

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Matanuska-Susitna Borough Term Public Use Easement– Wasilla
MHT 9200726

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 term public use easement of certain Trust land to the Matanuska-Susitna Borough. 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 Wasilla, AK, and is more particularly described as: S1/2NE1/4 Section 3, Township 17 North, Range 2 West, Seward Meridian, Alaska. Containing approximately 142,232 square feet (see Best Interest Decision Exhibit C – Detailed Legal Description) (MH Parcel(s) S20524).

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, June 14, 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

5/7/2021

Date

Published Matsu Valley Frontiersman 05/12/2021

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Matanuska-Susitna Borough Term Public Use Easement – Wasilla

MHT: **9200726**
MH Parcel: **S20524**

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. Dedication of existing Matanuska-Susitna Borough maintained roads (W. Scatters Way, N. Bow Street, W. Gaylen Street, and N. Charlene Street) and adjacent enclosed land as 99-year term public use easement (PUE). PUE easement will be approximately 142,232 square feet in area (see Exhibit A – Survey & Exhibit B – Map).

II. Applicant/File #. Matanuska-Susitna Borough (MSB) / 9200726.

III. Subject Property.

A. Legal Description. S1/2NE1/4 Section 3, Township 17 North, Range 2 West, Seward Meridian, Alaska. Containing approximately 142,232 square feet (see Exhibit C – Detailed Legal Description)

B. Settlement Parcel Number. Portion of S20524

C. Site Characteristics/Primary Resource Values. The proposed PUE area site characteristics are typical of MSB maintained roads in the area. The triangular shaped enclosed remainder would be undevelopable due to size and the presence of freshwater emergent wetlands, which is why the MSB is being required to include the entire area enclosed by the four roads in this PUE as well. The primary resource value for the area is to dedicate it as a PUE; in addition to monetizing trespass roads this

will be the first step into potential future subdivision development for the overall larger parcel as recreation sites and residential real estate development. Due to the geographic terrain restrictions, subdivision development costs, and current real estate market value, the subdivision of the larger parcel is uneconomical at present.

- D. Historical and Existing Uses of the Property.** The proposed PUE area is already partially encumbered by, and subject to, ADL 53293, a 40' public access easement for N. Bow Street. The remaining area within the proposed public use easement is occupied by the existing MSB roads (W. Scatters Way and N. Charlene Street), that do not have a current authorization past or present and a sliver of freshwater emergent wetland leaving approximately a quarter of an acre that is considered unusable.
- E. Adjacent Land Use Trends.** Adjacent private land within the nearby area is mostly recreational and year-round residences.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** This area lies within the Matanuska-Susitna Borough, but is not specifically zoned.
- H. Apparent Highest and Best Use.** The current highest and best use is dedication as public use easement monetizing existing trespass. This PUE does not prevent future development of the larger parcel, but rather supports it.

IV. Proposal Background. On December 11, 2018, MSB applied for a PUE to authorize existing trespass roads.

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

A. Term. 99-year, non-exclusive PUE.

B. Considerations. The Grantee shall pay a one-time fee to the Grantor in the amount of \$9,245 based on current TLO fee structure.

C. Co-location. The Grantee may not co-locate third party equipment without TLO approval, including utilities (electric, fiber optic, natural gas, etc.).

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. The Easement will not negatively affect the Trust's opportunity to maximize revenues from this site over time and will in fact allow the Trust to earn revenue from an area that would require right-of-way dedication with no compensation to the Trust if/when the larger overall parcel is subdivided.

VII. Alternatives.

A. Proceed as Proposed. The proposed PUE authorizing existing/trespass MSB roads would provide additional revenue to the Trust without increasing the TLO's stewardship obligation and resolve existing unauthorized uses. The adjacent Trust land may be suitable for subdivision development in the future and legal access would increase the value of individual lots.

B. Do Nothing. Doing nothing would preclude an opportunity to receive value for the existing trespass activities and compensation for an area that would require dedication

of right-of-way with no compensation in the future if there is ever a subdivision completed on the larger parcel.

VIII. Risk Management Considerations.

- A. Performance Risks.** No additional land disturbance aside from normal maintenance is anticipated. The standard easement indemnification should mitigate unknown liabilities.
- B. Environmental Risks.** MSB shall be responsible for environmental risks associated with use of this PUE and maintain a valid commercial general liability insurance policy with the Trust Land Office named as an additional certificate holder. There are no known existing environmental risks.
- C. Public Concerns.** Subject to comments resulting from the public notice, there are no known concerns suggesting the proposal is inconsistent with Trust principles.

IX. Due Diligence.

- A. Site Inspection.** TLO staff inspected the parcel in June 2019.
- B. Valuation.** The Trust will receive a one-time payment of \$9,245 based on current TLO fee structure.
- C. Terms and Conditions Review.** The Easement Agreement form is periodically 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). AS 38.05.850 Permits.
- B. Inconsistency Determination.** As the proposed non-exclusive 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). AS 38.05.850 (b) The fee charged for a right-of-way approved under (a) of this section shall be waived by the commissioner if the right-of-way is for a transmission or distribution line established by a nonprofit cooperative association organized under AS 10.25 for the purpose of supplying electric energy and power, or telephone service, to its members, and the waiver is considered by the commissioner to be in the best interests of the state.

- 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). 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: <https://alaskamentalhealthtrust.org/trust-land-office/>.

XVI. APPROVED:

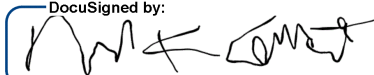
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Jusdi Doucet
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Jusdi Doucet
Acting Executive Director
Alaska Mental Health Trust Land Office

5/4/2021

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.

DocuSigned by:

637FF6BA6CCA4C6...
Michael K. Abbott
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority

5/4/2021

Date

EXHIBIT "A"

LOT 1 BLK 2 CHAR-DEE SUBD PLAT 74-66

LOT 4 BLK 1 PLAT 74-66

W. GAYLEN STREET

N. CHARLENE STREET

LOT 5 BLK 6 BIRDSSELL SUBD NO. 1 PLAT 60-19

TRACT A REYNOLDS LAKESIDE EST PLAT 2019-36

W. SCATTERS WAY

N. BOW STREET

PUBLIC USE EASEMENT 142,232 S.F.

S1/2 NE1/4 SEC. 3 T17N R2W SM

NOTES:

- 1) BASIS OF BEARING: ALASKA STATE PLANE ZONE 4.
- 2) DISTANCES ARE HORIZONTAL GROUND DISTANCES.
- 3) RECORD ROW WIDTHS PER PLATS 60-19 & 74-66.
- 4) DURING BOUNDARY RETRACEMENT SURVEY, THE RIGHT OF WAY WIDTH FOR W. GAYLEN STREET APPEARS TO BE UP TO 36.5' WIDE.

SW CORNER OF PUBLIC USE ESMT TO BE COINCIDENT WITH NE CORNER OF TRACT A

Δ=76°45'37"
L=301.44'
R=225.00'
CB=S50°38'00"W
CD=279.39'

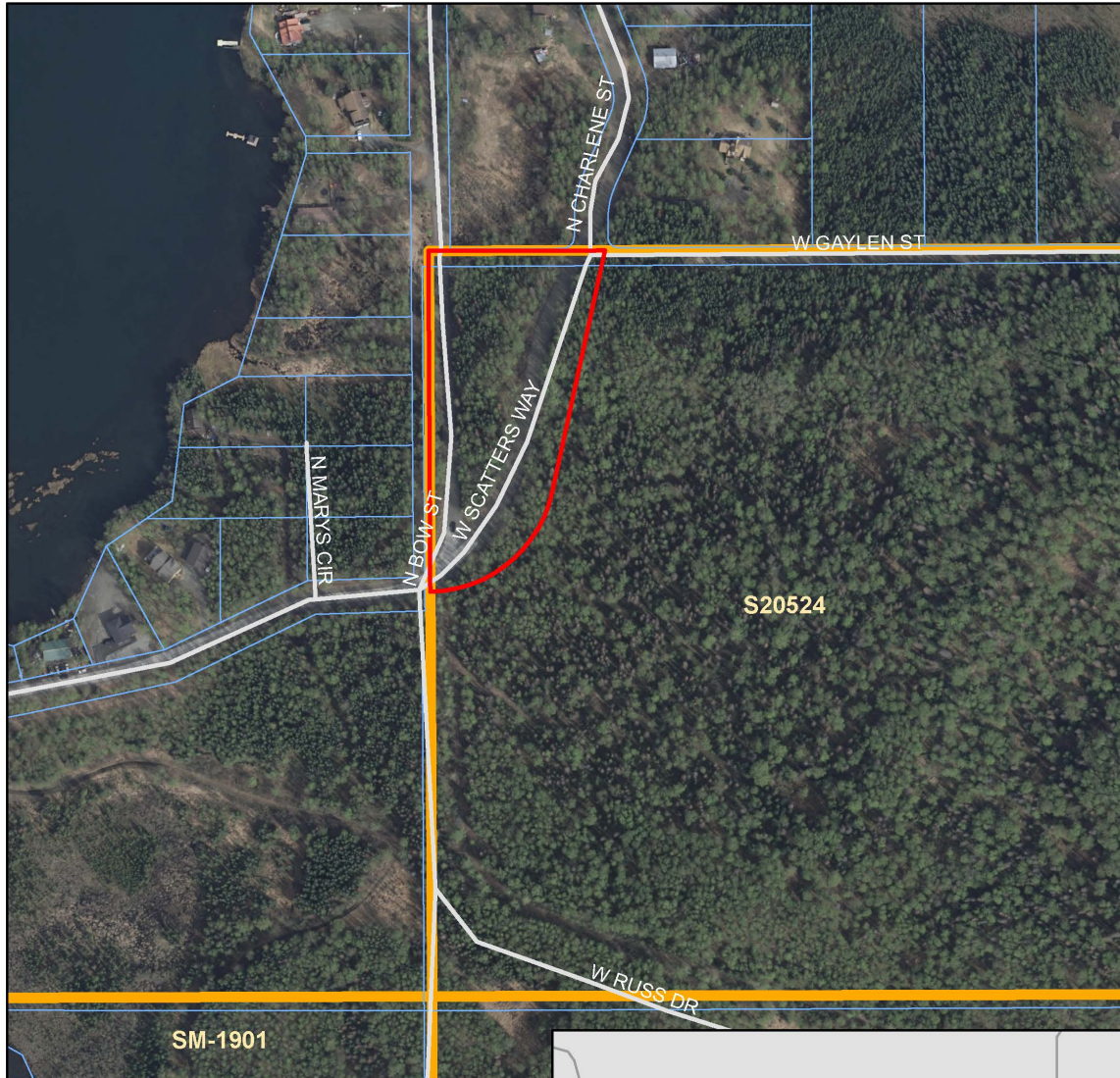
Scale in Feet

0 50 100 200

EASEMENT REQUIRED

EXISTING RIGHT-OF-WAY

Exhibit B – Map



MHT 9200726
A Portion of MH Parcel S20524





-  MHT 9200726
-  Roads
-  MatSu Parcels
-  Mental Health Parcels



Exhibit C – Detailed Legal Description

A parcel of land located in the South Half of the Northeast One Quarter of Section 3, Township 17 North, Range 2 West, Seward Meridian, Palmer Recording District, Third Judicial District, State of Alaska, and more particularly described as follows:

COMMENCING at the Center North One Sixteenth Corner of Section 3, said corner being coincident with the southwest corner of Char-Dee Subdivision, Plat No. 74-66, Palmer Recording District, and the TRUE POINT OF BEGINNING;

THENCE N 89°40'02" E along the north boundary of the South Half of the Northeast One Quarter of Section 3, which is also the south boundary of said Char-Dee Subdivision, a distance of 315.00 feet;

THENCE S 12°15'12" W a distance of 437.71 feet to a point of curve;

THENCE southwesterly along a curve to the right having a central angle of 76°45'37", a radius of 225.00 feet and an arc length of 301.44 feet to a point on the west boundary of the South Half of the Northeast One Quarter of Section 3 and coincident with the northeast corner of Tract A, Reynolds Lakeside Estates, Plat No. 2019-36, Palmer Recording District;

THENCE N 00°34'45" W along the west boundary of the South Half of the Northeast One Quarter of Section 3, which is also the east boundary of Birdsell Subdivision No. 1, Plat No. 60-19, Palmer Recording District, a distance of 603.15 feet to the TRUE POINT OF BEGINNING.

Containing 142,232 Square Feet, more or less.