

**Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**Notice under 11 AAC 99.050 of**  
**Decision to Issue Sawmill Telecommunication Lease**  
**MHT #9200169**

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 ground lease of certain Trust land to the Alaska Department of Administration, Enterprise Technology Services. 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 to Bonnie Lake, Alaska, and is more particularly described as: EI/2 N1/2 NE1/4 SE1/4 NE1/4 SE1/4, NE1/4 SE1/4 NE1/4 SE1/4 NE1/4 SE1/4 Section 22, Township 20 North, Range 6 East, Seward Meridian, containing 1.6 acres more or less (MH Parcel **SM-0211-001**).

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, August 19, 2016. 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 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.

  
\_\_\_\_\_  
John Morrison  
Executive Director

  
\_\_\_\_\_  
Date

Published Alaska Dispatch News: 07/20/2016



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

## **BEST INTEREST DECISION Sawmill Telecommunication Site**

MHT #9200169  
MH Parcel(s) SM-0211-O011

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.** Operations and maintenance of an existing telecommunications facility, which includes a 10ft by 12ft metal building and a 42ft tower. Access is via an existing gravel road.
- II. **Applicant/File #.** Alaska Department of Administration, Enterprise Technology Services / MHT 9200169.
- III. **Subject Property.**
  - A. **Legal Description.** EI/2 N1/2 NE1/4 SE1/4 NE1/4 SE1/4, NE1/4 SE1/4 NE1/4 SE1/4 NE1/4 SE1/4 Section 22, Township 20 North, Range 6 East, Seward Meridian, containing 1.6 acres more or less.
  - B. **Settlement Parcel Number(s).** SM-0211-O01.
  - C. **Site Characteristics/Primary Resource Values.** The subject parcel is approximately four miles east of the community of Chickaloon along the Glenn Highway. The elevation and location of Sawmill site makes it ideally suited for telecommunications purposes. Communication towers and utilities are supportive to other industries and resources.



- D. Historical and Existing Uses of the Property.** Utility easements, communication facilities and rights-of-ways.
- E. Adjacent Land Use Trends.** Adjacent land use trends include settlement, recreation, forestry, wildlife habitat, and telecommunication facilities. Placer gold deposits are located within the Willow Creek Mining District but not within the project area.
- F. Previous State Plans/Classifications.** 1985 Susitna Area Plan (SAP), Bonnie Lake Management Unit. This unit will be managed to provide a mixture of land for settlement, public recreation, habitat protection, and personal use timber harvest. The unit contains a scenic, complex mixture of rugged and rolling country including several rock escarpments, steep river drainages and a number of lakes. It is a popular hiking and fishing area with good potential for further recreational development and increased use. Land ownership is a mixture of public and private. Part of the unit is accessible by road.
- G. Existing Plans Affecting the Subject Parcel.** 2008 Chickaloon Comprehensive Plan (CCP). The proposed project is compatible with the goals of the CCP to develop utilities that support and augment the needs of the residents and traveling public without negatively impacting the community and ensure they are appropriately sited and managed with the lowest visual impacts.
- H. Apparent Highest and Best Use.** Utility infrastructure and settlement.

**IV. Proposal Background.** In 2001, the TLO issued a ten (10) year Revocable License to Alaska Department of Administration, Information Technology Group (DOA) to locate and operate a telecommunications facility. The Revocable License expired in 2011. Since that time, DOA has not paid land use fees but has continued to operate the facility. On September 21, 2015, DOA submitted a lease application to continue to operate the facility. The permanent nature of the telecommunication facilities is consistent with a lease disposal rather than a Revocable License.

**V. Terms and Conditions.**

- A. Term.** An initial term of 10 years with the option for two additional five year extensions.
- B. Considerations.** The Grantee shall pay an annual payment to the Grantor in the amount of \$5,000, and will include a CPI rental adjustment every five (5) years.
- C. Co-location.** The Grantee may not co-locate third party equipment without TLO approval.
- D. Negotiation of Other Lease Terms.** TLO will provide an example of the Lease form and may entertain proposals for minor modifications of the Lease, but will retain the ability to reject any requests.
- E. Back Rental.** Fees in the amount of \$13,500 will be collected for rental payments for use of the facilities between August 23, 2011 and acceptance of this agreement.

**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. The proposed fiber-optic line will be collocated with existing power lines creating diversity of revenue-producing uses on Trust property. No further expansion of the existing electric utility easement is required.

## **VII. Alternatives.**

- A. Proceed as Proposed.** The proposed use is practical and feasible, as demonstrated by the prior use of the land by the applicant. Telecommunication facilities in the Bonnie Lake area enhance all Trust resources by improving communications within the area whether for commercial development or residential housing. The greater property right granted is offset by the increased business opportunities that may result in long-term benefit to The Trust and beneficiaries. Failure by the lessee to abide by the terms and conditions of the Lease provides the TLO with adequate justification to revoke the Lease for cause and thereby reducing the risk to The Trust.
- B. Do Nothing.** Doing nothing would preclude an opportunity to receive value for the proposed activities.
- C. Other Resource Development.** Possible alternatives include offering the area for placer mining, material sale, or coal lease. There are no known mineral or coal deposits located within or adjacent to the project area.

## **VIII. Risk Management Considerations.**

- A. Performance Risks.** The standard Lease indemnification and insurance coverage naming the TLO as second should mitigate unknown liabilities. The facility has operated since 2001 without incident and the bond guarantee is waived.
- B. Environmental Risks.** There is little risk associated with tower sites, especially one that has been operating since 2001 without incident. Permanent facilities are located on site and would need to be removed and the site reclaimed to the satisfaction of the TLO.
- 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. Other.** An as-built survey to more accurately reflect the site's location and footprint is required.

## **IX. Due Diligence.**

- A. Site Inspection.** A site inspection was conducted on June 10, 2015. The site was well marked and clean.
- B. Valuation.** The Trust will receive approximately \$65,500 in land use fees over the initial 10-year term of the easement, and includes back rental fees. The December 2013 Guidelines for Land Use Fees was reviewed and a modified Annual Use Fee was used to determine the annual rental.
- C. Terms and Conditions Review.** This agreement uses a modified TLO lease document to address continuity issues between construction licenses and final easements. Insurance and indemnification have been imposed per the standard



conditions of the easement. The bonding requirements have been waived due to the low risk of additional adverse impacts.

**X. Authorities.**

**A. Applicable Authority.** AS 37.14.009(a), AS 38.05.801, and 11 AAC 99.

**B. Inconsistency Determination.** As the proposed Lease 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 consultations are 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](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:**

  
\_\_\_\_\_  
John Morrison  
Executive Director  
Alaska Mental Health Trust Land Office

7-11-16  
\_\_\_\_\_  
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.

  
\_\_\_\_\_  
Russ Webb  
Chair, Board of Trustees  
Alaska Mental Health Trust Authority

7/15/2016  
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Date