

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

PRELIMINARY DECISION
Habanero Subdivision – ADL 421223

Proposed Land Offering in the Unorganized Borough
AS 38.05.035 (e), AS 38.05.045

RELATED ACTION(S):
Proposed Mineral Order (Closing)
AS 38.05.185 and AS 38.05.300

PUBLIC COMMENT PERIOD ENDS 5:00PM, TUESDAY, JULY 28, 2020

I. Proposed Action(s)

Preliminary Decision: Habanero Subdivision - ADL 421223

Attachment A: Vicinity Map

Attachment B: Area Data Summary Table

Attachment C: Public Notice

Public is also invited to comment on the proposed related actions:

Draft Mineral Order (Closing) MO 1238

Primary Proposed Action: The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Conveyances Section (LCS) is to offer for sale State-owned land within the identified project area. If approved, surveyed parcels will be offered for sale.

Located within DNR's Northern Region, approximately 33.5 miles southwest of Manley Hot Springs and 6.5 miles northwest of West Twin Lake, the project area is within Sections 29-32, Township 4 South, Range 17 West, Fairbanks Meridian, within the Unorganized Borough. The project area consists of approximately 2,451 acres; however, only 1,000 acres are identified for disposal by this proposed action. See *Attachment A: Vicinity Map* for a depiction of the project area.

In accordance with the governing area plan and proposed related actions for the purposes of providing land for settlement, DNR proposes to sell land within the Habanero Subdivision project area. In order to offer these lands for sale, if approved and deemed feasible, DNR may develop a subdivision of no more than 50 parcels varying in size no smaller than 5 acres. This proposed project area is located within the Unorganized Borough and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards. The project area may be subdivided and offered in multiple stages.

After consideration of public comment, the size and boundaries of the project area will be described in a subsequent Final Finding and Decision (FFD), if the project proceeds to that step. Additional adjustments may be made prior to subdivision, as described in the

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applications to the platting authority, as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with platting requirements. Although actions under this proposal are limited to the stated maximums, additional offerings may be authorized under future proposals, which could increase the density of privately-owned parcels within, adjacent to, or near the project area.

Proposed Related Action(s): These related actions will be developed separately, however; public notice is being conducted concurrently.

Mineral Order (Closing): DNR proposes to close the project area to new mineral entry. Refer to the Mineral Activity and Order(s) subsection of this document for more information on this proposed related action.

This related action will be developed separately.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal. Public notice for all actions is being conducted concurrently.

See **Section VIII. Submittal of Public Comments** at the end of this document and *Attachment C: Public Notice* for details on how to submit a comment for consideration. If, after consideration of timely, written comments, DNR moves forward with the proposal, a Final Finding and Decision will be issued.

II. Method of Sale

DNR proposes to offer for sale land within the project area as described herein, through a future offering under *AS 38.05.045 Generally*.

Parcels offered through this action are offered fee-simple for the surface estate only. For more information about the land sales program, please visit the website at <http://landsales.alaska.gov>.

III. Authority

DNR has the authority under *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." In addition, if it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020 (h) Land Disposal Bank*.

For related actions, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for mineral orders.

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IV. Administrative Record

The project file, Habanero Subdivision - ADL 421223, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Yukon Tanana Area Plan for State Lands (YTAP, adopted January 2014) and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan* (March 2019 Review);
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*;
- *Exploratory Soil Survey of Alaska*, United States Department of Agriculture, Soil Conservation Service (Issues February 1979);
- United States Fish & Wildlife Service (USFWS) National Wetlands Inventory (Updated January 2020);
- Other case files, reports, or documents referenced herein.

V. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section III**.

Authority, is limited and specific to DNR's proposal to offer State-owned land within the defined project area for disposal and to conduct the proposed mineral order as described herein. The scope of this proposal does not include the control of post-patent use and DNR does not intend to impose deed restrictions for this purpose. The subdivision may be conducted in multiple stages.

VI. Description

Location: Within DNR's Northern Region, approximately 33.5 miles southwest of Manley Hot Springs and 6.5 miles northwest of West Twin Lake, the project area is within Sections 29-32, Township 4 South, Range 17 West, Fairbanks Meridian, within the Unorganized Borough. The project area consists of approximately 2,451 acres; however, only 1,000 acres are identified for disposal by this proposed action. See *Attachment A*: Vicinity Map and *Attachment B*: Area Data Summary Table for additional information.

Platting Authority: The project area is within the Unorganized Borough and is subject to the State of Alaska platting authority.

Native Regional and Village Corporations: The project area is within the boundaries of the Doyon regional corporation. There are no villages located within 25 miles of the project area.

Property Description: Sections 29-32 all, Township 4 South, Range 17 West, Fairbanks Meridian, Alaska containing 2,451 acres more or less as shown on the BLM plat of survey accepted May 25, 1988 and officially filed June 8, 1988.

Title: Information from Title Report No. 12091, current as of September 20, 2019 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 50-88-0328, dated September 1, 1988. The applicable State case file is GS 3582. The parcel is subject to the reservations, easements and exceptions contained in the federal patent.

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State Reservations of Title:

Retention of and Access to Mineral Estate: In accordance with *Section 6 (i) of the Alaska Statehood Act* and *AS 38.05.125 Reservation [of Rights to Alaska]*, the State retains ownership of the mineral estate that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals (such as gold, copper and silver, etc.), and leasable minerals (such as oil, gas, coal, etc.).

The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing, and producing these reserved mineral resources. Access reserved to these retained interests is superior to any and all surface uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, *AS 38.05.130 Damages and Posting of Bond* also provides that the land estate owner will be compensated for damages resulting from mineral exploration and development.

Navigable Waters: Per *AS 38.05.126 (b) Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the state, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the state." This trust is in accordance with the principles of the Public Trust Doctrine, which are included in Article VIII, Section 14 of the Constitution of the State of Alaska and protected in the United States Constitution. It is vested in the title to this land, is not transferable, and the State's title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made and access will be reserved per *AS 38.05.127 Access To and Along Public and Navigable Water*. For more information, see Access To, Within, and Beyond Project Area subsection of this document.

The Unnamed lake (referred to as Chili Pepper Lake) is navigable within the project area for title purposes.

Where they exist within the project area, State third-party interests will be described in land sales brochures.

Physical Characteristics and Hazards: Attachment B: Area Data Summary Table describes the project area's physical characteristics. Information about the project area is based on internal research and information received during agency review. This is by no means a complete description of the project area and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect individual parcels prior to purchase to familiarize themselves with the physical characteristics of the land.

Soils: According to the *Exploratory Soil Survey of Alaska*, soils within the project area generally consist of silty loess covering most of the area, with some accumulations of gravelly materials from weathered bedrock. Depressions are often filled with fibrous peat. Permafrost underlies many low areas, occurring at depths below 5 feet.

Wetlands: According to the USFWS National Wetlands Inventory, the surrounding area along the northern, western, and southern shores of Chili Pepper Lake may contain

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freshwater forested/ shrub wetlands. An area along the northern shore of the lake may contain freshwater emergent wetlands. The inlet and outlet of Chili Pepper Lake in Section 29 and 31 respectively will be retained, due to the presence of wetlands and low suitability for settlement. Dredging or filling of wetlands may require a permit from the US Army Corps of Engineers.

Geologic Hazards: Geologic hazards are common throughout Alaska. Information based on internal research and information received during agency review did not indicate any specific geologic hazards for this area. Should any geologic hazards be discovered in the development of this proposal, information will be included in offering materials.

Fire Information: Fire history indicates that the entirety of the project area was burned in 2009 by the Zitziana fire. The western and southern shores of Chili Pepper Lake were burned in 2000 and the northern shore was burned in 1976. During agency review, DNR Division of Forestry (DOF) states that the surrounding areas have large scars from fires which occurred in the past 10-15 years.

Potential for wildland fire is high in interior Alaska and other certain parts of the state. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Offering materials include information regarding wildland fire prevention.

Fire management options and policies for the area are identified in the Alaska Interagency Wildland Fire Management Plan available from DNR DOF. The current fire management option for the project area is "Limited." The policy on areas with the "Limited" management option reads, "Wildfires occurring within the Limited Management Option will be allowed to burn within predetermined areas. By allowing fire to spread naturally, a natural mosaic of fire footprint and intensity can be maintained." It also states that the designation of a fire management option does not ensure protection from wildfire, that a protection response will be based on various factors, and "Ultimately it is the personal responsibility of the [landowner] to mitigate and minimize risk to their property and structures and to be 'Firewise'."

Flood Hazard: There is no Flood Insurance Rate Map available for the project area. There is potential for seasonal flooding and erosion of parcels adjacent to water bodies, especially in low-lying areas.

Water Resources: All surface and subsurface waters on all lands in Alaska are a public resource, subject to appropriation in accordance with the Alaska Water Use Act (AS 46.15). No water rights have been identified within the vicinity of the project area. There is not well or water quality information within the area.

Background: The project area consists of a remote, float-plane accessible lake within a Settlement unit, similar to previous offerings within region. The project area is located approximately 33.5 miles southwest of Manley Hot Spring and 6.5 miles northwest of West Twin Lake. Elevation at the shore of Chili Pepper Lake is approximately 830 feet above sea level, and gradually increases as you move into the uplands, with gentle to moderate slide slope (approximately 10%). Based on area research, the vegetation on the lower slopes and

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drainageways appears to consist of black spruce, sedge tussocks, and moss. Upper slopes appear to consist of white spruce, aspen, grass, and brush.

The project area was identified with a land nomination from a member of the public who currently accesses the area via float plane, and subsequently researched for feasibility of development. The land adjacent to the west of the project area is designated Habitat and the land to the north, east, and south is designated General Use. No third-party interests, or potential conflicts have been identified in or near the project area. The project area is within 15 miles of several previous land offerings adjacent to remote lakes, including subdivisions adjacent to Wien Lake, West Twin Lake, and East Twin Lake. Parcels sold within these subdivisions, range between 3 acres and 30 acres in size, depending on the location and suitability for development. Due to the remote location and the potential of wetlands in some locations, LCS proposes offering parcels in excess of 5 acres to ensure that there is sufficient buildable area within each parcel. In addition, the inlet and outlet of Chili Pepper Lake in Section 29 and 31 respectively will be retained, due to the presence of wetlands and low suitability for settlement.

This project area is suited for a small, remote subdivision and provides interior Alaskan lakefront property. Primary access will be by air (via float plane) or overland on snowmachine in the winter (there is no current trail system). The relatively close proximity by air to Fairbanks and smaller communities (Manley Hot Springs), yet remote access, provide an excellent private getaway.

Planning and Classification: The general management intent of the area plan and management unit was reviewed for consistency with the proposed offering. The project area is within Yukon Tanana Area Plan (YTAP, adopted January 2014), Kantishna Region West, Unit K-18). Lands within this unit are currently designated Settlement, and classified Settlement under Land Classification Order No. CL NC-10-005. The project area consists of all the management unit.

Kantishna Region West, Unit K-18 Considerations: Land in this unit may be appropriate for land disposal if determined feasible for development. The lakes in the unit are quite small but are sufficiently large for float plane access. The practicality of this access needs to be confirmed and the feasibility of development needs to be resolved prior to developing a formal disposal decision. The individual who nominated the area for offering currently accesses the lake via floatplane. Although LCS has not yet completed a field inspection of the area, LCS will confirm access and feasibility of development in the project area with a field inspection prior to survey (if the project area is approved for development).

Area-wide Considerations: LCS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies. These considerations will be incorporated into the design and development of the project. Lands to be retained in public ownership, conditions, and reservations will be included on the plat and in offering materials as appropriate. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

Coordination and Public Notice: Management guidelines require notice pursuant to AS 38.05.945 Notice; and review of local comprehensive plans. Public notice for this action

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is being conducted in accordance with AS 38.05.945 Notice. The proposed subdivision is in the Unorganized Borough, and there are no local plans affecting the project.

Cultural Resources: Management guidelines provide that if determined by the DNR Division of Parks and Outdoor Recreation, Office of History and Archaeology (OHA) during an agency review of a proposed land disposal that a cultural survey may be required, further coordination between OHA and DMLW prior to the land disposal is warranted; and that cultural surveys should be considered where OHA reported sites exist or where there is a high potential for such sites to exist. The Alaska Heritage Resources Survey database showed no known or reported cultural resource sites within or near the project area. OHA will be notified should any discovery of cultural resources occur during the development of this project and offering material will include information regarding archaeological sites.

Settlement: This section provides management guidelines regarding planning and coordination with local plans and governments; types of settlement and land offerings; protection, management, and enhancement of other resources; and design. These guidelines have been considered in the development of this proposal. The proposed project will not interfere with any critical recreation or environmental resources.

Fish and Wildlife Habitat: Areawide management guidelines for Fish and Wildlife Habitat do not address any specific management intent or management guidelines specific to settlement. However, management guidelines provide that DNR and the Alaska Department of Fish and Game (ADF&G) will evaluate the use or development of state lands and the benefits or impacts it may have. ADF&G was consulted during agency review and stated no objection to the proposed project.

Forestry: Management guidelines provide that timber harvests are considered appropriate in areas designated Settlement if intended to support the costs of subdivision development, provide access to the subdivision, or for other appropriate purposes. Given the recent fire history and remoteness of the area, LCS is not proposing any timber harvest in advance of subdivision development.

Material Sites: Management guidelines states that generally, if a settlement area contains high value material resources, the material source area should be identified during subdivision design and retained in state ownership for future use. No high value material resources have been identified in the project area.

Stream, Corridors, Shorelands, and Wetlands: Management guidelines establish access easements, building setbacks, and buffers in order to ensure opportunities for a variety of recreational activities within publicly owned stream corridors, protect fish and wildlife habitats along waterbodies, protect water quality, and provide for needed water dependent uses. The width of each access easement, building setback, and buffer varies and is specific to its primary purpose and the potentially impacted waterbody. Chili Pepper Lake is subject to a 50-foot continuous easement upland from the Ordinary High Water mark (OHW; in accordance with *AS 38.05.127 Access To Navigable or Public Water*) and a minimum 50-foot building setback from the OHW.

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Management guidelines provide for an easement or buffer 50 feet on each side of sensitive environmental features such as riverine or lacustrine wetlands. Refer to the *Building Setbacks From Public or Navigable Water* section for more information. According to the USFWS National Wetlands Inventory, the surrounding area along the northern, western, and southern shores of Chili Pepper Lake may contain freshwater forested/ shrub wetlands. An area along the northern shore of the lake may contain freshwater emergent wetlands. Currently, none of the of the wetlands have been identified as high-value or significant hydraulic features. LCS plans to confirm wetland distribution with a field inspection of the project area prior to survey. Subdivision design will account for wetland distribution and appropriate easements or buffers will be imposed, if applicable.

Subsurface Resources: This section provides management guidelines regarding mineral closures and oil and gas resources. The YTAP does not recommend mineral closures prior to land offering. However, in order to avoid potential conflicts between the surface estate and subsurface estate, LCS proposes to close the project area to mineral entry. Refer to the Mineral Activity and Order(s) section for more information. The attached draft Mineral Order 1238 closes the project area to mineral entry. During the agency review for this project, DNR Division of Oil and Gas (DOG) expressed no objection to the proposed disposal, and noted there are no DOG authorizations or pending applications in the immediate vicinity.

Public Access: Management guidelines cover general public access and management of trails within and between developing areas. In general, before selling State land, DNR will reserve public use easements pursuant to the requirements of *11 AAC 51.015 Standards for Public Easements*. Subdivision design will incorporate the reservation of access in accordance with *11 AAC 51.015*. There are no known existing trails or RS 2477 trails within the project area.

The proposed offering is consistent with area-wide land management policies and general management intent of the YTAP and specific management unit.

Mineral Activity and Order(s): Leasehold Location Order 33 covers the entirety of the project area. No other mineral activity has been identified on these lands. The entirety of the project area (approximately 2,451 acres) will be closed to new mineral entry if the mineral order is approved in accordance with *AS 38.05.185 Generally* and *AS 38.05.300 Classification of Land* for a land disposal. The proposed mineral order, if approved, will close the area to new mineral entry only and will not affect current existing mining claims.

Mineral orders which close an area to mineral entry, close the applicable area to new exploration and development of locatable minerals. Such mineral orders do not apply to leasable minerals (such as: oil, gas, coal, etc.), or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

Mining activity for locatable minerals would be incompatible with the past, current, and proposed land estate uses for land disposals. To allow new mineral location within the boundaries of the parcels encompassed by this decision could create serious conflicts

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between land estate and mineral estate users. Area plan mineral estate management policy states that, in general, areas scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land estate and mineral estate users.

Local Planning: The project area is within the Unorganized Borough, and the State does not pursue zoning of private lands.

Traditional Use Finding: The project area is within the Unorganized Borough, and a traditional use finding is therefore required under *AS 38.05.830 Land Disposal in the Unorganized Borough*. Information obtained from the YTAP, research, and Agency Review did not identify any uses of the project area. There are no anticipated significant changes to traditional uses of the land and resources of this area as a result of the proposed action, other than a possible increase in the various traditional activities which may be practiced by new private-property owners. Impacts on existing resource users will be minimized by protecting public access along the shore of Chili Pepper Lake and by protecting riparian and shoreline habitat with building setbacks from the lakeshore as directed in the area plan. Additional information on traditional use is welcome during the public comment period and if this proposal is approved, LCS will address the information received in a subsequent Final Finding and Decision, if one is issued. See the **Section VIII Submittal of Public Comments** at the end of this documents and *Attachment C: Public Notice* for details on how to submit comment.

Access To, Within, and Beyond Project Area: Access to the project area is primarily via floatplane. LCS plans to confirm access with a field inspection of the project area prior to survey. However, a member of the public currently accesses the lake via float plane. Subdivision design will take into account topography and access to lands beyond the project area and within the project area boundaries.

Access To and Along Public or Navigable Waters: In accordance with *AS 38.05.127 Access To Navigable or Public Water*, DNR will determine if a water body is navigable or public and establish easements or rights-of-way as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or rights-of-way under this statute include *11 AAC 51.035 Determination of Navigable and Public Water*, *11 AAC 51.045 Easements To and Along Navigable and Public Water*, and *11 AAC 53.450, Buffer Strips, Reserved Areas, and Public Easements..*

For the purposes of *AS 38.05.127:*

- navigable waters are generally lakes larger than 50 acres in size or streams larger than 50 feet in average width;
- public waters are generally lakes larger than 10 acres in size or streams larger than 10 feet in average width; and
- waters may be determined public or navigable consistent with *AS 38.05.965 (21) Definitions*.

Chili Pepper Lake has been determined to be navigable in the project area. Parcels will be subject to access reservations in accordance with *AS 38.05.127 Access to Public or Navigable Water* and a 50-foot building setback from the OHW of the water bodies described, as well as any additional water bodies identified as public or navigable prior to completion of survey in accordance with the YTAP.

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Building Setbacks From Public or Navigable Water: If subdivision is deemed feasible, DNR proposes to place a note on the final survey plat describing a building setback upland from the OHW of public or navigable water to protect access, fish and wildlife habitat, and personal property. Structures and subsurface sewage disposal systems will not be permitted within the building setback. Utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function may be allowed within the building setback.

Easements, Setbacks, and Retained Lands: Subdivision design may include a variety of easements, setbacks, and retained lands, which will be identified on the subdivision plat and included in related documents.

Parcels and subdivision design may be subject to a variety of reservations or restrictions where appropriate:

- public access easements;
- utility easements;
- a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with *AS 19.10.010 Dedication of Land for Public Highways* and *11 AAC 51.025 Section-line Easements*; section-line easements may be vacated under *AS 19.30.410 Vacation of Rights-of-Way* and *11 AAC 51.065 Vacation of Easements* as part of the subdivision development;
- a 50-foot continuous easement upland from the OHW of public or navigable water bodies in accordance with *AS 38.05.127 Access To Navigable or Public Water*;
- a minimum 50-foot building setback from the OHW of public or navigable water bodies, in accordance with the area plan;
- a minimum 50-foot building setback from wetland areas as appropriate, in accordance with the area plan; and,
- a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5-foot direct line-of-sight easement from the control station to an azimuth mark or other control monument.

Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.

Hazardous Materials and Potential Contaminants: There are no known environmental hazards present within the project area; however, the State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances eventually be found. Interested parties are encouraged to

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inspect the property and familiarize themselves with the condition and quality of the land prior to bid or application submittal.

DNR recognizes there are potential future environmental risks when previously vacant land is occupied. Many of the activities increasing these potential risks are regulated by other agencies, such as the regulation of septic system installation by the State of Alaska, Department of Environmental Conservation. This risk is no greater than when vacant private land undergoes development. Given that this land was specifically designated Settlement appropriate for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, DNR is of the opinion that the benefits of offering the land outweigh the potential risks.

Survey, Platting, and Appraisal: After evaluation of public comment and conditions of the land, DNR will determine if it is in the State's best interest to offer the proposed project area. In order to offer the property, a combination of survey, subdivision, and/or platting actions may be required.

The project area is located within the Unorganized Borough, and therefore survey and platting will be subject to State of Alaska subdivision standards.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR DMLW standards will be required within two years of the date fixed for the sale of any parcel developed under this proposed action. Even though the sale of project area parcels in multiple offerings over time will mitigate "flooding" the market, the two-year appraisal requirement must still be followed.

Project research and development includes consideration of economic factors utilizing market data and project development costs compiled by DNR DMLW staff, to evaluate the economic feasibility of a project. Since it commonly takes several years for the project development process, *AS 38.05.840* ensures the current market conditions are addressed in order to obtain a realistic minimum bid or purchase price for the sale of State land.

VII. DMLW and Agency Review

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this Preliminary Decision. Agency review was conducted from January 13, 2020 through January 29, 2020. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision, if one is issued.

DNR DMLW LCS received brief comments of non-objection from the following agencies: Mental Health Trust Land Office; DNR Division of Oil and Gas; DNR Division of Parks and Outdoor Recreation; and Department of Transportation and Public Facilities.

DNR DMLW LCS Response: LCS appreciates your review of the proposal.

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Department of Fish and Game (ADF&G) Comment: ADF&G concurred with the proposed 50-foot building setback and 50-foot public access easement upland from the OHW of Chili Pepper Lake.

DNR DMLW LCS Response: LCS appreciates your review of the proposal.

DNR Division of Forestry (DOF) Comment: DOF noted that the proposed subdivision is located the Tanana fire management zone, in a Limited protection area, and the surrounding area has many large scars from the past 10-15 years. There is still a possibility of fires occurring in the area, though fire intensity is mitigated due to the recent fire history. DOF would like to emphasize that purchasers know that the project area is in a Limited fire management area and they should take precautions, such as “Firewise” their structures.

DNR DMLW LCS Response: LCS appreciates your review of our proposal. In addition to the information in this document, LCS provides fire management information and online links for “Firewise” instructions in land sale offering materials.

The following agencies or groups were included in the agency review but no comment was received:

- Department of Environmental Conservation;
- Alaska Railroad;
- Department of Commerce, Community, and Economic Development;
- University of Alaska Land Management;
- Department of Natural Resources;
 - Division of Agriculture;
 - Division of Geological and Geophysical Surveys
 - Division of Parks and Outdoor Recreation
 - Office of History and Archaeology
 - Office of Project Management and Permitting; and
 - State Pipeline Coordinator’s Section.

VIII. Submittal of Public Comments

See Attachment C: Public Notice for specific dates and conditions.

Pursuant to *AS 38.05.945 Notice*, DNR is issuing public notice inviting comment on this Preliminary Decision and draft mineral order.

In accordance with *AS 38.05.946 (a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945 (c)* may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

LCS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision or draft mineral order, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

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If the proposals are approved and no significant change is required, the Preliminary Decision and draft mineral order including any deletions, minor changes, and summary of comments and LCS responses will be issued as a subsequent Final Finding and Decision and Mineral Order 1238 without further notice. All related actions will be developed separately.

Only persons from whom DNR DMLW LS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the Final Finding and Decision and Mineral Order 1238. Upon approval and issuance of a Final Finding and Decision and these actions, a copy of the decision and orders will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the request for reconsideration process to any party who provides timely written comment.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact the Department's Public Information Center. For more information refer to *Attachment C: Public Notice*.

DEADLINE TO SUBMIT WRITTEN COMMENT IS 5:00 PM, TUESDAY, JULY 28, 2020

IX. Alternatives and Discussion

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of up to 50 parcels varying in size no smaller than 5 acres, and offer those parcels for sale. The development and offering of these parcels may be completed in multiple stages. This proposal includes the mineral order.

Alternative 2: (Status Quo) Do not offer this project area for private ownership. Retain the land in State ownership.

Article VIII, Section 1 of the Alaska Constitution states, "it is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." Furthermore, *AS 38.05.045 Generally* has placed this charge with DNR, and the legislature has provided funding to administer the land sale program.

Alternative 1 provides a method for DNR to meet the obligations laid out in the Constitution and statute, and maximizes public interest. This offering provides an opportunity for the public to obtain land for settlement in a desirable area. This proposal, if approved in a subsequent Final Finding and Decision, will allow DNR DMLW to create and design a subdivision which will provide for the best use and development of the land and financial return to the State. Alternative 1 provides the greatest opportunity for Alaskans to purchase land within this area. Due to the unique amenities of the area, the recreational opportunities available, as well lakefront viewshed and float plane access. Alternative 1 is preferred.

Preliminary Decision

Habanero Subdivision – ADL 421223

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Alternative 2 is not preferred. The Legislature and the public have indicated a desire for DNR DMLW to offer State-owned land for private ownership. Retention of this land would inhibit DNR DMLW from meeting its constitutional, statutory, and legislative goals. Not offering the project area would deny many Alaskans the opportunity to obtain land in an area that is suited to settlement.

For the aforementioned reasons, Alternative 1 is the preferred alternative.

Recommendation follows.

Preliminary Decision

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X. Recommendation

This Preliminary Decision for the proposed disposal of State lands and Mineral Order 1238 described throughout this document and its attachments are consistent with the overall management intent for State-owned land. Alternative 1 is the preferred alternative because it provides the maximum opportunity for offering State land to the public, and helps meet the mission of the land sales program. The Preliminary Decision described above, as represented by the preferred alternative, has been reviewed and considered. I find that the recommended action may be in the best interest of the State and that it is hereby approved to proceed to public notice.

This is a Preliminary Decision, and analysis of subsequent public review may result in changes to the preferred alternative of the proposed disposal of State lands or Mineral Order 1238. If the decision is approved and Mineral Order 1238 will accompany any Final Finding and Decision issued.

(signature on file)

Prepared by: Kaitlyn Fuqua
Natural Resource Specialist
Land Conveyances Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

6/23/2020

Date

(signature on file)

Approved by: Timothy Shilling
Competitive Land Sales Manager
Land Conveyances Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

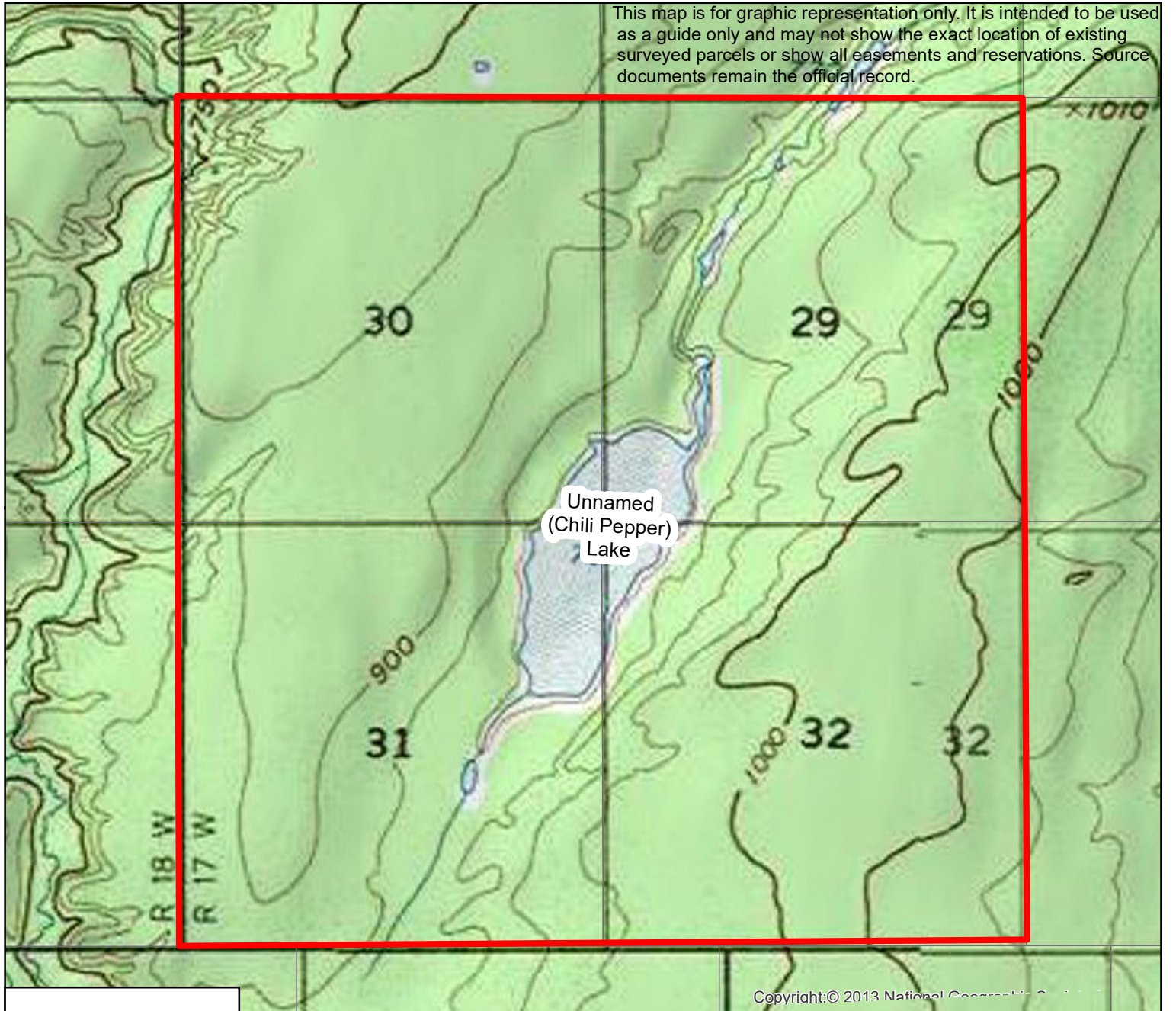
6/23/2020

Date





Vicinity Map Habanero Subdivision ADL 421223

This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



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Legend

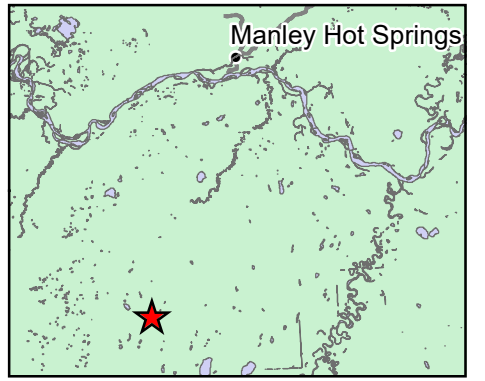
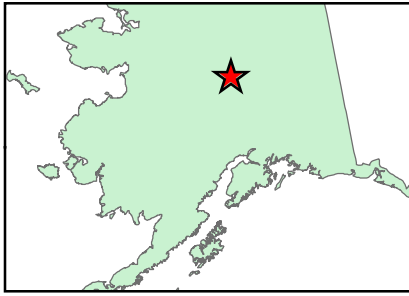
-  Project Area
-  Section Lines



**Sections 29-32, Township 004S,
Range 017W, Fairbanks Meridian**

KNF 12/12/19

USGS QUAD 1:63.360
 Kantishna River C-2, C-3
 For more information contact:
 Kaitlyn Fuqua
 Department of Natural Resources
 Division of Mining, Land, and Water
 Land Sales Section
 Phone: 907-451-3011
 Fax: 907-269-8916
 Email: land.development@alaska.gov



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

AREA DATA SUMMARY TABLE

**Proposed Land Offering in the Unorganized Borough
Habanero Subdivision – ADL 421223**

Offering Information	
Proposed Number of Parcels	Up to 50 parcels.
Proposed Parcel Size	Varying in size, no smaller than 5 acres.
Net Offering	Up to approximately 1,000 acres.
Proposed Related Actions	Mineral order (closing).
Project Area	
Location	The project area is approximately 33.5 miles southwest of Manley Hot Spring and 6.5 miles northwest of West Twin Lake.
Project Area Acreage	Approximately 2,451 acres.
USGS Topography Map	USGS Quad Kantishna River C-2, C-3.
Legal Description	Sections 29-32 all, Township 4 South, Range 17 West, Fairbanks Meridian, Alaska containing 2,451 acres more or less as shown on the BLM plat of survey accepted May 25, 1988 and officially filed June 8, 1988.
Title	Patented State-owned land; GS 3582
Area Plan and Classification	Yukon Tanana Area Plan (YTAP) (adopted January 2014), Kantishna Region West, Unit K-18. Lands are classified Settlement Land.
Mineral Orders	None. Project area will be closed to mineral entry prior to offering.
Physical Characteristics	
Access	Primary access via float plane.
Terrain and Major Features	Elevation at the lake shore is approximately 830 feet above sea level, and gradually increases as you move into the uplands, with side slopes approximately 10%.
View	View of lake and surrounding hill sides.
Soils	Silty loess covers most of the area, with some accumulations of gravelly materials from weathered bedrock. Depressions are often filled with fibrous peat. Permafrost underlies many low areas, occurring at depths below 5 feet. Known soil concerns will influence the project's design and feasibility and such features will be described in the project file and offering materials where relevant.

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Unorganized Borough

Habanero Subdivision – ADL 421223

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Wetlands	According to the USFWS National Wetlands Inventory, the surrounding area along the northern, western, and southern shores of Chili Pepper Lake may contain freshwater forested/shrub wetlands. An area along the northern shore of the lake may contain freshwater emergent wetlands. Dredging or filling of wetlands may require a permit from the US Army Corps of Engineers.
Vegetation	Vegetation on lower slopes and drainageways appears to consist of black spruce, sedge tussocks, and moss. Upper slopes appear to consist of white spruce, aspen, grass, and brush.
Water Source	In addition to hauled water, sources for water may include the Chili Pepper Lake or creeks in the vicinity. Water quality is unknown.
Anadromous Waters	According to the 2014 ADF&G Anadromous Waters Catalog, no anadromous streams have been identified in or adjacent to the proposed project area. Should anadromous waters be identified throughout the design phase, DNR DMLW will evaluate the appropriateness of buffers for such water bodies.
Local Management Information	
Fire Protection	Limited Fire Management Option 2009- Zitziana fire burned throughout the entire project area 2000- Zitziana fire burned along western and southern shores of Chili Pepper Lake 1976- West Twin fire burned along northern shore of Chili Pepper Lake
Game Management Unit	20C
Local Authority	The project area is within the Unorganized Borough and subject to the State of Alaska platting authority.
Flood Zone	Flood Insurance Rate Maps are not available for the project area.
Utilities	No known services exist within the project area.
Waste Disposal	All on-site waste water disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.
Setbacks, Reserved Areas, Easements, and Conditions	
Building Setbacks	Parcels are subject to a 50-foot building setback from the ordinary high water (OHW) of water bodies determined to be public or navigable, and a minimum 50-foot building setback from wetland areas as appropriate, in accordance with the area plan. Water-dependent structures may be allowed within the building setback.

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Unorganized Borough

Habanero Subdivision – ADL 421223

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Public Access and Utility Easements	Parcels may be subject to the following: <ul style="list-style-type: none">• public access easement(s);• utility easement(s);• a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with <i>AS 19.10.010 Dedication of Land for Public Highways</i> and <i>11 AAC 51.025 Section-line Easements</i>; section-line easements may be vacated under <i>AS 19.30.410 Vacation of Rights-of-Way</i> and <i>11 AAC 51.065 Vacation of Easements</i> as part of the subdivision development;• a 50-foot continuous easement upland from the OHW of public or navigable water bodies in accordance with <i>AS 38.05.127 Access To Navigable or Public Water</i>;• a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5-foot direct line-of-sight easement from the control station to an azimuth mark or other control monument;• additional reservations and/or restrictions required through the local platting authority.
Retained Lands	Inlet and outlet of Chili Pepper Lake in Section 29 and 31 respectively.
Public or Navigable Water Bodies	Chili Pepper Lake If additional water bodies are deemed public or navigable within the project area prior to platting, DNR DMLW will comply with statutory requirements to provide access to and along said water bodies.
Additional Information	
Native Regional Corporations	Doyon Regional Corporation
Villages and Tribal Councils	There are no villages located within 25 miles of the project area.
Oil and Gas Activity	None known.
Mining Activity	Leasehold Location Order 33 covers the entirety of the project area.
Comments	Access and feasibility of development need to be confirmed with a field inspection prior to survey.

STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, & WATER
LAND SALES SECTION

ATTACHMENT C: PUBLIC NOTICE

Requesting Input for
a Proposed Land Offering:
Habanero Subdivision – ADL 421223

COMMENT PERIOD ENDS 5:00PM, TUESDAY, JULY 28, 2020

This proposed project includes offering for sale surveyed parcels in a future offering under the method and the related actions as described in the Preliminary Decision document. The project may be subdivided and offered in multiple offerings over time.

Location: Within DNR's Northern Region, approximately 33.5 miles southwest of Manley Hot Springs and 6.5 miles northwest of West Twin Lake, the project area is within Sections 29-32, Township 4 South, Range 17 West, Fairbanks Meridian, within the Unorganized Borough.

Project size: The project area consists of approximately 2,451 acres; however, only 1,000 acres are identified for disposal.

Proposed Offering: up to 50 parcels sized no smaller than five acres.

To obtain the notice, Preliminary Decision, Mineral Order, or instructions on submitting comment, go to <http://landsales.alaska.gov/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907-269-8400, Fairbanks at 907-451-2705, or the Southeast Land Office in Juneau at 907-465-3400 (TTY for the hearing impaired for all locations: 711 for Alaska relay or 800-770-8973), or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, Tuesday, July 21, 2020.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decision and Mineral Order for which notice is being conducted concurrently. If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5:00PM, TUESDAY, JULY 28, 2020.** Only persons from whom DNR DMLW LSS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Written comment may be received by fax, email or postal mail. To submit comments or for direct inquiries, contact Kaitlyn Fuqua at 3700 Airport Way, Fairbanks, AK 99709, fax # 907-451-2751, land.development@alaska.gov. If you have questions, call Kaitlyn Fuqua at 907-451-3011.

Attachment C: Public Notice

for a Proposed Land Offering in the Unorganized Borough

Habanero Subdivision – ADL 421223

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If no significant change is required, the Preliminary Decision and related actions including any minor changes and a summary of comments and responses, will be issued as the Final Finding and Decision and Mineral Order 1238 without further notice. A copy of the Final Finding and Decision will be sent to any persons who commented timely on the Preliminary Decision.

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