

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Term Access Easement – Goose Bay
MHT #9200739

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 Issue a Thirty Year Term Public Access Easement of certain Trust land to the Alaska Department of Fish & Game (ADF&G). 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 Goose Bay, Alaska, and is more particularly described as: SE1/4SW1/4 & SW1/4SE1/4 of Section 8, Township 15 North, Range 3 West, Seward Meridian, Alaska. The easement area is located on access road, "Cameo Drive". An area approximately 60 feet wide x 2,400 feet in length, containing approximately 3 acres, more or less (MH Parcel(s) S20520).

Persons who believe that the written 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 on or before **4:30 PM, March 20, 2020**. 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.



Jusdi Doucet
Acting Executive Director



Date
Published Frontiersman: 02/19/2020

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
ADF&G Term Access Easement – Goose Bay

MHT: 9200739
MH Parcel(s): S20520

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. Thirty-year (30) term public access easement.

II. Applicant/File #. Alaska Department of Fish & Game (ADF&G) / MHT 9200739.

III. Subject Property.

- A. Legal Description.** Township 15 North, Range 3 West, Seward Meridian, Alaska; Section 8: SE1/4SW1/4, SW1/4SE1/4 The easement area is located on access road "Cameo Drive": An area approximately 60 Feet Wide x 2,400 Feet in Length, containing approximately 3 acres, more or less.
- B. Settlement Parcel Number(s).** S20520.
- C. Site Characteristics/Primary Resource Values.** The subject parcel is in the Goose Bay area, approximately 18.5 miles southwest of Wasilla, AK at the end of South Knik Goose Bay Road. The parcel is heavily forested with vegetation typical of the area and contains no improvements other than the existing road and utility easement.
- D. Historical and Existing Uses of the Property.** The existing access road on this parcel has been previously authorized to ADF&G under a temporary land use license, MHT 9200393, since 2008 while ADF&G worked to acquire funding to secure a public access easement to access the Goose Bay State Game Refuge. The

initial land use license has been expired since January 2018, and the constructed access road is currently being used in trespass. The area has been frequently used for unlawful activities, such as shooting, dumping trash/debris, and illicit burning. There is also an electrical utility easement on the parcel, ADL 223080, which will be unaffected by this authorization.

E. Adjacent Land Use Trends. The primary need for this access easement is due to the adjacent land use, mainly the Goose Bay State Game Refuge managed by ADF&G. The remaining adjacent land is mostly undeveloped rural land owned by the Department of Natural Resources. The Goose Bay airport is south of the parcel but does not impact the parcel or this authorization.

F. Previous State Plans/Classifications. None.

G. Existing Plans Affecting the Subject Parcel. This area lies within the Matanuska Susitna Borough (MSB) but is not specifically zoned. The area may be subject to MSB 17.01 *Acknowledgement of Existing Land Use Regulations*.

H. Apparent Highest and Best Use. Issuance of term access easement.

IV. Proposal Background. The applicant, ADF&G, requested to purchase an access easement to secure public access on an already constructed road to Goose Bay State Game Refuge.

V. Terms and Conditions. A modified easement agreement will be used for the disposal.

A. Term. An initial term of 30 years with the option to extend.

B. Considerations. The Grantee shall pay a one-time payment to the Grantor in the amount of \$75,000.

C. Co-location. The Grantee may not co-locate third party equipment without TLO approval.

VI. Resource Management Considerations. The proposed action is consistent with the key provisions of the Resource Management Strategy guidelines. Protection of the corpus and long-term productivity will be enhanced by terms and conditions in the Easement. Secondary and cumulative impacts are reduced by the terms and conditions. The Easement will not negatively affect the Trust's opportunity to maximize revenues from this site or adjacent Trust lands over time.

VII. Alternatives.

A. Do Nothing. The Trust is one of multiple landowners that this access road encumbers from South Knik Goose Bay Road to the Goose Bay State Game Refuge. Doing nothing would result in a loss of income-generating revenue within an existing, previously constructed, access road that is currently being used without authorization.

B. Alternate Development. MSB ordinances to subdivide, plat, and construct road and utility infrastructure makes development of subdivision cost prohibitive. No interest has been expressed for material or mineral development.

C. Offer parcel for competitive sale as-is. Such an option may be exercised in the future. However, remedying an existing trespass now collects revenues to be used

as income and is a necessary first step to make the parcel an attractive option to respectable buyers in the future.

VIII. Risk Management Considerations.

- A. Performance Risks.** No additional land disturbance aside from normal maintenance is anticipated. The standard easement indemnification language should mitigate unknown liabilities.
- B. Environmental Risks.** ADF&G, as a state agency, is self-insured and shall be responsible for environmental risks associated with use of this access easement.
- 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 inspected the parcel on August 31, 2018.
- B. Valuation.** The Trust will receive \$75,000.00 as a single payment prior to issuance of the access easement, based on \$2,500/year for the 30-year term.
- C. Terms and Conditions Review.** The proposed Easement will be a standard TLO easement document which is periodically reviewed by the Department of Law or TLO General Counsel to mitigate exposure to risk.

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 Easement 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.
- 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.

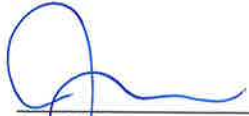
Persons who submit timely written comments will be provided with a copy of the final written decision and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director 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, 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:



Jusdi Doucet
Acting Executive Director
Alaska Mental Health Trust Land Office

2/12/20
Date

XVII. CONSULTATION CONCURRENCE:

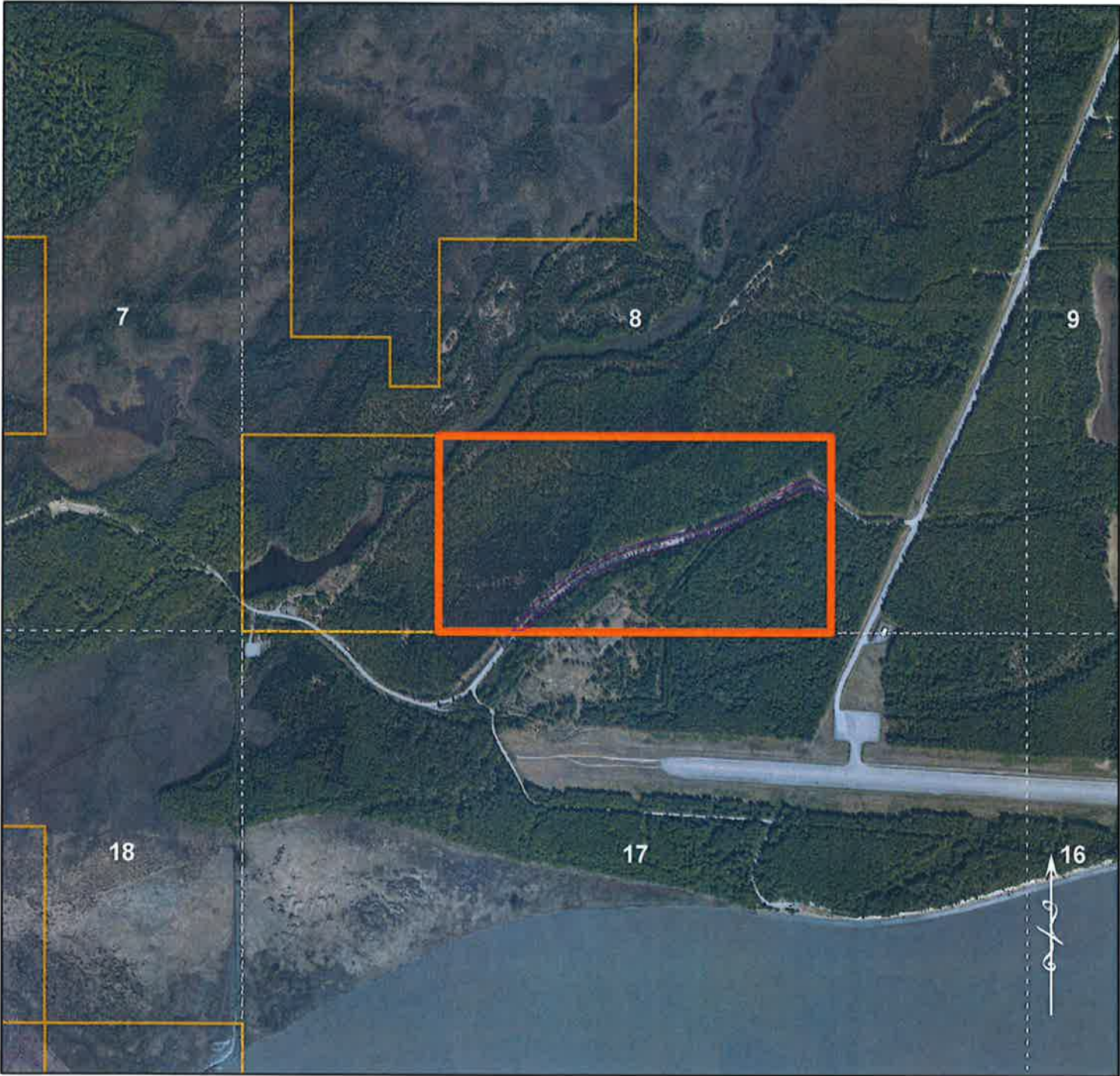
In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction.



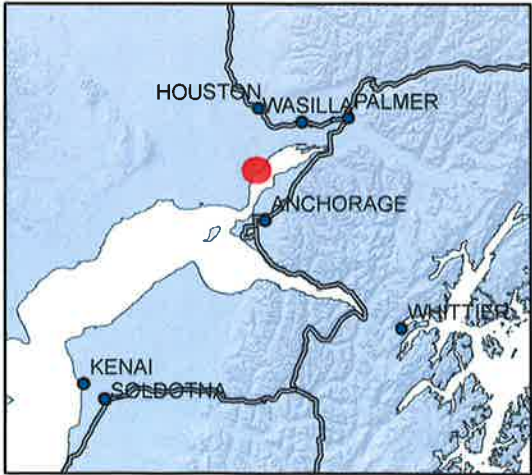
Michael K. Abbott
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority




2/12/20
Date

Exhibit A - Map



MHT 9200739



-  Portion of Trust Parcel S20520
-  Mental Health Trust Parcels
-  Easements