

# The Alaska Mental Health Trust Authority Trust Land Office

## BEST INTEREST DECISION Adoption of Resource Management Strategy (November 2013) as the long-term asset management strategy

Project #2012-25

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 must 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 (P.L. 84-830, 70 Stat. 709 (1956)), 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 Action:** Adopt as long-term asset management strategy (11 AAC 99.090(c)) the Resource Management Strategy and all underlying resource plans for the Trust’s non-monetary assets.
- II. **This Resource Management Strategy is TLO Project # 2012-25, as updated November 2013**
- III. **Proposal Background.** The Trust Land Office (TLO) was directed by the Trustees of the Alaska Mental Health Trust, upon advice of counsel to formulate a plan for resource management and development. Staff worked diligently for many months developing the plan. Through the process, many key stakeholders provided input including Trust Authority and TLO staff, private counsel, the Department of Law and the Trustees. In addition, industry experts were consulted to advise the TLO on its methodology and

assumptions for development of the plan. The results of these efforts were a Resource Management Strategy (RMS) and an underlying Real Estate Management Plan which was adopted by Trustees in June of 2012.

Since June of 2012 a new initiative took hold. This initiative had three key components. First the RMS was to be supported by five additional Resource Management Plans for a total of six. The plans are land, minerals and materials, program-related real estate, forestry, real estate, and energy. Secondly the plans were to focus on active investment and development of each resource to the benefit of the Trust. Lastly the RMS as a whole was to serve as the new Long-term Asset Management Strategy.

- IV. Asset Management Considerations.** The proposal is appropriate as it directly fulfills specific requirements in the Asset Management Policy Statement, revised September 2011.
- V. Authorities.**
- A. Applicable Authority.** Alaska Statutes 37.14.009(a) and 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust land management and disposal).
- B. Inconsistency Determination.** As the proposed adoption of the plan 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), 11 AAC 02 (Appeals); and AS 46.40 (Alaska Coastal Management Program), to the extent that it does not apply to private land owners.
- VI. Trust Authority Consultation.** The Board of Trustees was consulted on November 21, 2013 and concurred with the Trust Land Office's recommendation to adopt the Resource Management Strategy as the long-term asset management strategy to include all underlying resource plans, subject to the outcome of the notice process.
- VII. Best Interest Decision.** Given the information above and the information contained in the complete record, the Executive Director finds that the proposed action 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.

**VIII. 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 Alaska Mental Health 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 Public Notice for specific dates.)

**IX. 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, 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.

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

The 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 Trust Land Office administrative process. For specific dates or further information about the action,

interested parties should contact the Trust Land Office at the above address, or visit the TLO website at: [www.mhtrustland.org](http://www.mhtrustland.org).

**XI. APPROVED:**

  
By: Marcie Menefee  
Executive Director

12-09-13  
Date