

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Grant Easement
MHT #9200690

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 grant an Easement of certain Trust land to the Harvest Alaska, LLC. 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 adjacent or near to Tyonek, and is more particularly described as: A strip of land 20 feet in width and 9,181 feet in length located in section 21, 22, & 28 in Township 11 North, Range 12 West, Seward Meridian containing 4.21 acres more or less. (MH Parcels **S1001; S70437**).

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, December 15, 2017. 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**. 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.

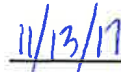
To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final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

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Wyn Menefee
Executive Director (Acting)



Date

Published Kenai Peninsula Clarion: 11/15/2017

**The Alaska Mental Health Trust Authority
Trust Land Office**

**BEST INTEREST DECISION
Harvest Alaska, LLC
Granite Point Tank Farm to Kaloa Junction fiber optic cable**

MHT # 9200690
MH Parcel(s) **S1001; S70437**

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.** Construction, operation, and maintenance of a fiber optic cable.
- II. Applicant/File #.** MHT 9200690 Utility Easement ("Easement") for Harvest Alaska, LLC.
- III. Subject Property.**
 - A. Legal Description.** A strip of land 20 feet in width and 9,181 feet in length located in section 21, 22, & 28 in Township 11 North, Range 12 West, Seward Meridian containing 4.21 acres more or less.
 - B. Settlement Parcel Number(s).** S1001; S70437.
 - C. Site Characteristics/Primary Resource Values.** The subject parcels are in the Tyonek area, approximately 10 miles west of Tyonek, Alaska. The vegetation is composed of alder, spruce, and willow. There are a number of oil rigs located in the tidelands in this area. There are a number of underwater and on-shore pipelines and storage facilities for the transfer, treatment, and storage of oil.

There is a landing area in the vicinity and there are a number of airstrips along the coast associated with the Village of Tyonek and oil production. Also, a potential resource for a transfer site for timber products, materials, and coal.

- D. Historical and Existing Uses of the Property.** The Granite Point pump station receives oil from Cook Inlet oil rigs from underwater pipelines, where it is treated and stored before being transferred through on-shore pipelines to the Drift River terminal. The landing area is also used to offload equipment and supplies for exploration and construction in the area.
- E. Adjacent Land Use Trends.** The adjacent land use is used for development for the oil and gas industry.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** The subject parcel is included in the Kenai Area Plan (200), Region 11: Cook Inlet – North of Redoubt Bay. Current management is to support the oil and gas industry with pipelines that transport natural gas and oil. The Granite Point pump station and a residential settlement, Shirleyville, is located adjacent to the subject area.
- H. Apparent Highest and Best Use.** The highest and best use is continued management to support the oil and gas industry.

- IV. Proposal Background.** Harvest Alaska, LLC proposes to construct and place an oil pipeline (MHT 9200682) and fiber optic cable (MHT 9200690) in the same foot print that Chugach Electric Association (CEA) occupies for a 69kv transmission line for approximately 790 linear feet of the total 9,181 linear feet requested. In 1967, the Matanuska Electric Association Incorporated (MEA) was issued a Right-of-Way Permit (ADL 34776) from the Division of Lands, for an electrical transmission line for 100 feet in width, beginning near Granite Point Production Facility and terminating northeast +/- 12,000 feet. On 10/20/2017 MEA provided an email stating, "Matanuska Electric Association, Inc. has no objection to the proposed work in the ADL34776." This Right-of-Way Permit (ADL 34776) has not been assigned to CEA, however, CEA provided a letter of non-objection dated 11/3/2017 referencing "...Chugach's Right-of-Way (ROW) ADL 34776 located within Sections 21, 22, and 28, T11N, R12W, Seward Meridian, Alaska."

The remaining 8,391 linear feet that Harvest Alaska, LLC proposed to construct and place an oil pipeline and fiber optic cable is located within a portion of the Right-of-Way Permit ADL 56013. In 1971, Marathon Oil Company constructed, operated, and maintained a buried pipeline from Trading Bay On Shore Production Facility to Granite Point Production Facility under a Letter of Entry (ADL 56013) issued by the Division of Lands. In 1973 the Division of Lands granted a Right-of-Way Permit to Marathon Oil Company and Union Oil Company of California for a gas pipeline from West Foreland to Granite Point with a width of variable feet containing +/-148 acres. On September 20th, 1996, the state conveyed parcel S70437 to the Trust under QCD 8000074, whereby, ADL 56013 was not reserved or made subject to. Consequently, the Trust Land Office has been collecting a percentage of the overall annual revenue received by DNR. The most recent assignment approved by Division of Mining, Land & Water in 2015 assigned the

ROW to Kenai Beluga Pipeline Company, LLC whose parent company is Harvest Alaska, LLC.

- V. Terms and Conditions.** A modified easement agreement will be used for the disposal.
- A. Term.** An initial term of 30 years with the option to extend.
 - B. Considerations.** The Grantee shall pay an annual payment to the Grantor in the amount of \$12,853.40 and will include a CPI adjustment every five (5) years.
 - C. Co-location.** The Grantee may not co-locate third party equipment without TLO approval.
- VI. Resource Management Considerations.** The proposed action is consistent with the key provisions of the Resource Management Strategy guidelines. Protection of the corpus and long-term productivity will be enhanced by terms and conditions in the Easement. Secondary and cumulative impacts are reduced by the terms and conditions, which require insurance, bonding, and indemnification. The Easement will not negatively affect the Trust's opportunity to maximize revenues from this site or adjacent Trust lands over time.
- VII. Alternatives.**
- A. Do Nothing.** The Trust is one of multiple land owners that this fiber optic cable will encumber from Granite Point Tank Farm to Kaloa Junction. Doing nothing would result in a loss of income-generating revenue within an existing footprint that is currently being used as a utility corridor.
 - B. Alternate Development.** This fiber optic cable will be within the footprint that is currently being used as a utility corridor to the extent practicable, therefore, it is unnecessary to relocate the fiber optic cable from the subject parcels.
 - C. Proceed as Proposed.** The applicant is willing to complete the Easement disposal and return market value for the land use to the Trust, including cost adjustment every five (5) years.
- VIII. Risk Management Considerations.**
- A. Performance Risks.** No additional land disturbance aside from normal maintenance is anticipated. The standard easement indemnification, bonding, and insurance coverage naming the Trust as an additional insured should mitigate unknown liabilities.
 - B. Environmental Risks.** The Commercial Liability Insurance coverage requirements should mitigate unknown environmental and liability risks.
 - 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.
- IX. Due Diligence.**
- A. Site Inspection.** A site visit was not conducted prior to Agreement negotiations.
 - B. Valuation.** The Trust will receive approximately \$385,602 over the life of the easement.

C. Terms and Conditions Review. The proposed Easement will be a standard TLO easement document which is periodically reviewed by General Counsel to mitigate exposure to risk.

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 Easement 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).

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. 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 will serve the best interest of the Trust. A future determination of that nature will require a best interest decision specific to the proposal.

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. 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 will 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.

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.

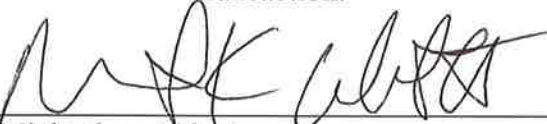
XVI. APPROVED:



Wyn Menefee
Executive Director (Acting)
Alaska Mental Health Trust Land Office

Date 11/8/17

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.



Michael K. Abbott
Chief Executive Officer
Alaska Mental Health Trust Authority

11-8-17
Date