

**Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**Notice under 11 AAC 99.050 of**  
**Decision for the Disposal of Trust Land through Negotiated Sale**  
**MHT #9400662**

Notice is hereby given that, pursuant to the provisions of AS 38.05.801 and 11 AAC 99, the Executive Director of the Alaska Mental Health Trust Land Office (TLO) has determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to complete a negotiated land sale of certain Trust land to Ronald Stewart. The basis for this determination is explained in a written best interest decision prepared by the Executive Director pursuant to 11 AAC 99.040.

The Trust land affected by the decision is near Delta Junction, and is more particularly described as: Tract B of Section 4, Township 9 South, Range 10 East, Fairbanks Meridian, Alaska, containing approximately 1.58 acres (MH Parcel **F20607**).

Persons who believe that the written decision should be altered because it is not in the best interests of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, June 11, 2018. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 100, Anchorage, AK 99503, or by fax (907) 269-8905 or email [mhtlo@alaska.gov](mailto:mhtlo@alaska.gov).** Following the comment deadline, the Executive Director will consider timely comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99, and the best interest decision may be changed in response to such written comments or other information. Commenting parties will be provided a copy of the final best interest decision after the end of the notice period.

To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final written decision to request that the Executive Director reconsider the decision under 11 AAC 99.060(b).

Copies of the written decision are available at the Trust Land Office, or at [www.mhtrustland.org](http://www.mhtrustland.org). If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

In compliance with the Americans with Disabilities Act, the Alaska Mental Health Trust is prepared to accommodate individuals with disabilities. Please contact the Trust Land Office at (907) 269-8658 for assistance. Requests for assistance must be received at least 96 hours prior to the comment deadline in order to ensure that any necessary accommodations can be provided.

The Executive Director of the TLO reserves the right to waive technical defects in this notice or to amend, postpone, or vacate the best interest decision.

  
\_\_\_\_\_  
Wyn Menefee  
Executive Director

  
\_\_\_\_\_  
Date  
Published Delta Wind: May 10, 2018

**The Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**BEST INTEREST DECISION**  
**Stewart Negotiated Land Sale**

MHT#: 9400662  
MH Parcel(s): F20607

In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust ("Trust") land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of the Trust and its beneficiaries.

In determining the best interest of the Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act, the Executive Director of the Alaska Mental Health Trust Land Office ("TLO") shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
- Protection of the corpus;
- Protection and enhancement of the long-term productivity of Trust land;
- Encouragement of a diversity of revenue-producing uses of Trust land; and
- Management of Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries.

**I. Proposed Use of Trust Land.** Issue Quit Claim Deed through the negotiated sale process with a 20% premium.

**II. Applicant/File #.** Ronald Wayne Stewart/ MHT 9400662.

**III. Subject Property.**

**A. Legal Description.** A parcel of land situated in Tract B of Section 4, Township 9 South, Range 10 East, Fairbanks Meridian, Alaska; more particularly described as follows:

Beginning at the meander corner common to Section 4 And Section 3, approximately 60 feet south of the southerly meander of Blue Creek, near the end of Tanana Loop Road, being an iron pipe BLM monument of good condition; Thence along the section line common to Section 3 and Section 4, N00°07'16"W, a distance of 256.27' to a point on the north meander of Blue Creek, and being the true point of beginning; Thence, westerly along the north meander of Blue Creek N77°47'45"W, a distance of 45.27' to a meander; Thence S83°40'44"W, A Distance Of 75.53' to a meander; Thence S68°36'31"W, A Distance Of 66.25' to a meander; Thence S56°58'58"W, A Distance Of 60.49' to a meander; Thence S63°18'28"W, A Distance Of 52.21' to a

meander; Thence S54°58'58"W, A Distance Of 68.14' to a meander; Thence S68°15'34"W, A Distance Of 97.46' to a meander; Thence S64°58'01"W, a distance of 43.56' to a meander and confluence point of the Tanana River and Blue Creek; Thence Easterly, along the south meander of the Tanana River N38°18'35"E, a distance of 44.34' to a meander; Thence N42°43'17"E, a distance of 46.82' to a meander; Thence N37°50'59"E, a distance of 84.62' to a meander; Thence N42°10'24"E, a distance of 107.22' to a meander; Thence N46°25'22"E, a distance of 91.36' to a meander; Thence N43°21'56"E, a distance of 141.72' to a meander; Thence N47°13'04"E, a distance of 79.42' to a meander; Thence N50°36'58"E, a distance of 65.71' to a meander; Thence N49°59'53"E, a distance of 10.15' to a meander corner along the south meander of the Tanana River; Thence Along the section line common to Section 3 and Section 4, S00°07'16"E, a distance of 18.80' to a witness corner; Thence S00°07'16"E, a distance of 275.36' to a witness corner; Thence S00°07'16"E, a distance of 16.51' to a meander corner along the north meander of Blue Creek, and being the terminus of this description., and containing approximately 1.58 acres.

**B. Settlement Parcel Number(s).** a portion of MH Parcel F20607.

**C. Site Characteristics/Primary Resource Values.** The Tanana River is an important public and navigable waterway and is managed for wildlife habitat, forest, and recreation values. Public access to and use of the river corridor will be maintained, and are a natural corridor for migratory animals. Certain portions of the Tanana are of key importance to the salmon fishery. Of major concern is the maintenance of water quality and quantity necessary for successful spawning and egg development and of streambank integrity at the immediate spawning sites. This parcel provides a buffer to protect water quality and prevent accelerated bank erosion that may affect adjacent landowners.

**D. Historical and Existing Uses of the Property.** Public recreation and wildlife habitat.

**E. Adjacent Land Use Trends.** Public recreation, settlement, forestry, public recreation, and wildlife habitat.

**F. Previous State Plans/Classifications.** DNR issued the Tanana Basin Area Plan (TBAP) for State Lands, adopted in 1985 and updated in 1990 and 1999. Under TBAP the subject property was designated as forestry, public recreation, and wildlife habitat. The Subsurface estate is open to mineral entry. Land disposals and remote cabins are prohibited surface use.

**G. Existing Plans Affecting the Subject Parcel.** The parcel is located outside of a borough or municipality with zoning authority.

**H. Apparent Highest and Best Use.** The highest and best use for this parcel is as a buffer zone to install bank stabilization measures to protect downstream property.

**IV. Proposal Background.** Mr. Stewart submitted a request to purchase a portion of Trust parcel F20607 in the Big Delta area. Mr. Stewart indicated that due to the high rate of bank erosion along the Tanana River, he intended to purchase this parcel to install erosion control measures to protect his adjacent property.

**V. Terms and Conditions.** The standard TLO Purchase and Sale Agreement, Contract for the Sale of Real Property, and Quitclaim Deed will be used for the disposal.

**VI. Resource Management Considerations.** The proposal is consistent with the “Resource Management Strategy for Trust Land,” which was adopted March 2016 in consultation with the Trust and provides for the TLO to maximize return at prudent levels of risk, prevent liabilities, and convert nonperforming assets into performing assets. Past experience has demonstrated that it is unlikely that this parcel will appreciate at a rate that would justify holding it for a later sale. It is also not cost effective for the TLO to hold this parcel and incur the associated management costs and liabilities.

**VII. Alternatives.**

- A.** Do nothing or offer sometime in the future. This alternative would delay receipt of revenues from sales and could result in additional costs and risks to the Trust without significant increases in value.
- B.** Competitive Land Sale. MH Parcel F20607 is approximately 140 acres in size and includes seven distinct islands bisected by the Tanana River and several sloughs. The 1.58-acre portion considered under this disposal is the only portion of the parcel located on the southside of the Tanana River. Without a willing buyer, the TLO would not consider subdivision of the parcel for inclusion in the competitive land sale due to the low land values verses the cost to survey and plat individual lots.
- C.** Alternate development. The lack of road and utility infrastructure and small size of this portion of the parcel makes development of subdivision or commercial development cost prohibitive. The material is mostly glacial silt and there has been no interest expressed for material or mineral development. There are no commercial timber resources on this portion of the parcel.

**VIII. Risk Management Considerations.**

- A. Performance Risks.** Performance risks will be mitigated through the TLO’s purchase and sale agreement, land sale contract, and quitclaim deed. These documents include contemporary language to limit risks to the TLO and the Trust, ensure performance by the buyer, and allow for termination in the case of default.
- B. Environmental Risks.** The parcel is located within the Tanana River floodplain, comprised primarily of glacial silt, and is subject to erosion.
- C. Public Concerns.** Subject to comments resulting from the public notice, there are no known concerns that suggest the proposed transaction is inconsistent with Trust principles.
- D. Access concerns.** Legal access is along the river frontage or section line easement that crosses Blue Creek and would require an approximate 175-foot bridge to access the parcel year-round.

**IX. Due Diligence.**

- A. Site Inspection.** Site inspection was conducted on June 9, 2017.
- B. Valuation.** The Purchaser agrees to purchase the above described Property for the amount of \$8,640. The Purchase Price was determined by a Broker Price

Opinion (BPO) completed by Mt. Hayes, Inc., Becky Peterson on December 1, 2017. The BPO determined the estimated market value of the property to be \$7,200. Under 11 AAC 99.020, the TLO is mandated to sell land on a competitive base. In order to sell land through a negotiated land sale process, TLO's Executive Director has determined that a premium would be charged for all negotiated sales. The premium for the Property will be 20% of the BPO value to compensate for not selling the land through a competitive process.

**C. Terms and Conditions Review.** Contract documents were reviewed by the Attorney General's Office and an independent law firm.

**D. Other.** Survey is required in the purchase and sale agreement.

**X. Authorities.**

**A. Applicable Authority.** AS 37.14.009(a), AS 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust land management and disposal).

**B. Inconsistency Determination.** As the proposed Negotiated Land Sale is specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes determinations that certain State statutes applicable to other State land do not apply to Trust land unless determined by the Executive Director, on a case-by-case basis, to be consistent with 11 AAC 99.020. The State Statutes deemed inconsistent with Trust management principles and inapplicable to Trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and Duties of the Director), AS 38.05.300 (Classification of Land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals).

i. AS 38.05.055, Alaska Residency required for purchase of State land and AS 38.05.940, Veteran's discounts allowed on purchase price of State land. Preferences or discounts provided to Alaska residents or veterans would be granted at a cost to the Trust, hereby violating key Trust management principles.

ii. AS 38.05.127, Access to navigable or public water and requiring "to and along" easements on Trust properties diminishes the sale value of Trust lands and therefore is inconsistent with Trust management principles.

iii. AS 38.05.065(g), Appeal of director's decision to commissioner is in direct conflict with 11 AAC 99.060 and therefore does not apply to the transaction pursuant to 11 AAC 99.060(d).

**C. Provisions of law applicable to other state land that are determined to apply to Trust land by the Executive Director, on a case-by-case basis include:**

i. AS 38.05.035(i), persons eligible to file a request for reconsiderations.

ii. 11 AAC 02.030 (a) and (e), filing request for reconsideration.

iii. 11 AAC 02.040, timely filing.

**XI. Trust Authority Consultation.** TLO consultation is defined in statute and regulation under AS 37.14.009(a)(2)(C) and 11 AAC 99.050 and clarified under 11 AAC 99.030(d) which requires the executive director to consult before issuing a public notice of a written decision of best interest.

**XII. Best Interest Decision.**

**A.** Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transaction is in the best interest of the Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from determining that an alternative proposal may serve the best interest of the Trust. A future determination of that nature may require a Best Interest Decision specific to the proposal.

**B. Non-competitive Disposal Determination.** 11 AAC 99.020 (d) allows for the disposal of Trust land through a competitive basis, unless the Executive Director in consultation with the Trust Authority, determines in a written decision required by 11 AAC 99.040 that a non-competitive disposal is in the best interest of the Trust and its beneficiaries. If another party submits a qualified offer as explained in Section XIII, the Executive Director may consider a competitive sale under the authority of this decision. MH Parcel F20607 is approximately 140 acres in size and includes seven distinct islands bisected by the Tanana River and several sloughs. The 1.58-acre portion considered under this disposal is the only portion of the parcel located on the southside of the Tanana River. The value of the parcel is unlikely to be enhanced if subdivided as part of a larger package. The parcel is located within the Tanana River floodplain, comprised primarily of glacial silt, and is subject to erosion. Mr. Stewart is the downstream adjacent landowner and intends to install bank stabilization features to slow downstream erosion. Given the price offered, access concerns, and potential for erosion, a non-competitive disposal is in the best interests of the Trust and its beneficiaries.

**XIII. Opportunity for Comment.** Notice of this Best Interest Decision will take place as provided under 11 AAC 99.050. Persons who believe that the decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020 or any other provision of 11 AAC 99, must provide written comments to the TLO during the notice period. Other persons who may be interested in purchasing the Property must submit their proposals during the 30-day public notice period. Instructions to apply can be found online at <http://mhtrustland.org/index.php/land/land-use-application/>. To be considered a qualified competing interest, applications must include the application fee, a formal Letter of Intent to include an offer price that matches or exceeds the current offer of \$8,640 for the parcels, a deposit of 10% of the offered price in certified funds. In the event that there is competing interest, all qualified interested parties will be notified by phone, fax, or e-mail how they may participate in the alternative sale process. Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of the Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director may then, in his or her discretion, modify the decision in whole or in part

in response to such comments or other pertinent information, or affirm the Best Interest Decision without changes. The Best Interest Decision as modified or affirmed will become the final agency action, subject to reconsideration procedures under 11 AAC 99.060. Additional notice will be provided for a substantially modified decision. If no comments are received by the end of the notice period, this Best Interest Decision will be affirmed and the proposed action taken. (See notice for specific dates.)

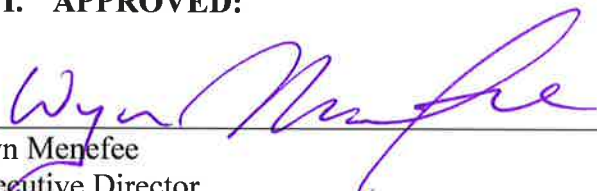
**XIV. Reconsideration.** To be eligible to file for reconsideration of this Best Interest Decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

Persons who submit timely written comments will be provided with a copy of the final written decision, and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director takes no action during the 20-day period following the request for reconsideration, 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.

**XV. Available Documents.** Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone: (907) 269-8658. Email: [mhtlo@alaska.gov](mailto:mhtlo@alaska.gov).


The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the TLO administrative process. For specific dates or further information about the disposal, interested parties should contact the TLO at the above address, or visit the website at: [www.mhtrustland.org](http://www.mhtrustland.org).

**XVI. APPROVED:**

  
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Wyn Menefee  
Executive Director  
Alaska Mental Health Trust Land Office

4/27/18  
\_\_\_\_\_  
Date

In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction.

  
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Michael K. Abbott  
CEO Alaska Mental Health Trust Authority

4/30/18  
\_\_\_\_\_  
Date



MAP : MH Parcel F20607 / MHT 9400662

