

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION Chugach Electric Association Master Utility Easement Agreement Point MacKenzie Transmission Line

MHT 9200438
MH Parcel SM-1882

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 (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 Use of Trust Land. Construction, maintenance, and operation of an electrical transmission line.

II. Applicant/File #. Chugach Electric Association/MHT 9200438 associated with the Master Utility Easement Agreement, MHT 9200585.

III. Subject Property.

A. Legal Description. A strip of land 100 feet in width and 1,994.60 feet in length across a portion of Trust land identified as parcel SM-1882, which is located in the SW1/4SW1/4, Section 14 and the SE1/4SE1/4 of Section 15 in Township 16 North, Range 3 West, Seward Meridian containing approximately 4.58 acres, more or less.

B. Settlement Parcel Number(s). A portion of SM-1882.

- C. Site Characteristics/Primary Resource Values.** The subject parcel is located in the Point MacKenzie area, approximately twenty miles northeast of Port MacKenzie and fifteen miles southwest from the city of Wasilla. The land includes typical, native mature forest mix of birch and spruce with approximately 33% designated as wetlands by U.S. Fish and Wildlife Service National Wetlands Inventory. TLO leased the parcel for oil and gas exploration in 2000 and the file was closed in 2005. The primary resource values of the parcel are real estate and resources.
- D. Historical and Existing Uses of the Property.** The Point MacKenzie area was used by Alaska Natives, the Dena'ina Athabascan for subsistence activities and trading at seasonal camps. The town of Knik was settled in 1915 as a result of becoming a major logistical supply center to stage goods to the gold rush in the interior of Alaska. Subsistence trails through various Point MacKenzie areas were constructed to connect communities during this time including a portion of the Iditarod Trail. Today, state and borough large scale capital project investments fund the economic growth and development in the area such as the development of the port, the railroad extension project, the bridge between Anchorage and Port MacKenzie, and Goose Creek Correctional Center. The subject parcel has been used as a transmission line since 1974.
- E. Adjacent Land Use Trends.** A mixture of industrial, commercial, agricultural, residential, and recreational properties.
- F. Previous State Plans/Classifications.** The subject parcel was included in the Willow Sub-Basin Area Plan (1982) and superseded by the current Southeast Susitna Area Plan (adopted in 2008 and revised by DNR in 2009). Current management of State land is for its recreational or habitat resources values.
- G. Existing Plans Affecting Area.** The subject parcel is not located within the boundaries of any city and does not have zoning regulations; however, development restrictions are imposed by the Matanuska-Susitna Borough through Condition Use Permits and Special Land Use Districts.

The subject parcel is within the Point MacKenzie Community Comprehensive Management Plan (adopted July 2011). The plan's Community Vision Statement states "Development of Point MacKenzie's infrastructure including major transportation routes, public utilities, and services is to be achieved for both the betterment of the community, the region, and the state of Alaska." The plan further states under Land Use Goals & Objectives, "Encourage development along the Point MacKenzie Road and major collectors/thoroughfares." The Easement is consistent with the Point MacKenzie Community Comprehensive Plan.

- IV. Apparent Highest and Best Use.** There are no feasible development options apparent for the parcel at this time, with the current highest and best use for either real estate or potential oil and gas resource development. The Easement does not prevent future development of the parcel.
- V. Proposal Background.** The applicant constructed and operated a 230kV transmission connecting Point MacKenzie to the Teeland substation located in Wasilla. The applicant filed for an easement in 1974 with DNR to construct, operate, and maintain the transmission

line. A survey was not performed and delayed completion of the easement process. The Weiss v State of Alaska civil lawsuit (4FA-82-2208) and subsequent settlement further delayed completion of the easement. All TLO required utility easement documentation is now complete.

- VI. Terms and Conditions.** The Point MacKenzie transmission line will generate annual revenues of \$1,745 contributing \$52,343 to Income over the term of the Easement. The Point MacKenzie line is one of multiple transmission and distribution lines subject to the Master Utility Easement Agreement, MHT 9200585.
- VII. Asset Management Considerations.** The subject utility was constructed in the early 1970's. Parcel SM-1882 is located on original Trust land. The subject Easement is considered a "Long Term Market" lands under 11 AAC 99.090(c) with a predictable, long-term revenue. The applicant is an experienced electrical company which operates within industry standards and it provides little risk to the Trust.
- VIII. Alternatives.**
- A. Do Nothing.** The transmission line was constructed in the early 1970's and has operated for 39 years without payment. Continuing this course of action negates the potential of a willing buyer with a predictable stream of Income.
 - B. Alternate Development.** The line is a major transmission source to supply electricity to Anchorage and northern Alaska through the Alaska Intertie. It is unnecessary to relocate the transmission line from the subject parcel since it does not prohibit future development.
 - 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 years.
- IX. Risk Management Considerations.**
- A. Performance Risks.** Minimal site development is anticipated since the transmission line infrastructure was previously constructed. Operational maintenance may require clearing of brush or trees to prevent line disruptions. 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 additional comments received through the public notice process, there are no known public concerns.
- X. Due Diligence.**
- A. Site Inspections.** A site visit was not conducted prior to Agreement negotiations.
 - B. Valuation.** TLO Processing and Guidelines for Land Use Fees were reviewed and the easement fee was determined by using the rural rate per lineal foot and an adjustment voltage factor from 34.5kV to 230kV. Back rental fees were assessed to the date of the application.

- C. Terms and Conditions Review.** The Agreement used the TLO standard easement agreement which is periodically reviewed either by the Attorney General or outside legal contractors.

XI. 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 utility 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).

- XII. Trust Authority Consultation.** The Trust Resource Management Committee was not consulted on this matter, as it is considered within the general scope of day to day activities, which the board has delegated to the Executive Director and Chief Executive Officer.

- XIII. 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.

- XIV. 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.)

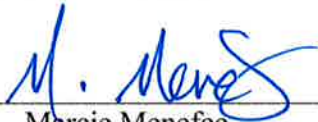
- XV. Reconsideration.** To be eligible to file for reconsideration of this best interest decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

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.

- XVI. 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.

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 Trust Land Office administrative process. For specific dates or further information about the disposal, interested parties should contact the Trust Land Office at the above address, or visit the TLO website at: www.mhtrustland.org.

XVII. APPROVED:


By: _____
Marcie Menefee
Executive Director

11.4.13
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 pursuant to Alaska Mental Health Trust Authority Bylaws, revised September 7, 2011 and Resolution 02-01.


Jeffrey L. Jessee, Chief Executive Officer
Alaska Mental Health Trust Authority

11/8/13
Date