

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision for the Negotiated Sale of a Trust Parcel - Wrangell
MHT #9100524

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 Michael Allen d/b/a Michael Allen 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: Lot 1 in Block 3 of ASLS 83-7, Wrangell Island West Subdivision, located within Sections 17 and 20, Township 64 South, Range 84 East, Copper River Meridian, containing approximately 9.644 acres (MH Parcel C81118).

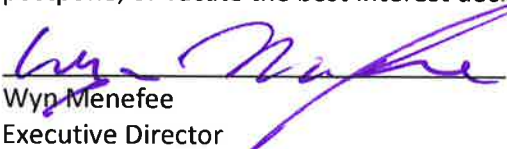
Persons who believe that the written decision should be altered because it is not in the best interests of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, September 17th, 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.


Wyp Menefee
Executive Director

8/13/19
Date

Published Wrangell Sentinel: 08/15/2019

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

MHT: 9100524
MH Parcel: C81118

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 and Revocation of Proposed Non-Development Easement (MHT 9100800).

II. Applicant/File #. Michael Allen/MHT 9100524.

III. Subject Property.

A. Legal Description. Sections 17 and 20, Township 64 South, Range 84 East, Copper River Meridian; Lot 1 in Block 3 of Alaska State Land Survey No. 83-7, Wrangell Island West Subdivision, containing 9.644 acres more or less; according to the survey plat in the Wrangell Recording District on August 1, 1983 as Plat 83-11.

B. Settlement Parcel Number. C81118.

C. Site Characteristics/Primary Resource Values. The subject property is located 10 miles south of the town of Wrangell near the southern terminus of the Zimovia Highway. The property is used as a sawmill site and log sort yard. The primary resource value of the parcel is disposal through a land sale.

D. Historical and Existing Uses of the Property. The property has a long history of being used as a log sort yard and sawmill, which is what the parcel is used for today. A variety of pieces heavy duty equipment are used on site for moving logs

from stacked piles over to the sawmill. The property has a makeshift shop built out of steel containers which is used to repair vehicles and logging equipment.

- E. Adjacent Land Use Trends.** The area is rural and consists primarily of scattered home sites and forest lands. Beyond the parcel further south and to the north the land is owned by the U.S. Forest Service, which local residents and visitors use access to the forest for hunting and recreation purposes.
- 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 2010.
- H. Apparent Highest and Best Use.** The highest and best use of this parcel is disposal through a negotiated sale.

IV. Proposal Background. The TLO issued Michael Allen dba Mike Allen Enterprises a revocable land use license July 2010. In March 2014 TLO staff inspected the parcel and determined that unauthorized uses were occurring, such as a metal salvage operation, a burn pit, and storage of hazardous substances. The TLO submitted a report to the State of Alaska Department of Environmental Conservation (DEC) outlining the findings. DEC investigated and determined that the property was subject to possible contamination, and a subsequent cleanup took place. The cleanup was coordinated and paid for by Michael Allen. On February 14, 2018 the DEC made the determination that the terms and conditions of the cleanup had been met, and that any contamination remaining on site does not pose an unacceptable risk to human health or the environment. As a result of the cleanup effort the TLO and Michael Allen agreed that selling him the property would be in both of our interests. Prior to agreeing to sell the parcel to Michael Allen the TLO received an application from a neighboring property owner to develop a vegetative buffer on Trust land that would provide space from the sawmill operations. The TLO proposed creating a “Non-Development” easement on one acre of the property, and the neighbor would pay the TLO a fee to offset the loss. In 2015 the TLO evaluated the situation and completed a Best Interest Decision process for the easement but the fee was never paid, and an authorization was never issued. After subsequent analysis the TLO determined that issuance of an easement on the parcel would require the Trust to maintain a long-term interest in the property which is not in the Trust’s best interest. Additionally, the proposed easement would likely devalue the parcel causing a potential purchaser to back out of the purchase. The parcel will be sold “As-Is, Where-Is” with all faults, and in the condition as of the date of the sale with no guarantees, expressed or implied, as to suitability or fitness for any intended use, availability of water, or for any other reason whatsoever. The purchase price takes into account the history of contamination on the property, and the subsequent cleanup effort made on behalf of Michael Allen.

V. Terms and Conditions. On January 8, 2019 the TLO and Michael Allen entered into a purchase and sale agreement outlining the process for Michael Allen to purchase the property through a negotiated sale. 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. Leasing the parcel. Management costs to the Trust generally decrease on the property through a sale.
- C. Alternate development. Historical industrial use of the site limits the TLO’s ability to consider other uses. No interest has been expressed for material or mineral development.

VIII. Risk Management Considerations.

- A. **Performance Risks.** Performance risks will be mitigated through the TLO’s purchase and sale agreement and quit claim deed. These documents include contemporary language to limit risks to the TLO and the Trust and ensure performance by the buyer.
- B. **Environmental Risks.** The parcel has a long history of industrial use, specifically as a sawmill and log sort yard. The parcel has also been subjected to years of heavy equipment use, and this equipment has routinely broken down and been repaired on site. The property has also seen a wide variety of storage of hydrocarbons on site at present and over the years. A cleanup of contaminated substances occurred on the parcel beginning in 2015, and the site was determined to meet acceptable limits of contamination in 2018.
- C. **Public Concerns.** Use of the parcel as an industrial area for saw milling and log storage has generated complaints from adjoining neighbors, and in 2015 the TLO drafted a “Non-Development Easement” in the western portion of the parcel that totaled approximately one acre. The proposed easement was surveyed and the TLO drafted a Best Interest Decision (MHT 9100800) which was signed by the TLO Executive Director on October 27, 2015; and affirmed on December 7, 2015. Although the TLO considered issuing an easement for “non-development” on the parcel, it was ultimately decided that an easement would require the Trust to maintain a long term interest in a parcel adjacent to industrial operations, which is not in the Trust’s best interest, and has the potential to make it difficult to sell the property in the future. This decision document effectively reverses the decision to place an easement on the parcel. Subject to comments resulting from the public notice of this decision, there are no other known public concerns.

IX. Due Diligence.

- A. Site Inspection.** TLO staff have visited the site on annual basis for the past three years.
- B. Valuation.** The TLO determined that the sale price of the property is \$76,000.00.
- C. Terms and Conditions Review.** An agreement for the purchase and sale of the property to Michael Allen was completed on January 8, 2019. 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).
 - 1. AS 38.05.055, Alaska Residency required for purchase of State land and AS 38.05.940, Veteran 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, thereby violating key Trust management principles.
 - 2. AS 38.05.127, Access to navigable or public water.

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. The consultation requirement is complete with the signature in section XVII.

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. The TLO is making the determination that a non-competitive sale is in the best interest of the Trust due to the history of industrial use of the site and the resulting contamination, in addition to the fact the site has been cleaned up and signed off by the State of Alaska Department of Environmental Conservation. 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.

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 \$76,000.00 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

Exhibit A



MHT 9100524
Negotiated Sale - Mike Allen

-  MHT 9100524
-  Mental Health Parcel

