

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION Decision to Dispose of Parcels through the Annual Land Sale Program

MHT 2015-99
MH Parcel(s) Multiple Parcels

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. The proposed action is to offer 62 subdivision lots and small sized parcels through the TLO’s Land Sale Program in various locations throughout Alaska. If not sold in the 2015 Land Sale, the parcels may be re-offered in future TLO land sales.

Parcels in the 2015 Land Sale will be offered through a sealed bid auction and awarded to the highest qualified bidder or be offered through an over-the-counter sale. Purchasers may elect to pay for the parcel in full or finance through a TLO sale contract.

The four lots in the South Fairbanks Subdivision have a commercial value and are zoned GU-1 (General Use-1) by the Fairbanks North Star Borough. To better market these properties to the commercial audience, the TLO will be listing the properties through a real estate broker as part of an over-the-counter sale.

II. Applicant/File #. TLO Project #2015-99: Annual Statewide Land Disposal Program.

III. Subject Property.

A. Legal Description. A list of parcels with legal descriptions, subdivision names, locations, acreages, and Trust parcel numbers is attached (Attachment A). 62 parcels of varying sizes will be offered. Some parcels may be deleted from the sale list as a result of the notice process. Some unsold parcels from the 2014 Land Sale have been carried over to the 2015 sale. Parcels may be removed from the sale at the discretion of the TLO. The parcel list includes parcels located in or near the following communities:

<u>Southcentral Region</u>	<u>Northern Region</u>	<u>Southeast Region</u>	
Little Tutka Bay	Delta Junction	Edna Bay	Petersburg
Moose Pass	Ester	Juneau	Wrangell
Nikiski	Fairbanks	Ketchikan	
Palmer	Olness	Meyers Chuck	
	Salcha		

B. Settlement Parcel Number(s). CRM-2547, CRM-2548, CRM-2531, CRM-2535, C20812, CRM-2319, C20772, C20796, C81133, C20735, C20736, C81114, C20751, C20748, C20761, CRM-2421, CRM-2530, C20955, C20948, C81184, C81185, CRM-2305, C20487, CRM-2284-02, F80914, F20636, F20646, F20647, F20648, F20649, FM-7009, FM-0695, FM-0696, FM-0981, FM-0989, F80419, F20390, F20393, F1002, S20093, S20092, S20091, S20094, S20095, SM-0384, SM-5025, SM-1197, SM-1197, SM-0082, SM-0083.

C. Site Characteristics/Primary Resource Values. Site characteristics are typical of residential, recreational, and commercial properties with the primary resource value being real estate.

D. Historical and Existing Uses of the Property. There are no known historic or existing uses and the parcels are typically unencumbered. The parcels are mostly in existing platted subdivisions, some of which have power, water or sewer service, and have varying types of access.

E. Adjacent Land Use Trends. Adjacent lands are typically in residential use, with some private recreational and commercial use as well.

F. Previous State Plans/Classifications. Applicable DNR Area Plans and classification were reviewed and found to have no impact on parcels being offered for sale because in most cases, the classification placed on Trust land were in existence when the land was subdivided and managed by DNR.

G. Existing Plans Affecting the Subject Parcel. Local jurisdiction plans were or will be reviewed to ensure the sale of the parcels will be consistent with local zoning requirements.

H. Apparent Highest and Best Use. The highest and best use for these parcels, excluding the four lots in the South Fairbanks Subdivision, are as individual subdivision lots to be sold for residential/private recreational use. The current highest and best use for the South Fairbanks Subdivision lots is to sell as vacant lots to be developed for commercial or industrial use.

IV. Proposal Background. The TLO has been selling parcels through the Annual Land Sale program since 1998 on behalf of The Trust. The parcels offered in these sales are mostly from pre-existing subdivisions designed and platted by the Department of Natural Resources in the 1970's and 1980's, subdivisions recently developed by the TLO, or parcels under 10 acres in size.

V. Terms and Conditions. Parcels not offered in an over-the-counter sale will be offered to the highest qualified bidder over the set minimum bid. Some parcels that have unique values will use a two-step auction process. In the event that more than one sealed bid is received for one of these unique parcels, an outcry auction will be held among the three highest qualified bidders.

Unless paid for fully in cash, the parcels will be sold via a land sale contract administered by the TLO. The principle terms and conditions include the following:

- A.** Minimum bid is based on an appraisal or other acceptable valuation approach. At least 5% of the bid amount is to be submitted with the bid. Another 5% is required with the signed Declaration of Intent. The TLO's financing term is a maximum of twenty (20) years based on the amount financed with a likely interest rate of approximately 6.25% based on the Wall Street Journal published prime rate plus 3%. Often parcels with values below \$5,000 are immediately paid off.
- B.** Installment payments may be made monthly, quarterly, or annually.
- C.** Parcels will be sold "as is" with no guarantees as to suitability for any intended use.
- D.** The sale agreement allows for minimal clearing and use of materials within the parcel for development of a residential site. No commercial use of resources (timber or materials) may be made until after payoff and recording of the quitclaim deed.

VI. Resource Management Considerations.

- A. Marketplace Considerations.** The Trust Asset Management Policy Statement states the TLO focus first on land at the high end of their market values ("Best Markets") and then on land or resources with Best Market potential within the next two to ten years. The competitive disposals proposed for the 2015 Land Sale appear to be in the "Best Market" category as individual subdivision lots.
- B. Disposal Considerations.** 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. Most residential land is purchased, rather than leased; therefore, it is not likely that there would not be much interest in leasing the properties. Management costs to the Trust will generally decrease on the properties through a sale.
- C. Revenue Diversity Considerations.** Long-term economic benefits to the Trust include returns on the investment of the purchase price (corpus). For those parcels purchased with TLO financing, interest income will be produced from the sale contract for the term of the contract.

VII. Alternatives. The primary alternative is to hold the parcels for sale sometime in the future. This alternative would delay receipt of revenues from sales and income from

interest payments and may result in additional costs and risks to the Trust without significant increases in value.

VIII. Risk Management Considerations.

- A. Performance Risks.** Performance risks will be mitigated through the TLO's bid forms, 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.** There are no known environmental risks associated with this action.
- 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. A majority of the communities in which these parcels are being offered in have expressed interest for the parcels to be put up for sale.

IX. Due Diligence.

- A. Site Inspection.** TLO staff, contract appraiser or surveyor has or will have inspected the parcels prior to sale.
- B. Valuation.** Minimum parcel bids will be established via appraisals that meet the most current Uniform Standards of Professional Appraisal Practice (USPAP) standards or other appropriate valuation methods.
- C. Terms and Conditions Review.** Contract documents were reviewed by the Attorney General's Office and an independent law firm.
- D. Other.** All parcels will have a title report completed prior to issuing a sale contract or quitclaim deed.

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 sales are 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). Other provisions of law the TLO deems inconsistent with Trust responsibilities include:

- i. 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.
- ii. 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.
- iii. AS 38.05.065(g), Appeal of director's decision to commissioner is in direct conflict with 11 AAC 99.060 and there for does not apply to the transaction pursuant to 11 AAC 99.060(d).

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

XI. Trust Authority Consultation. The Alaska Mental Health Trust Resource Management Committee was consulted on January 27, 2015. The Committee recommended that the proposed transaction be forwarded to the Alaska Mental Health Trust board of trustees. The board of trustees was consulted on January 28, 2015, and the board of trustees concurred with the disposal of approximately 62 Trust parcels through the TLO's Annual Land Sale Program subject to the outcome of the notice process.

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 will 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.

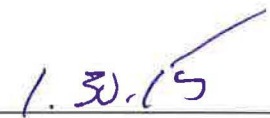
- XV. Available Documents.** Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone (907) 269-8658. Email: mhtlo@alaska.gov.

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: www.mhtrustland.org.

XVI. APPROVED:



Marcie Menefee
Executive Director
Alaska Mental Health Trust Land Office



Date

Attachment A - 2015 Land Sale Parcel List

MH Parcel Number	General Location	Community/Subdivision	Legal Description	Survey	Lot	Block	Acres
Southeast Region							
CRM-2547	Meyers Chuck	Meyers Chuck Subdivision	C071S086E05	ASLS 85-93	43C		0.728
CRM-2548	Meyers Chuck	Meyers Chuck Subdivision	C071S086E05	ASLS 85-93	43D		0.814
CRM-2531	Meyers Chuck	Meyers Chuck Subdivision	C071S086E05	ASLS 85-93	40A		1.250
CRM-2535	Meyers Chuck	Meyers Chuck Subdivision	C071S086E05	ASLS 85-93	40E		0.916
C20812	Edna Bay	Edna Bay Subdivision	C068S076E23	ASLS 81-116	2	12	4.492
CRM-2319	Petersburg	Seaduck Subdivision	C060S079E14	TLS 2014-02	1		0.50
CRM-2319	Petersburg	Seaduck Subdivision	C060S079E14	TLS 2014-02	2		0.50
CRM-2319	Petersburg	Seaduck Subdivision	C060S079E14	TLS 2014-02	3		0.50
CRM-2319	Petersburg	Seaduck Subdivision	C060S079E14	TLS 2014-02	4		0.50
CRM-2319	Petersburg	Seaduck Subdivision	C060S079E14	TLS 2014-02	5		0.53
CRM-2319	Petersburg	Seaduck Subdivision	C060S079E14	TLS 2014-02	6		0.50
CRM-2319	Petersburg	Seaduck Subdivision	C060S079E14	TLS 2014-02	7		0.50
C20772	Wrangell	Olive Cove Subdivision	C065S085E31	ASLS 81-233	10	1	4.701
C20796	Wrangell	Thoms Place Subdivision	C066S086E05	ASLS 81-234	8	Unit 3	4.377
C81133	Wrangell	Thoms Place Subdivision	C066S086E05	ASLS 81-234	10	Unit 3	3.046
C20735	Wrangell	Wrangell Island East Subdivision	C062S084E28	ASLS 83-8	5	1	1.222
C20736	Wrangell	Wrangell Island East Subdivision	C062S084E28	ASLS 83-8	6	1	0.999
C81114	Wrangell	Wrangell Island East Subdivision	C063S084E12,13	ASLS 83-8	1	5	4.145
C20751	Wrangell	Wrangell Island East Subdivision	C063S084E13,24	ASLS 83-8	7	7	2.894
C20748	Wrangell	Wrangell Island East Subdivision	C063S084E13,14	ASLS 83-8	4	6	2.881
C20761	Wrangell	Wrangell Island West Subdivision	C064S084E17	ASLS 83-7	1	5	4.999
CRM-2421	Wrangell	Shoemaker Bay	C063S084E17	USS 3403	14		0.550
CRM-2530	Wrangell	Unnamed Island	C064S084E06	USS 3709	6		4.730
C20955	Ketchikan	Bull Island	C073S092E31	ASLS 84-39	5	4	3.038
C20948	Ketchikan	Bull Island	C073S092E31	ASLS 84-39	5	2	1.215
C81184	Ketchikan	Bull Island	C073S092E31	ASLS 84-39	6	2	1.130
C81185	Ketchikan	Bull Island	C073S092E31	ASLS 84-39	8	2	1.422
CRM-2305	Petersburg	Falls Creek Subdivison	C060S079E11	TLS 2002-02	24		1.980
C20487	Juneau	Lena Pt.	C040S065E19	USS 3809	Portion of Lot 6		8.840
CRM-2284-02	Petersburg	Papke's Landing Rd and Mitkof Hwy	C060S079E11	Metes and Bounds	Portion of Sec. 11 East ½		20.000

Attachment A - 2015 Land Sale Parcel List

MH Parcel Number	General Location	Community/Subdivision	Legal Description	Survey	Lot	Block	Acres
Northern Region							
F80914	Delta Junction	Greely Subdivision	F010S011E30	ASLS 79-164	2	1	4.990
F20636	Delta Junction	West Addition Delta Jct. Townsite	F010S010E23	EPF 230021	and 16	10	1.288
F20646 F20647	Delta Junction	Richardson Hwy	F010S010E23	USS 3292	Lots 55 and 56	Tract C	0.940
F20648 F20649	Delta Junction	Richardson Hwy	F010S010E23	USS 3292	57A	Tract C	0.930
FM-7009	Salcha	Little Harding Lake Subdivision	F006S004E11	TLS 2013-04	Tract D		1.842
FM-7009	Salcha	Little Harding Lake Subdivision	F006S004E11	TLS 2013-04	Tract E		1.842
FM-7009	Salcha	Little Harding Lake Subdivision	F006S004E11	TLS 2013-04	Tract I		1.842
FM-7009	Salcha	Little Harding Lake Subdivision	F006S004E11	TLS 2013-04	Tract K		1.842
FM-0695	Salcha	Salcha River	F005S004E23	USRS	8		5.070
FM-0696	Salcha	Salcha River	F005S004E23	USRS	9		5.060
FM-0981	Ester	Aspenwood Subdivision	F001S003W23	ASLS 84-20	7	7	3.407
FM-0989	Ester	Aspenwood Subdivision	F001S003W26	ASLS 84-20	Tract D	8	2.424
F80419	Olness	Olness East Subdivision	F003N001W24	ASLS 80-178	5	4	4.951
F20390	Olness	Olness East Subdivision	F003N001E19	ASLS 80-178	15	3	5.000
F20393	Olness	Olness East Subdivision	F003N001W24	ASLS 80-178	29	3	4.965
F1002	Fairbanks	South Fairbanks Subdivision	F001S001W22	TLS 2005-03	2		1.230
F1002	Fairbanks	South Fairbanks Subdivision	F001S001W22	TLS 2005-03	3		1.176
F1002	Fairbanks	South Fairbanks Subdivision	F001S001W22	TLS 2005-03	4		0.934
F1002	Fairbanks	South Fairbanks Subdivision	F001S001W22	TLS 2005-03	5		0.967
Southcentral Region							
S20093	Moose Pass	Trail Lake Group Homesites	S004N001W01	USS 2528	30		4.820
S20092	Moose Pass	Trail Lake Group Homesites	S005N001W36 S004N001W01	USS 2528	16		4.150
S20091	Moose Pass	Trail Lake Group Homesites	S004N001W01	USS 2528	15		4.290
S20094	Moose Pass	Trail Lake Group Homesites	S004N001W01	USS 2528	31		4.350
S20095	Moose Pass	Trail Lake Group Homesites	S004N001W01	USS 2528	32		4.720
SM-0384	Little Tutka Bay	South Kachemak Alaska Subdivision	S008S013W22	EPF 69-3	25	2	2.300
SM-5025	Little Tutka Bay	South Kachemak Alaska Subdivision	S008S013W21	EPF 69-3	Tract A		1.230

Attachment A - 2015 Land Sale Parcel List

MH Parcel Number	General Location	Community/Subdivision	Legal Description	Survey	Lot	Block	Acres
Southcentral Region							
SM-1197	Nikiski	Island Lake Subdivision	S007N012W13	TLS 2012-01	2		1.784
SM-1197	Nikiski	Island Lake Subdivision	S007N012W13	TLS 2012-01	3		1.783
SM-0082	Palmer	Wolverine Lake	S018N003E07	USRS	17		2.750
SM-0083	Palmer	Wolverine Lake	S018N003E07	USRS	18		3.510