

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
DIVISION OF AGRICULTURE**

**Preliminary Decision for
Proposed Amendments to Final Findings**

**Brown's Court Agricultural Project
Interior Region Agriculture Parcels
AS 38.05.035(e)**

I. Proposed Action :

The Department of Natural Resources (DNR), Division of Agriculture (DAg) in cooperation with the Division of Mining, Land, and Water (DMLW) proposes to amend a previously issued Final Finding to change parcel sizes and for the purpose of proceeding to reoffering 2 agricultural parcels in the Interior Region, which total approximately 295 acres. If this proposed action is approved, the parcels may be included in a future Agricultural Land auction. The previously issued Final Finding and the proposed amendment:

- A) **Amending Final Finding for Auction #420** Signed January 23, 2002
1. Change legal description to reflect current parcel size.

Parcels are ADL 410034(134.09acres) and ADL 410035 (159.96 acres).

If approved, the land will be subject to perpetual agriculture covenants per AS 38.05.321.

Attachment A - map depicting parcel location.

Attachment B is the public notice, which will be posted in the area of the sale and on the State of Alaska web site advertising the public comment period in accordance with AS 38.05.945.

The public is invited to comment on this Preliminary Decision. The deadline for comment is November 17, 2015; see Attachment B for details on how and where to send comments.

II. Authority:

The Department of Natural Resources has the authority under Alaska Statute 38.05.045 to sell state land for private ownership if determined to be in the best interest of the state.

Alaska Statute (AS) 38.04.005 – Public and Private Land Use Policy,

AS 38.05.035 – Powers and Duties of the Director,

AS 38.05.045 – General Provisions for the Sale of State Land,

AS 38.05.050 – Disposal of Land for Private Ownership,

AS 38.05.055 – Procedures for Sale by Auction,

AS 38.05.321 – Restrictions of Disposal of Agricultural Land,

AS 38.05.945 – Requirement for Notice

Alaska Administrative Code (AAC) Title 11,

Chapter 53 – Records, Surveys and Platting Standards

Chapter 67 – Disposal of Land

III. Administrative Record:

The original Disposal Files associated with the reoffered parcels, the project file for Auction #476, and the individual files for ADL 410034, and ADL 410035 constitute the administrative record in this case. Also incorporated by reference is Yukon Tanana Area Plan (YTAP) (2014).

IV. Scope:

The scope of this decision is limited to DNR's proposed decision to amend a Final Finding, (Auction #420 Final Finding signed January 23, 2002) to change parcel legal description to reflect current configuration for the purpose of reoffering for disposal the 2 agricultural parcels described in the legal description section of this document.

V. Description:

Location:

Geographic:

The project area is located in the Interior Region in the Brown's Court Agricultural project Located approximately 1.5 miles east of mile 276 Parks Highway north of the Coghill Bridge; 25 miles south of Nenana.

USGS Map Coverage:

ADL 410034 and ADL 410035 are within Fairbanks A-5 Quadrangle, scale = 1:63,360

Municipality:

The project area is within the Denali Borough

Legal Description:

ADL 410034: Tract A-2 of Supplemental Plat of Tracts A and B of Alaska State Land Survey No. 79-173, containing 134.09 acres more or less, filed in the Nenana Recording District as Plat No. 84-10. Tract A-2 is within Section 19, Township 8 South, Range 8 West, Fairbanks Meridian, Fourth Judicial District

ADL 410035: Tract A-3 Supplemental Plat of Tracts A and B of Alaska State Land Survey No. 79-173, containing 159.96 acres more or less, filed in the Nenana Recording District as Plat No. 84-10. Tract A-3 is within Section 19, Township 8 South, Range 8 West, Fairbanks Meridian, Fourth Judicial District

Land Title:

ADL 410034 – Information obtained from Title Report #5271. Current as of 2/26/14
The State received Patent for the land and mineral estate under this entitlement Patent 50-80-0137 dated 8/15/80.

ADL 410035 - Information obtained from Title Report #5271. Current as of 2/26/14
The State received Patent for the land and mineral estate under this entitlement Patent 50-80-0137 dated 8/15/80.

Background

Both parcels were in agricultural land sales in 1983 and 2002. The 1983 sale resulted in both parcels being foreclosed. It was discovered after the 2002 sale that municipal entitlement land was included as part of the sale. The state gave the high bidders the choice of returning all the land or prorating the contract to just include the state land. Both parcel owners agreed to keep their contracts for the smaller amount of land. However in 2011 the contract for ADL 410035 was terminated and 2013 the contract for ADL 410034 was relinquished. The land was subsequently nominated for sale by a neighbor and on site investigations showed the parcel suitable for agricultural disposal.

Planning and Classification:

Land use Area Plan and Classification:

All parcels are subject to the Yukon Tanana Area Plan (YTAP).
ADL 410034 and ADL 410035 are classified as Settlement in YTAP Chapter 3
(Parks Highway and West Alaska Region), Unit P-35.

However the Management guidelines for Agricultural Sales: Classification (YTAP page 2-6, foot note 2) states that if agricultural land is within a settlement site, the appropriateness of disposing of the land suitable for agricultural as Agricultural, including agricultural covenants, should be made in a written document under AS 38.05.035(e).

These parcels have been classified as agricultural since 1981, sold as agricultural land twice and have not changed in any material way and therefore are still suitable to be sold as agricultural land.

Mineral Closing Order:

These parcels are closed to mineral entry by mineral closing order (MCO) 395.

Mineral closing orders, where they have been established, close the area to exploration and development of **locatable minerals** such as gold, copper, platinum, etc. Mineral closing orders **do not apply** to oil and gas leasing, coal leasing, shallow gas leasing, or exploration licensing, nor do they preclude reasonable surface access to these resources.

Municipal Zoning and Comprehensive Plans:

The parcels are within the Denali Borough and are subject to local zoning and land use regulations. These parcels are currently zoned Unrestricted, (no prohibitions).

Traditional Use Finding (AS 38.05.830):

These parcels are located within the Denali Borough boundary, and thus do not require a traditional use finding. Traditional use is not thought to be a significant consideration for these based on the fact that they have been in and out of private hands for 30 years.

Native Region Corporations:

The project area is located within the Doyon, Ltd. Native Regional Corporation and Tanana Chiefs Conference boundary. There is no corporation land within the project area.

Clearing Requirements:

Clearing requirements will be based on 25% of cropland as defined below.

For the purpose of determining required development "Cropland" is defined as land that:

- after being cleared is capable of producing, at a minimum, such commercial crops as grasses for seed, grain for cereal, or frost hardy vegetables;
- is arable and at least 97 percent free of surface stoniness (stones greater than three inches); with slopes less than 12 percent;
- has mineral soil depths over aggregate or sand measuring at least 10";
- is capable of draining satisfactorily following conversion to farm land;
- not subject to frequent flooding.

Access:

Access to and Beyond:

Access to the parcels is Rexana Trail to constructed access on section line easements between sections 13 and 24 then continuing south along the constructed access on the section line easement between sections 19 and 24. There is constructed access along the north edge of ADL 410034 that allows access to ADL 410035. However, the road leading to ADL 410035 is washed out around a culvert. It can only be passed by 4-wheel vehicles with high clearance. Neither the state nor the Denali Borough is expected to repair this in the foreseeable future.

Waters Determined Public or Navigable:

No public or navigable waterbodies are present within these parcels.

Access to and Along Public Water (AS 38.05.127, 11 AAC 51.035, 11 AAC 51.045):

No public or navigable waterbodies are present within these parcels.

Easements and Setbacks:

Both parcels will be subject to 50' easements along all sections line as per AS 19.10.010.

Both parcels are subject to a 30' utility easement adjacent to the 50' section line easements.

Easements created by this decision:

ADL 410034 – ADL 420460 Public access and utility easement along the northern 30 feet of the parcel, matched with the existing 30' public access and utility easement immediately to the north of the parcel to create a 60' easement for an existing road per 11 AAC 51.015(d)(1)(E), which requires 60' easement for existing roads.

ADL 420461 - Utility easements along the east 15' matched with the 15' utility easement along the western border of ADL 410035 creating 30' of utility easements running between the two parcels.

The R/W for the Rexana Trail (ADL 409503) is the southwest border of parcel but does not encumber the parcel.

ADL 410035 – ADL 420460 - Public access and utility easement along the northern 45 feet of the parcel border, matched with the existing 15' public access and utility immediately to the north of the border to create a 60' easement for an existing road per 11 AAC 51.015(d)(1)(E), which requires a 60' easement for existing roads.

ADL 420461 - Utility easements along the west 15' matched with the 15' Utility easement along the eastern border of ADL 410034 creating 30' of utility easements running between the two parcels.

Survey and Appraisal:

All parcels were surveyed, or determined to be considered surveyed, by the Survey Unit within the Alaska Department of Natural Resources, Division of Mining, Land, and Water.

Fair market appraisals for all parcels were conducted in 2015 and will be completed prior to sale.

Agency Comments:

Since these are reoffers that become available within the last two years and there are only two parcels, DAg has decided to combine the agency comment with the public notice. Agency comments will be included in the Final Finding along with the public comments.

Environmental Risk Assessment:

ADL 410034 has an abandoned house on it with large amounts of trash in the yards and buried in a pit adjacent to the house. There is one abandoned car on the property. Numerous 55-gallon drums and smaller containers are also present. The Division of Agricultural conducted an environmental audit and found that there were no hazardous materials present and no evidence of contamination. All batteries and barrels found were sealed and sitting in upright positions with no evidence of spillage around the items. The pit next to the house was filled with old appliances, household trash, windows, and old building material. The state of the parcel will be prominently mentioned in the brochure.

Activities with risks after the parcels are sold are regulated by other agencies, such as regulation of septic system installation and pesticide/herbicide use by the Alaska Department of Environmental Conservation, however, the Department of Natural Resources cannot guarantee private landowners will comply with these regulations and standards, nor can the Department guarantee the new landowners will follow any best management practices that may apply to activities performed upon their property. The risks are not project specific; rather they are present whenever vacant land is developed. These parcels will, however, be subject to a State Farm Conservation Plan, which must be submitted before a contract can be issued. The State Farm Conservation Plan is generally the result of the landowner working closely with the Natural Resource Conservation Service or local soil and water district and is designed to help protect the land from unwise land practices.

VI

Alternatives:

The following alternatives were considered:

1. Do not amend the previous final finding to change the parcel legal description and clearing requirements at this time and retain the land in public ownership.

This option is not preferred because there is a demand for farm land in Alaska and these parcels hold no special qualities meriting retention in public ownership.

2. Amend the previous Final Finding (signed January 23, 2002) to change the parcel legal description and clearing requirements for ADL 410344 and ADL 410035 for the purpose of selling the parcel.

This is the preferred option because it would lead to the reoffering of agricultural land and meets the management intent of the YTAP that if land is suitable for agriculture the best interest would be served by using it for agriculture. This option serves to promote the agriculture industry in the state and the interest of the citizens by protecting suitable lands for agriculture production now and in the future. This is in the best interest of the state.

VII. Public Notice:

Pursuant to AS 38.05.945, the public is invited to comment on this Preliminary Finding and Decision, which proposes a change to a parcel legal description of two parcels in the Brown's Court Agricultural Project area. Notices will be posted on the State of Alaska web site. Public notices will also be posted at local post offices in the general vicinity of the proposed area and sent to the Denali Borough and Doyon Native Corp.

The notice will also be posted on the State of Alaska Public Notice web page at <https://aws.state.ak.us/OnlinePublicNotices/default.aspx>

Pursuant to AS 38.05.946, a municipality or corporation statutorily entitled to receive notice under AS 38.05.945, may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the commissioner (or a representative) shall attend the hearing. The commissioner has discretion whether to hold a public hearing.

If public comment in response to this notice indicates the need for significant changes in the above decision, additional public notice for the affected decision will be given. Deleting portions of the project area or making minor changes to the proposed lot numbers will not be considered a significant change requiring public notice. If no significant change is required, the preliminary decision, including any deletions, minor changes, and a summary of public comments and Division responses, will be issued as the Final Finding and Decision of the Department of Natural Resources without further notice. A copy of the final decision will be sent to any person who submits written comments on the preliminary decision. The final decision will set out the applicable process for appealing the decision under AS 38.05.035(i)-(m).

To be eligible to appeal, a person must comment in writing during the public comment period. The comment period ends November 17, 2015.

If you would like to comment on this proposed action, please contact:

Dan Proulx
3700 Airport Way
Fairbanks, AK 99709
dan.proulx@alaska.gov or fax him at (907) 328-1951.

Erik Johnson
1800 Glenn Hwy, suite 12
Palmer, AK 99645
erik.johnson@alaska.gov or fax at 907 745-7112

Individuals with disabilities who may need auxiliary aids, services, or special modification should contact the Fairbanks Public Information Center between the hours of 10:00 a.m. and 5:00 p.m. M-F at (907) 451-2705, e-mail: fbx-pic@dnr.state.ak.us, TDD: (907) 451-2770.

Please see Attachment B, the public notice to be published in the aforementioned sources, for further details.

VIII. Recommendation:

The Division of Agriculture recommends that the Final Finding signed January 23, 2002 be amended to change the parcel legal description for the two parcels indicated above.

The proposed action is consistent with the overall management intent for state land and is in the state's best interest.

Prepared by;



Daniel Proulx, Natural Resource Specialist II
Division of Agriculture

August 2, 2015

Date

I concur with the proposed action;



Franci Havemeister, Director
Division of Agriculture

9/3/15

Date

VIII. Best Interest Finding

The proposal is consistent with the overall management intent for the state land for this area. Changes to public resources and the public interest as a result of the proposal are acceptable. I find that the proposed action may be in the state's best interest and it is hereby approved to proceed to public notice.

Brent Goodrum, Director
Division of Mining, Land, and Water

Date

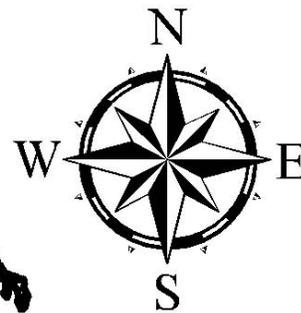
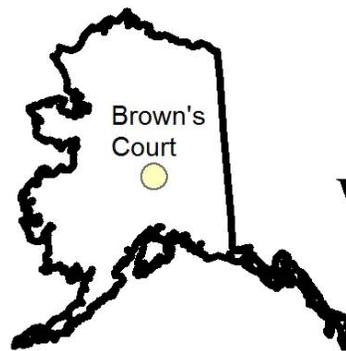
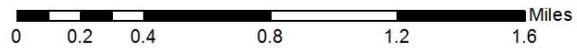
Attachment A

Auction #476 Area Map



Legend

-  Coghill (Rex) Bridge
-  Parks Highway
-  Parcels for sale



Attachment B

**State of Alaska
Department of Natural Resources
Division of Agriculture (DAg)**

Public Notice

**Interior Agricultural Parcels
Proposed State Land Sale – AS 38.05.035(e)**

The Alaska Department of Natural Resources, Division of Agriculture (DNR/DAg) in cooperation with the Division of Mining, Land, and Water proposes to amend one Final Finding signed January 23, 2002 for the purpose of changing the legal description of the 2 agricultural parcels of State land listed below, totaling approximately 294 acres.

Parcel Location: Brown's Court Agricultural Project

North Healy off the Parks Highway

Parcel ADL 410034

Tract A-2, State Of Alaska Supplemental Plat Of Tracts A And B, Alaska State Land Survey No. 79-173, Township 8 South, Ranges 8 And 9 West, And A Portion of N1/2 Section 24, Township 8 South, Range 9 West, Fairbanks Meridian, Alaska, Containing 134.09 Acres, More Or Less, According To The Survey Plat Filed In The Nenana Recording District As Plat No. 84-10.

Parcel ADL 410035

Tract A-3, State Of Alaska Supplemental Plat Of Tracts A And B, Alaska State Land Survey No. 79-173, Township 8 South, Ranges 8 And 9 West, And A Portion of N1/2 Section 24, Township 8 South, Range 9 West, Fairbanks Meridian, Alaska, Containing 159.96 Acres, More Or Less, According To The Survey Plat Filed In The Nenana Recording District As Plat No. 84-10.



The public is invited to comment on this proposed action. Copies of the preliminary decision and maps are available at the DNR/DAg office in Fairbanks and online at www.dnr.alaska.gov/mlw/landsale.

Comments may be submitted to the following addresses;

Division of Agriculture
3700 Airport Way
Fairbanks, AK 99709
Attn: Daniel Proulx
Or Dan.Proulx@alaska.gov

Division of Agriculture
1800 Glenn Hwy, Suite 12
Palmer, AK 99645-6736
Attn: Erik Johnson
Or Erik.Johnson@alaska.gov

Comments must be received in writing at the above location on or before 5:00 pm November 17, 2015 to ensure consideration. The preliminary decision explains the schedule for a final decision as well as the appeal process. Only persons who provide written comments during the comment period will be eligible to file an administrative appeal of the Final Finding and Decision.

For more information please contact Daniel Proulx at (907) 374-3716, or email Dan.Proulx@alaska.gov. Comments must be received by November 17, 2015.

If public comments in response to this notice indicate the need for significant changes in the above decision, additional public notice for the proposed sale will be given. DNR reserves the right to modify the number of proposed parcels from this offering at any time. Deleting a parcel from the final offering will not be considered a significant change to this decision. If no significant change is required, the Preliminary Finding and Decision, including any deletions, minor changes, and a summary of public comments, will be issued as the Final Finding and Decision of the Department of Natural Resources without further notice. A copy of the final decision will be sent to any person who submitted timely written comments on the proposed decision and will be available at the above addresses. The final decision will set out the applicable process for appealing the decision under AS 38.05.035(i)-(m). To be eligible to appeal, a person must submit written comments during the public comment period.

If these recommendations are approved and lead to an agricultural land sale, the state will publish a brochure that will be distributed in nearby communities and be advertised in a statewide newspaper. The brochure will contain information about available parcels and how to participate in the auction. You may contact one of DNR's Public Information Centers for information on how to get a brochure or visit the web at www.dnr.alaska.gov/mlw/landsale/

Individuals with disabilities who may need auxiliary aids, services, or special modifications should contact the Public Information Center (PIC) in Fairbanks, between 10:00 a.m. and 5:00 p.m. Monday through Friday, at (907) 451-2705, or TTY (907) 451-2770, or email: fbx-pic@dnr.state.ak.us.

DNR reserves the right to waive technical defects in this publication.