

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale – Olnes West
MHT #9400667

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 Jeffrey Stark and Laura Stark. 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 Fox, Alaska, and is more particularly described as: SW1/4SW1/4 of Section 25, Township 3 North, Range 1 West, Fairbanks Meridian, Alaska, and containing approximately 40 acres. (MH Parcel(s) **F20428**).


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 13 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 / 7 / 19
Date

Published Fairbanks Daily News Miner: 11/12/2019

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale – Olnes West

MHT #: **9400667**
MH Parcel(s): **F20428**

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 40 acres of Trust land near Fox, Alaska. (See Exhibit A – Map).
- II. Applicant/File #.** Jeffrey Stark and Laura Stark/MHT 9400667.
- III. Subject Property.**
 - A. Legal Description.** SW1/4SW1/4 of Section 25, Township 3 North, Range 1 West, Fairbanks Meridian, Alaska, and containing approximately 40 acres. According to the survey plat approved by the U.S. Surveyor General's Office in Juneau, Alaska on December 22, 1913.
 - B. Settlement Parcel Number(s).** F20428.
 - C. Site Characteristics/Primary Resource Values.** The parcel is level to moderate sloping topography, and according to TLO’s Parcel Attribute Library contains approximately 56.9% forested wetlands consisting of black spruce and aspen.
 - D. Historical and Existing Uses of the Property.** Wildlife habitat.
 - E. Adjacent Land Use Trends.** The adjacent land uses include residential and recreation uses. Transportation and utility corridors are key elements in the area.

- F. Previous State Plans/Classifications.** Tanana Basin Area Plan, Unit I1. Primary use is for minerals, public recreation, and wildlife habitat. Prohibited uses are land disposals and remote cabins.
- G. Existing Plans Affecting the Subject Parcel.** The subject property is affected by the Fairbanks North Star Borough (FNSB) Title 18, Zoning Ordinance and is zoned Rural and Agricultural 10 (RA-10).
- H. Apparent Highest and Best Use.** Residential or recreation settlement.
- IV. Proposal Background.** On December 20, 2017, Mr. Jeff Stark submitted a request to purchase Trust parcel F20428 near the Olnes West subdivision.
- V. Terms and Conditions.** The Purchaser agrees to purchase the above described Property for the amount of \$52,800.
- 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. FNSB ordinances to subdivide, plat, and constructed road and utility infrastructure makes development of subdivision 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.** According to TLO’s Parcel Attribute Library approximately 56.9% of the parcel is considered wetlands.
 - 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, 2018.

- B. Valuation.** The Purchaser agrees to purchase the above described Property for the amount of \$52,800 (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 \$44,000. The purchaser has agreed to purchase at 20% above appraised value.
- C. 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. A purchase and sale agreement for the property was completed on October 28, 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 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)..

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 base, unless the Executive Director determines in is in the best interest of the trust and its beneficiaries for a noncompetitive disposal. This property is being sold at a premium of 20% above the appraised value to compensate for not selling the land through a competitive process. The value of the parcels is unlikely to be enhanced if subdivided. Given the price offered and wetland considerations, 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 <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 \$52,800 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 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). 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.

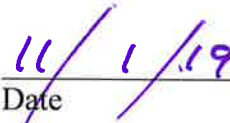
- XV. Available Documents.** Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone: (907) 269-8658. Email: mhtlo@alaska.gov.

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: <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.



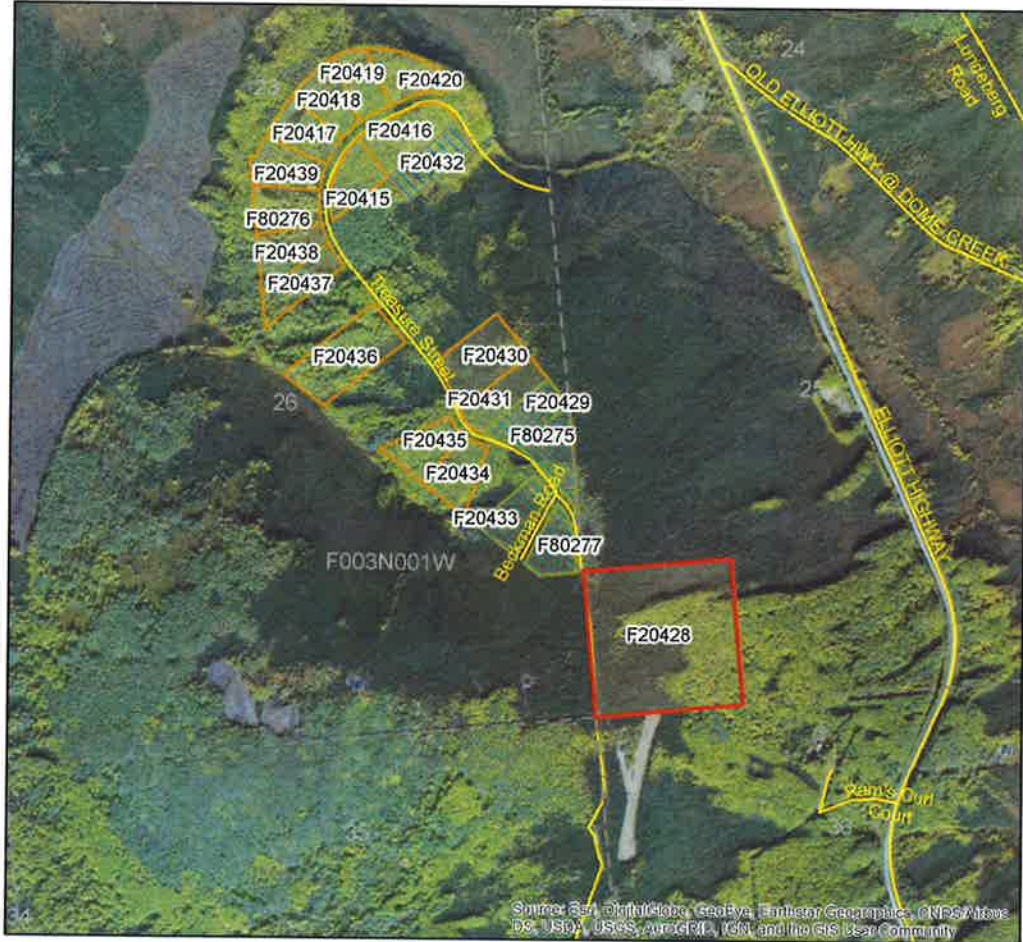
Michael K. Abbott
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority







Date

Exhibit A – Map

Olnes West Subdivision F20428



MHT 9400667
Negotiated Sale
Containing approx. 40 acres

-  MHT 9400667
-  Section Line
-  Mental Health Parcels
-  Land Sales Conveyed
-  Land Sales Available OTC



Date Printed: 10/31/2019

Best Interest Decision
MHT #9400667
MH Parcel(s) F20428
Purchaser(s) Jeffrey & Laura Stark