

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION Bonnie Lake Telecommunications Easement

MHT 9200613
MH Parcel(s) SM-0211-F, SM-0211-O01, 0211-P and SM-0275

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. To issue a non-exclusive easement agreement to Matanuska Telephone Association, Inc. (MTA) to attach a telecommunications line to existing Matanuska Electric Association, Inc. (MEA) power poles. Completion of this project will provide high-speed fiber optic connection to MTA’s facilities.

II. Applicant/File #. Matanuska Telephone Association, Inc. MHT 9200613.

III. Subject Property.

- A. Legal Description.** Section 22, 23, 24, 25, 26, 27, and 28, Township 20 North, Range 6 East, Seward Meridian, Alaska, containing approximately 9.16 acres.
- B. Settlement Parcel Number(s).** SM-0211-F, SM-0211-O01, 0211-P and SM-0275.
- C. Site Characteristics/Primary Resource Values.** The Trust parcels are either adjoined by State or private land.
- D. Historical and Existing Uses of the Property.** Utility easements, communication facilities and rights-of-ways.
- E. Adjacent Land Use Trends.** Adjacent land use trends include settlement, recreation, forestry, wildlife habitat, and telecommunication facilities. Placer gold deposits are located within the Willow Creek Mining District but none within the project area.

F. Previous State Plans/Classifications. 1985 Susitna Area Plan (SAP), Bonnie Lake Management Unit. This unit will be managed to provide a mixture of land for settlement, public recreation, habitat protection, and personal use timber harvest. The unit contains a scenic, complex mixture of rugged and rolling country including several rock escarpments, steep river drainages and a number of lakes. It is a popular hiking and fishing area with good potential for further recreational development and increased use. Land ownership is a mixture of public and private. Part of the unit is accessible by road.

The SAP has been replaced by the 2011 Susitna Matanuska Area Plan (SMAP).

G. Existing Plans Affecting the Subject Parcel. 2008 Chickaloon Comprehensive Plan (CCP). The proposed project is compatible with the goals of the CCP to develop utilities that support and augment the needs of the residents and traveling public without negatively impacting the community and ensure they are appropriately sited and managed with the lowest visual impacts.

H. Apparent Highest and Best Use. Utility infrastructure and settlement.

IV. Proposal Background.

The proposed fiber optic line is to be located within two MEA easements along the Glenn Highway. ADL 2311 was established in 1961 for electrical power distribution to the US Air Force microwave facility (Sawmill site), located near Chickaloon. ADL 32778 was issued in 1967 for a distribution line to provide power to Victory Bible Camp. Both MEA easements are perpetual and no revenue is generated for the Trust.

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

- A. Term.** An initial term of 25 years with the option to extend.
- B. Considerations.** The Grantee shall pay an annual payment to the Grantor in the amount of \$1,995, and will include a three percent increase every five (5) years.
- 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, which require insurance, bonding, and indemnification. The Easement will not negatively affect the Trust's opportunity to maximize revenues from this site or adjacent Trust lands over time. The proposed fiber-optic line will be collocated with existing power lines creating diversity of revenue-producing uses on Trust property. No further expansion of the existing electric utility easement is required.

VII. Alternatives.

- A. Proceed as Proposed.** Collocation of this easement with the MEA authorizations would provide additional revenue to the Trust without increasing the TLO's stewardship obligation. The adjacent Trust land may be suitable for subdivision development, and enhanced telecommunication services would increase the value of individual lots.

- B. Do Nothing.** Doing nothing would preclude an opportunity to receive value for the proposed activities.
- C. Other Resource Development.** Possible alternatives include offering the area for placer mining, material sale, or coal lease. There are no known mineral or coal deposits located within or adjacent to the project area.

VIII. Risk Management Considerations.

- A. Performance Risks.** Attaching the telecommunications line to the existing power poles minimizes additional impacts. Completion of this project may increase the development opportunities by providing high-speed fiber optic connection to MTA's facilities.
- B. Environmental Risks.** The fiber optic upgrade will have no additional land disturbance aside from normal maintenance.
- 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.** No site inspections within the previous two years.
- B. Valuation.** The Trust will receive approximately \$53,000 in land use fees over the 25 year term of the easement. The December 2013 Guidelines for Land Use Fees was reviewed and the Annual Use Fee was used to determine the annual rental.
- C. Terms and Conditions Review.** This agreement uses a modified TLO easement document to address continuity issues between construction licenses and final easements. Insurance and indemnification have been imposed per the standard conditions of the easement. The bonding requirements have been waived due to the low risk of additional adverse impacts.

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. Under Article IX of the Trust Bylaws, the Chief Executive Officer may be consulted regarding the disposal of assets with an annual rental of \$100,000 or less. Consultation with the Trust Resource Management Committee and the Board of Trustees is not required.

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 are 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



4.9.15
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 pursuant to the Alaska Mental Health Trust Authority Bylaws, revised May 7, 2014, and Resolution 02-01.



Jeffrey L. Jessee
Chief Executive Officer
Alaska Mental Health Trust Authority

April 10, 2015
Date