

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale - Delta Junction
MHT(s) #9400723, 9400724, and 9400725

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 the Gordon R. Decker and Sherry A. Decker. 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 Delta Junction, and is more particularly described as: Those portions of Lots 9, 10, 19, 24 and W1/2 SE1/4S W1/4, Excluding Engineering Plat File No. 23-21, North and West Additions to Delta Junction Townsite, located within Section 23; and Lots 4 and 5 located in Section 26, Township 10 South, Range 10 East, Meridian Fairbanks, containing approximately 90 acres (MH Parcel(s) **F20638, F20663, and F20664**).

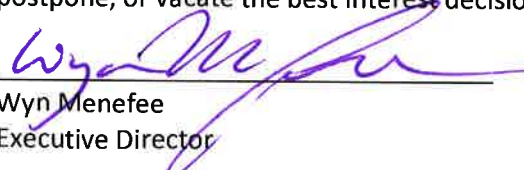
Persons who believe that the written decision should be altered because it is not in the best interests of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, December 9, 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

11/4/19
Date

Published Fairbanks Daily News Miner: 11/07/2019
Delta Wind: 11/14/2019

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale - Delta Junction

MHT(s): **9400723, 9400724, and 9400725**
MH Parcels: **F20638, F20663, and F20664**

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. Negotiate a sale of approximately 90.04 acres of Trust land near Delta Junction, Alaska.

II. Applicant/File #. Gordon R. Decker and Sherry A. Decker / MHT(s) 9400723, 9400724, and 9400725.

III. Subject Property.

A. Legal Description.

- i. **MHT 9400723** Township 10 South, Range 10 East, Fairbanks Meridian, Alaska, Section 23: Those portions of Lots 9, 10, 19, 24 and W1/2 SE1/4S W1/4, Excluding Engineering Plat File No. 23-21, North and West Additions to Delta Junction Townsite; containing 68.5 acres, more or less. According to the survey plats accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on January 17, 1951 and June 28, 1961, and the survey plat filed in the Fairbanks Recording District on November 13, 1963 as Serial No. 63-7859.
- ii. **MHT 9400724** Township 10 South, Range 10 East, Fairbanks Meridian, Alaska, Section 26: Lot 4; containing 15.02 acres, more or less. According to

the survey plats accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on January 17, 1951.

iii. **MHT 9400725** Township 10 South, Range 10 East, Fairbanks Meridian, Alaska, Section 26: Lot 5; containing 6.52 acres, more or less. According to the survey plats accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on January 17, 1951.

B. Settlement Parcel Number(s). F20638, F20663, and F20664.

C. Site Characteristics/Primary Resource Values. The parcels are near the confluence of the Delta River and Jarvis Creek and subject to significant erosion, having lost approximately one third of the land area since originally surveyed in the early 1950's. A public easement was issued to the City of Delta in the 1980's to install a series of erosion control structures adjacent to MH parcels F20638 and F20664. These structures were designed to protect the east bank of the Delta River from additional erosion.

D. Historical and Existing Uses of the Property. The community of Delta Junction was incorporated in 1960. Authorization for environmental field studies in relation to the route for the Alaska natural gas pipeline project was authorized on this parcel, however no activity took place and the authorization was closed.

E. Adjacent Land Use Trends. The adjacent land uses include small businesses, residential, and recreation. Transportation and utility corridors are key elements in the area.

F. Previous State Plans/Classifications. DNR issued the Tanana Basin Area Plan (TBAP) for State Lands, adopted in 1985 and updated in 1990 and 1999. Under TBAP the subject property was designated as agricultural, fish and wildlife, recreation, and settlement, which is consistent with the applicant's proposal.

G. Existing Plans Affecting the Subject Parcel. The subject property is affected by the City of Delta Junction Title 4 Zoning Ordinance which is consistent with the applicant's proposal.

H. Apparent Highest and Best Use. Residential or commercial development.

IV. Proposal Background. TLO was approached by the adjacent landowner seeking to acquire the property, after discussions, an application for negotiated land sale was submitted.

V. Terms and Conditions. The Purchaser agrees to purchase the above described Parcels for the amount of \$146,280, as determined below.

MH Parcel	Acres	Appraised Value	Premium (20%)	Purchase
F20638	68.5	\$ 81,600.00	\$ 16,320.00	\$ 97,920.00
F20664	15.02	\$ 8,800.00	\$ 1,760.00	\$ 10,560.00
F20663	6.52	\$ 31,500.00	\$ 6,300.00	\$ 37,800.00
Total	90.04	\$ 121,900.00	\$ 24,380.00	\$ 146,280.00

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. Past experience has demonstrated that it is unlikely that these parcels will appreciate at a rate that would justify holding them for a later sale. It is also not cost effective for the TLO to hold these parcels and incur the associated management costs and liabilities.

VII. Alternatives.

- A.** Do nothing or offer sometime in the future. This alternative would delay receipt of revenues from sales and income from interest payments and could result in additional costs and risks to the Trust without significant increases in value.
- B.** Leasing the parcel. Management costs to the Trust will generally decrease on the properties through a sale.
- C.** Alternate development. The lack of constructed road and utility infrastructure to the parcels makes development of subdivision or commercial development cost prohibitive. 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, land sale contract, and quitclaim deed. These documents include contemporary language to limit risks to the TLO and the Trust, ensure performance by the buyer, and allow for termination in the case of default.
- B. Environmental Risks.** The property is in the flood plain of the Delta River within the city limits; easy access has encouraged trespass dumping of debris on and adjacent to the parcels.
- 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.** A site inspection was conducted on September 23, 2019.
- B. Valuation.** The Purchaser agrees to purchase the above described Property for the amount of \$146,280 (Purchase Price). The Purchase Price was determined by an appraisal (ASP 10-19-925) completed by Axelsson & Associates, Inc., on June 22, 2019. The appraisal determined the estimated market value of the property to be \$121,900. The purchaser has agreed to purchase at 20% above appraised value.
- C.**
- D. Terms and Conditions Review.** Staff determined that additional legal review of the standard documents used in this transaction was not necessary because the documents have been used frequently by TLO for similar transactions. TLO will issue a quitclaim deed for the parcel, reserving the mineral estate to the Trust.

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 land 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).

- C. Provisions of law applicable to other state land that are determined to apply to trust land by the executive director, on a case-by-case basis include:
- i. AS 38.05.035(i). persons eligible to file a request for reconsiderations
 - ii. 11 AAC 02.030 (a) and (e), filing request for reconsideration
 - iii. 11 AAC 02.040 timely filing

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. Under 11 AAC 99.020, the TLO is mandated to sell land on a competitive basis. In order to sell land through a negotiated land sale process, TLO's Executive Director has determined that a premium would be charged for all negotiated sales. The premium for the Property will be 20% of the appraised value to compensate for not selling the land through a competitive process. This agreement and appraisal reflect the erosion that has occurred from the time the parcels were originally surveyed to the present. MH Parcel F20638, F20663, and F20664 are located near the confluence of the Delta River and Jarvis creek and are impacted by significant erosion since they were originally surveyed

in the 1950's. The erosion control structures installed within the Delta River floodplain adjacent to MH parcels F20638 and F20664 provide bank stability and adversely impact the overall value of the parcels. The value of the parcels is unlikely to be enhanced if subdivided as part of a larger package. Given the price offered, access concerns, and potential for erosion, a non-competitive disposal is in the best interests 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 <http://mhtrustland.org/index.php/land/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 \$146,280 for the parcels, 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 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). This request must be accompanied by the fee established by the Executive Director under 11 AAC 99.130, which has been set at \$500, to be eligible for reconsideration. 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: www.mhtrustland.org

XVI. APPROVED:



Wyn Menefee
Executive Director
Alaska Mental Health Trust Land Office




Date

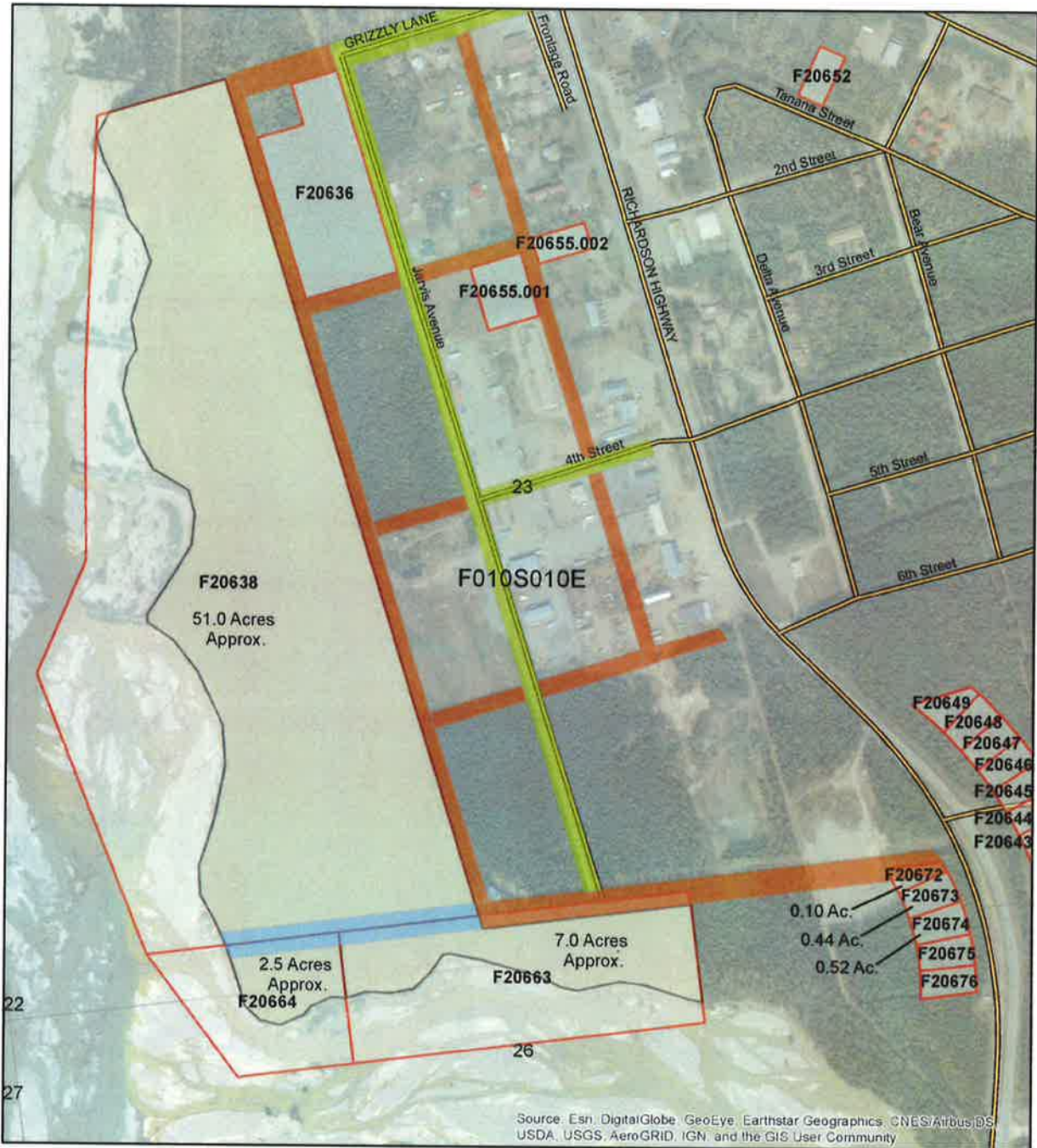
In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction.



Michael K. Abbott
CEO Alaska Mental Health Trust Authority



Date



Mental Health Lands:

- Mental Health Trust Parcels
- Parcel Adjusted to MHW

Access:

- Dedicated Constructed
- Dedicated Unconstructed
- Section Line Easement



Trust
Land Office
May 9, 2019