

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale – Hollis, Prince of Wales Island
MHT 9101004

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 Oliver John Lewis. 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 to Hollis, Alaska, and is more particularly described as: Lot 2A, located within Section 33, Township 73 South, Range 84 East, Copper River Meridian, containing approximately 13.22 acres (MH Parcel C20922).

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 19, 2021. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 201, 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.

DocuSigned by:

Jusdi Doucet

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Jusdi Doucet

Acting Executive Director

2/10/2021

Date

Published Ketchikan Daily News: 02/17/2021

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale of a Trust Parcel – Hollis, Prince of Wales Island

MHT: 9101004
MH Parcel: C20922

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.

II. Applicant/File #. Oliver John Lewis / MHT 9101004

III. Subject Property.

A. Legal Description. Section 33, Township 73 South, Range 84 East, Copper River Meridian. Lot 2A of Alaska State Land Survey No. 90-327; according to the survey plat files in the Ketchikan Recording District on June 25, 1991, as plat 91-33, and containing 13.22 acres, more or less, as depicted on “Exhibit A”.

B. Settlement Parcel Number. C20922

C. Site Characteristics/Primary Resource Values. Trust Parcel C20922 is located on the Hollis/Klawock Highway, about 2 miles west of the Inter-Island ferry terminal. The 13-acre parcel is oddly shaped and has a triangular cut-out in the northcentral part of the parcel. The cut-out area is fenced off and houses an electrical station which is not part of the parcel. The parcel is wet and consists of several braided streams meandering through the west half of the property. The best ground for development is on the eastern portion of the parcel and consists of around three-acres of buildable area. The rest of the parcel is wet and inundated with small streams. The entire parcel has a very nice stand of mature Sitka Spruce trees. The primary resource values of the parcel would be

- timber harvest, and some type of small commercial or residential development due to the access provided by being next to the road. There are no indications that the parcel would be used for any type of material extraction, mainly due to how wet the ground is. A driveway would need to be constructed to access the eastern portion of the parcel, where the higher developable ground exists.
- D. Historical and Existing Uses of the Property.** The parcel is forested, vacant, and undeveloped. No sign of prior logging activity, road construction, or trails. The Department of Natural Resources issued a Quit Claim Deed to the Trust for this parcel in 1996.
- E. Adjacent Land Use Trends.** The subject parcel of land is remote and located in a rural area away from any residential developments. Land use trends in area are primarily associated with small scale logging, mining, and outdoor recreation. The Hollis area does not have any major economic activity other than the Inter-Island ferry terminal; there are no stores or lodges nearby. Most of the residents living in the area are retirees.
- F. Previous State Plans/Classifications.** Prince of Wales Island Area Plan (1998); Unit 12 – Kasaan Bay, Sub-unit 12b - Hollis.
- G. Existing Plans Affecting the Subject Parcel.** No other plans affect or impact the parcel.
- H. Apparent Highest and Best Use.** The 13-acre parcel is irregularly shaped and consists mostly of forested wetlands and streams. There are approximately three-acres of developable area in the eastern portion of the parcel. Although the parcel is 13-acres in size, due to the shape and topography there's not enough developable land to make the property a suitable candidate for subdividing. The mature Sitka Spruce has some merchantable value, and its proximity to the Hollis/Klawock Highway provides access to a paved road surface and nearby electrical utilities. The highest and best use of the subject parcel is disposal through a negotiated sale.
- IV. Proposal Background.** In August of 2020, the TLO received an application from Oliver Lewis seeking to purchase the parcel through negotiated sale. An appraisal report was ordered and TLO staff performed a site inspection in October 2020.
- V. Terms and Conditions.** On December 14, 2020, the TLO and Oliver Lewis entered into a purchase and sale agreement outlining the terms and conditions for purchasing the property through a negotiated sale. The agreed upon negotiated sale price is \$110,000.00. If Oliver Lewis purchases the parcel, he will have the option to enter into a land sale contract or pay the entire sale price. Once paid in full a Quit Claim Deed will be issued to him.
- 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. Experience has demonstrated that it is unlikely that this parcel will appreciate at a rate that would justify holding it for later sale. When this parcel would eventually be developed for sale in the future, it is unlikely that a subdivision would be initiated due to the shape and topography

of the parcel. It is also not cost effective for the TLO to hold this parcel 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 sale, income from land sale contract interest, income from Trust principal interest, and could result in additional costs and risks to the Trust without significant increase in value.

B. Leasing the parcel. No interest has been expressed for leasing the property. Management costs to the Trust will generally decrease on the property through a sale.

C. Alternate development. The shape of the parcel combined with topography do not make this a good candidate for subdivision development. No interest has been expressed for material or mineral development, or for timber extraction.

VIII. Risk Management Considerations.

A. Performance Risks. Performance risks are mitigated through the TLO's Purchase and Sale Agreement, Land Sale Contract, and Quit Claim Deed.

B. Environmental Risks. There are no known environmental risks associated with the proposed sale.

C. Public Concerns. Subject to comments resulting from the public notice period, there are no known public concerns.

IX. Due Diligence.

A. Site Inspection. TLO staff inspected the parcel in October 2020. In addition, a detailed evaluation of the parcel was performed by an appraiser, of all available data pertaining to the parcel when the valuation was completed in August of 2020.

B. Valuation. An appraisal of the subject parcel was completed in August of 2020, and a sales comparison approach of similar properties within the region that recently sold. Based on information gathered by the appraiser, the determined fair market value was \$70,000.00. A consultation with the TLO Timber Resource Manager placed a value of \$20,000.00 on the merchantable timber located on the parcel. A premium of almost 30% in addition to the timber value provided the TLO with the negotiated sale price of \$110,000.00 for the subject parcel.

C. Terms and Conditions Review. An agreement for the purchase and sale of the parcel was completed on December 14, 2020. The agreement outlines the terms and conditions of the sale. The standard TLO land sale contract documents have been reviewed by the Department of Law.

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).

i. 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:

1. AS 38.05.035(i). persons eligible to file a request for reconsiderations.
2. 11 AAC 02.030 (a) and (e), filing request for reconsideration.
3. 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. The subject parcel is being sold at a premium of almost 30% above the appraised value, combined with value of the merchantable timber determined by the TLO Timber Resource Manager. Given the price offered based on the appraisal, timber value, irregular shape of the parcel, and the limited development potential due to the topography, 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.

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 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 \$110,000.00 for the parcel, a deposit of 10% of the offered price in certified funds. In the event that there is a competing interest, all qualified interested parties will be notified by phone, fax, or email 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 201, 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:

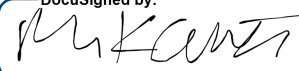
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Jusdi Doucet
Acting Executive Director
Alaska Mental Health Trust Land Office

2/10/2021

Date

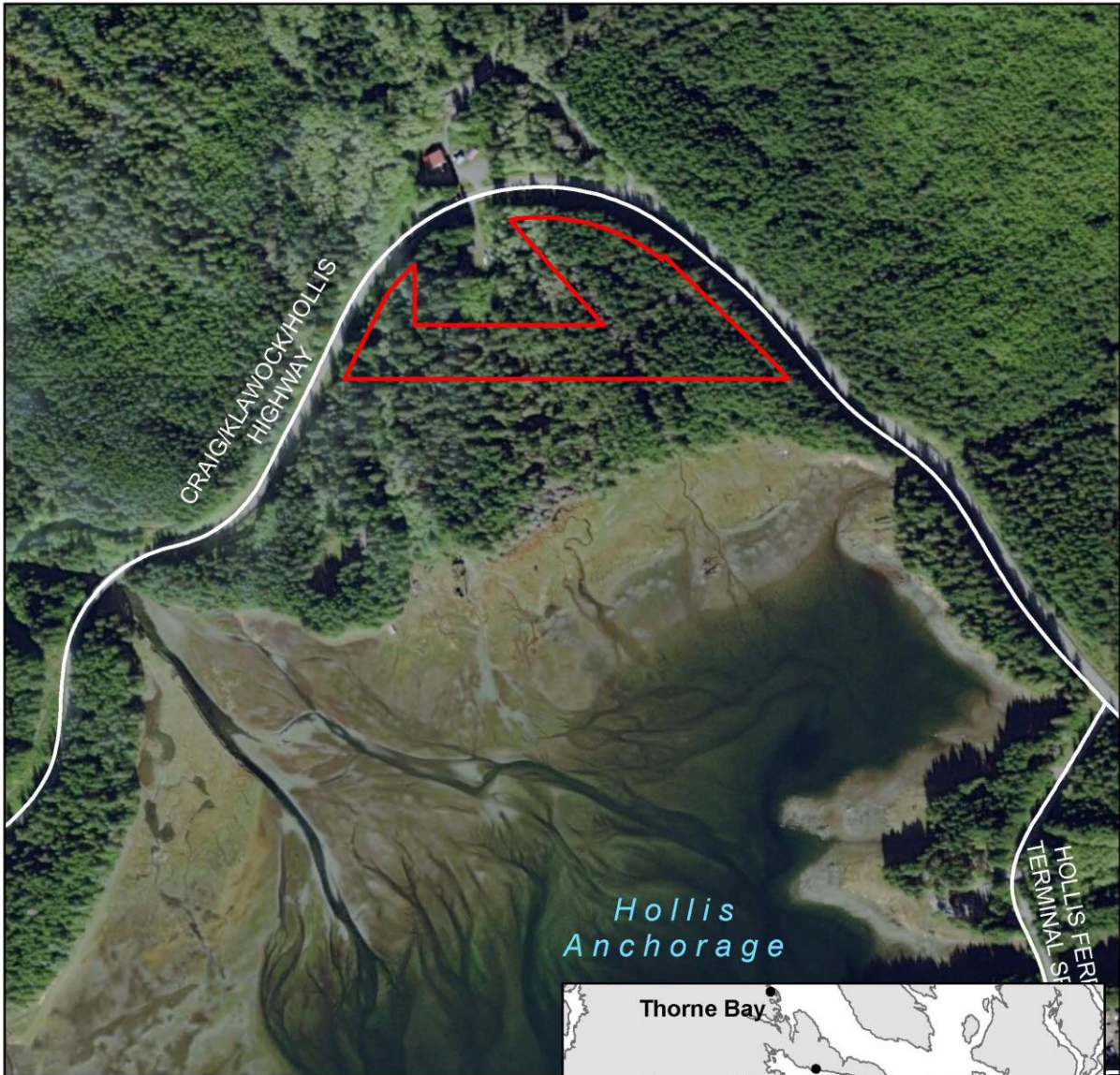
In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction.

DocuSigned by:

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

2/9/2021

Date



Purchase & Sale Agreement
MHT 9101004

 Mental Health Parcel C20922

