#### Alaska Mental Health Trust Authority Trust Land Office <u>Notice under 11 AAC 99.050 of</u> <u>Statewide Competitive Leasing Offering</u> <u>TLO Project # 2019-172</u>

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 offer 24 Trust parcels for disposal through the TLO's Competitive Lease Program. 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 the following communities: Sterling, Seldovia, Kodiak Island, Talkeetna, Cantwell, Chena Hot Springs, Salcha, Juneau, Ketchikan, Kuperaunof, Meyers Chuck, and Wrangell. Further descriptions of the parcels may be found in the written best interest decision.

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**, **June 17, 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 <u>mhtlo@alaska.gov</u>. 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 <u>https://alaskamentalhealthtrust.org/trust-land-office/</u>. 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

Date

Published Wrangell Sentinel: 05/16/2019

#### Alaska Mental Health Trust Authority **Trust Land Office** Notice under 11 AAC 99.050 of Statewide Competitive Leasing Offering TLO Project # 2019-172

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Wyn Menefee

**Executive Director** 

Published Anchorage Daily News: 05/17/2019

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Wyn Menefee Executive Director

Date

Published Fairbanks Daily News: 05/17/2019

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**Executive** Director

5/13/19

Published Juneau Empire: 05/17/2019

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Date

Wyn Menefee

Wyn Menefee Executive Director

Published Peninsula Clarion: 05/17/2019

#### The Alaska Mental Health Trust Authority Trust Land Office BEST INTEREST DECISION Statewide Competitive Leasing Offering

Project Number: 2019-172 MH Parcel(s): **Statewide** 

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.** This proposal contemplates two complementary, but distinct competitive leasing processes. Personal recreation or commercial development lease offerings.
  - Competitive Recreation Lease Offerings will be similar in nature to the TLO's competitive land sale program. It is designed to dispose of, through a lease, subdivided lots and small parcels that do not lend themselves to other types of commercial or resource development. The parcels will be leased to the highest qualified bidder after submission of sealed bids to the TLO. The minimum bid is the annual fee for the lease and will be determined as a percentage of the appraised value for each parcel.
  - For a Competitive Commercial Lease Offering, the TLO will request proposals from qualified individuals or firms interested in leasing and developing commercial projects on land owned by the Trust. The goals of this Request for Proposals to Lease Land (RFP) are to ensure that the leased properties are responsibly developed and managed for highest and best use and for the long-term benefit of the Trust. The RFP will contain items such as the method to submit a proposal, submittal requirements, evaluation criteria, and draft lease agreement. The competitive nature of the lease sale will be through the RFP and selections done through evaluation of the project proposal and

annual rent payment. Proposals may be rejected if deemed unsuitable or not in the best interest of the Trust or it's beneficiaries.

- Parcels that fail to be awarded in a competitive lease offering may be leased through an over the counter process, negotiated process, reoffered in a future commercial or recreation lease offering, or sold through an over the counter, competitive, or negotiated sale process.
- II. Applicant/File #. Trust Land Office/ Project No. 2019-172.

#### III. Subject Property.

**A. Parcel Descriptions**. The parcels to be offered for lease are listed on Attachment A of this Best Interest Decision. Descriptions include Trust parcel number, general locations, meridian, township, range, section, survey number, lot, block, subdivision name, and acreage. Parcels may be removed from the lease offering at the discretion of the TLO. Lease parcels offered are located in, or near, the following communities:

Southcentral Region	<b>Northern Region</b>	Southeast Region
Sterling	Cantwell	Ketchikan
Seldovia	Chena	Myers Chuck
Kodiak Island	Salcha	Wrangell
Talkeetna		Kuperaunof
		Juneau

- **B.** Settlement Parcel Number(s). CRM-1924, CRM-2530, CRM-2556, CRM-3394-02, CRM-7001, F1001, FM-0231-Z05, FM-0697, FM-0698, FM-7015, SM-0476, SM-0595, SM-0596, SM-2599, SM-2605, SM-5020, and SM-7003.
- **C.** Site Characteristics/Primary Resource Values. Site characteristics are typical of residential, recreational, and commercial properties with the primary resource value being recreation sites and real estate development.
- **D.** Historical and Existing Uses of the Property. There are no known historic or existing uses and the parcels are typically unencumbered.
- **E.** Adjacent Land Use Trends. Adjacent lands are typically used for residential, some private recreational, and commercial use as well.
- **F. Previous State Plans/Classifications.** Applicable DNR Area Plans and classification were or will be reviewed during the TLO's title review. Typically, the classification placed on Trust land was in existence when the land was subdivided and managed by DNR.
- **G.** Existing Plans Affecting the Subject Parcel. Local jurisdiction plans were or will be reviewed to ensure the sale of the parcels will be consistent with local zoning requirements.
- **H.** Apparent Highest and Best Use. The highest and best use for these parcels is as individual leases for residential, private recreational or commercial development.

- **IV. Proposal Background.** A lease allows exclusive use of the property and typically will add more infrastructure associated with its use. At the end of the lease term, the infrastructure may be removed, sold to another party or retained by the Trust. This program will allow the Trust to realize income from Trust land. The land may be released or used for another purpose after the original term.
- V. Terms and Conditions. The minimum lease value will be established as a percentage of the appraised value which also establishes the minimum bid. Parcels that fail to be awarded in a competitive lease offering may be leased through an over the counter process, negotiated process, reoffered in a future competitive lease offering, or sold in an over-the-counter, competitive, or negotiated sale process. TLO will provide an example of the Lease form, initial terms and may entertain proposals for minor modifications of the Lease but will retain the ability to reject any requests.
- VI. Resource Management Considerations. The proposal is consistent with the "Resource Management Strategy for Trust Land," 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. The Lands Section manages the perpetual Trust land prudently, efficiently, and with accountability to the Trust. Best management practices ensure Trust lands are maintained, assets inventoried, and value is retained for the present and future.

#### VII. Alternatives.

- **A.** Do nothing or offer sometime in the future. These alternatives would delay receipt of income revenues from lease contracts and could result in additional costs and risks to the Trust without significant increases in value.
- **B.** Selling the Lots. The TLO experience indicates that most people prefer to purchase rather than lease recreational property and it is likely that demand for lots offered under this proposal will be lower than a corresponding land sale. Depending on the outcome of the recreational lease offering, these parcels may be offered in a land sale.
- **C.** Alternate Development. Most of the parcels have limited resource values besides real estate or no immediate feasible alternate development interests or proposals.

#### VIII. Risk Management Considerations.

- A. Performance Risks. The standard lease indemnification and insurance coverage naming the TLO should mitigate unknown liabilities. Performance risks will be mitigated through TLO's lease contract. These documents include contemporary language to limit risks to the TLO and The Trust, ensure performance by the lessee, and allow for termination in the case of default.
- **B.** Environmental Risks. There are no known environmental risks associated with this action.
- **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. TLO staff, contract appraiser, and/or surveyor have or will have inspected the parcels prior to lease offering.
- **B. Valuation.** The minimum annual lease value will be established as a percentage of the appraisal land value using the most current Uniform Standards of Professional Appraisal Practice (USPAP) standards or other appropriate valuation methods.
- **C. Terms and Conditions Review.** Contract documents will be reviewed by the Attorney General's Office or an independent law firm prior to offering parcels for lease.
- **D.** Other. All parcels will have a title report completed prior to issuing a contract.

#### 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). AS 38.05.070. Leasing of Land Other Than for the Extraction of Natural Resources.
- B. Inconsistency Determination. As the proposed competitive lease offering 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-bycase 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). A Portion of AS 38.05.070 (d) is deemed inconsistent due to the fact it references public notice under AS 38.05.945 the remainder of the statute still applies if the TLO "determines that only one potential bidder has expressed interest in bidding, the Director may cancel the competitive auction and negotiate a lease and its conditions and terms that the director determines to be in the best interests of the state".
- XI. Trust Authority Consultation. The Alaska Mental Health Trust Resource Management Committee (RMC) was consulted on April 17, 2019. The consultation with the Resource Management Committee fulfilled the board consultation requirements.
- 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 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 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: <u>mhtlo@alaska.gov</u>.

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: <u>https://alaskamentalhealthtrust.org/trust-land-office/</u>.

#### **XVI. APPROVED:**

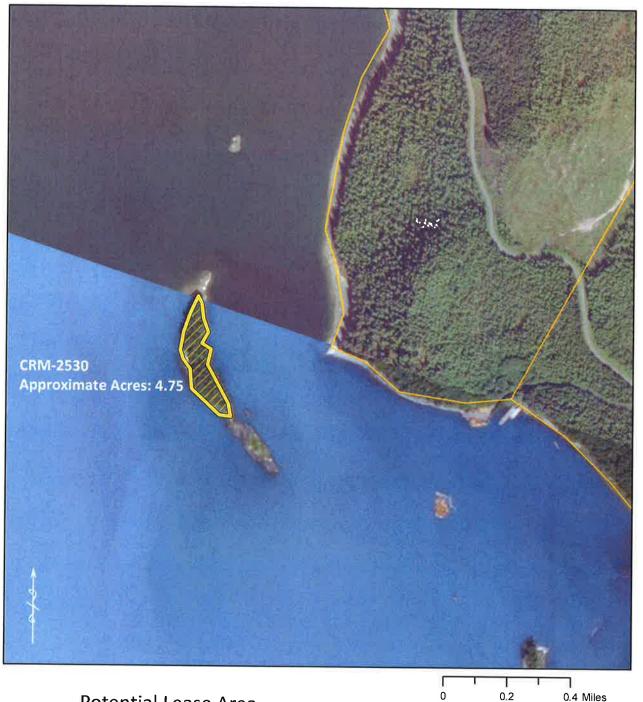
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10/19 5 Date

Wyn Monefee Executive Director Alaska Mental Health Trust Land Office

### Attachment A - Trust Land Office 2019 Competitive Lease Program Parcel List

MH Parcel Number	General Location	Community/ Subdivision	MTRS	Survey	Intended Type of Lease	Acres
Southeast	Region					
CRM-3394-02	Safety Cove	Ketchikan	C076S091E	ASLS 84-54	Commercial	13.9
CRM-2556	Meyers Chuck	Meyers Chuck Subdivision	C071S086E	ASLS 85-93 TLS 2018-08	Commercial	65
CRM-2545; CRM-2554; CRM-2555	Meyers Island	Meyers Chuck Subdivision	C071S086E	ASLS 85-93	Commercial	14.21
CRM-2530	Boat Island	Wrangell	C064S084E	USS 3709	Commercial	4.75
CRM-1924; CRM-1925; CRM-1928; CRM-5019	Sasby Island	Kupreaunof	C058S079E	USRS	Recreational	71.4
CRM-7001	Windham Bay	Juneau	C050S074E	USS 3082	Commercial	4.5
C709932	Leask Lake	Ketchikan	C073S091E	USRS	Recreational	50
Northern Re	egion					
F1001	Mile 183	Cantwell	F021S010W	USRS	Recreational	120
FM-7015	Broad Pass	Cantwell	F018S008W		Commercial	320
FM-0231-Z05	Chena Hot Springs	Chena	F003N008E	USS 4261 ASS 4243 ASLS82-3	Commercial	4347
FM-0689	Salcha River	Salcha	F005S004E	USRS	Recreational	5.73
FM-0697; FM-0698	Salcha River	Salcha	F005S004E	USRS	Recreational	7.6
Southcentra	I Region					
SM-0596	Kenai River	Sterling	S005N008W	AS K-1393	Recreational	5.39
SM-0595	Kenai River	Sterling	S005N008W	AS K-1393	Recreational	3.68
SM-0415	Kasitsna Bay	Seldovia	S008S013W	USRS	Commercial	16.34
SM-5020	Little Tutka Bay	Seldovia	S008S013W	USRS	Commercial	16
SM-0476	Kasilof River	Kasilof	S003N011W	USRS	Commercial	19.95
SM-2599; SM-2605	Chase	Talkeetna	S026N005W	USRS	Recreational	75

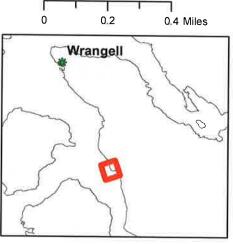


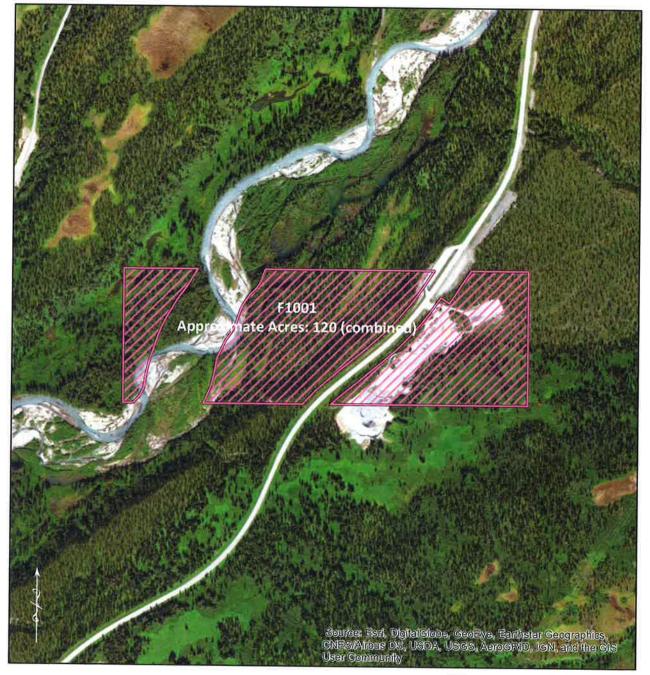
### Potential Lease Area Boat Island



Commercial Use Recreational Use

TLO Parcels



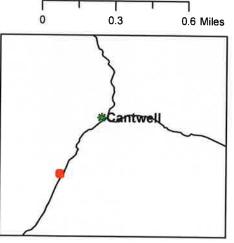


Potential Lease Area Cantwell - Mile 183



Commercial Use Recreational Use

TLO Parcels



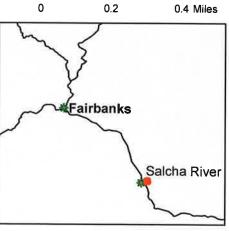


### Potential Lease Area Salcha River



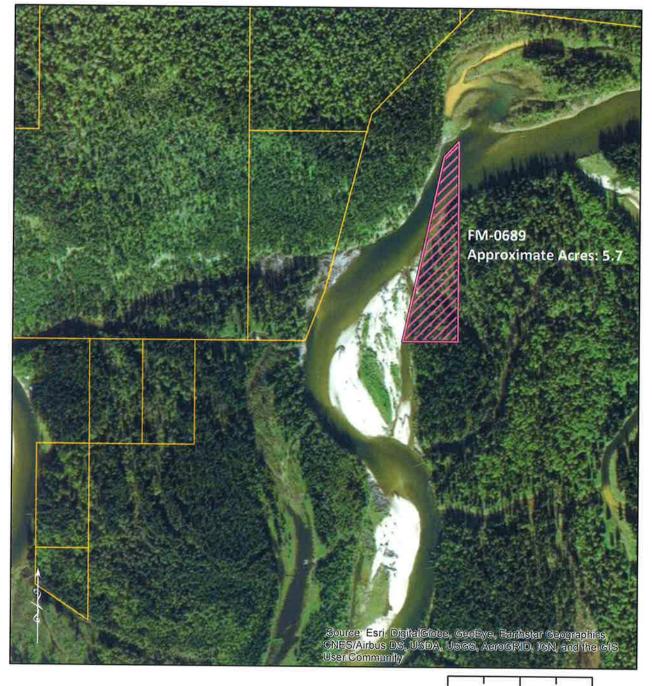
Commercial Use Recreational Use

TLO Parcels



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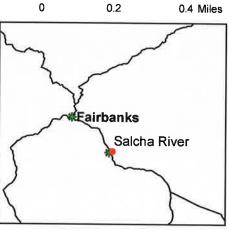
### Potential Lease Area Salcha River



Commercial Use

**Recreational Use** 

**TLO Parcels** 





### Potential Lease Area Sasby Island



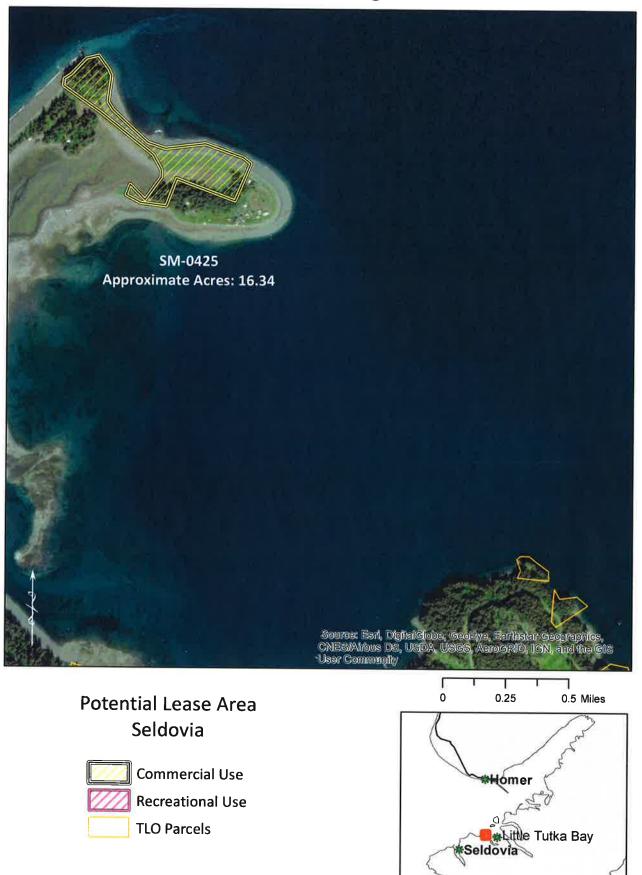
Commercial Use

Recreational Use

TLO Parcels



Date Printed: March 19, 2019



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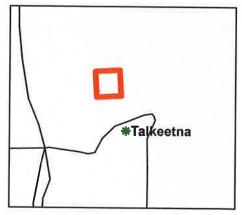
Potential Lease Area Talkeetna - Chase Area

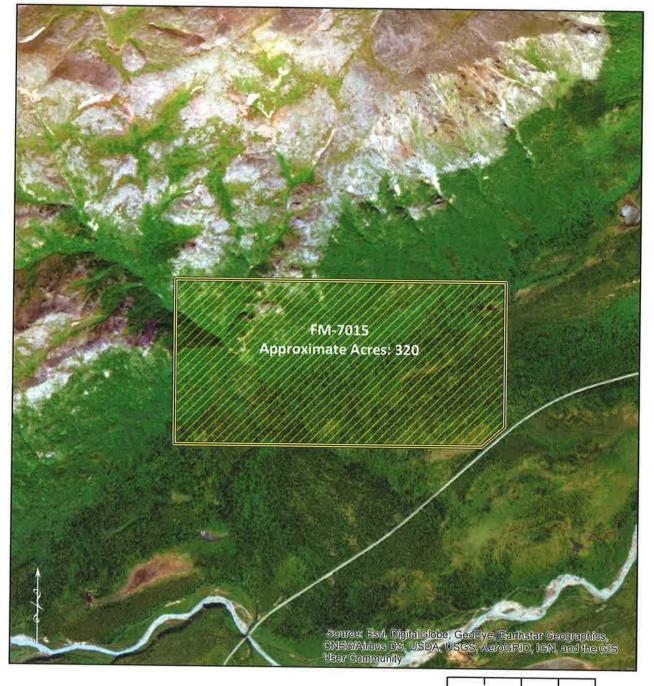


Commercial Use Recreational Use

TLO Parcels

0 0.25 0.5 Miles



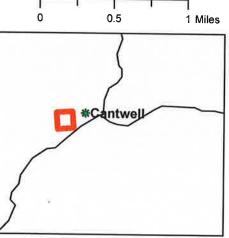


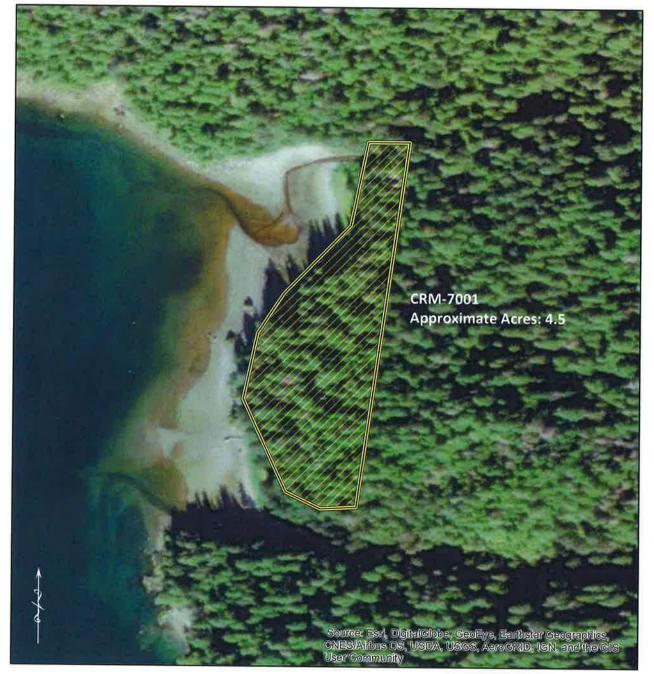
Potential Lease Area Cantwell - Broad Pass



Commercial Use Recreational Use

TLO Parcels





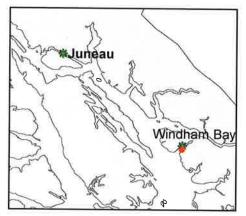
### Potential Lease Area Windham Bay

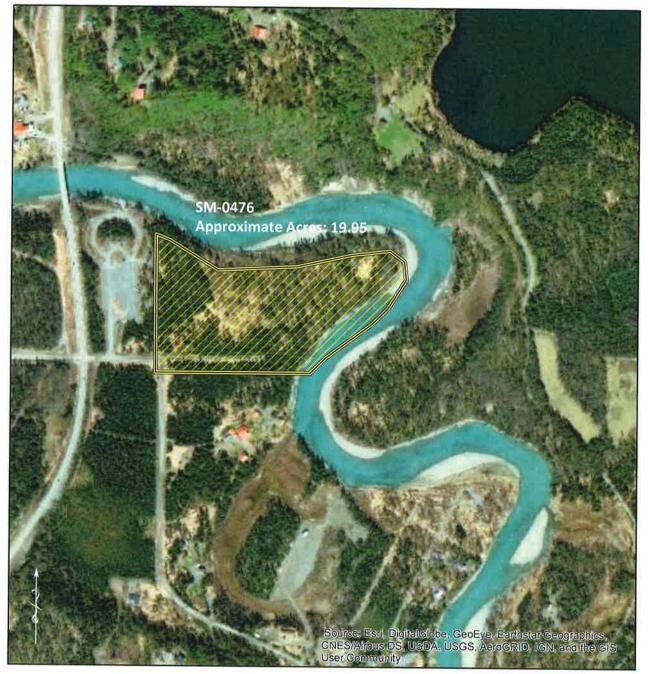


Commercial Use Recreational Use

TLO Parcels

0 0.06 0.12 Miles





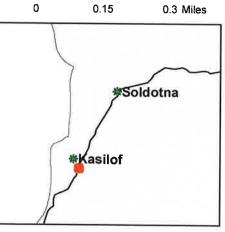
### Potential Lease Area Kasilof River



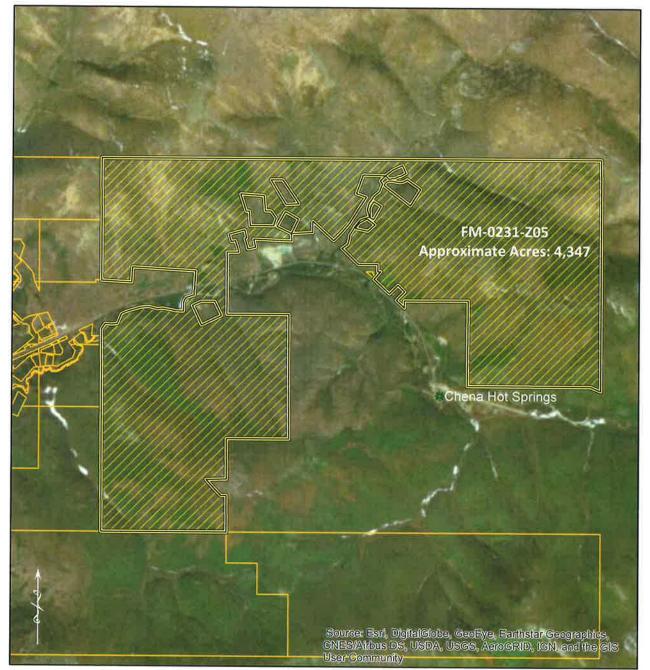
Commercial Use Recreational Use

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TLO Parcels



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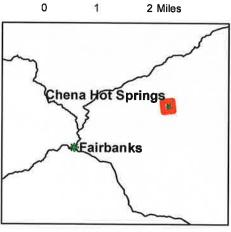
### **Potential Lease Area Chena Hot Springs**



Commercial Use

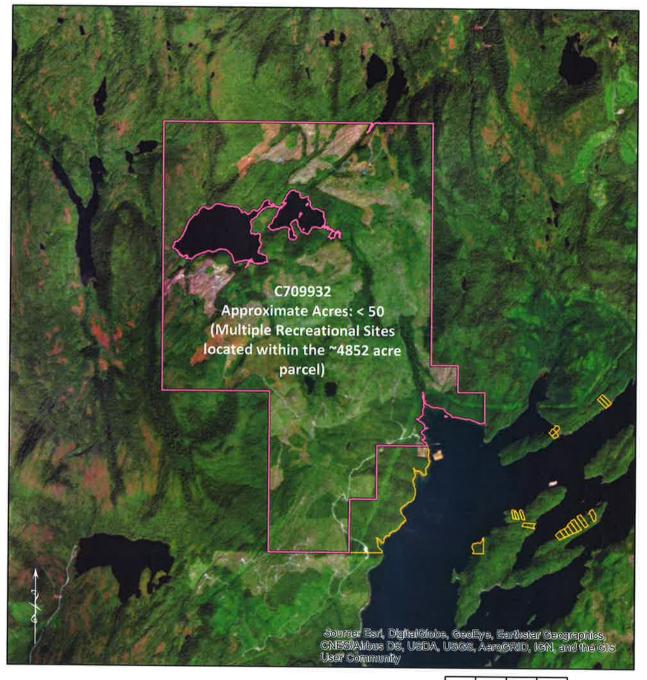
**Recreational Use** 

**TLO Parcels** 



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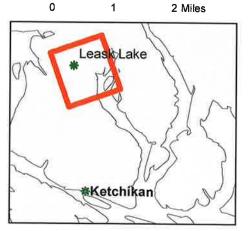
### Potential Lease Area Leask Lake

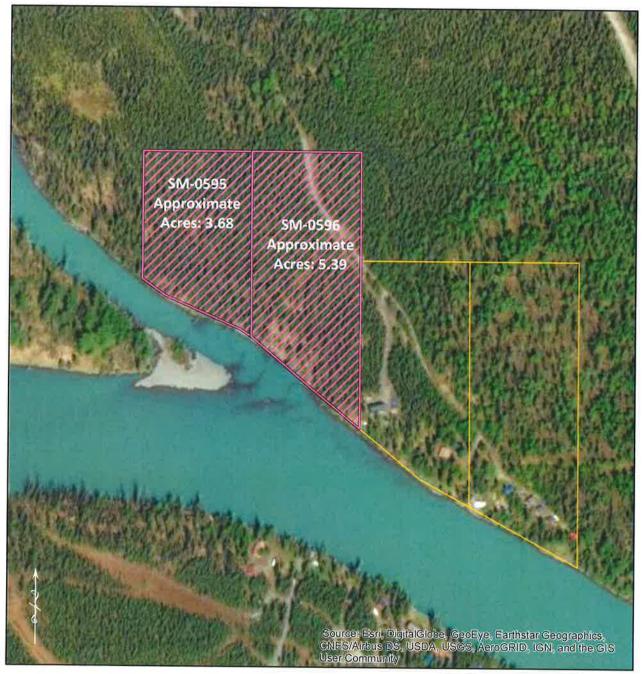


Commercial Use

Recreational Use

TLO Parcels





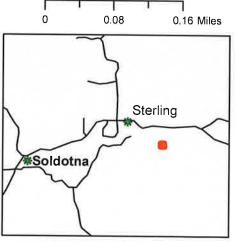
### Potential Lease Area Kenai River



Commercial Use

Recreational Use

**TLO Parcels** 



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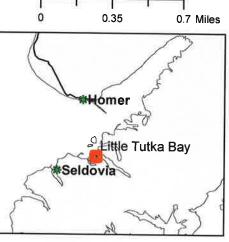


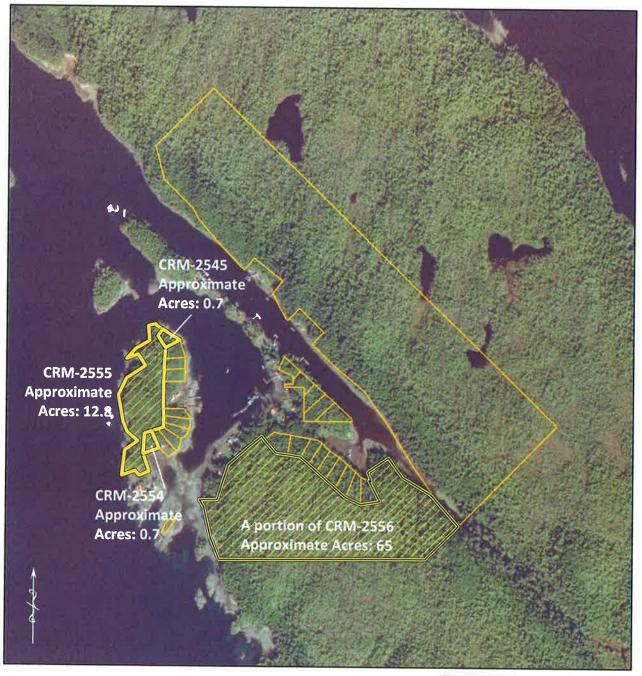
### Potential Lease Area Little Tutka Bay



Commercial Use Recreational Use

TLO Parcels





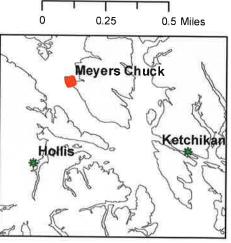
Potential Lease Area Meyers Chuck and Meyers Island



Commercial Use

**Recreational Use** 

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### **Potential Lease Area** Safety Cove



Commercial Use **Recreational Use** 

**TLO Parcels** 



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Date Printed: March 19, 2019