

The Alaska Mental Health Trust Authority  
Trust Land Office  
**BEST INTEREST DECISION AFFIRMED**  
**Donlin Gold, LLC, Land Conservation Agreement**

**MHT 9200688**  
**MH Parcels: SM-7016, SM-7015, SM-1505-A01,**  
**SM-1530-B01, SM-1506-01**

**Action:** Adopt the Best Interest Decision (BID) dated Thursday, March 8, 2018 regarding the above referenced disposal as final, without modification. This decision document, combined with the BID dated March 8, 2018, constitutes the final decision on this matter, in accordance with 11 AAC 99.040.

**Notice under 11 AAC 99.050.** The Trust Land Office (TLO) published the public notice of the decision on the State of Alaska's public notice website, and in the Anchorage Daily News on March 11, 2018. The public notice described the TLO's decision to complete a Conservation Agreement on certain Trust lands with Donlin Gold, LLC (Donlin), for the purpose of establishing a conservation easement, lease, deed restriction, restrictive covenant, or other conveyance or instrument restricting certain surface use activities for purposes of retaining or protecting wetland vales of Trust property.

**Summary of Comments:** The Trust Land Office received a written comment regarding the TLO's decision to enter into a conservation agreement with Donlin. The comment letter was dated April 3, 2018, and came from Cook Inletkeeper. The concerns found within the scope of the TLO BID that were received from Cook Inletkeeper are: the decision to enter into an agreement with Donlin is premature, an agreement and mitigation plan must be made public prior to finalizing a BID to ensure the best interest of the Trust and its beneficiaries is met, and the mechanism used to calculate the value of the parcels is unclear.

The BID was not premature. The BID provided a legal description of the land slated for disposal, the fundamental manner of disposal (i.e. restriction of surface use), the exception for subsurface and adjacent parcel development, the consideration, and the length of the term; the disposal process is a determination of whether the proposed disposal is in the best interests of the Trust, which determines the highest and best use of the land, while seeking to maximize revenue.

The instrument that will impose restrictions is not yet finalized because the Army Corps of Engineers (ACOE) will need to review a plan put forward by Donlin and it is likely that modifications to the proposal with regards to mitigation requirements may occur. Furthermore, the BID provided adequate terms of the disposal and the final instrument will not significantly deviate from the terms outlined in the BID. Therefore, the BID does effectively ensure the best interest of the Trust and its beneficiaries.

The mechanism used to value the parcels was based on real estate appraisals performed in the area in 2016 which concluded that a value of \$440 per acre is the fair market value for undeveloped

uplands and lowlands. Donlin is purchasing the Trust lands for \$750 per acre, a premium markup of 170%.

The comments related to the wetland permitting process undertaken between Donlin and the Army Corps of Engineers (ACOE), pertain to concerns better addressed by the ACOE if and when the permits are issued. If the restrictions the Trust proposes to place on the land fail to meet the ACOE's requirements then any request for additional restrictions from the Trust would need to go through a new disposal process if the additional restrictions are significant. During this process, the ACOE may have an opportunity to provide input on the term of the agreement. This decision by the TLO is not the mechanism that determines the appropriateness of the ACOE's decision regarding wetlands mitigation. This decision by the TLO is the tool to determine if the proposed action is in the best interest of the Trust and its beneficiaries.

**Trust Authority Consultation:** The Alaska Mental Health Trust Authority was consulted on this matter on January 4, 2018.

**Modifications:** As no comments were received suggesting that the Best Interest Decision dated March 8, 2018 should be substantively modified in any way to better serve the interest of the Trust and its beneficiaries, the Executive Director has determined that no change shall be made to that document.

**Final Decision of the Executive Director:** Considering all of the above, the Executive Director of the Trust Land Office hereby adopts the Best Interest Decision dated March 8, 2018 as final.

**Reconsideration:** Persons who submitted timely written comments during the notice period that ended April 12, 2018, are eligible to request reconsideration of this final best interest decision under 11 AAC 99.060(b) within 20 calendar days after publication of the notice or receipt of the final decision, whichever is earlier. A request for reconsideration must be submitted in writing to the Executive Director. Before filing an appeal to the Superior Court under AS 44.62.560, a person must be eligible to request and must actually request reconsideration within the time specified above.

The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the written request for reconsideration. If the Executive Director takes no action during the 20-day period following the request, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

**APPROVED:**

  
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Wyn Menefee  
Executive Director

5/4/18  
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Date