

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale of a Trust Parcel
Petersburg
MHT 9101011

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 Daniel Wiehler. 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 located in Petersburg, and is more particularly described as: the NW1/4SE1/4 of Section 14, Township 60 South, Range 79 East, Copper River Meridian, containing approximately 30 acres (MH Parcel(s) CRM-2284-02).


Persons who wish to submit a qualified competing offer as described in Section XIII of the best interest decision, 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, February 22, 2022**. **Qualified competing offers and/or 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.



Judd Warner
Executive Director



Date
Published Petersburg Pilot: 01/20/2022

**The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION**

Negotiated Land Sale of a Trust Parcel - Petersburg

**MHT 9101011
MH Parcel: CRM-2284-02**

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 #. Daniel Wiehler / MHT 9101011

III. Subject Property (see Exhibit A).

A. Legal Description. A portion of Trust parcel CRM-2284-02 within the NW ¼ SE ¼ of Section 14, Township 60 South, Range 79 East, Copper River Meridian. Containing 30-acres, more or less; according to the survey plat accepted by the Department of the Interior, General Land Office in Washington, D.C. on January 25, 1928; and the supplemental survey plat of Section 14 accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on April 30, 1952.

B. Settlement Parcel Number. MHT 9101011

C. Site Characteristics/Primary Resource Values The portion of Trust parcel CRM-2284-02 that's part of this negotiated sale is located in the Papke's Landing area, about 10 miles south of Petersburg. The parcel is accessed from the terminus of Highland Shores Road to the west, and there's a 50' wide public access and utility easement providing platted access to the parcel (ADL 102456) along the southern and

western property boundaries; the Highland Shores Road intersects the 50' wide public access easement, so there are several options for constructing road access onto the parcel. At present the subject parcel is in the process of being surveyed and subdivided by the TLO as part of a larger subdivision project, known as the South Mitkof Subdivision. The proposed hypothetical lot measures 30-acres in size, and is rectangular in shape, with the long sides making up the north and south property lines, the western boundary providing road access, and the eastern boundary bordering a large undeveloped meadow of muskeg. The terrain of the parcel is flat, with a mix of forested wetlands and muskeg. The primary resource value of the parcel, and its highest and best use, is disposal through a land sale.

- D. Historical and Existing Uses of the Property.** The parcel is vacant and undeveloped. No sign of prior logging activity, road construction, or trail development exists. 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 property is accessed from the intersection of the Mitkof Highway and Papkes Landing Road, 10 miles south of Petersburg, in an area zoned as "rural residential" where the roads are not paved and building permits are not required. Land use trends in area are primarily associated with small scale logging, commercial fishing and outdoor recreation. The area does not have any major economic activity other than a nearby boat launch, small campground and convenience store. Most of the residents living in the area work in the town of Petersburg, are retirees, or participate in the regions fishing industry.
- F. Previous State Plans/Classifications.** Central/Southern Southeast Area Plan (2000); Region 3. Petersburg.
- G. Existing Plans Affecting the Subject Parcel.** The parcel is within the Petersburg Borough and is subject to borough zoning requirements.
- H. Apparent Highest and Best Use.** The proposed 30-acre parcel has platted road access, electrical utility adjacent to the property boundary, and is developable for residential use. The land is wet, flat, and consists of forested wetlands and muskeg. No merchantable timber or material resources are located on the subject parcel. The highest and best use of the parcel is disposal through a negotiated sale.

- IV. Proposal Background.** In March of 2021, the TLO received an application from Daniel Wiehler seeking to purchase the subject parcel. Mr. Wiehler had previously purchased an adjacent property from the Trust (MHT 9101010), and during those negotiations expressed a desire in acquiring the land to the north to serve as a land buffer. We informed Mr. Wiehler that the TLO was in the process of developing a subdivision on the adjacent land, and that prior to closing on a land sale the subdivision process would need to run its course. We explained that the hypothetical parcel would need to be identified and agreed upon, an appraisal would be ordered to help the TLO determine a value, and that survey and platting work would need to be completed prior to entering into a land contract or issuance of a Quit Claim Deed. Mr. Wiehler agreed to moving forward with our plan and an appraisal was ordered for the subject parcel based on a 30-acre hypothetical lot layout.

- V. **Terms and Conditions.** On September 21, 2021, the TLO and Daniel Wiehler 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 \$275,000.00. If Daniel Wiehler 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 non-performing assets into performing assets. Experience has demonstrated that it is unlikely that this hypothetical parcel will appreciate at a rate that would justify holding it for later sale. It is also not cost effective for the TLO to hold this parcel long term 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 mix of forested wetlands and muskeg limit the development options of the parcel and would require significant financial investments to further subdivide, construct roads, install utilities, and market. No interest has been expressed for material or mineral development, or for timber extraction.
- VIII. **Risk Management Considerations.**
- A. **Performance Risks.** Performance risks will be 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 on March 2, 2021. 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 September of 2021.
- B. **Valuation.** An appraisal of the subject parcel was completed on September 21, 2021, 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 \$220,000.00. A premium of 25% was added to the appraised value for a final negotiated sale price of \$275,000.00 for the subject parcel.
- C. **Terms and Conditions Review.** An agreement for the purchase and sale of the parcel was completed on September 21, 2021. The agreement outlines the terms and

conditions of the sale, includes a map depicting the location of the parcel, and contains a sample Quit Claim Deed. The standard TLO land sale contract documents have been reviewed by the Department of Law.

D. Survey/Platting. Upon completed survey of the parcel by the TLO, the exact acreage will be determined, and the area may increase or decrease as a result. The per acre value of the property is approximately \$9,167.00 per acre, and this per acre value will be used to determine the final sale price based on the final per acre size of the parcel, which is expected to be 30-acres.

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).

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

D. Other provisions of law the TLO deems inconsistent with Trust responsibilities include:

1. AS 38.05.055, Alaska Residency required for purchase of State land, and AS 38.05.940, Veteran's discounts allowed on purchase price of State land. Preferences or discounts provided to Alaska residents or veterans would be granted at a cost to the Trust, hereby violating key Trust management principles.
2. AS 38.05.127, Access to navigable or public water and requiring "to and along" easements on Trust properties diminishes the sale value of Trust lands and therefore is inconsistent with Trust management principles.

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. This parcel is being sold at a premium of 25% above the appraised value to compensate for not selling or leasing the land through a competitive process. This 25% premium offer is comparable to the historical average of competitive sales in the immediate area. Given the 25% premium price offered, site development constraints, and historical sales comparisons, 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 online at <https://alaskamentalthrust.org/trust-land-office/land-sales/land-use-application/>. To be considered a qualified competing interest, applications must include the application fee of \$500.00, a formal Letter of Intent to include an offer price that exceeds the current offer of \$275,000.00 for the parcel, and a deposit of 10% of the offered price in certified funds. If 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 based on 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 \$500.00, 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

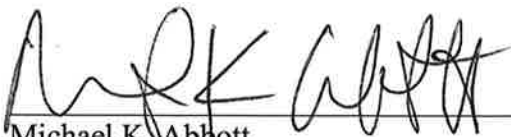
XVI. APPROVED:



Jusdi Warner
Executive Director
Alaska Mental Health Trust Land Office

1/12/22

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

1-12-22

Date



**Negotiated Sale
MHT 9101011**

-  MHT 9101011
-  50' Access & Utility Easement
-  Mental Health Parcels

