

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Sell a Parcel of Trust Land Near Wrangell
MHT #9100862

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 Brett Woodbury d/b/a BW Enterprises. 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 Wrangell, and is more particularly described as: A portion of Lot 4 of US Survey No. 3709 located within Sections 30, 31, and 32 of Township 63 South, Range 84 East, Copper River Meridian; and Sections 5 and 6 of Township 64 South, Range 84 East, Copper River Meridian, containing 659.880 acres more or less; according to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on May 26, 1961. The subject 13-acre property is located specifically in Sections 31 & 32, Township 63 South, Range 84 East, Copper River Meridian.


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, May 5, 2019. 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 <https://alaskamentalhealthtrust.org/trust-land-office/>. 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

4/1/19

Date
Published Wrangell: 4/4/2019

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale of a Trust Parcel – Wrangell

MHT: #9100862
MH Parcel: A Portion of CRM-2528

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. Negotiated Land Sale.

II. Applicant/File #. BW Enterprises/MHT 9100862

III. Subject Property.

A. Legal Description. A portion of Lot 4 of US Survey No. 3709 located within Sections 30, 31, and 32 of Township 63 South, Range 84 East, Copper River Meridian; and Sections 5 and 6 of Township 64 South, Range 84 East, Copper River Meridian, containing 659.880 acres more or less; according to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on May 26, 1961. The subject 13-acre property is located specifically in Sections 31 & 32, Township 63 South, Range 84 East, Copper River Meridian.

B. Settlement Parcel Number. A portion of parcel CRM-2528.

C. Site Characteristics/Primary Resource Values. The property is located about 10 miles south of the community of Wrangell, and a short distance east of the Zimovia Highway. The parcel is forested with large trees typical of what’s found in southeast Alaska temperate rainforests. The parcel is situated on a west facing hillside just above a rock quarry. There is no developed access to the property,

and there are no utilities on the property. The primary resource value of the property is for timber resources, rock material, or a disposal through a land sale.

- D. Historical and Existing Uses of the Property.** The property is vacant and undeveloped. The property was logged years ago, and currently consists of second growth forest.
- E. Adjacent Land Use Trends.** Land use trends in the area of the subject property consist of public land ownership and rural residential character. Adjacent to the property is a rock quarry owned by the applicant, a nearby log transfer facility, and a small log sort yard and sawmill. Other uses in the area pertain to recreational activities at Pats Lake, and general public use on the adjacent USFS lands.
- F. Previous State Plans/Classifications.** Central/Southern Southeast Area Plan – Region 4. Wrangell; adopted November 2000.
- G. Existing Plans Affecting the Subject Parcel.** City and Borough of Wrangell Comprehensive Plan; adopted June 2010.
- H. Apparent Highest and Best Use.** The applicant has proposed to purchase approximately 13 acres of land that will need to be subdivided from a larger parcel. The land in question is at the southern end of the larger parcel, is inaccessible, and borders USFS land to the east and south, and borders private land to the west. The highest and best use of the subject parcel is disposal through a negotiated sale.

- IV. Proposal Background.** In December of 2016, Brett Woodbury the owner of BW Enterprises applied to the Trust Land Office seeking to purchase approximately 13 acres more or less of Trust land adjacent to his rock quarry which he is seeking to expand. The subject 13-acre property is located at the southern end of a large tract of land, and will need to be surveyed, subdivided, and platted. The property also abuts land that the Trust is slated to exchange with the USFS. The proposed subdivision would encompass a portion of Trust land that is currently undeveloped and surrounded by private and public land. There is no developed access or utilities to the property.
- V. Terms and Conditions.** On November 13, 2018 the TLO and BW Enterprises entered into a purchase and sale agreement outlining the process for purchasing the property through a negotiated sale at a price of \$12,700.00 per acre, for a total estimated price of \$165,000.00, plus the cost of the appraisal, and all necessary transaction costs, including survey, survey review, platting, and any other costs associated with the transaction. BW Enterprises has the option to enter into a land sale contract or pay the entire sale price in one lump sum. When the purchase price is paid in full a Quit Claim Deed will be executed.
- VI. Resource Management Considerations.** The proposal is consistent with the “Resource Management Strategy for Trust Land” (RMS), 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. Experience has demonstrated that it is unlikely that this parcel will appreciate at a rate

that would justify holding for a later sale. It is also not cost effective for the TLO to hold this parcel for a long period of time and incur the associated management costs and liabilities.

VII. Alternatives.

- A. Do nothing or offer for sale sometime in the future.
- B. Retain the parcel for residential or commercial leasing. There is currently no interest.
- C. Retain the parcel for future timber sale or rock quarry.
- D. Retain the parcel for potential future conservation or environmental mitigation purposes. There is currently no interest.

Alternatives A, B, C, and D would delay receipt of potential revenues and could result in additional costs and risks to the Trust without significant increases in value.

VIII. Risk Management Considerations.

- A. **Performance Risks.** In present condition, the parcel is not generating any revenue for the Trust. The parcel is considered a non-performing asset.
- B. **Environmental Risks.** There are no known environmental risks associated with the proposed sale, and there is no history of the Trust authorizing any use on the parcel.
- C. **Public Concerns.** There are no known public concerns regarding the proposed action. The Trust has previously sold land to the applicant adjacent to the subject property which went through a public notice process and there were no public comments were received.

IX. Due Diligence.

- A. **Site Inspection.** TLO staff and the contract appraiser inspected the parcel in 2018.
- B. **Valuation.** An appraisal was performed on May 17, 2018 using a sales comparison approach of similar properties within the region that recently sold and were developed for use as material sites. Based on information gathered in the report the fair market value for a hypothetical subdivided 13-acre parcel was \$135,000.00. To compensate for not selling the land competitively the TLO seeks a premium of 22%, or \$12,700.00 per acre.
- C. **Terms and Conditions Review.** An agreement for the purchase and sale of the property was completed on November 13, 2018. The agreement outlines the terms and conditions of the sale.

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 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). Other provisions of law the TLO deems inconsistent with Trust responsibilities include:

1. 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.
2. 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.

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.

A. 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. The proposed subdivision is approximately 13 acres more or less. Given the price offered and the restrictive access, a non-competitive disposal is in the best interest 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 <https://alaskamentalhealthtrust.org/trust-land-office/land-sales/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 \$165,000.00 for the parcel, 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.

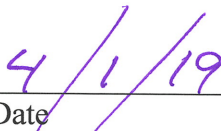
The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the TLO administrative process. For specific dates or further information about the disposal, interested parties

should contact the TLO at the above address, or visit the website at:
<https://alaskamentalhealthtrust.org/trust-land-office/>.

XVI. APPROVED:



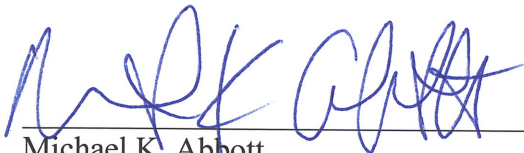
Wyn Menefee
Executive Director
Alaska Mental Health Trust Land Office



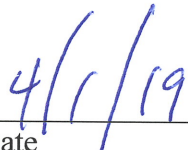
Date

XVII. CONSULTATION CONCURRENCE:

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.



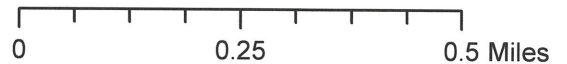
Michael K. Abbott
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority



Date



MHT 9100862 - Negotiated Sale



- MHT 9100862
Proposed Sale Area
13 Acres Approx.
- MHT 9100608
(Lot 4B
Rock Subdivision
TLS 2010-02
Plat 2010-5
Wrangell Rec. Dist.)
- TLO Parcels
- Land Exchange Act
- Lot 4 of USS 3709

