversionary interest on a written determination that the waiver is in the public interest."

AS 38.05.035(e) *Powers and Duties of the Director* gives DNR the authority to sell state land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the state. *Article VIII, Section 1* of the Alaska Constitution states, "It is the policy of the state to encourage settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." The authority to execute this decision has been redelegated to the Section Manager of the DMLW, Land Conveyance Section.

For the related actions, AS 38.04.065 *Land Use Planning and Classification*, AS 38.05.300 *Classification of Land*, AS 38.05.185 *Generally*, 11 AAC 55.010-030 *Land Planning and Classification* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

III. Public Participation and Input

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

- Posted on the State of Alaska Online Public Notice system from September 22, 2023, to October 23, 2023, per AS 38.05.945(b)(3).
- Posted on the DNR Land Sales website from September 22, 2023, to October 23, 2023.
- Mailed, with a request to post for 30 days to the Post Office and the library located in Sitka, Alaska, per AS 38.05.945(b)(3)(C).
- Emailed Soil and Water Conservation District per 11 AAC 67.029 and AS 41.10.130(a).
- Mailed and Emailed notifications to the relevant Regional Corporation, Federally Recognized Tribe, and Village Corporation per AS 38.05.945(c)(2)-(3).
- Emailed the City and Borough of Sitka per AS 38.05.945(c)(1).
- DNR DMLW Managers, Agency Review commenters, and the applicant all received email notification.
- Mailed notifications to 185 landowners within a one-mile radius of the parcel per AS 38.05.945(b)(3)(D) or (E).

The public notice stated that written comments were to be received by 4:30 PM, October 23, 2023, in order to ensure consideration and eligibility to appeal. For more information, refer to the attached PD.

IV. Comments Received

DNR DMLW LCS received no comments during the Public Notice period.

Final Finding and Decision

AS 38.05.810(a)(1) Public and Charitable Use – ADL 234114

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V. Traditional Use Finding

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. The subject parcel is located within the City and Borough of Sitka; therefore, no Traditional Use Finding is required.

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

VI. Modifications to Decision

Pursuant to a request for modification to the Area Plan Amendment and LCO from the DNR DMLW Resource Assessment and Development Section, there are a few small corrections made between the PD and the FFD. None of these modifications affect the amount of acreage approved for conveyance. The modifications are as follows:

- The area plan unit created with the Area Plan Amendment and LCO has been updated from Unit B-24A to B-24a.
- DNR DMLW LCS acknowledges the correction that the parcel is not inside the Tideland Resource Management Zone.
- The designation of Public Facilities – Transfer (Pt) converts to a classification of Resource Management Land according to *11 AAC 55.200*. Unit B-24a will be classified as Resource Management Land from previously being classified as Reserved Use Land.

No other recommendations or actions have been modified from the original proposed actions described in the PD. See attached Area Plan Amendment and LCO for further information.

VII. Stipulations

The applicant will be required to comply with the following stipulations to complete the proposed land sale:

1. Prior to the completion of the purchase and issuance of a state conveyance document, the applicant must remain in good standing with respect to all terms of the Lease Agreement, and the Contract for the Sale of Real Property throughout its term, if such a contract is issued. The applicant must also remain in compliance with all applicable state and local ordinances and regulations, including all applicable taxes. Failure to do so may result in termination of the Contract for the Sale of Real Property.
2. A notice to proceed to contract will be issued. Within the time period specified in the notice to proceed to contract, the applicant must submit the following to LCS:
 - A signed and notarized affidavit acknowledging the condition of the land and releasing the State from related liability;
 - A completed and signed Declaration of Intent Form;
 - A signed and notarized Relinquishment of Land Lease Form; and
 - Patent application and recordation fees are required. Fees are established under *11 AAC 05.100 Land Disposals* and *11 AAC 05.200 Recorder's Office* and are subject to change. Some fees have been reduced by Director's Fee Order Number 3. A fee prescribed by this chapter *11 AAC 05.020(b)* is waived for a federal, state, or municipal agency, except that (1) recorder's office and uniform commercial code fees prescribed by *11 AAC 05.200* and *11 AAC 05.250* are not waived.

Final Finding and Decision

AS 38.05.810(a)(1) Public and Charitable Use – ADL 234114

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If extenuating circumstances delay any of the stipulations listed above, the applicant is responsible for notifying LCS and receiving approval from LCS for the delay with new timeframes for completion to be given. Failure to do this could result in the closure of the purchase application. The purchase cannot be completed until all the above stipulations have been satisfied.

Restrictions and Reservations

Conveyance document will be issued subject to the following restrictions and reservations:

1. Valid existing rights, including reservations, easements, and exceptions in the U.S. Patent, or other state or federal conveyance, and in acts authorizing the issue thereof; easements, rights-of-way, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any.
2. Reservation of the mineral estate pursuant to Section 6(i) of the Alaska Statehood Act and *AS 38.05.125 Reservation*; and reservation of reasonably necessary access to the mineral estate in accordance with *AS 38.05.130 Damages and Posting of Bond*.
3. *AS 38.05.810(g)* states that the commissioner shall retain a reversionary interest on each sale or other disposal granted under *AS 38.05.810(a) or (e)*.

Recommendation and approval of the Final Finding and Decision follow.

Final Finding and Decision

AS 38.05.810(a)(1) Public and Charitable Use – ADL 234114

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VIII. Final Finding and Decision

The Land Conveyance Section recommends proceeding with the action as described in the Preliminary Decision and amended herein.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945 Notice, and no comments were received. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. The actions are consistent with constitutional and statutory intent for state-owned land and this action is undertaken pursuant to relevant authorities.

[Redacted Signature]

Recommended by: Hannah Uher-Koch
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

12/26/2023

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 actions as described and referenced herein.

[Redacted Signature]

Approved by: Christianna Colles
Director
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

1-2-2024

Date

[Redacted Signature]

Approved by: John Boyle
Commissioner
Department of Natural Resources
State of Alaska

2 Jan 24

Date

Final Finding and Decision

AS 38.05.810(a)(1) Public and Charitable Use – ADL 234114

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Reconsideration Provision

An eligible person affected by this decision of the department, and who provided timely written comment or public hearing testimony to the department, may request reconsideration to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any request for reconsideration must be received by the Commissioner's Office within twenty (20) calendar days after issuance of the decision under 11 AAC 02.040. The Commissioner may order or deny a request for reconsideration within thirty (30) calendar days after issuance of the decision. If the Commissioner takes no action on a request for reconsideration within thirty (30) days after issuance of the decision, the request for reconsideration is considered denied. The Commissioner's decision on reconsideration, other than a remand decision, is a final administrative order and decision of the department. An eligible person must first request reconsideration 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.

Reconsideration 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. Reconsideration 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>.

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

**ADMINISTRATIVE FINDING
MINERAL ORDER NO. 1270
Closing Lands to Mineral Entry**

Noncompetitive Public and Charitable Land Sale – ADL 234114

Pursuant to *AS 38.05.035 Powers and Duties of the Director*, the State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water (DMLW) proposes to issue a Final Finding and Decision to convey state-owned land into private ownership within a Noncompetitive Public and Charitable Sale to the United States Coast Guard, ADL 234114. As noted in the Preliminary Decision – Public and Charitable Land Sale – ADL 234114, issued September 22, 2023, the project area is within unit B-24a of the proposed amendment to the Northern Southeast Area Plan. In accordance with the area plan, DMLW proposes to close the entire subject parcel to mineral entry. The attached mineral order includes the legal description of the area to be closed to mineral entry.

DMLW requests that the mineral estate of 0.435 acres more or less, identified in the attached mineral order, be closed to mineral entry and location, in accordance with *AS 38.05.300 Classification of Land* for a land disposal. Mining activity on the parcel would be incompatible with the current and proposed land estate use. The land does not contain any known mineral deposits and was not selected for mineral values. There are no mining claims on the land.

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

In accordance with *AS 38.05.185(a) Generally* and *AS 38.05.300 Classification of Land*, I find that the best interests of the State and its residents are served by closure of the land to entry under the mineral location and mining laws of the State as described by Mineral Order (Closing) No. 1270.

Approved:



John Boyle, Commissioner
Department of Natural Resources

2 Jan 24
Date

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

MINERAL ORDER No. 1270

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

I. Name of Mineral Order: Noncompetitive Public and Charitable Land Sale – ADL 234114

II. Reason for Mineral Order: This Mineral Order is based upon the attached *Commissioner's Administrative Finding*, applicable statutes, and the written justification contained in the following:

- Northern Southeast Area Plan, adopted 2022; and
- Preliminary Decision, Public and Charitable Land Sale – ADL 234114, dated September 22, 2023, and the subsequent Final Finding and Decision for same.

III. Authority: *AS 38.05.185 Generally* and *AS 38.05.300 Classification of Land*.

IV. Location and Legal Description: The parcel is located within DNR's Southeast Region on Japonski Island, in Sitka, Alaska, within Section 2, Township 56 South, Range 63 East, Copper River Meridian, Alaska, more specifically described as follows:

Tract B of Alaska State Land Survey No. 88-62, containing 0.435 acres, more or less, according to the survey plat recorded in the Sitka Recording District on September 14, 1992, as Plat No. 92-19.

V. Mineral Order: This order is subject to valid existing rights and is issued under the authority granted by *AS 38.05.185 Generally* – *AS 38.05.275 Recognition of Locations* and *AS 38.05.300 Classification of Land* to the Alaska Department of Natural Resources. In accordance with *AS 38.05.185(a) Generally*, I find that the best interests of the State of Alaska and its residents are served by closure of the land described in this mineral order to entry under mineral location and mining laws of the State of Alaska. The above-described lands are hereby **closed** to entry under the locatable mineral and mining laws of the State of Alaska.

Concur: _____
Christianna Colles, Director
Division of Mining, Land and Water
Department of Natural Resources

1-2-2024

Date

Approved: _____
John Boyle, Commissioner
Department of Natural Resources

2 Jan 24

Date

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

NORTHERN SOUTHEAST AREA PLAN AMENDMENT
SE-02-001A12


Management Unit B: Baranof Island Area, Unit B-24 and Unit B-24a

related to a

Noncompetitive Public and Charitable Land Sale – ADL 234114

The Commissioner of the State of Alaska, Department of Natural Resources (DNR) finds that the following amendment to the Northern Southeast Area Plan meets the requirements of *AS 38.04.065 Land Use Planning and Classification* and *11 AAC 55.010-030 Land Planning and Classification* for land use plans and hereby adopts the amendment. DNR will manage state lands within the area of the revision consistent with this designation and management intent. See the following attachment for more detailed information.

- **Designation:** The amendment will create unit B-24a, a new unit encompassing only the subject parcel identified in the public and charitable lease ADL 104776, and the approved noncompetitive sale ADL 234114, transferring 0.435 acres from unit B-24 to B-24a. The designation of unit B-24a will be Public Facilities - Transfer.
- **Management Intent:** The management intent for Tract B of the area described above, within the new unit B-24a and classified Resource Management Land under SE-02-001A12, is "This unit is designated as Public Facilities - Transfer (Pt). This unit is to be managed according to the terms outlined in the public and charitable lease agreement with the U.S. Coast Guard (ADL 104776) and is appropriate for a public and charitable sale of state land to the U.S. Coast Guard (ADL 234114) to provide emergency services to the public at large."
- **Easements and Setbacks:** A 100-foot building setback from the ordinary high water of the water body. Tract B of ASLS No. 88-62 is subject to a 50-foot public access easement along the mean high-water line per covenant #9 of the Lease Agreement for ADL 104776. Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.


Approved by: John Boyle
Commissioner
Department of Natural Resources
State of Alaska

2 Jan 24
Date

ATTACHMENT

to the
NORTHERN SOUTHEAST AREA PLAN AMENDMENT SE-02-001A12

Management Unit B: Baranof Island Area, Unit B-24 and Unit B-24a

related to a
Noncompetitive Public and Charitable Land Sale – ADL 234114

Location and legal description of new unit B-24a: The parcel is located on Japonski Island in Sitka, Alaska, off Seward Road, more specifically described as:

Tract B of Alaska State Land Survey No. 88-62, containing 0.435 acres, more or less, according to the survey plat recorded in the Sitka Recording District on September 14, 1992, as Plat No. 92-19.

Tract B will be removed from unit B-24 in the Northern Southeast Area Plan (NSEAP).

Authority: The authority to revise plans derives from *AS 38.04.065(a)*, *AS 38.04.065(b) Land Use Planning and Classification*; and *11 AAC 55.030(f)(1)(A) Land Use Plan* defines when a revision constitutes a plan amendment.

Current Plan: The NSEAP designates unit B-24 Japonski Island, ASLS 82-62 (pt), within the Southern Region: Baranof Island Area. The NSEAP designates unit B-24 as Public Facilities - Retain (Pr). This designation converts to a classification of Reserved Use Land. The management intent within unit B-24 states: "Tracts A, B, C, D and E are to be retained in state ownership and used for public purposes consistent with the management agreements described under parcel description. Lots 12, 13 and 14 are to also be retained in state ownership." Resources and Uses of unit B-24 are: "...[T]ract B is managed under a Public and Charitable Lease with the US Coast Guard (ADL 104776)."

Proposed Plan Amendment: Remove land encompassed by the subject parcel identified in ADL 234114 from management unit B-24 and create a new unit, B-24a. B-24a will be designated as Public Facilities - Transfer and classified as Resource Management Land. Management intent for the new unit B-24a will state, "This unit is designated as Public Facilities - Transfer (Pt). This unit is to be managed according to the terms outlined in the public and charitable lease agreement with the U.S. Coast Guard (ADL 104776) and is appropriate for a public and charitable sale of state land to the U.S. Coast Guard (ADL 234114) to provide emergency services to the public at large."

Also being proposed is the technical correction to the unit B-24 designation name from 'Japonski Island, ASLS 82-62', to 'Japonski Island, ASLS 88-62'.

Explanation: The NSEAP was adopted on October 15, 2002. The State and the U.S. Coast Guard entered into a 55-year long-term lease agreement for the subject parcel on September 15, 1994, ADL 104776. In 2015, the State classified the subject parcel as Reserved Use Land in accordance with Land Classification Order SE-02-001.

Attachment to the Northern Southeast Area Plan Amendment

Management Unit B-24

related to a Proposed Public and Charitable Land Sale-ADL 234114

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The public and charitable land sale to the U.S. Coast Guard is an appropriate use with the management intent reserved for specific infrastructure to serve the public at large. Multiple use factors affecting the area, resource inventory, present and potential land uses, and compatible classifications have all been considered. These factors are listed in *AS 38.04.065(b) Land Use Planning and Classification*. However, before approving a sale of the parcel, DMLW LCS carefully considered public comments and possible adverse impacts of the proposed use or activity upon customary, traditional, recreational, and personal use resources under State law. Public Notice was conducted from September 22, 2023, to October 23, 2023, per *AS 38.05.945(b)(3)*. No comments were received.

During the Agency Review period for the proposed public and charitable land sale application, the Alaska Department of Fish and Game provided guidance on the subject upland parcel regarding the importance of minimal adverse impacts to marine habitat in the Sitka Sound. See the Preliminary Decision for more information.

This Amendment creates new unit B-24a with designation Pt. This designation converts to classification as Resource Management Land in accordance with *11 AAC 55.200*.

“Public Facilities - Transfer are sites reserved for a specific infrastructure to serve the public at large. These sites are classified Resources Management Land, a designation and classification used for lands which are presently inaccessible or remote and may have a number of resources, but where the lack of adequate resource, economic or other relevant information combined with the unlikelihood of resource development within the next 10 years makes a specific resource allocation decision unnecessary. In the Northern Southeast Area Plan, all state lands without other designations are designated General Use and classified Resource Management Land.”

“Resource Management land is either: A. Land that might have a number of important resources, but for which a specific resource allocation decision is not possible because of lack of adequate resource, economic, or other relevant information; or for which a decision is not necessary because the land is presently inaccessible and remote and development is not likely to occur within the next 10 years; or B. Land that contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use.”

During the adjudication process, it was discovered that NSEAP incorrectly named the unit designation reflecting ASLS survey number 82-62, whereas the correct ASLS survey number is 88-62. This type of minor change to the plan is considered a technical correction pursuant to *11 AAC 55.030(f)(2)*.

A public and charitable sale of the subject parcel supports the management goals of the NSEAP by providing an opportunity to a government agency to acquire the land. The use of the site has been for emergency services to the surrounding communities in Southeast Alaska since the 1990's. The sale of the parcel does not change the use of a public interest and still allows public access to the adjacent tidelands.

AS 38.05.035(e) Powers and Duties of the Director gives DNR the authority to sell state land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the state. The subject parcel is appropriate for a public and charitable land sale as provided in the Preliminary Decision dated September 22, 2023. The area plan amendment, and land

classification order accompany the Final Finding Decision as a separate action issued concurrently.

Assessment: The following alternatives were considered:

1. (Preferred) Amend the Northern Southeast Area Plan as described above to create unit B-24a encompassing the subject parcel. The new unit will be designated Public Facilities - Transfer and classified Resource Management Land. Amending the plan is the preferred alternative as it addresses a public and charitable sale, supporting emergency services to the Southeast region, and does not interfere with uses of surrounding lands.
2. (No Action) Do not amend the Northern Southeast Area Plan. This alternative is not preferred as it fails to address the public and charitable sale to a government agency.

Requirements of AS 38.04.065(b) Land Use Planning and Classification: The factors identified in this section of statute have been considered, and the proposed action is consistent with that portion of the statute.

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

LAND CLASSIFICATION ORDER
NO CL. SE-02-001A12

**Related to U.S. Coast Guard Noncompetitive Public and Charitable Land Sale – ADL
234114**

- I. Name: U.S. Coast Guard Public and Charitable Land Sale
- II. The classification in Part III is based upon the following:
- Northern Southeast Area Plan, adopted on October 15, 2002;
 - Area Plan Amendment to the Northern Southeast Area Plan No. SE-02-001A12; and
 - Preliminary Decision, Public and Charitable Land Sale – ADL 234114, dated September 22, 2023, and the subsequent Final Finding and Decision for same.
- III. Classification by this Action: Resource Management Land
- Legal Description: Tract B of Alaska State Land Survey No. 88-62, containing 0.435 acres, more or less, according to the survey plat recorded in the Sitka Recording District on September 14, 1992, as Plat No. 92-19.
- IV. This order is issued under the authority granted by *AS 38.04.065 Land Use Planning and Classification* and *AS 38.05.300 Classification of Land* to the Commissioner of the Department of Natural Resources. The above-described lands are hereby designated and classified as indicated. Nothing shall prevent the reclassification of these lands if warranted in the public interest.
- V. The classification supersedes and replaces CL SE-02-001 within the boundary of this amendment.

Approved:



John Boyle, Commissioner
Department of Natural Resources

2 Jun 24
Date

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

PRELIMINARY DECISION
ADL 234114

Proposed Noncompetitive Sale to Public and Charitable Applicant
AS 38.05.035(e), AS 38.05.810(a)(1)

RELATED ACTIONS

Proposed Amendment to the Northern Southeast Area Plan - AS 38.04.065
Proposed Land Classification Order - AS 38.04.065 and AS 38.05.300
Proposed Mineral Order (Closing) - AS 38.05.185 and AS 38.05.300

PUBLIC COMMENT PERIOD ENDS 4:30 PM, MONDAY, OCTOBER 23, 2023

I. Proposed Actions

Preliminary Decision: Approval of Noncompetitive Public and Charitable Use Sale ADL 234114

Attachment A: Vicinity Map

Attachment B: Public Notice

Attachment C: Draft Affidavit Acknowledging Conditions of Land and Releasing the State from Related Liability

Public is invited to comment on the proposed related actions:

Draft Northern Southeast Area Plan Amendment SE-02-001A12

Draft Land Classification Order (LCO) CL SE-02-001A12

Draft Mineral Order (Closing) MO 1270

Primary Proposed Action, Noncompetitive Sale: The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) has received an application to purchase state land pursuant to Alaska Statute (AS) 38.05.810(a)(1) *Public and Charitable Use*. This proposed decision will allow the parcel, ADL 234114, to be sold through a noncompetitive sale to the applicant, the United States Coast Guard (USCG), at no cost. DMLW LCS is proposing to waive the reversionary clause pursuant to AS 38.05.810(g). The parcel is located on Japonski Island, in Sitka, Alaska, within Section 2, Township 56 South, Range 63 East, Copper River Meridian, Alaska, containing 0.435 acres. See *Attachment A: Vicinity Map* for a depiction of the subject parcel.

Proposed Related Actions: The related actions will be developed separately; however, public notice is being conducted concurrently.

Area Plan Amendment: DNR proposes to amend the Northern Southeast Area Plan (NSEAP, adopted October 15, 2002). The amendment will create subunit B-24A, a new subunit with a designation of Public Facilities - Transfer (Pt). This new subunit will encompass the subject parcel only. The remainder of unit B-24 will remain designated as Public Facilities – Retain (Pr). Refer to **Section VIII. Planning, Classification, and Mineral Orders** for more information on this proposed related action.

Preliminary Decision

AS 38.05.810 Public and Charitable - ADL 234114

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Land Classification Order: In relation to the Area Plan Amendment, DNR proposes to reclassify the subject parcel in a Land Classification Order to Reserved Use Land. Refer to **Section VIII. Planning, Classification, and Mineral Orders** for more information on this proposed related action.

Mineral Order (Closing): DNR proposes to close the parcel to new mineral entry. There are no current mining claims located within the subject parcel. Refer to **Section VIII. Planning, Classification, and Mineral Orders** for more information on this proposed related action.

The related actions will be developed separately. However, approval of the proposed actions is dependent upon one another in that one action will not proceed without the approval of the other action.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal. Public notice for all actions is conducted concurrently and will include the PD for the noncompetitive sale (ADL 234114), draft NSEAP Amendment No. SE-02-001A12, draft Land Classification Order CL SE-02-001A12, and draft Mineral Order (Closing) 1270.

See **Section XVI. 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 (FFD) will be issued.

II. Authority

DNR has the authority under *AS 38.05.810(a)(1) Public and Charitable Use* to sell or otherwise dispose of state land to a state or federal agency or political subdivision. DNR has the authority under *AS 38.05.810(a)* to sell or otherwise dispose of state land for less than the appraised value. *AS 38.05.810(a)* states, "The commissioner shall ensure, by regulation, deed restriction, covenant, or otherwise, that disposals of land under this subsection serve a public purpose and are in the public interest."

AS 38.05.810(g) states, "The commissioner shall retain a reversionary interest on each sale or other disposal granted under (a) or (e) of this section. The commissioner may waive the reversionary interest on a written determination that the waiver is in the public interest."

AS 38.05.035(e) Powers and Duties of the Director gives DNR the authority to sell state land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the state. *Article VIII, Section 1* of the Alaska Constitution states, "It is the policy of the state to encourage settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." The authority to execute this decision has been redelegated to the Section Manager of the DMLW, Land Conveyance Section.

For the related actions, *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, *AS 38.05.185 Generally*, *11 AAC 55.010-030 Land Planning and Classification* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

Preliminary Decision

AS 38.05.810 Public and Charitable - ADL 234114

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III. Administrative Record

The case file for Alaska Division of Lands (ADL) 234114 constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Northern Southeast Area Plan (NSEAP, adopted October 15, 2002) and associated land classification files; and
- DNR case files: ADL 104776.

Also incorporated by reference are additional files and documents listed throughout this decision.

IV. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section II. Authority**, is limited and specific to determining the following: (1) if the applicant and the subject parcel themselves qualify, (2) if it is in the state's best interest to dispose of the subject parcel, (3) if it is in the state's best interest to dispose of the subject parcel to the applicant, (4) if it's in the state's best interest to dispose of the parcel to the applicant at no cost and, (5) if it is in the state's best interest to waive the reversionary clause.

The scope of this decision does not include the control of post-patent land use, and LCS does not intend to impose restrictions for this purpose by waiving the reversionary clause. Restrictions regarding land use will be handled by the local zoning authority, if any.

The proposed related actions will be issued concurrently with the FFD. These actions are described in more detail in the **Section VIII. Planning, Classification, and Mineral Orders**.

V. Description

- a. Location: The subject parcel is located within DNR's Southeast Region, in the City and Borough of Sitka, on Japonski Island, off Seward Ave. See *Attachment A: Vicinity Map* for a depiction of the subject area.

USGS Map Coverage: Sitka A-5

Platting Authority: City and Borough of Sitka

Regional Corporation: Sealaska Corporation

Federally Recognized Tribe: Sitka Tribe of Alaska and Central Council of the Tlingit and Haida Tribes of Alaska

Village Corporation: Shee Atika, Inc.

- b. Legal Description: Tract B of Alaska State Land Survey No. 88-62, containing 0.435 acres, more or less, according to the survey plat recorded in the Sitka Recording District on September 14, 1992, as Plat No. 92-19.

The legal description of the proposed mineral order is the same as the subject parcel.

VI. Title

Title Report No. 22890, current as of January 26, 2023, indicates that the State holds fee title to the land and mineral estate under Patent 50-90-0267, dated May 11, 1990. The parcel is subject to the reservations, easements, and exceptions contained in the federal patent.

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State Reservation of Title:

Retention of and Access to Mineral Estate: In accordance with *Section 6(j)* of the *Alaska Statehood Act* and *AS 38.05.125 Reservation*, the state retains ownership of all oil, gas, coal, ore, minerals, fissionable material, geothermal resources, and fossils 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, 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 land 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 surface 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 not meandered, 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 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 **Section X. Access, Including Access to and Along Public and Navigable Water**.

The subject parcel is located on the coastal region of Southeast, Alaska in the Sitka Harbor. The Bureau of Land Management has not made a navigability determination for waters within the affected townships for title purposes.

Native Interest: The subject lot is within the boundaries of Sealaska regional corporation, Sitka Tribe of Alaska and Central Council of the Tlingit and Haida Indian Tribes of Alaska federally recognized tribes, and Shee Atika, Inc. village corporation. There are no Native interests identified within this parcel.

Other Conflicts or Pending Third-Party Interest: Currently, there are no known conflicts or pending interests. If conflicts or third-party interests are discovered during this public notice period, they will be discussed in the FFD.

VII. Background and Discussion

Background

The State received patent for the parcel on May 11, 1990. USCG and DNR entered into a 55-year long-term lease agreement on September 15, 1994, pursuant to *AS 38.05.810(a) Public and Charitable Use*, serialized as ADL 104776.

On October 13, 2022, USCG applied to purchase the parcel under *AS 38.05.810(a)*.

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Discussion

DMLW LCS considered the request for purchase of state land from the USCG pursuant to AS 38.05.810(a) at no cost. The USCG is a federal government agency developed to provide safety, security, and environmental stewardship to Southeast Alaska and continues to rely on the site for providing emergency services.

The United States Congress has approved funding to the USCG to construct additional infrastructure and moorings for the new 154-foot Fast Response Cutter (FRC) and their existing cutter vessel, the KUKUI. The USCG submitted a development plan to LCS, including a proposed conceptualized site plan to accommodate the new cutter vessel infrastructure (Figure 1). The FRC will require a new floating dock and support building. The USCG proposes replacing the existing dock since the KUKUI requires additional buoy laydown space and storage. The USCG is proposing to purchase the entire block, including the adjacent parcels, Tract F, Tract C1, and Tract C, which are owned and managed by the State of Alaska Department of Education and Early Development (DEED). A Preliminary Decision signed by DEED on December 13, 2022, has approved the USCG to purchase adjacent Tracts F, C1, and C.

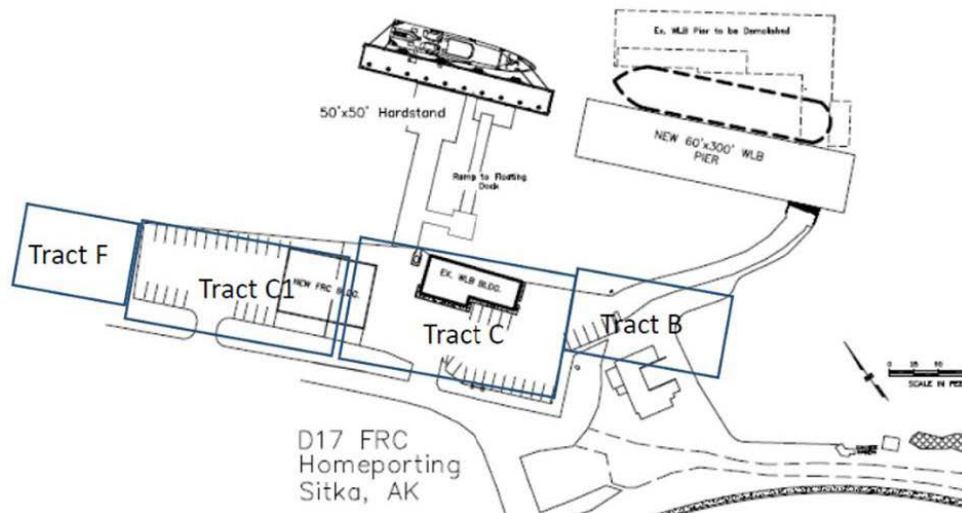


Figure 1. USCG Japonski Island Site Plan

The USCG is proposing to purchase Tract B from DNR DMLW. The development plan states that Tract B will not include any new infrastructure, and the proposal is that the site will provide additional parking and staging areas. Since the dock support systems are within the tideland area, a tideland lease is required by the State. USCG was notified during the application period of this requirement and will continue to coordinate with DNR's Southeast Regional Office for the appropriate authorization.

AS 38.05.810(a) allows the State to negotiate the lease, sale, or other disposal of state land to a government agency for less than fair market value. USCG qualifies under the statute, and the use of the subject land meets the requirement. DNR DMLW has adjudicated a lease to USCG under AS 38.05.810(a) at no cost, and they have remained in good standing. The subject parcel is and has been used continuously for emergency services to the local communities. Previous land disposals have been conveyed at no cost to other public and charitable entities for public

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facilities under *AS 38.05.810(a)*, such as emergency service centers, fire stations, and youth centers. This conveyance is appropriate under *AS 38.05.810(a)* at no cost for these reasons.

AS 38.05.810(g) states that the commissioner shall retain a reversionary interest on each sale or other disposal granted under *AS 38.05.810(a)* or *(e)* unless the reversionary interest is waived. USCG is currently leasing the subject parcel for support of emergency services. Due to the amount of infrastructure concerning the USCG development plan, the State and USCG would be in hardship if improvements were to be removed and reverted to the State. In this case, DNR will waive a reversionary interest on the parcel as *AS 38.05.810(g)* allows.

According to NSEAP, the management intent for these tracts within US 1496 and ASLS 88-62 are to be retained in state ownership and used for public purposes consistent with the management agreements described under each parcel description. LCS is proposing an Area Plan Amendment for the parcel to be designated as Public Facilities - Transfer to allow for the land conveyance. Public Facilities - Transfer refers to sites reserved for a specific infrastructure to serve the public. These sites are classified as Resource Management. The proposed Land Classification Order CL SE-02-001A12 will classify unit B-24A as Reserved Use Land so that a non-state charitable entity can acquire the site and develop or operate it consistent with the purposes outlined in the plan.

The site has been used for emergency services to the surrounding communities in Southeast Alaska since the 1990s. The sale of the site into private ownership to a federal government agency continues a course of action under which the State supported and approved. The parcel sale does not change the use of public interest and still allows public access to the adjacent tidelands. However, before any sale of the parcel, DMLW LCS will carefully consider public comments and possible adverse impacts of the proposed use or activity upon customary, traditional, recreational, and personal use resources on a plan amendment, changing the parcel classification to Public Facilities - Transfer and allowing for a public and charitable land disposal under State law.

For the reasons outlined above, the sale of the subject parcel benefits the State and the prospective applicant. The sale provides land for ownership to the public entity and is the site of used and useful improvements. It provides maximum use for the public benefit by providing land to another government agency; the proposed parcel use does not disturb or curtail nearby state land uses; and it supports the long-term goals of providing emergency services to nearby communities. Conveyance under these circumstances supports DNR's goal of providing lands for private settlement and supporting economic growth throughout Alaska. Article VIII, Section 1 of the Alaska Constitution states that "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." A sale of land supports settlement in a more viable way than a lease of land, as it provides the private owner with long-term assurances needed for planning improvements and maintaining a fellow agency's mission.

VIII. Planning, Classification, and Mineral Orders

Planning

The subject parcel is located within NSEAP, in the Southern Region: Baranof Island Area, Sitka Sound Tidelands Resource Management Zone (NSEAP Map 3-6, Page 3-119). The overall management goals for NSEAP are providing economic development, public health and safety, public use, maintaining and enhancing the quality of life, settlement opportunities for private

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ownership and leasing of land, and maintaining the quality of renewable resources such as fish and wildlife. The subject parcel is designated as Public Facilities - Retain (Pr), according to NSEAP. Classification order CL SE-02-001 classified the subject parcel as Reserved Use Land in 2015. The management intent for Pr is that these sites are reserved for specific infrastructure to serve state interests and will be retained in state ownership. Reserved Use Land is reserved for transfer to another governmental or nongovernmental agency performing a public service per *11 AAC 55.170*. The Sitka Sound Tidelands Resource Management Zone affects the Sitka Sound Baranof Island area. The management intent for this area is to protect the sensitive fisheries, marine mammal concentration areas, shorebird, and waterfowl concentration areas, anadromous streams and areas of estuarine wetlands, and brown bear and deer winter concentration within intertidal areas. Also, to preserve and protect customary, traditional, recreational, and personal use resources and public access to these resources.

Area Plan Amendment: An amendment to the NSEAP is necessary to change the subject parcel's designation and management intent. The proposed plan amendment LCO SE-02-001A12 will re-designate the subject parcel to Public Facility - Transfer and state new management intent. This subject parcel was previously within management Unit B-24 and will be placed into a new management unit B-24A. This amendment only affects the subject parcel proposed for sale and does not include any tidelands that are not considered uplands for this sale. The management intent for the parcel will be replaced with, "This unit is designated 'Public Facilities - Transfer'. These sites are reserved for a specific infrastructure to serve the public at large". The remainder of the lands in Unit B-24 retains its current designation and management intent. Multiple use, factors affecting the area, resource inventory, present and potential land uses, and compatible classifications have been considered. These factors are listed in *AS 38.04.065(b) Land Use Planning and Classification*.

DNR DMLW Resource Assessment and Development Section noted that the area plan amendment recommendation is viable and that the proposed application should move forward to conveyance. If DNR approves the public and charitable sale, the plan amendment will accompany the FFD. The approval of an area plan amendment is a separate action. However, approval of the conveyance is dependent upon approval of the area plan amendment.

Land Classification Order

The State classified the subject parcel as Reserved Use Land under Land Classification Order CL SE-02-001 based on the NSEAP adopted in October 2002. Since the proposed NSEAP amendment designates the unit as Public Facilities - Transfer and lands within this designation are classified as Resource Management, DNR intends to classify unit B-24A as Reserved Use Land in the new LCO SE-02-001A12.

Land Classification Order: In relation to the Area Plan Amendment, DNR proposes to classify the subject parcel in a Land Classification Order to 'Reserved Use Land'. This action only affects the subject parcel. The new LCO will be SE-02-001A12. The remainder of the land in Unit B-24 retains its current classification.

If DNR approves the sale, the LCO will accompany the FFD. The approval of the LCO is a separate action issued concurrently with the FFD.

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Mineral Order

DNR proposes to close the subject parcel to new mineral entry in accordance with AS 38.05.185 *Generally* and AS 38.05.300 *Classification of Land*. There are no current mining claims located within the subject parcel. Closing the parcel to new mineral entry is consistent with the management intent and minimizes the potential for conflict between the land estate and mineral estate users. If approved by the Commissioner, Mineral Order 1270 will close the subject parcel to new mineral entry. If the Commissioner approves the public and charitable sale, the mineral order will accompany the FFD. The approval of the mineral order is a separate action issued concurrently with the FFD; however, approval is dependent upon one another in that one action will not proceed without the approval of both actions.

Mineral orders which close an area to mineral entry, close the area to new exploration and development of locatable minerals such as gold, copper, platinum, etc. 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 mineral exploration and development.

Local Planning

This area is zoned as Public Lands District "P" in the City and Borough of Sitka.

Flood Risk

This parcel is in Zone X, an area of minimal flood hazard mapped on the Flood Insurance Rate Map (FIRM) panel 02220C0411D.

IX. Traditional Use Findings

The subject parcel is located within the City and Borough of Sitka and a traditional use finding is therefore not required per AS 38.05.830 *Land Disposal in the Unorganized Borough*. There are no anticipated significant changes to traditional uses of the land and resources of this area as a result of the proposed action. 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 FFD, if one is issued. See the **Section XVI. Submittal of Public Comments** and *Attachment B: Public Notice* for details on how to submit comment.

X. Access, Including Access To and Along Public and Navigable Water

Public Access

Legal access is via navigable water in the Sitka Harbor. Physical access to the site is by way of Seward Road and then through the State of Alaska Department of Education (DEED) parking lot. USCG and DEED have a formal access agreement. USCG and DEED are in the process of a proposed land sale and will continue with their access agreement. DNR cannot guarantee or maintain continued physical access through the DEED parking lot and requires that the USCG keep its shared access agreement current.

Access Along Navigable and Public 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*

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Navigable and Public Water, 11 AAC 51.045 Easements to and Along Navigable and Public Water, and 11 AAC 53.450 Buffer strips, reserved Areas, and public easements.

This parcel will be subject to access reservations in accordance with *AS 38.05.127 Access To Navigable or Public Water*, and a 100-foot building setback from the ordinary high water of the water body. Tract B of ASLS No. 88-62 is subject to a 50-foot public access easement along the mean high-water line per covenant #9 of the Lease Agreement for ADL 104776 and would, therefore, be subject to the public access easement *AS 38.05.127*.

The proposed land sale does require reservation of public access along navigable and public waters pursuant to *AS 38.05.126(a) Navigable and Public Water*.

Easements and Setbacks

- A 100-foot building setback from the ordinary high water of the water body. Tract B of ASLS No. 88-62 is subject to a 50-foot public access easement along the mean high-water line per covenant #9 of the Lease Agreement for ADL 104776.
- 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;
- Additional reservations and/or restrictions required through the local platting authority.

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

XI. Reservation of Mineral Estate

In accordance with *section 6(i)* of the Alaska Statehood Act and *AS 38.05.125 Reservation*, the State, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with *AS 38.05.130 Damages and Posting of Bond* and other applicable statutes and regulations.

XII. Hazardous Materials and Potential Contaminants

The State makes no representations and no warranties, expressed or implied, as to the presence or absence of hazardous substances, hazardous wastes, contaminants, or pollutants on the land proposed here for conveyance. The State does not assume any liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants nor for the remediation of the site should such substances ever be identified. USCG, by requesting this property for conveyance through this PD, recognizes the surrounding areas of identified contaminated sites the subject land is sold on an "as is" basis and in the condition as of the date of sale.

DNR DMLW SAIL section noted to have the Coast Guard sign an affidavit acknowledging the condition of the land and releasing the State from any liability in the future. See *Attachment C: Draft Affidavit Acknowledging Conditions of Land and Releasing the State from Related Liability*.

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XIII. Survey

Preliminary Survey Determination #20225222 dated December 14, 2022, from DNR DMLW Survey Section, determined the subject parcel to be surveyed. Noted in the Preliminary Survey Determination provided, there is a 50-foot public access easement along mean high water line per covenant #9 of the Lease Agreement for ADL 104776 and would therefore be subject to a public access easement per AS 38.05.127.

XIV. Compensation and Appraisal

DNR may convey land to a government agency pursuant to AS 38.05.810(a) at no cost to the applicant. DNR has evaluated the applicant's status and the proposed project and has determined that the proposed project is consistent with the intent of AS 38.05.810(a); therefore, selling the parcel for no cost will support the USCG services.

If the purchase is approved, due to the parcel being surveyed and proposed to be sold at no cost, the applicant will not be required to survey or complete an appraisal for the subject parcel.

XV. 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 PD. Agency review was conducted between February 17, 2023, through March 17, 2023. Comments pertinent to the proposed actions 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 FFD, if one is issued.

DNR DMLW LCS received brief comments of non-objection from the following agencies: Department of Transportation and Public Facilities (DOT&PF), DNR Division of Parks and Outdoor Recreation (DPOR), DNR Division of Mining.

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

Alaska Department of Fish and Game (ADF&G): noted that there are no nearby pinniped haulouts however the project is located adjacent to marine habitat occupied by multiple marine mammal species, some of which are listed as endangered under the Endangered Species Act (see the NOAA Mapper1 to generate a species list). This area is considered biologically important for gray whale migration (March-May & November-January) and humpback whale feeding (March-May). The construction activities for the new parking and the dock expansion (under separate review) may displace marine mammals. To minimize disturbances, it is important to follow any advisories or mitigation measures provided by the National Marine Fisheries Service (NMFS; all species except sea otters) or the US Fish and Wildlife Service (USFWS; sea otters). For Inquiries regarding the NMFS consultation process email AKR.PRD.Section7@noaa.gov. For questions related to the USFWS Alaska Marine Mammals Management Office call 800-362-5148.

DNR DMLW LCS Response: LCS appreciates your review of the proposed noncompetitive sale, and your comment is noted.

Division of Oil and Gas Leasing: stated non objection to the proposed land sale, but also clarified that the State will reserve its mineral interest into the conveyance via AS

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38.05.125; however, any mineral closing order does not apply to leasable minerals such as oil and gas.

DNR DMLW LCS Response: LCS appreciates your review of the proposed noncompetitive sale, and your comment is noted.

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

- Department of Environmental Conservation (DEC), DNR Division of Geological and Geophysical Surveys, DNR State Historic Preservation Office, Mental Health Trust Lands Office, Department of Commerce, Community, and Economic Development (DCCED), Division of Community and Regional Affairs (DCRA), Department of Education and Early Development (DEED), DNR Division of Agriculture, US Dept. of Fish and Wildlife Service Fisheries, and Alaska Soil and Water Conservation District.

XVI. 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, draft Area Plan Amendment, draft Land Classification Order, 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) *Notice* 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 PD, draft Area Plan Amendment, draft Land Classification Order, or draft Mineral Order, additional public notice for the affected lands will be given. 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 NSEAP Amendment SE-02-001A12, Land Classification Order CL SE-02-001A12, and Mineral Order 1270, including any deletions, minor changes, and a summary of comments and LCS responses will be issued as a subsequent FFD, without further notice. All related actions will be developed separately. However, approval or any action is dependent upon one another. One action will not proceed without approval of all actions.

Only persons from whom LCS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the FFD, NSEAP Amendment SE-02-001A12, Land Classification Order CL SE-02-001A12, and Mineral Order 1270. Upon approval and issuance of a FFD and these actions, a copy of the decision, orders, and amendment 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.

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DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact DNR's Public Information Center. For more information refer to *Attachment B: Public Notice*.

DEADLINE TO SUBMIT WRITTEN COMMENT IS 4:30 PM, Monday, October 23, 2023

XVII. Stipulations, Restrictions, and Reservations

The applicant will be required to comply with the following stipulations to complete the proposed land sale:

1. Prior to the completion of the purchase and issuance of a state conveyance document, the applicant must remain in good standing with respect to all terms of the Lease Agreement, and the Contract for the Sale of Real Property throughout its term, if such a contract is issued. The applicant must also remain in compliance with all applicable state and local ordinances and regulations, including all applicable taxes. Failure to do so may result in termination of the Contract for the Sale of Real Property.
2. A notice to proceed to contract will be issued if no requests for reconsideration are received, or when any requests for reconsideration are resolved, after the issuance of a Final Finding and Decision. Within the time period specified in the notice to proceed contract, the applicant must submit the following to LCS:
 - A signed and notarized affidavit acknowledging the condition of the land and releasing the State from related liability;
 - A completed and signed Declaration of Intent Form;
 - A signed and notarized Relinquishment of Land Lease Form; and
 - Patent application and recordation fees are required. Fees are established under *11 AAC 05.100 Land Disposals* and *11AAC 05.200 Recorder's Office* and are subject to change. Some fees have been reduced by Director's Fee Order Number 3. A fee prescribed by this chapter 11AAC 05.020(b) is waived for a federal, state, or municipal agency, except that (1) recorder's office and uniform commercial code fees prescribed by 11 AAC 05.200 and 11 AAC 05.250 are not waived.

If extenuating circumstances delay any of the stipulations listed above, the applicant is responsible for notifying LCS and receiving approval from LCS for the delay with new timeframes for completion to be given. Failure to do this could result in the closure of the purchase application. The purchase cannot be completed until all the above stipulations have been satisfied.

Restrictions and Reservations

Conveyance document will be issued subject to the following restrictions and reservations:

1. Valid existing rights, including reservations, easements, and exceptions in the U.S. Patent, or other state or federal conveyance, and in acts authorizing the issue thereof; easements, rights-of-way, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any.

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2. Reservation of the mineral estate pursuant to Section 6(i) of the Alaska Statehood Act and *AS 38.05.125 Reservation*; and reservation of reasonably necessary access to the mineral estate in accordance with *AS 38.05.130 Damages and Posting of Bond*.
3. *AS 38.05.810(g)* states that the commissioner shall retain a reversionary interest on each sale or other disposal granted under *AS 38.05.810(a)* or *(e)* unless the reversionary interest is waived. In this case, DNR will waive the reversionary interest for this land sale.

XVIII. Alternatives

The following alternatives were considered:

Alternative 1: Sell

Approve the proposed conveyance of the subject parcel in accordance with *AS 38.05.810(a)*, at no cost to USCG.

Alternative 2: Lease

Continue leasing the subject parcel to USCG.

Alternative 1 will allow a government agency to purchase state land at no cost to serve a public purpose. This sale will support USCG services in Southeast, will be compatible with the proposed area plan amendment management intent, and provides stability and assurance for future planning to the applicants. Therefore, it is in the best interest of the state to sell the parcel as proposed in this decision.

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." Alternative 1 provides a method for DNR to meet the obligations laid out in the Constitution and statute and maximizes public interest. This is the preferred alternative.

The related actions are necessary to allow for the offering of the subject parcel. The primary action and related actions are dependent upon one another, and if DNR does not approve the primary action, the related actions will not be processed.

Under Alternative 2, DNR will continue with the current lease that provides a public and charitable purpose under *AS 38.05.810(a)*. This alternative will allow USCG to continue providing emergency services from this site leased from DNR since 1994. Under this scenario the State retains long-term interest in the land and offers the applicants the option to continue using the site as they currently are, while preserving state ownership and state use of lands in the future. At the end of any lease, the State may choose not to enter into a new lease and the parcel would remain public facility retain lands, matching the land use classification and management guidelines of surrounding lands. Due to the amount of infrastructure concerning the USCG development plan, the State and USCG would be in hardship if this lease was not

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renewed or approved for a land sale and improvements were to be removed at the time of lease expiration. This alternative is not preferred.


For the reasons outlined above, Alternative 1 is the preferred alternative.

XIX. Recommendation and Preliminary Decision

This Preliminary Decision for the proposed disposal of state lands, NSEAP Amendment No. SE-02-001A12, Land Classification Order CL SE-02-001A12, and Mineral Order 1270 described throughout this document and its attachments are consistent with the overall management intent for state-owned land and consistent with the requirements of *AS 38.05.810(a) Public and Charitable Use*. Alternative 1 is the preferred alternative because it is the maximum best use of state land and is in the best interest of the public and will allow a government agency to utilize this parcel for a public purpose to provide emergency services.

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 including NSEAP Amendment No. SE-02-001A12, Land Classification Order CL SE-02-001A12, and Mineral Order 1270. If the decision is approved, NSEAP Amendment No. SE-02-001A12, Land Classification Order CL SE-02-001A12, and Mineral Order 1270 will accompany and precede any Final Finding and Decision issued. A Final Finding and Decision will address any significant issues or concerns raised during the public review process. If the applicant is unable to complete the stipulations, DMLW may decide to close this purchase application.

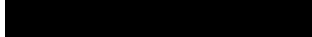
The Preliminary Decision, described above, as represented by the preferred alternative, has been reviewed and considered. I find that the recommended action may be in the best interest of the state and that it is hereby approved to proceed to public notice.



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

9/22/2023

Date of Signature



Approved by: Hannah Uher-Koch
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

9/22/2023

Date of Signature



U.S. Coast Guard
ADL 234114

Attachment A: Vicinity Map
Public and Charitable Land Sale AS 38.05.810(a)



Section 2, Township 56 South, Range 63 East, Copper River Meridian, Alaska

For more information contact:
Nicole Swensgard
Department of Natural Resources
Division of Mining, Land and Water
Land Conveyance Section
Phone: 907-451-5235
Email: nicole.swensgard@alaska.gov

Projection WGS 1984 Web Mercator

Created January 13, 2023



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

ATTACHMENT B: PUBLIC NOTICE

Requesting Input for
a Proposed Public and Charitable Use Conveyance:

Public and Charitable Use Conveyance - ADL 234114
AS 38.05.035(e), AS 38.05.810(a)

COMMENT PERIOD ENDS 4:30 PM, MONDAY OCTOBER 23, 2023

The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) has received an application to purchase state land pursuant to Alaska Statute (AS) 38.05.810(a)(1) *Public and Charitable Use*. This proposed decision will allow the parcel, ADL 234114, to be sold through a noncompetitive sale to the applicant, United States Coast Guard (USCG). LCS is proposing to convey this parcel to the USCG at no cost. The parcel is located on Japonski Island, in Sitka, Alaska, within Section 2, Township 56 South, Range 63 East, Copper River Meridian, Alaska, containing 0.435 acres.

Legal Description: Tract B of Alaska State Land Survey No. 88-62, containing 0.435 acres, more or less, according to the survey plat recorded in the Sitka Recording District on September 14, 1992, as Plat No. 92-19.

To obtain the notice, Preliminary Decision, draft Area Plan Amendment, draft Land Classification Order, and draft Mineral Order or instructions on submitting comment, go to <http://dnr.alaska.gov/mlw/landsale/> 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 10:00 AM and 5:00 PM in Anchorage at (907) 269-8400 or Fairbanks at (907) 451-2705 or the Southeast Land Office in Juneau at (907) 465-3400 or TTY: 711 for Alaska Relay or 1-800-770-8973 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, Monday, October 23, 2023.

Pursuant to AS 38.05.945 *Notice*, LCS is issuing public notice inviting comment on this Preliminary Decision, draft Area Plan Amendment, draft Land Classification Order, and draft Mineral Order. **The deadline for public comment is 4:30 PM, MONDAY, OCTOBER 23, 2023.** Only persons from whom LCS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the FFD, Northern Southeast Area Plan Amendment SE-02-001A12, Land Classification Order CL SE-02-001A12, and Mineral Order 1270. Written comment may be received by fax, email, or postal mail. To submit comments or for direct inquiries, contact Nicole Swensgard by mail at: ATTN Nicole Swensgard, DNR DMLW LCS, 3700 Airport Way, Fairbanks, AK 99709 or by fax at (907) 451-2751 or by email at nicole.swensgard@alaska.gov. If you have questions, call Nicole Swensgard at (907) 451-5235.

If the proposals are approved and no significant change is required, the Northern Southeast Area Plan Amendment SE-02-001A12, Land Classification Order CL SE-02-001A12, and Mineral Order 1270, including any deletions, minor changes, and a summary of comments and LCS responses will be issued as a subsequent FFD, without further notice.

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

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
550 West 7th Avenue, Suite 640
Anchorage, Alaska 99501

AFFIDAVIT ACKNOWLEDGING CONDITION OF LANDS AND RELEASING THE STATE
FROM RELATED LIABILITY
ADL 234114

We, the United States Coast Guard, whose address is 1301 Clay Street Suite #700N, Oakland, CA, 94612, being first duly sworn under oath, state and declare as follows:

1) We are the fee simple, Patent purchasers of state-owned lands that we have heretofore had an agreement with the Department of Natural Resources (DNR) to utilize the state-owned lands for emergency services. The legal description of the land we are acquiring (hereinafter "the acquired property") is as follows:

Tract B of Alaska State Land Survey No. 88-62, containing 0.435 acres, more or less, according to the survey plat recorded in the Sitka Recording District on September 14, 1992, as Plat No. 92-19.

2) As longtime lessees of the acquired property we have long been aware of the history and condition of the site.

3) We accept full responsibility for any claim, cause of action, liability, required remedial action, or required response action arising in connection with any contamination. In the event of any such claim or action we agree to hold the State of Alaska and DNR harmless. Further, we release DNR from any liability arising in connection with any contamination.

Sworn and Affirmed this ___ day of _____, 2023, in _____, Alaska.

_____	_____	_____
Printed Name,	Signature	Date
Signature of Signing authority for the United States Coast Guard		

STATE OF ALASKA)
) ss.
 _____ Judicial District)

THIS IS TO CERTIFY that on the _____ day of _____, 2023, before me personally appeared _____ known to me to be the person executing this affidavit and acknowledged voluntarily signing the same.

Notary Public in and for the State of Alaska
My Commission Expires: _____

STATE BUSINESS - NO CHARGE

RETURN TO:
Land Conveyance Section
DNR Division of Mining, Land and Water
550 W, 7th Ave. Suite 640
Anchorage, AK 99501

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

DRAFT NORTHERN SOUTHEAST AREA PLAN AMENDMENT
SE-02-001A12

Management Unit B: Baranof Island Area, Unit B-24 and Subunit B-24A

related to a
Noncompetitive Public and Charitable Land Sale – ADL 234114

The Commissioner of the State of Alaska, Department of Natural Resources (DNR) finds that the following amendment to the Northern Southeast Area Plan meets the requirements of *AS 38.04.065 Land Use Planning and Classification* and *11 AAC 55.010-030 Land Planning and Classification* for land use plans and hereby adopts the amendment. DNR will manage state lands within the area of the revision consistent with this designation and management intent. See the following attachment for more detailed information.

- **Designation:** The amendment will create subunit B-24A, a new subunit encompassing only the subject parcel identified in the noncompetitive sale case, serialized as ADL 234114, transferring 0.435 acres from unit B-24 to B-24A. The designation of subunit B-24A will be Public Facilities - Transfer, and unit B-24 will remain designated as Public Facilities - Retain.
- **Management Intent:** The management intent for Tract B of the area described above, within the new unit B-24A and classified under SE-02-001A12, will be replaced with, "This unit is designated Public Facilities - Transfer (Pt). These sites are reserved for specific infrastructure to serve the public at large. These sites will be classified as Reserved Use Land so that a non-state charitable or public entity can acquire the site and develop or operate consistent with the purposes outlined in the plan." A public and charitable land sale is an appropriate surface use in subunit B-24A. There will be no changes to the management intent and guidelines for the remainder of land within unit B-24.
- **Easements and Setbacks:** A 100-foot building setback from the ordinary high water of the water body. Tract B of ASLS No. 88-62 is subject to a 50-foot public access easement along the mean high-water line per covenant #9 of the Lease Agreement for ADL 104776. Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.

Approved by: John Boyle
Commissioner
Department of Natural Resources
State of Alaska

Date

ATTACHMENT

to the
DRAFT NORTHERN SOUTHEAST AREA PLAN AMENDMENT SE-02-001A12

Management Unit B: Baranof Island Area, Unit B-24 and Subunit B-24A

related to a
Noncompetitive Public and Charitable Land Sale – ADL 234114

Location and legal description of new subunit B-24A: The parcel is located on Japonski Island in Sitka, Alaska, off Seward Road, more specifically described as:

Tract B of Alaska State Land Survey No. 88-62, containing 0.435 acres, more or less, according to the survey plat recorded in the Sitka Recording District on September 14, 1992, as Plat No. 92-19.

Tract B will be removed from unit B-24 in the Northern Southeast Area Plan (NSEAP).

Authority: The authority to revise plans derives from *AS 38.04.065(a)*, *AS 38.04.065(b) Land Use Planning and Classification*; and *11 AAC 55.030(f)(1)(A) Land Use Plan* defines when a revision constitutes a plan amendment.

Current Plan: The NSEAP designates unit B-24 Japonski Island, ASLS 82-62 (pt), as within the Southern Region: Baranof Island Area in a Tidelands Resource Management Zone. The NSEAP designates Unit B-24 as Public Facilities - Retain (Pr). This designation converts to a classification of Reserved Use Land. The management intent within unit B-24 states: "Tracts A, B, C, D and E are to be retained in state ownership and used for public purposes consistent with the management agreements described under parcel description. Lots 12, 13 and 14 are to also be retained in state ownership." Resources and Uses of unit B-24 are: "...[T]ract B is managed under a Public and Charitable Lease with the US Coast Guard (ADL 104776)."

Proposed Plan Amendment: Remove land encompassed by the subject parcel identified in ADL 234114 from management unit B-24 and create a new subunit, B-24A. B-24A will be designated as Public Facilities - Transfer and classified as Reserved Use Land. Management intent for the new subunit B-24A will state, "This unit is designated as Public Facilities - Transfer (Pt). Tract B is appropriate for a public and charitable land sale to serve the public at large." There will be no changes to designations, management intent, and guidelines for the remainder of land within unit B-24.

Also being proposed is the technical correction to the unit B-24 designation name from 'Japonski Island, ASLS 82-62', to 'Japonski Island, ASLS 88-62'.

Explanation: The NSEAP was adopted on October 15, 2002. The State and the U.S Coast Guard entered into a 55-year long-term lease agreement for the subject parcel on September 15, 1994, ADL 104776. In 2015, the State classified the subject parcel as Reserved Use Land under Land Classification Order SE-02-001. The new subunit B-24A will encompass the subject parcel only and does not include any tidelands that are not considered uplands for this sale.

Attachment to the Northern Southeast Area Plan Amendment

Management Unit B-24

related to a Proposed Public and Charitable Land Sale-ADL 234114

Page 2 of 2

The public and charitable land sale to the U.S. Coast Guard is an appropriate use with the management intent reserved for specific infrastructure to serve the public at large. Multiple use factors affecting the area, resource inventory, present and potential land uses, and compatible classifications have all been considered. These factors are listed in *AS 38.04.065(b) Land Use Planning and Classification*. However, before any sale of the parcel, DMLW LCS will carefully consider public comments and possible adverse impacts of the proposed use or activity upon customary, traditional, recreational, and personal use resources under State law.

During the Agency Review period for the proposed public and charitable application, the Alaska Department of Fish and Game provided guidance on the subject upland parcel regarding the importance of minimal adverse impacts to marine habitat in the Sitka Sound. See the Preliminary Decision for more information.

Public Facilities - Retain are for sites reserved for a specific infrastructure to serve state interests. These units are classified Reserved Use Land and are not selectable by municipalities under State law (except under AS 38.05.810). Units designated Public Facilities - Retain will be retained in state ownership, while units designated Public Facilities - Transfer may be conveyed to municipalities, but not sold to private individuals.

Public Facilities - Transfer are sites reserved for a specific infrastructure to serve the public at large. These sites are classified Resources Management Land, a designation and classification used for lands which are presently inaccessible or remote and may have a number of resources, but where the lack of adequate resource, economic or other relevant information combined with the unlikelihood of resource development within the next 10 years makes a specific resource allocation decision unnecessary. In the Northern Southeast Area Plan, all state lands without other designations are designated General Use and classified Resource Management Land.

The subject parcel will be reclassified as Reserved Use Land, combined with the proposed plan amendment designation Pt, so that a non-state charitable entity can acquire the site and develop or operate it consistent with the purposes outlined in the plan. Land classified as Reserved Use Land is reserved for transfer to another government agency performing a public service.

During the adjudication process, it was discovered that NSEAP incorrectly named the unit designation reflecting ASLS survey number 82-62, whereas the correct ASLS survey number is 88-62. This type of minor change to the plan is considered a technical correction pursuant to *11 AAC 55.030(f)(2)*.

A public and charitable sale of the subject parcel supports the management goals of the NSEAP by providing an opportunity to a government agency to acquire the land. The use of the site has been for emergency services to the surrounding communities in Southeast Alaska since the 1990's. The sale of the parcel does not change the use of a public interest and still allows public access to the adjacent tidelands.

AS 38.05.035(e) Powers and Duties of the Director gives DNR the authority to sell state land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the state. The subject parcel is appropriate for a public and charitable land sale as provided in the Preliminary Decision dated September 22, 2023. The area plan amendment, and land

classification order will accompany the Final Finding Decision as a separate action issued concurrently.

Assessment: The following alternatives were considered:

1. (Preferred) Amend the Northern Southeast Area Plan as described above to create subunit B-24A encompassing the subject parcel. The new subunit will be designated Public Facilities -Transfer. Amending the plan is the preferred alternative as it addresses a public and charitable sale, supporting emergency services to the Southeast region, and does not interfere with uses of surrounding lands.
2. (No Action) Do not amend the Northern Southeast Area Plan. This alternative is not preferred as it fails to address the public and charitable sale to a government agency.

Requirements of AS 38.04.065(b) Land Use Planning and Classification: The factors identified in this section of statute have been considered, and the proposed action is consistent with that portion of the statute.

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

DRAFT LAND CLASSIFICATION ORDER
NO CL. SE-02-001A12

**Related to U.S. Coast Guard Noncompetitive Public and Charitable Land Sale – ADL
234114**

- I. Name: U.S. Coast Guard Public and Charitable Land Sale
- II. The classification in Part III is based upon the following:
- Northern Southeast Area Plan, adopted on October 15, 2002
 - Area Plan Amendment to the Northern Southeast Area Plan No. SE-02-001A12
 - Preliminary Decision issued for the Public and Charitable Land Sale - ADL 234114, dated
- III. Classification by this Action: Reserved Use Land
- Legal Description: Tract B of Alaska State Land Survey No. 88-62, containing 0.435 acres, more or less, according to the survey plat recorded in the Sitka Recording District on September 14, 1992, as Plat No. 92-19.
- IV. This order is issued under the authority granted by *AS 38.04.065 Land Use Planning and Classification* and *AS 38.05.300 Classification of Land* to the Commissioner of the Department of Natural Resources. The above-described lands are hereby designated and classified as indicated. Nothing shall prevent the reclassification of these lands if warranted in the public interest.
- V. The classification supersedes and replaces SE-02-001 within the boundary of this amendment.

Approved: _____
John Boyle, Commissioner
Department of Natural Resources

Date

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

**DRAFT ADMINISTRATIVE FINDING
MINERAL ORDER NO. 1270
Closing Lands to Mineral Entry**

Proposed Public and Charitable Noncompetitive Land Sale – ADL 234114

Pursuant to *AS 38.05.035 Powers and Duties of the Director*, the State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water proposes to issue a Final Finding and Decision to convey State-owned land into private ownership within a Noncompetitive Public and Charitable Sale to the United States Coast Guard, ADL 234114. As noted in the Preliminary Decision – Public and Charitable Land Sale – ADL 234114, issued September 22, 2023, the project area is within unit B-24 of the Northern Southeast Area Plan. In accordance with the area plan, DMLW proposes to close the entire project area to mineral entry. The attached mineral order includes the legal description of the area to be closed to mineral entry.

The Division of Mining, Land, and Water requests that the mineral estate of 0.435 acres more or less, identified in the attached mineral order, be closed to mineral entry and location, in accordance with *AS 38.05.300 Classification of Land* for a land disposal. Mining activity on the parcel would be incompatible with the current and proposed land estate use. The land does not contain any known mineral deposits and was not selected for mineral values. There are no mining claims on the land.

Public notice of the comment period for the proposed mineral order is conducted in accordance with *AS 38.05.945 Notice*. Review of comments will be addressed in the Final Finding and Decision document.

In accordance with *AS 38.05.185(a) Generally* and *AS 38.05.300 Classification of Land*, I find that the best interests of the State and its residents are served by closure of the land to entry under the mineral location and mining laws of the State as described by Mineral Order (Closing) No. 1270.

Approved:

John Boyle, Commissioner
Department of Natural Resources

Date

