

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

FINAL FINDING AND DECISION

of a
Land Offering in the Ketchikan Gateway Borough
Square Island Subdivision – ADL 109029
AS 38.05.035(e), AS 38.05.045

and its
RELATED ACTIONS:
Amendment to the Central/Southern Southeast Area Plan SE-00-001A08
AS 38.04.065
Land Classification Order CL SE-00-001A08
AS 38.04.065 and AS 38.05.300
Mineral Order No. 1234 (Closing)
AS 38.05.185 and AS 38.05.300

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated September 22, 2020. The PD (attached) and related actions have had the required public review.

I. Recommended Actions

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends offering for sale State-owned land for private ownership within the Square Island project area (ADL 109029), as described in the PD. Surveyed parcels will be offered for future sale by a method under *AS 38.05.045 Generally*.

For the purposes of providing land for settlement in the Square Island project area, LCS may develop a subdivision of no more than 25 parcels no smaller than one acre. This project area is located within the Ketchikan Gateway Borough and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards. The project may be subdivided and offered in multiple stages.

There are three related actions with this proposal:

Area Plan Amendment: DNR proposes to amend the Central/Southern Southeast Area Plan (CSSEAP adopted 2000) to change the designation of Unit C-02 from General Use to Settlement and Settlement Commercial. Management intent will be changed to state that residential and commercial recreational uses are appropriate during the planning period.

Land Classification Order: In relation to the Area Plan Amendment, DNR proposes to reclassify the project area in a Land Classification Order from Resource Management Land to Settlement Land.

Mineral Order: DNR proposes to close the project area to new mineral entry. No mining claims have been identified within the project area.

Public notice for these related actions was conducted concurrently with the notice for the primary action's PD.

II. 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 provides: "It is the policy of the State to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest." Under *AS 38.05.055 Auction Sale Procedures*, land designated commercial, industrial, or agricultural by this decision may be available to non-residents at the land's first offering at auction. 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 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

III. Public Participation and Input

Pursuant to *AS 38.05.945 Notice*, public notice inviting comment on the PD for the proposed primary action and drafts of the related actions were published and distributed in the following manner:

- Posted under State of Alaska Online Public Notice from September 22, 2020 to October 27, 2020.
- Posted on DNR Land Sales website from September 22, 2020 to October 27, 2020.
- Notices mailed to the Ketchikan Gateway Borough per *AS 38.05.945(c)(1)*.
- Mailed to postmasters in Ketchikan and Ward Cove with a request to post for 30 days, per *AS 38.05.945(c)(4)*.
- Mailed to the Ketchikan public library with a request to post for 30 days.
- Mailed to the Sealaska Regional Corporation per *AS 38.05.945(c)(2)-(3)*.
- Mailed to the Organized Village of Kasaan, Kavilco Incorporated, Ketchikan Indian Community, Organized Village of Saxman, Cape Fox Corporation, and Central Council of Tlingit and Haida Indian Tribes of Alaska. Notice was also mailed to the landowner on Square Island and the U.S. Forest Service, owner of land in the vicinity on Cleveland Peninsula, Revillagigedo Island, Gedney Island, Hassler Island, and Black Island.
- Sent notification to area state legislators and to multiple state agencies.
- Notified parties via the DNR Land Sales subscribers lists by email.

The public notice stated that written comments were to be received by 5:00PM, October 27, 2020 in order to ensure consideration and eligibility to appeal. For more information, refer to the PD.

DMLW conducted a Public Meeting in Ketchikan on October 1, 2020 during the public comment period, to share and receive information about the proposed Square Island Subdivision. Eight members of the public attended the meeting in person, and two joined virtually through Microsoft Teams. DMLW discussed the project timeline and answered questions including the potential location and size of future lots, location within the Ketchikan Gateway Borough (*see comment #13*), drinking

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water at the site, public access easements (*See comment #17*), and use of tidelands adjacent to upland lots (*See comments #1 and #14*). Attendees were informed that the meeting was for information and that comments must be submitted in writing during the public notice comment period.

Should this project move forward, final subdivision design and survey will be completed by an Alaska licensed surveyor. The surveyor will submit a platting application including a preliminary plat to the local platting authority prior to survey. This process will be subject to Ketchikan Gateway Borough ordinances and codes. During the process the public will have opportunity at the local level to provide additional comment and feedback prior to final establishment of lot corners and monuments.

Subdivision design will be submitted to the Ketchikan Gateway Borough for review in accordance with Title 17 *Subdivisions* of their ordinance.

Section 17.15.040(b) *Timeframe*. “Within 10 working days it will be either: (1) accepted for further review; (2) returned to the applicant noting the deficiencies in writing of said plat; or (3) be scheduled for review by the planning commission serving as the platting authority at the discretion of the planning director, depending on the complexity of the plat due to topography, easements, access, utility or sewer access, or other issues.”

Section 17.15.040(c) *Public Notice*. “At least 15 days before action by the platting authority on any application under this title, or before acting on a plat application under this title, except for final plats, final right-of-way plats and final vacation of right-of-way plats, the planning director shall publish notice of the application...”

IV. Summary of Comments

DNR DMLW LCS received comments from the State of Alaska, Department of Transportation and Public Facilities (DOT&PF), the State of Alaska, Department of Natural Resources, Division of Parks and Outdoor Recreation, and six private individuals. The majority of the comments received from private individuals were primarily submitted by one commenter. All comments received during the public comment period are summarized below, with comments grouped by topic.

Comment #1, from DOT&PF: Square Island is surrounded by navigable waters and any structures or fills placed below the ordinary high water of tidelands will require a permit from the U.S. Army Corps of Engineers.

DNR DMLW LCS Response: LCS appreciates your review of the Preliminary Decision. LCS concurs with this statement. All structures placed within public and navigable waters of the U.S. are regulated by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act of 1989 and Section 404 of the Clean Water Act. Any proposed dock facilities or fills placed below the line of mean high water will require a Department of the Army permit from the Corps. Additionally, written authorization from the State of Alaska DNR DMLW is required for dock facilities that do not meet the criteria under 11 AAC 96.020 *Generally Allowed Uses*.

Comment #2, from Department of Natural Resources, Division of Parks and Outdoor Recreation: The DNR Division of Parks and Outdoor Recreation has no issues with the proposed subdivision.

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

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The following comments were received from private individuals:

Comment #3: The public was allowed only 26 days to comment from the public meeting until the comment deadline.

DNR DMLW LCS Response: Per AS 38.05.945(b)(2)(A) Notice, posting of notice is required on the Alaska Online Public Notice System for at least 30 consecutive days. Public notice for this project was posted online and distributed to the post offices and public library for posting from 9/22/2020 through 10/27/2020. This provided 35 days to the public.

Comment #4: DNR has failed to adequately research the wildlife, environmental, and economic issues which impact the proposed subdivision.

DNR DMLW LCS Response: The subdivision decision process has involved the following steps: initial research, advanced research, division and agency review for the area plan amendment and land classification order, division and agency review for the land sale project, drafting the Preliminary Decision (PD) document, public notice, field inspection, and a public meeting. Project research included wildlife, environmental, and economic issues. The division and agency reviews involved distribution of the project details to sections within DMLW and to other agencies who have advanced knowledge of or may be affected by the action. Information received during the agency review period was used to develop the land sale proposal as outlined in the PD. A list of agencies contacted during Agency Review can be found in section **XV. DMLW and Agency Review** of the PD.

Comment #5: There is no demand for land or commercial land within the project area.

DNR DMLW LCS Response: LCS disagrees with this statement. LCS receives nominations for land sales in the southeast from the general public. Over the past 14 years, DNR has sold 55 parcels in Southeast Alaska. Out of those 55 parcels, 35 were sold competitively through sealed bids received during auctions, and the other 20 were sold online through the Over the Counter (OTC) process. LCS does not offer and sell a large quantity of land in the Southeast region because of the limited quantity of state-owned land. There has not recently been a DNR subdivision sale in the Ketchikan area, but preliminary results of an ongoing DNR land sales survey indicate interest in land offerings near Ketchikan.

See response to comment #6 regarding demand for commercial land in the area.

Comment #6: The demand for commercial settlement land is low due to fishing regulations, and other commercial enterprises in the area have been struggling or failing.

DNR DMLW LCS Response: Potential commercial enterprises may include operations that are not dependent on fishing, and the mentioning of a lodge in the PD was used to provide an example potential commercial enterprise. Bidders on a commercial parcel do not need to be a commercial entity or provide information about a proposed commercial use, and unlike non-commercial parcels sales, bidders are not required to have been an Alaska resident for one year preceding the date of the sale. By proposing a minimum of one commercial parcel, DNR has the authority to create and offer parcel(s) larger than 5 acres under the allowances listed in AS 38.04.020(h) *Land Disposal Bank*. The parcel(s) may or may not be developed commercially by the successful bidder. The sale of a commercial parcel would provide economic opportunity for the area, which could be developed when economically appropriate to do so.

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Comment #7: Land offered for sale by DNR, Mental Health, and UA goes unsold for long periods of time.

DNR DMLW LCS Response: See response to comment #5 regarding land offered for sale by DNR. When presented with the commenter's statement, the Alaska Mental Health Trust Land Office also disagreed with the statement and advised that their land sales in the Ketchikan and Prince of Wales Island areas are healthy. A representative from University of Alaska Land Management stated that lots in some university land offerings sell quickly, and some remain for sale for longer periods.

Comment #8: DNR should create subdivisions near existing established settlement areas in George Inlet, Clover Pass, and Gravina Island.

DNR DMLW LCS Response: 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." Much of the land near existing established settlement areas is not owned by the state. As noted, State land is limited in southeast Alaska. Land in and around existing communities (such as those areas described) has often been transferred to the local municipality or is designated for some other use.

In many areas where state-owned land exists, legal access and topography may pose challenges to subdivision and settlement. Square Island has access from public and navigable waters and the topography is mild. In addition, Square Island was selected for transfer to state ownership from the Bureau of Land Management for the purpose of remote settlement. Lastly, LCS is working concurrently on additional subdivision projects in the area and intends to stagger sales in order to provide opportunities for Alaskans to purchase and own land. DNR welcomes nominations for State land sales. The fact sheet and form for nominating State land for sale can be found at: <https://dnr.alaska.gov/mlw/cdn/pdf/factsheets/landsales-nominating.pdf>.

Comment #9: People from Ketchikan engage in crabbing, shrimping, halibut fishing, trout fishing, clamming, deer hunting, trapping, hiking, kayaking, camping, and boating around Square Island. The proposed reclassification to settlement and a subdivision project would diminish recreational opportunities. More area residents would benefit from leaving the area as is than subdividing and selling parcels of remote land.

DNR DMLW LCS Response: The proposed reclassification and subdivision project will bring more people to the area of Square Island and Spacious Bay. However, often purchasers of State land offerings are current users of the area already. The proposed sale of up to 100 acres on a 336-acre island would leave a large portion of the island available for public use. In addition, LCS intends to retain access corridors in various locations around the island, and only approximately 60% of the shoreline will be conveyed out of State ownership. If the subdivision is approved and parcels are sold it is unlikely that all landowners would develop their parcels, or that they would all be present in the area at once.

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

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available for maximum use consistent with the public interest.” The addition of settlement land on Square Island will provide landowners and Ketchikan area residents with opportunities to access the resources in Spacious Bay and Square Island. The Alaska Department of Fish and Game (ADF&G) is the agency monitoring and conducting research on species that are hunted and fished, and ADF&G was consulted for further information. ADF&G has seasons and limits for hunting and fishing that affect all Alaskans and visitors. Seasons, bag limits and reporting requirements may be adjusted over time as individual populations or harvest changes.

Comment #10: Development has pushed Ketchikan area residents further away from town in order to find wilderness for hunting, trapping, recreation, and subsistence activities. DNR’s plans for a subdivision threatens the use of Square Island and Spacious Bay for the future generations. Future generations will be forced to travel farther out of town to experience the current conditions for recreation.

DNR DMLW LCS Response: See response to comment #9. In addition, Square Island is 35 miles away from Ketchikan and requires a floatplane or seaworthy boat and plenty of time to access. Approval of a remote subdivision is unlikely to imperil day use recreation and subsistence.

Comment #11: Just because one cabin can exist without disrupting the ecosystem of Square island and Spacious Bay does not mean that more would be okay.

DNR DMLW LCS Response: LCS appreciates the details describing the experiences of life in the one cabin on Square Island. However, the Square Island project area was not chosen because of the presence of one existing cabin. Square Island was selected for transfer to state ownership from the Bureau of Land Management for the purpose of remote settlement. The island has access from public and navigable waters and the topography is mild and desirable for development. ADF&G, the state department that monitors and conducts research on wildlife populations and ecosystems, was consulted during the development of the subdivision proposal, and agreed that the project can occur without threatening the ecosystem. Comments and recommendations from ADF&G and other applicable agencies were considered and incorporated into the decision.

Comment #12: Historically, only a few people have lived in the Square Island area. Development on Square Island ensures that the island will become a place where large numbers of humans have irreversibly altered the environment and ecosystem.

DNR DMLW LCS Response: See response to comment #11. In addition, the area identified for disposal is less than one third of the island’s area. More than two thirds of the island would remain in state ownership and available to the public for generally allowed uses that have historically been allowed on state land.

Comment #13: Square Island is zoned Future Development (FD) by the KGB. The intention of FD zoning is to preserve the area in a natural state to be used primarily as recreation areas, watersheds, and wildlife reserves. Any construction allowed must be built at least 23 feet above the mean low tide and must have a septic system installed.

DNR DMLW LCS Response: LCS has been in communication with the Ketchikan Gateway Borough (KGB) regarding this subdivision project. If the subdivision is approved by DNR, LCS will pursue a rezone with the Ketchikan Gateway Borough to change the zoning on Square Island

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from Future Development (FD) to Rural Residential (RR) for the residential parcels, and from FD to General Commercial (CG) for the commercial parcel(s).

The *Location* section of the PD states that the project area is within the KGB and is subject to the borough's platting authority. All coastal lots within the KGB are subject to FEMA regulations, and flood elevation certificates are required for structures that are built on coastal lots. Lots outside of the mapped flood zones are subject to the community base flood elevation of 22 feet above mean lower low water - unless the base flood elevations are determined by a licensed surveyor or engineer in the field. Flood elevation certificates based on construction drawings must be submitted with the zoning permit application for a new structure.

Regarding the statement about septic system requirements, the *Physical Characteristics and Hazards* section of the PD states that "all on-site wastewater disposal systems must meet regulatory requirements of the Alaska Department of Environmental Conservation." Landowners would be required to comply with DEC requirements.

Comment #14: Docks cannot be built within FD zones without USACE approval and inspection. Building of roads is prohibited in areas designated as FD.

DNR DMLW LCS Response: See response to comment #13 regarding zoning and comment #1 regarding USACE authorization. In addition, LCS has not proposed to plat or construct any roads within the project area. Legal access to all proposed parcels will be via navigable waters.

Comment #15: The pressure from reclassification, associated development, and increased population of Square Island will eliminate the commercial crab and Spot Prawn fishery in Spacious Bay and will result in loss of jobs, income, and opportunity for commercial crab and shrimp fisherman.

DNR DMLW LCS Response: See response to comment #53.

Comment #16: Ketchikan area residents use Spacious Bay and the area around Square Island for subsistence clamming, crabbing, and shrimping. The clam fishery has temporarily been closed due to red tide in the greater Ketchikan area. Development and subsistence cannot exist simultaneously. Development will destroy any opportunity that area residents have for access to clamming, shrimping, and crabbing in Spacious Bay and around Square Island. More research should be done into recreational priorities of Ketchikan residents, and the long-term impact of development on subsistence fishing opportunities for crab and shrimp.

DNR DMLW LCS Response: ADF&G is responsible for managing personal use harvest of clams, crabs, and shrimp, and ADF&G was consulted for further information. Changing the land classification of Square Island to settlement and the potential development associated with that change may bring additional people to the area. While several Ketchikan area beaches have recently experienced increased risk of red tide, Southeast Alaska Tribal Ocean Research, a group who monitors and tests shellfish for toxins, has not issued any Paralytic Shellfish Toxin advisories for the Spacious Bay beaches. In addition, ADF&G advised that the proposed actions would not adversely impact clams or other shellfish at the local or population level. See response to comment #53 for information about crab and shrimp.

Comment #17: The commenter expressed that the proposed subdivision is in the interest of the people of Alaska. The commenter advised that utility corridors and public access easements should

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be present on the plat prior to finalizing the subdivision in order to allow access to upland parcels in the future.

DNR DMLW LCS Response: The survey instructions will include the requirement for public access and/or utility easements to be platted before the plat is approved by the platting authority.

Five comments addressed concerns regarding the Central/Southern Southeast Area Plan (CSSEAP)

Comment #18: The CSSEAP is expired and DNR does not have a valid area plan to use when writing decisions.

DNR DMLW LCS Response: The CSSEAP was issued on November 1, 2000 and reflects land management decisions and allocations based on the best available information on demand for use of state land and resources projected over a 20-year planning period. The area plan guides State land use and resource decisions for the projected 20-year planning period, or until the plan is revised. As such, the plan remains valid until superseded by a new area plan, and area plan update, or revision such as CSSEAP Amendment SE-00-001A08.

Comment #19: Wildlife populations, public use habits, and economic conditions in the area have changed in the past 20 years since the CSSEAP was created. DNR has not done research to identify how the project will cause adverse impacts.

DNR DMLW LCS Response: LCS worked with other agencies as well as multiple sections within DMLW during the agency review and throughout the research process. Input from those agencies has been considered and included in the preparation of the proposed offering, as well as CSSEAP Amendment SE-00-001A08. ADF&G provided input on wildlife populations through an agency review comment and stated that the proposed subdivision would not likely produce a significant impact on fish and wildlife resources or public access to them. The DNR Division of Parks and Outdoor Recreation had no objections to the proposed subdivision. Pursuant to comments received during the public comment period, LCS sought additional information from expert agencies as described throughout this FFD. Lastly, DNR land sale parcels within Southeast Alaska, especially waterfront parcels, historically sell more quickly than in other parts of the state. At the time the PD was written, very little Southeast inventory was available for Over-The-Counter sale, indicating that there is a demand for land. The appropriateness of remote settlement within the project area has been reassessed and is consistent with the management intent of the CSSEAP.

Comment #20: The CSSEAP designated Square Island General Use (Gu) after years of research to develop the area plan. The proposed amendment was not adequately researched and contradicts the determination of the CSSEAP. LCS shall be required to conduct research for this subdivision project to the same extent as the research that went into the creation of the CSSEAP.

DNR DMLW LCS Response: The CSSEAP covers more than 2,900,000 acres of state land and water. The Square Island Subdivision project is designed for a very discrete area and covers 336 acres. The issues to be addressed in evaluating the appropriateness of this project are much more localized than issues identified on a general level. For this project, LCS knows the specifics of the project, whereas in the CSSEAP, decisions were made based on projections. During the creation of the CSSEAP, development in the Square Island area was possible, but due to the remoteness, it was not likely that area would see any development during the 20-year planning period. In this case, the project plan has more information which the department used to identify potential

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impacts and develop mitigation measures that can be tailored to mitigate those impacts at the source.

Additionally, LCS worked with other agencies as well as multiple sections within DMLW during the agency review and throughout the research process. Input from those agencies has been considered and included in the preparation of the PD and this FFD. Combined Division and Agency review was conducted for the proposed Area Plan Amendment and Land Classification Order from November 23, 2019 through December 20, 2019. Combined Division and Agency review was conducted for the land disposal from February 26, 2020 through March 12, 2020. Comments pertinent to this proposed action received during agency review have been considered and addressed in the PD. Additional timely comments received during the Public Notice period are considered in this FFD. See also response to comment #19.

Comment #21: The CSSEAP states that appropriateness of development will be re-evaluated during the next plan update or when an updated USFS Tongass National Forest Plan has been completed. The proposed amendment contradicts the CSSEAP because classification cannot occur in the absence of an area plan update or USFS plan.

DNR DMLW LCS Response: The CSSEAP was developed based on a specific set of social, environmental, economic, and technical assumptions using the best available information at that time. The department recognizes that the economic and social conditions in Alaska and the planning area will change over the lifetime of this plan and the plan must be flexible enough to change with them. The CSSEAP is implemented through administrative actions, such as the proposed project, and implementation is monitored to identify issues that might require amendment or modification. Specific modifications may be made when conditions warrant them and are authorized by state law.

As discussed in Chapter Four of the CSSEAP, the department is authorized to amend this plan under 11 AAC 55.030 *Land Use Plan* and AS 38.04.065 *Land Use Planning and Classification*. An amendment to a land use plan is as follows: an 'amendment' permanently changes the land use plan by adding to or modifying the basic management intent for one or more of the plan's subunits or by changing its allowed or prohibited uses, policies, or guidelines. Area plan amendment SE-00-001A08 is an update to the CSSEAP.

Comment #22: The CSSEAP does not mention commercial fishing activities in Spacious Bay and around Square Island, likely because fishing grounds closer to Ketchikan existed at the time of the plan. Those opportunities have been depleted due to development near Ketchikan.

DNR DMLW LCS Response: Commercial fisheries are managed by ADF&G and are outside of DNR's management authority. DNR worked closely with the Alaska Department of Fish and Game when developing the CSSEAP. Any decisions as to how to address commercial fishing activities in the plan were part of a collaborative effort between DNR and ADF&G, using the best available information at that time. See other responses regarding commercial fishing activities in Spacious Bay.

Three comments addressed concerns regarding Sitka black-tailed deer:

Comment #23: Square Island serves a valuable role to the deer population of the Cleveland Peninsula and is used for breeding and rearing of fawns.

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DNR DMLW LCS Response: LCS acknowledges that deer from Cleveland Peninsula utilize Square Island for breeding and rearing of fawns. ADF&G manages deer populations, and populations are managed at the Game Management Unit (GMU) scale. ADF&G advises that potential future development on Square Island may impact individuals but will not imperil the population of deer in GMU 1A.

Comment #24: The proposed subdivision would encompass 44.64% of Square Island. This encroachment on the deer population would cause irreparable damage to the Square Island and western region of the Cleveland Peninsula populations.

DNR DMLW LCS Response: According to ADF&G, deer populations on the Cleveland Peninsula reside at low densities. ADF&G conducts pellet surveys on an annual basis to determine trends in abundance. Surveys are conducted in Helm Bay and Port Stewart as time and personnel allow. Trends in pellet counts indicate that the density of Sitka black-tailed deer decreased on the Cleveland Peninsula from the late 1990s to early 2000s. Current densities of deer on the Cleveland Peninsula are representative of densities elsewhere on the mainland. Allowing development on Square Island may impact individual deer but will not influence the ability of ADF&G to manage deer at the GMU scale on a sustained yield basis. Potential future development of Square Island may impact individuals but will not imperil the population of deer in GMU 1A. As mentioned in the comment received during the agency review period, ADF&G recommends that the interior of the island as well as portions of the shoreline be retained in state ownership. The PD stated that LCS intends to retain several portions of shoreline and corridors to the interior of the island to be used for public access.

As discussed in the PD, the proposed subdivision was for up to 150-acres proposed for development. This FFD has reduced the area identified for disposal from 150 acres to up to 100 acres. Refer to section **VI. Modifications to Decision and/or Additional Information** for more information.

Comment #25: Research on the impact of development on the deer population must be conducted before development should be allowed to occur.

DNR DMLW LCS Response: ADF&G is the agency conducting research on this species, and research on preferred habitat use for Sitka black-tailed deer has been conducted. This information also has been provided by ADF&G wolf biologist, Gretchen Roffler. The following bullets are summaries she provided to the Endangered Species Act (ESA) team in preparation for the State of Alaska Response from ADF&G to USFWS with regard to the ESA petition in July 2020. See the following reports and publications:

Wolf Technical Committee. 2017. Interagency Wolf Habitat Management Program: Recommendations for Game Management Unit 2. Management Bulletin R10-MB-822. USDA Forest Service, USDI Fish and Wildlife Service, and Alaska Department of Fish and Game.

- Deer habitat recommendations: Enhancement of the deer populations by increasing forage, maintaining corridors to facilitate movement, and increasing heterogeneity within young-growth forest stands, especially in winter habitats with thinning treatments.

Bonnot, N. C., N. Morellet, A. J. M. Hewison, J.-L. Martin, S. Benhamou, and S. Chamaillé-Jammes. 2016. Black-tailed deer (*Odocoileus hemionus sitkensis*) adjust habitat selection and activity rhythm to the absence of predators. *Canadian Journal of Zoology* 394:cjz-2015-0227.

- Deer on islands where predators are absent (East-Limestone and Kunga islands in the Haida Gwaii archipelago) have similar habitat selection during day and night,

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and higher activity during the day, in contrast to deer behavior in areas with predators (contrast between day and night habitat selection, higher activity at night).

- Deer can adjust their behavior in the absence of predators but maintained crepuscular activity peaks and responded to predator cues.

In the reclassification of Square Island from General Use to Settlement, and in the associated subdivision sale, land will be retained in state ownership in order to maintain corridors to facilitate deer movement. In addition, the future landowners on the island will not be predators of the deer day and night. See also response to comments #23 and #24.

Four comments addressed concerns regarding Alexander Archipelago wolves:

Comment #26: Alexander Archipelago wolves have been seen on Square Island and hunt the Sitka black-tailed deer population. The wolves have increasingly used Square Island for deer as the Cleveland Peninsula deer population has decreased.

DNR DMLW LCS Response: Deer are considered a primary prey item of wolves within their range; however, wolves are known to be generalist predators, preying on a variety of species in Southeast Alaska. When faced with declining ungulate prey, wolves have been shown to increase the diversity of their prey, to include species such as beaver, marine mammals, salmon, black bears, river otters and bald eagles. Wolves cover large territories in search of food. Therefore, while wolves may hunt deer on Square Island, it is unlikely this represents a critical component of their diet. Wolves should be able to adjust to any potential decline of deer on Cleveland Peninsula or Square Island.

Comment #27: The draft CSSEAP area plan amendment does not acknowledge the impact of the designation change on the wolf population.

DNR DMLW LCS Response: The CSSEAP covers more than 2,900,000 acres of state land and water. At 336 acres, Square Island represents less than 0.5% of the average home range size for wolf packs on Prince of Wales Island (Roffler and Gregovich 2018) and a miniscule fraction of the total range of Alexander Archipelago wolves in southeast Alaska. DNR worked closely with ADF&G when developing the CSSEAP. Any decisions as to how to address individual species populations in the plan were part of a collaborative effort between the department and ADF&G, using the best available information at that time. Habitat loss and human activity associated with the proposed subdivision may result in behavioral changes, displacement of individual wolves from Square Island or even increased mortality. While, protecting wolf dens, and associated habitat around their den is important to maintain suitable habitat to sustain wolf populations, ADF&G manages wolves at the GMU level and does not anticipate a major decline in the population related to the DNR's proposed action. Therefore, the proposed area plan amendment will not influence ADF&G's ability to manage wolves on a sustained yield basis throughout GMU 1A.

Comment #28: Commenter cited a study on preservation buffers from wolf dens. (Roffler, Gretchen H. & David P. Gregovich, Wolf Space Use During Denning Season on Prince of Wales Island, Alaska, Wildlife Biology 2019). The study suggested that dens should be surrounded by a 1 – 6-mile buffer. Square Island is within the 1 – 6-mile buffer from an observed den.

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DNR DMLW LCS Response: The possible den site is approximately one mile south of Square Island on Cleveland Peninsula. While it is possible there is a wolf den at this site, ADF&G is unaware of any wolf dens near Square Island. The commenter cites a study by Roffler and Gregovich (2018) in stating that Square Island falls within a recommended buffer from the den, precluding the proposed action. The study cited does not suggest a 1 – 6-mile buffer, it simply mentions those numbers as examples of what other agencies have used in the past for wolf den buffers based on differing scenarios. Roffler and Gregovich (2018) do, however, recommend increasing a previously cited buffer of 366 m to a minimum of 734 m. Depending on the nature of the potential development that may occur from this proposed action, disturbance to a nearby wolf den is possible. However, these recommendations are typically used for major developments such as timber sales that alter large areas of habitat and produce significant acoustical disturbance. Given that the purported den site is over one mile from Square Island across Spacious Bay and that the development likely to occur on Square Island will be low density recreational cabins, the proposed action is unlikely to result in significant disturbance to denning activity.

Comment #29: The Alexander Archipelago wolf may soon be recognized as a federally recognized endangered species. The CSSEAP amendment and subdivision project should be put on hold until the petition to designate the wolf has been ruled upon.

DNR DMLW LCS Response: On July 15, 2020 the Center for Biological Diversity, Alaska Rainforest Defenders, and Defenders of Wildlife submitted a petition requesting the listing of the Alexander Archipelago wolf (*Canis lupus ligoni*) in Southeast Alaska, as well as establishing critical habitat for the species, under the Endangered Species Act (ESA). At the time of this writing, the U.S. Fish and Wildlife Service has yet to release their 90-day finding in the Federal Register. At this time, ADF&G and LCS cannot speculate whether the Alexander Archipelago wolf will become a listed entity. The listing process is not short, and if there is a positive 90-day finding, this will be followed by the initiation of a Species Status Assessment which will be used to determine if a listing is warranted. This process generally takes several years to complete. Square Island itself is a very small portion of the range of the Alexander Archipelago wolf. Furthermore, if the commenter is correct in their statement that wolves have not taken up residence on the island (only pass through to take advantage of deer) it is not likely that this area will be considered Critical Habitat for the population in the event that they do become federally listed. Currently, ADF&G believes the population in Southeast Alaska to be healthy and stable and is managed for sustained yield.

Six comments addressed concerns regarding brown bears:

Comment #30: Brown bears are common on the Cleveland Peninsula, and Square Island is an extension of Cleveland Peninsula. Bears swim from the 400 yards from Cleveland Peninsula to Square Island in approximately 10 minutes from April to November.

DNR DMLW LCS Response: ADF&G concurs that bears have the ability to swim and occupy islands away from the mainland, including the distance between Cleveland Peninsula and Square Island.

Comment #31: The existence of one cabin on Square Island has created tension between Brown bears and humans. Proposed reclassification to settlement will escalate conflict that is detrimental to bears and potentially humans. Brown bears have caused property destruction at the existing cabin, Meyer's Chuck, and Yes Bay Lodge. The commenter describes three past occurrences where bears

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were living in close proximity to the existing cabin for extended periods of time. 2019 Game camera photos revealed 11 different brown bears on Square Island in the vicinity of the cabin.

DNR DMLW LCS Response: The commenter is correct that additional remote recreational properties and humans on Square Island may increase conflict with bears. While the area plan amendment proposes to reclassify all 336 acres from General Use to Settlement, less than one third of the island's area will be included in the proposed subdivision. Encounters with bears is common in remote Alaska, so ADF&G has a rich variety of resources available to the public to reduce human-bear conflicts. ADF&G typically advises the public that all fuel, trash, food and any other potential wildlife attractant (to include any petroleum-based product) should be properly stored to prevent conflicts with wildlife. The use of bear resistant containers, electric fences, and the maintenance of a clean site will reduce the likelihood of nuisance encounters with bears and other wildlife. The complete removal of all food, trash or fuel when the site is unoccupied will reduce risks. Resources are available online (ADF&G Living with Bears), in offices, and by calling local area offices. Nuisance encounters should be reported to ADF&G through a Wildlife Encounter Report form.

Comment #32: Square Island is located in prolific Brown bear territory. Square Island is 15 miles from Anan Creek's large pink salmon run. ADF&G reports that male brown bears' territory is 20 miles, 15 miles for females.

DNR DMLW LCS Response: The home range sizes for male brown bears on Admiralty Island average 71 square miles and 15 square miles for females (Schoen, Lentfer, & Beier, 1986). Square Island and Anan Creek are likely within the same home range of male and female brown bears.

Comment #33: Further research on brown bear population in the area must be done before allowing development to occur.

DNR DMLW LCS Response: ADF&G is the agency conducting research on this species, and was consulted for further information. It is possible that further research could show that individual bears may be displaced or otherwise affected by the proposed action and potential development; however, ADF&G states that there is no indication that Square Island provides outsized benefit to the bear population in the region. ADF&G has advised that retaining portions of the shoreline in state ownership would provide continued shoreline foraging habitat for bears. The PD stated that LCS intends to retain several portions of shoreline and corridors to the interior of the island to be used for public access.

Comment #34: Square island contains the following bear food sources. Bear dependence on these food sources should be researched before development may affect its abundance.

- Five rivers in Spacious Bay that support salmon runs. Brown bears feed on salmon in these rivers from July to September. Bears are present on Square Island despite the presence of salmon elsewhere.
- Shellfish: Razor clams, scallops, abalone, geoducks, mussels. Bears dig on beaches at low tide from April to October.
- Vegetation: grass and wild celery grow around the perimeter of the island. Brown bears are very dependent on eating wild celery on the island.
- Deer
- Harbor seals

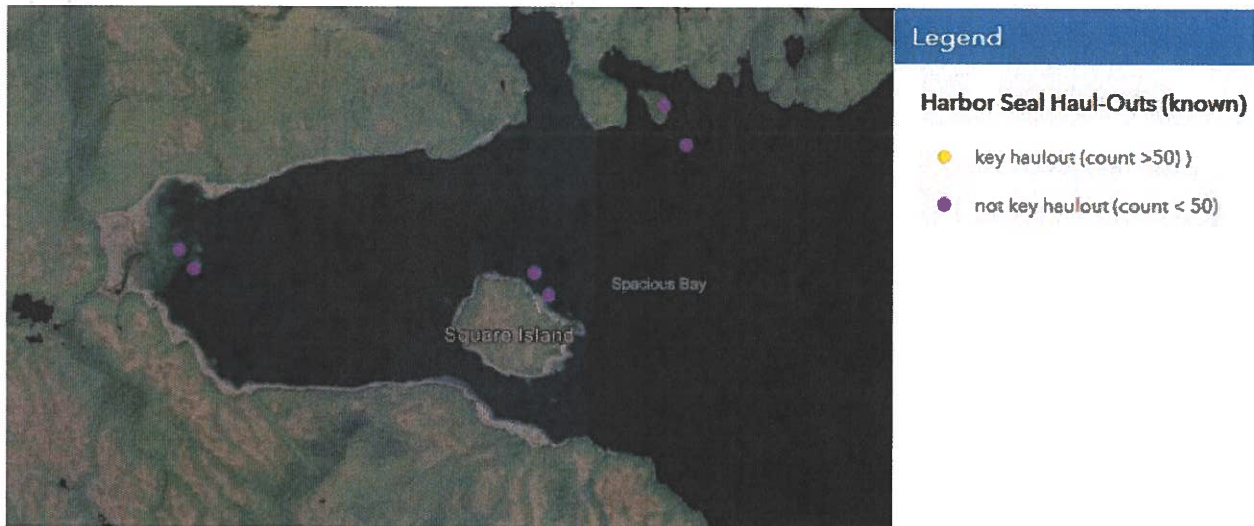
- Proposed waterfront parcels will be in conflict with the shellfish and vegetation food sources for bears on forest edges and beaches.

DNR DMLW LCS Response: Bears are omnivorous and able to prey switch throughout the year. Brown bears eat a variety of sedges/grasses, roots, other vegetation, berries, and animal matter from spring to fall. More than one food source is available on the island, and bears will seek other options on Square Island or Cleveland peninsula if the abundance of one source decreases. Waterfront parcels will be located above Mean High Water (MHW) where the majority of those listed food sources are likely to occur. Additionally, conflict will be mitigated in part by a 50-foot easement upland of MHW and a 25-foot building setback adjacent to that easement on all parcels.

Four comments addressed concerns regarding harbor seals and Steller sea lions:

Comment #35: The commenter has observed seven areas where harbor seals haul out, including one beach area where he has counted 100 to 150 seals.

DNR DMLW LCS Response: This comment does not match the last aerial survey data, but ADF&G acknowledges the possibility that haulout patterns may have changed over the last 9 years. The last aerial survey by the Marine Mammal Lab was in 2011 where six harbor seal haulouts were recorded. The highest raw count is 72 seals total on Square Island in a one-day snapshot. During the agency review period, ADF&G reported two harbor seal haulouts around Square Island. These haulouts are identified as “non-key” haulouts by NOAA. ADF&G recommended that LCS retain 500 meters (1,640 feet) of land surrounding both haulouts to reduce disturbances and LCS stated in the PD it would consider the recommended buffer in subdivision design. LCS will not convey land within 500 meters (1,640 feet) of the two haulouts identified below.



Comment #36: Harbor seals are federally protected and also listed as an Alaska Species of Special Concern. Steller sea lions are protected by the Federal Marine Mammal Protection Act (MMPA) and NOAA, and the proposed subdivision on Square Island threatens to violate the rules of the MMPA.

DNR DMLW LCS Response: At this time, the eastern Pacific harbor seal is not federally listed under the Endangered Species Act (ESA), therefore there is no Critical Habitat established. The eastern distinct population segment of Steller sea lions which inhabit southeast AK, including

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Square Island, are not a Species of Greatest Conservation Need, nor are they federally listed under the ESA. The eastern Pacific harbor seal is currently considered a “Species of Greatest Conservation Need,” by ADF&G and is ranked “orange” (a concern; red is the highest ranking followed by orange and yellow) according to the Alaska Species Ranking System (ASRS) conducted by the Alaska Center for Conservation Science (harbor seal specific information and rankings: https://accs.uaa.alaska.edu/wp-content/uploads/phoca_vitulina.pdf). The ASRS website can be found here: https://accs.uaa.alaska.edu/wildlife/alaska-species-ranking-system/?table_filter=marine%20mammal/. See response to Comment #35 regarding development near haulouts.

Comment #37: The Federal Marine Mammals Protection Act and NOAA require development be at least 100 yards away from all harbor seal activity. Development within 100 yards would violate the federal MMPA buffer by threatening to disrupt the haul out areas used by both harbor seals and Steller sea lions on Square Island and Spacious Bay.

DNR DMLW LCS Response: Under the Federal Marine Mammal Protection Act, marine mammals cannot be disturbed without a Take permit. Take means "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill," and harassment means "any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild; or has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to migration, breathing, nursing, breeding, feeding, sheltering." Disturbance distance can vary depending on conditions.

Critical habitat for Steller sea lions and harbor seals includes all major and key haulouts and rookeries throughout Alaska. These major haulouts are protected by regulation and extra caution is needed in these areas to prevent harassment of Steller sea lions in their critical habitat. Critical habitat includes the air, land and sea surrounding the site to 3,000 feet (0.9 km) in all directions. The closest major Steller sea lion haulout is Nose Point which is more than 3,000 feet southeast of Square Island. Per NOAA, there are no major haulouts or rookeries in the vicinity of the island that require a 3,000-foot buffer. LCS will not convey land within 500 meters (1,640 feet) of the two non-key harbor seal haulouts adjacent to Square Island.

Comment #38: The commenter has observed a population increase of Steller sea lions in Spacious Bay over the past 5 years. The shifting populations of harbor seal and Steller sea lion should be researched by DNR before the proposed development moves forward.

DNR DMLW LCS Response: ADF&G and NOAA are the agencies conducting research on these species. Specifically, the Marine Mammals program at ADF&G conducts harbor seal and sea lion research. Please contact the ADF&G Marine Mammals program for more information about current and ongoing work. The Marine Mammal Lab has tentative plans to survey the area during 2021.

ADF&G biologists have observed sea lions in Spacious Bay but are unable to definitively state one way or the other if the area has become more important to Steller sea lions and/or harbor seals in recent years. A seasonal increase of both Steller sea lions and harbor seals is likely during increased fish presence in Spacious Bay. During salmon surveys, ADF&G staff report observing harbor seals onshore, but numbers and specific locations have not been documented. See response to comment #35 regarding the last aerial survey by the Marine Mammal Lab.

One comment addressed concerns regarding Orca whales:

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Comment #39: Orca whales gather along the tidelands around Square Island and have been observed rubbing their bodies on stones adjacent to the west coast of the island at lower tides. Orcas are protected under the MMPA and are listed on the Federal Endangered Species list and any development in the area including docks and moorings would disturb the whales.

DNR DMLW LCS Response: The locations of rubbing beaches are often undocumented, so without local knowledge these areas can be difficult to detect. The proposed subdivision project would offer upland parcels only. Development below the line of mean high water would require a permit from the U.S. Army Corps of Engineers and potentially authorization from DMLW. During the permit process, the Corps and DMLW consider the views of other Federal, state and local agencies, interest groups, and the general public. Lastly, while all orcas are protected under the Marine Mammal Protection Act, NOAA staff advised that the orcas near Square Island are not listed under the ESA. Whales in southeast Alaska typically belong to the other non-listed pods.

One comment addressed concerns regarding bald eagles and golden eagles:

Comment #40: Bald eagles and golden eagles have at least two nests on Square Island. Nests are protected by the Federal Bald Eagle Protection Act and cannot be disturbed whether they are in use or not.

DNR DMLW LCS Response: Bald and golden eagles are protected from disturbance and “take” under the Bald and Golden Eagle Protection act. The USFWS provides guidance on avoiding disturbance to nesting bald and golden eagles during recreational activities or development projects, as well as information on eagle take permits at <https://www.fws.gov/alaska/pages/migratory-birds/eagles-other-raptors/eagle-permits>.

The USFWS recommends avoiding activities within 660 feet of an active bald eagle nest and 0.5 miles from active golden eagle nests. For construction projects or development activity where the bald eagle nest (active or alternate) can be seen from the project site, the USFWS states disturbance of nesting eagles is unlikely to occur if individuals: Maintain a buffer of at least 660 feet between all activities and the nest, restrict all clearing, external construction, and landscaping activities within 660 feet of the nest until outside the nesting season (March 1-August 31), and maintain any established landscape buffers. The Anchorage Fish and Wildlife Conservation Office may be contacted for more information at (907) 271-2888.

LCS will not convey land within 660-feet of any eagle nests on Square Island. If any eagle nests are discovered within 660-feet of an eagle nest, the affected parcels will not be offered for sale until the nest has been determined abandoned or it is no longer present. Additionally, land auction brochures include information about eagle nest regulations and protection.

Four comments addressed concerns regarding western (boreal) toads:

Comment #41: The commenter reported that there is a large boreal toad population on Square Island and requested that a study of the boreal toad population be completed before development or a reclassification to settlement land occurs.

DNR DMLW LCS Response: Per ADF&G, western toads are a Species of Greatest Conservation Need in the Alaska Wildlife Action Plan. However, western toads are widely distributed and

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relatively abundant throughout Southeast Alaska. Development of Square Island may negatively affect individual toads but will not result in population-level impacts.

Comment #42: Development from the proposed subdivision project threatens to introduce the chytrid fungi into Square Island which would diminish the boreal toad population.

DNR DMLW LCS Response: Per ADF&G, the chytrid fungus was detected at 6 of 15 sites sampled in northern Lynn Canal and all 4 sites sampled on Prince of Wales Island, suggesting the fungus is already widespread in Southeast Alaska (Adams et al. 2007). Recreational and residential activities have the potential to introduce and/or spread the fungus, which could reduce toad numbers on the island, but would not result in population-level impacts.

Comment #43: Square Island's Boreal toad population is worthy of protection after a ADF&G study conducted by UAA showed a sharp decline in boreal toad populations in Southeast Alaska.

DNR DMLW LCS Response: Localized long-term declines appear to have occurred in some areas of Southeast Alaska, including Haines, Juneau, Ketchikan, and Skagway. However, it is unknown whether these observations represent ongoing declines or whether they are low points in the population's cycle. Recent surveys on Prince of Wales Island (Gotthardt et al. 2015) and in the Stikine River Region (Reams et al. 2019), along with anecdotal observations of unusually large numbers of toads along the Juneau road system during the summer of 2020, suggest toad populations in those areas are healthy and stable.

Comment #44: Toads reproduce in freshwater muskeg in the center of the island and toadlets migrate to the forest edge and beaches to feed. Development would interfere with migration.

DNR DMLW LCS Response: Proposed parcels will be located around the perimeter of the island. In addition, the PD stated that LCS intends to retain several portions of shoreline and corridors to the interior of the island to be used for public access. These retained lands should provide toads with undeveloped freshwater muskeg in the center of the island to reproduce. Also see response to comment #41.

One comment addressed concerns regarding the northwestern salamander:

Comment #45: Northwestern salamanders are rarely found in Southeast Alaska but exist on Square Island. The Alaska Herpetological Society states that the distribution and status of the species in Alaska is unknown. The Square Island population should be researched. The reclassification to Settlement land and associated development could bring the chytrid fungi that may threaten the population.

DNR DMLW LCS Response: See response to comment #42 regarding the chytrid fungus.

One comment addressed concerns regarding river otters:

Comment #46: Commenter reported knowledge of three river otter dens on Square Island that are used for winter. The proposed designation change and subdivision do not consider changes to river otter populations in Spacious Bay and the use of Square Island for winter breeding. Before reclassification to settlement land and associated development occurs, the commenter requests that more studies be completed to determine the location and importance of permanent river otter dens and winter breeding on Square Island.

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DNR DMLW LCS Response: River otters are a species researched and managed by ADF&G on the GMU scale. Per ADF&G, potential future development of Square Island may impact individual river otters but will not imperil the population in GMU 1A.

Four comments addressed concerns regarding salmon:

Comment #47: There are five rivers in Spacious Bay that support salmon runs (none on the island). Over the past 10 years, the commenter has noticed a sharp decline in the number of fish returning – most dramatically since 2015. A subdivision on Square Island would not directly prevent salmon runs, but it would have a direct negative impact on a large group of animal species that are already compromised by historically poor salmon returns.

DNR DMLW LCS Response: There are three pink salmon index streams in Spacious Bay that ADF&G monitors three to four times annually through aerial surveys. These are Margarita Creek (101-80-10520), Spacious Bay Right Head Stream (101-80-10500), and Wasta Creek (101-80-10400). There is also a pink salmon index stream directly north of Square Island in Sea Lion cove (101-80-10600). Aerial surveys are conducted annually to enumerate pink salmon returning to these systems. These systems are included in the West Behm Canal stock group which has a pink salmon escapement goal of 250,000 to 660,000. The three streams in Spacious Bay do not represent a large proportion of the West Behm canal stock group but escapements have been relatively stable over the last 15 years. The Cleveland Peninsula streams in West Behm Canal can be characterized as highly tannic due to the large, low lying muskegs present on the Peninsula. Per ADF&G, the tannic color makes visually counting salmon difficult at times particularly after a rain as the water turns an extremely dark, brown color making it difficult to get an accurate count in these systems. Data is not always representative of the actual numbers of pink salmon that returned but simply an index count of that year.

There is also a large Personal Use sockeye fishery in Yes Bay, which is approximately four miles northeast of Square Island. McDonald Lake drains to Yes Bay and supports a large return of sockeye salmon which has been in decline since 1996 as have many sockeye systems in southern southeast and northern British Columbia. Yes Bay is one of the few places in southeast Alaska where drift gillnets are legal gear in the personal use fishery. In 2015 there was an annual limit put in place of 20 salmon per day, per permit. Yes Bay is approximately 50 miles from town but still receives significant personal use effort.

ADF&G advises that the proposed subdivision may cause increased participation in the Yes Bay personal use sockeye fishery due to the proximity, but it is unknown what this level may be. ADF&G would still retain time and area authority and can limit the open time and season if effort levels and associated harvest become excessive. Although the development of the Square Island Subdivision may add fishing pressure to streams in and around Spacious Bay, ADF&G and LCS do not anticipate a substantial impact to salmon number or secondary impact to species linked to these salmon runs.

Comment #48: The commenter quoted chapter 2, page 16 of the CSSEAP that states:

“ADF&G will periodically assess the cumulative effects of changes in the use and development of state land on the various fish and game species in the planning area....In the case of declining health or population of a species or significant use patterns, ADF&G should advise

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DNR of the land and waters critical to the species and recommend permit and lease stipulations necessary for its protection.”

Regarding ADF&G’s involvement in with species populations and land use. DNR must receive data from ADF&G on the health of salmon populations in Spacious Bay and the region.

DNR DMLW LCS Response: See response to comment #47 for ADF&G’s involvement in monitoring salmon populations. ADF&G is able to provide information to DNR through the case or project adjudication process. If Square Island is developed, there may be increased participation in the Yes Bay personal use sockeye fishery due to the proximity, but it is unknown what this level may be. ADF&G would still retain time and area authority to limit the open time and season if effort levels and associated harvest become excessive.

Comment #49: Land use designation changes and development in an area where the primary food source [salmon] has decreased do not make sense, and threaten to irreversibly damage the ecosystem of Square Island, the Cleveland Peninsula, and Spacious Bay.

DNR DMLW LCS Response: Bears and wolves have diverse diets and large ranges. ADF&G monitors salmon populations in this area and advises that any potential development on the island would not have a direct impact on salmon, bear, or wolf populations in GMU 1A. See response to comment #47.

Comment #50: Placing a commercial enterprise in the area that directly impacts the Unuk River king salmon run is a risk.

DNR DMLW LCS Response: Potential commercial enterprises may include operations that are not dependent on fishing. Commercial parcel bidders do not need to be a commercial entity or provide information about a commercial use. ADF&G advises it is unlikely that commercial development of Square Island will adversely impact the Unuk River king salmon stock. Square Island is approximately 32 miles from the mouth of the Unuk River. Unuk River chinook was designated as a stock of concern in 2018. Conservation efforts, including fishing restrictions, are widespread and have formally been in place since 2018 when the Board of Fish adopted the Unuk River action plan. One component of this plan is the complete closure to sport fishing west of Bailey Bay year-round and the closure of West Behm Canal north of a line from Indian Point to Mike Point through August 14, as shown on Figure 1 provided by ADF&G in 2020. There are specific criteria that must be met for future removal of the stock of concern designation to ensure sustainability. Until these criteria are met, fishing for king salmon in the Square Island/Spacious Bay area will be closed. Once Unuk River escapements are adequate to allow for additional harvest, management restrictions will be reduced.

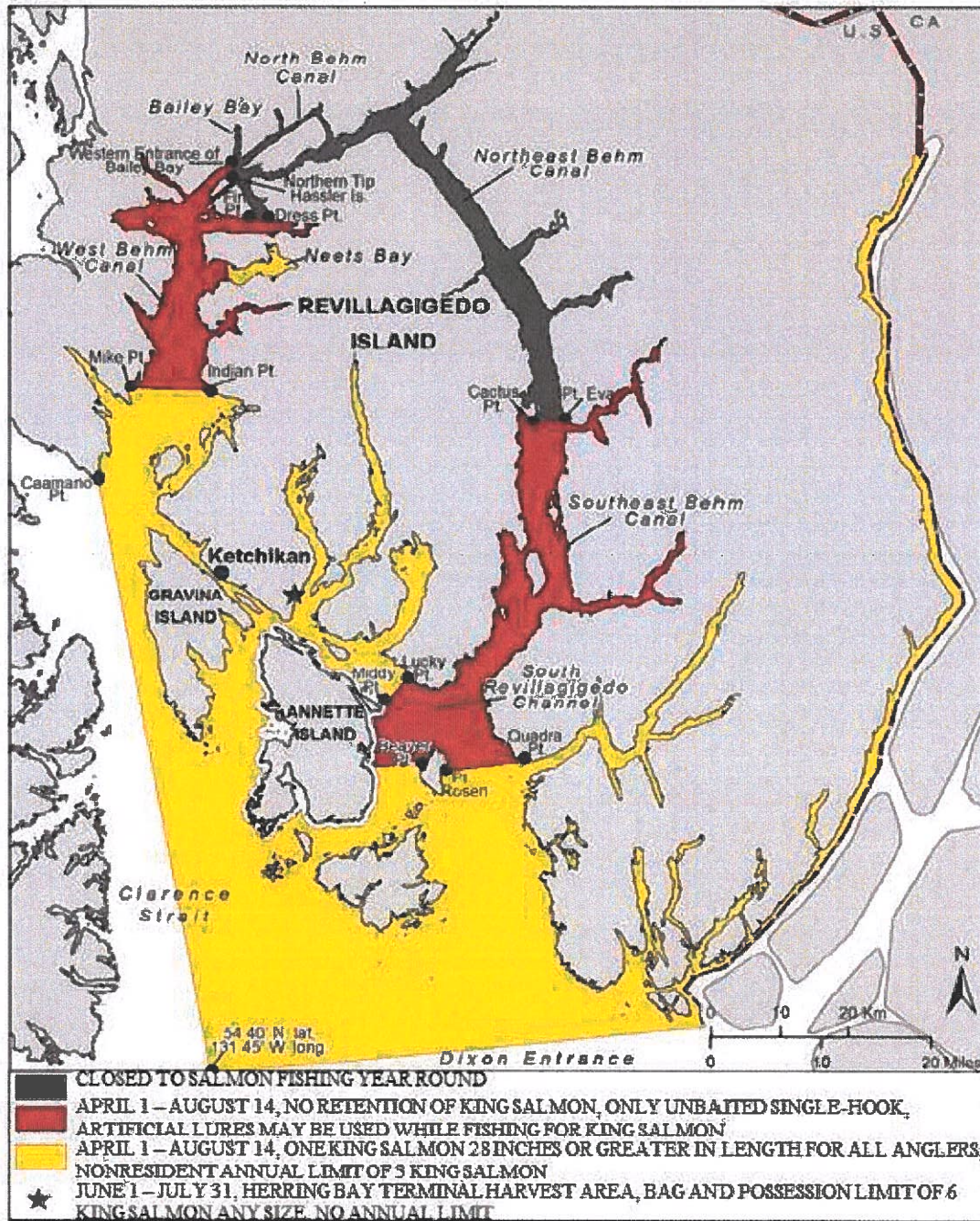


Figure 1. Sport fish closures for Unuk River Chinook conservation.

One comment addressed concerns regarding long-tailed ducks:

Comment #51: Long-tailed ducks use the shoreline of Square Island in winter to feed on small fish, mussels, and invertebrates. The proposed designation change and associated development along the shoreline would adversely impact the long-tailed duck. More research on the long-tailed duck must be done to determine if it is worthy of special protection.

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DNR DMLW LCS Response: ADF&G has advised that the proposed action and potential land development on Square Island would not adversely impact long-tailed ducks at the local or population level. Spacious Bay constitutes a very small proportion of the winter habitat available to long-tailed ducks and as such is unlikely to concentrate numbers of long-tailed ducks consequential at the population level. Long-tailed ducks are a circumpolar species of sea duck that breed in tundra regions and winter in marine waters of subarctic and temperate zones. In Alaska, long-tailed ducks breed primarily along the western coastal fringe of the Yukon-Kuskokwim Delta and the Arctic Coastal Plain and have a continuous winter distribution from the Aleutian Islands to the Southeast Panhandle. Breeding pair surveys conducted by the U.S. Fish and Wildlife Service in Alaska indicate a long-term (since 1985) annual rate of decline of approximately 1%; although, with some uncertainty in the population trajectory (i.e., a long-term population trajectory that is stable to slightly increasing is also probable). However, despite an apparent long-term decline of breeding birds in Alaska (and Canada), long-tailed ducks are among the most numerous sea duck species in North America (including in Alaska), and therefore, the U.S. Fish and Wildlife Service does not consider their status threatened or endangered. Notably, causes of the decline are unknown but are likely influenced by factors operating at a large, widespread scale (e.g., harvest or climate change), rather than due to localized small-scale factors at the level of an individual bay.

With regard to the long-tailed ducks that inhabit Spacious Bay during winter, ADF&G is not aware of any evidence that suggests terrestrial activities such as land parcel sales and development, disrupt marine foraging or roosting behavior that would adversely affect overwinter dynamics. Long-tailed ducks are among the deepest diving sea ducks when foraging and tend to predominately use deeper waters outside of the intertidal nearshore habitat surrounding Square Island. Further, there are numerous examples along the Alaska coast of long-tailed ducks thriving in winter habitat adjacent to developed lands.

One comment addressed concerns regarding the marbled murrelet:

Comment #52: The marbled murrelet, which is on the U.S. Fish and Wildlife's Endangered Species list, nests in the old growth forest on Square Island and would be vulnerable to the impact of deforestation from development on the island. The impact to marbled murrelet populations should be researched before reclassification to Settlement and associated development can occur.

DNR DMLW LCS Response: The marbled murrelet is federally listed as threatened in Washington, Oregon and California; however, the Alaska population has not received federal listing. See: https://www.fws.gov/arcata/es/birds/mm/m_murrelet.html. The marbled murrelet is considered a Species of Greatest Conservation Need, at a lower level, "blue" by the Alaska Species Ranking System (ASRS). Per ADF&G, old-growth forests are nesting habitat for marbled murrelets; however they are likely not limiting in Alaska (Barbaree et al. 2014). Per ADF&G, it is highly unlikely that development of Square Island would have population-level impacts on breeding habitat or success.

One comment addressed concerns regarding the commercial dungeness crab and spot prawn fishing industry:

Comment #53: More research must be done into the impact of development on subsistence and commercial crab and shrimp fisheries in the area.

DNR DMLW LCS Response: ADF&G monitors commercial dungeness crab and shrimp fisheries. ADF&G reports the majority of the commercial dungeness crab harvest comes out of the Anchor Pass area, which is located approximately 18 miles east, northeast of Square Island. The same can be said for the personal use harvest of dungeness crab, although Helm Bay also supports a consistent personal use dungeness crab fishery along with two USFS cabins open to the public.

Subdistrict 10-80 supports a commercial pot shrimp fishery. However, the shrimp harvest primarily occurs around Hassler Island, Gedney Pass, Hassler Pass and Bell Island. There has been only sporadic commercial shrimp harvest from the waters of Spacious Bay. It is shallow and not considered shrimp habitat. The proximity of the project area to productive shrimp habitats in Gedney Pass, Hassler Pass and Bell Island may increase the personal use harvest in Spacious Bay. In 2018, ADF&G began requiring a personal use permit to harvest shrimp with 100% reporting. This will help identify the increase, if any, in the area. Table 1 provided by ADF&G in 2020 shows the dungeness crab permits for statistical areas 101-80, 90 & 95. Increased effort in the productive Back Behm Canal area may result in reduced pressure from areas closer to Ketchikan such as Clover Passage and George and Carroll Inlet.

Table 1. Registration Area A (Southeast Alaska) commercial Dungeness crab permits fished, landings, and harvest in Statistical Areas 101-80,90&95 combined, District 1 commercial Dungeness crab harvest, and regionwide commercial Dungeness crab harvest, 2015/16 through 2019/20 seasons.

Season	Landings in 101- 80,90&95	Permits		Harvest in District 1	Harvest Regionwide
		Fished in 101- 80,90&95	Harvest in 101- 80,90&95		
2015/16	26	4	21,555	155,735	3,259,362
2016/17	24	8	24,721	130,508	2,358,645
2017/18	11	6	11,922	67,673	1,914,417
2018/19	5	3	3,077	85,718	4,089,214
2019/20	12	4	15,374	95,221	5,330,101

V. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a Traditional Use Finding is required for project areas within the Unorganized Borough. This project area is within an organized borough; therefore, no Traditional Use Finding is required.

VI. Modifications to Decision and/or Additional Information

Pursuant to public comment, field inspection, and coordination with ADF&G and NOAA, the recommended action has been modified from the original proposed action described in the PD to reduce the proposed number of parcels in the subdivision from no more than 40 parcels to no more than 25 parcels, and reduce the area identified for disposal from 150 acres to 100 acres.

In addition, the recommended action has been modified from the PD to add the following land to the *Retained Lands* section:

- Land within 500-meters (1,640 feet) of the two identified non-key harbor seal haulouts.

Recommendation and Approval of the Final Finding and Decision follow.

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VII. Final Finding and Decision

The Land Conveyance Section recommends proceeding with the action as described in the Preliminary Decision and amended herein. This action is undertaken under relevant authorities. Offering these parcels for sale will help meet the State’s goal to provide land for settlement for sale to the public and raise revenue for the State.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with *AS 38.05.945 Notice* and comments received were considered. The project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The actions are consistent with constitutional and statutory intent for State-owned land and this action is undertaken under relevant authorities.

/s/ Timothy Shilling

Recommended by: Timothy Shilling
Natural Resource Manager
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

August 26, 2021

Date

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended action(s) as described and referenced herein.

/s/ Martin W. Parsons

Approved by: Martin W. Parsons
Director
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

August 26, 2021

Date

/s/ Corri A. Feige

Approved by: Corri A. Feige
Commissioner
Department of Natural Resources
State of Alaska

August 26, 2021

Date

Reconsideration Provision

A person affected by this decision who provided timely written comment or public hearing testimony on the preliminary decision may request reconsideration, in accordance with *11 AAC 02*. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in *11 AAC 02.040(c) and (d)* and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Under *11 AAC 02.030*, appeals and requests for reconsideration filed under *11 AAC 02* must be accompanied by the fee established in *11 AAC 05.160(d)(1)(F)*, which has been set at \$200 under the provisions of *11 AAC 05.160 (a) and (b)*.

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on their own motion, this decision goes into effect as a final order and decision on the 31st calendar day after the date of issuance. Failure of the commissioner to act on a request for reconsideration within 30 calendar days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with *11 AAC 02* before appealing this decision to Superior Court. A copy of *11 AAC 02* may be obtained from any regional information office of the Department of Natural Resources.

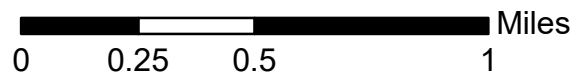


Attachment A: Vicinity Map Square Island Subdivision ADL 109029



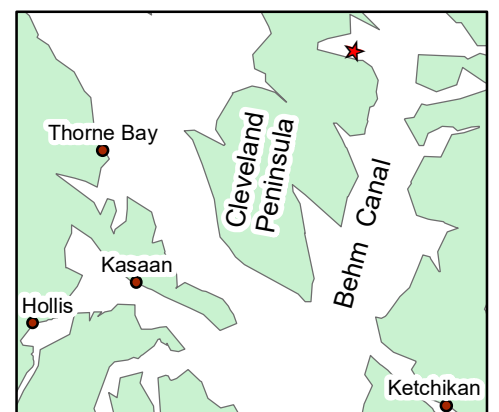
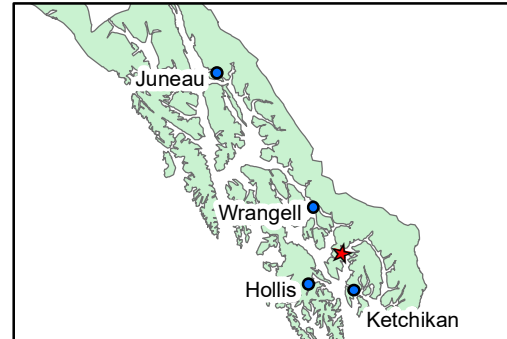
Legend

- Project Area
- ADL 106307; ASLS 98-7



Sections 29-32, T69S, R89E excluding ASLS 98-7; Sections 25 & 36, T69S, R88E, Copper River Meridian

JDK 8/20/21



USGS QUAD 1:63,360
 Ketchikan (D-6), Alaska
 For more information contact:
 John King
 Department of Natural Resources
 Division of Mining, Land, and Water
 Land Conveyance Section
 Phone 907.465.3511
 Fax 907.500.9011
 Email: land.development@alaska.gov

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

PRELIMINARY DECISION
Square Island Subdivision – ADL 109029

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

RELATED ACTIONS:
Proposed Amendment to the Central/Southern Southeast Area Plan
AS 38.04.065
Proposed Land Classification Order
AS 38.04.065 and AS 38.05.300
Proposed Mineral Order (Closing)
AS 38.05.185 and AS 38.05.300

PUBLIC COMMENT PERIOD ENDS 5:00PM, TUESDAY, OCTOBER 27, 2020

I. Proposed Action(s)

Preliminary Decision: Square Island Subdivision – ADL 109029

Attachment A: Vicinity Map

Attachment B: Public Notice

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

Draft Amendment to the Central/Southern Southeast Area Plan SE-00-001A08

Draft Land Classification Order CL SE-00-001A08

Draft Mineral Order (Closing) MO No. 1234

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.

LCS proposes to sell land within the Square Island project area for the purpose of providing land for settlement by developing a subdivision of no more than 40 parcels no smaller than one acre. The project area consists of approximately 336 acres with 150 acres identified for disposal by this proposed action. 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 survey/subdivision, as described in the 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.

Preliminary Decision

Square Island Subdivision – ADL 109029

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

Area Plan Amendment: DNR proposes to amend the Central/Southern Southeast Area Plan (CSSEAP adopted 2000) to change the designation of Unit C-02 from General Use to Settlement and Settlement Commercial. Management intent will be changed to state that residential and commercial recreational uses are appropriate during the planning period. Refer to the Planning and Classification subsection of this document for more information on this proposed related action.

Land Classification Order: In relation to the Area Plan Amendment, DNR proposes to reclassify the project area in a Land Classification Order from General Use to Settlement land. Refer to the Planning and Classification subsection of this document for more information on this proposed related action.

Mineral Order (Closing): DNR proposes to close the project area to new mineral entry. No mining claims have been identified within the project area. Refer to the Mineral Activity and Order(s) subsection of this document for more information on this proposed related action.

These related actions will be developed separately. However, approval of the proposed actions is dependent upon one another in that one action will not proceed without approval of all actions.

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.

Public Meeting: LCS will be holding a Public Meeting to discuss the proposal and share information about the project area. The Public Meeting will be held from 5 p.m. – 7 p.m. on Thursday, October 1, 2020 at The Landing Hotel (3434 Tongass Avenue Ketchikan, Alaska 99901) in the banquet room adjacent to Jeremiah's lounge. Use of face masks or face coverings is strongly encouraged for in-person attendees.

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

II. Method of Sale

LCS 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 <http://landsales.alaska.gov>.

Preliminary Decision

Square Island Subdivision – ADL 109029

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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." Pursuant to *AS 38.05.055 Auction Sale or Sealed Bid Procedures*, bidders for commercial land are not required to have been an Alaska resident for one year preceding the date of the sale. 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 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

IV. Administrative Record

The project file, Square Island Subdivision - ADL 109029, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Central/Southern Southeast Area Plan for State Lands (CSSEAP, adopted 2000) and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan (2020 Review)*;
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*;
- *NOAA Fisheries ShoreZone Mapping Website*;
- *U.S. Fish & Wildlife Service National Wetlands Inventory Mapper*;
- *FEMA National Flood Hazard Layer (NFHL) Viewer*;
- *Natural Resource Conservation Service Custom Soil Report for this project, dated November 20, 2019*; and
- DNR case files: National Forest Community Grant land selection (NFCG 283); preference right sale (ADL 106307); University of Alaska Agreement/Settlement (ADL 229389); Conveyance from University of Alaska to State of Alaska DNR (OSL 1424); and, other cases, documents, reports, etc. 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 LCS's proposal to offer State-owned land within the defined project area for disposal and to conduct the proposed plan amendment, Land Classification Order, and mineral order as described herein. The scope of this proposal does not include the control of post-patent use and LCS does not intend to impose deed restrictions for this purpose. The subdivision may be conducted in multiple stages.

VI. Location

The project area is located within DNR's Southeast Region, approximately 35 miles north of Ketchikan within Sections 25 and 36, Township 69 South, Range 88 East, and Sections 29, 30,

Preliminary Decision

Square Island Subdivision – ADL 109029

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and 31, Township 69 South, Range 89 East, Copper River Meridian, within the Ketchikan Gateway Borough (KGB). The project area consists of approximately 336 acres with 150 acres identified for disposal by this proposed action.

The project area is within the Ketchikan Gateway Borough and subject to the borough's platting authority.

Native Regional and Village Corporations: The project area is within the boundaries of the Sealaska regional corporation. There are no villages located within 25 miles of the project area, however, courtesy notification will be sent to village corporations and councils in Ketchikan, Kasaan, and Saxman.

VII. Property Description

Tract B, Township 69 South, Range 88 East, Copper River Meridian, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, officially filed on June 24, 2002, containing 8.42 acres, more or less; and that portion of Tract A, Township 69 South, Range 89 East, Copper River Meridian, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, officially filed on July 01, 2002, excluding ASLS No. 98-7, recorded November 20, 1998 as Plat No. 98-59, Ketchikan Recording District, containing 327.88 acres, more or less. The areas described aggregate 336.3 acres.

VIII. Title

Title Report No. 20523, current as of January 21, 2020 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patent 50-2004-0049, dated November 19, 2003. The applicable State case files are NFCG 283 and OSL 1424. The parcel is subject to the reservations, easements and exceptions contained in the federal patent.

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

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Square Island Subdivision – ADL 109029

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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 Bureau of Land Management has not made a navigability determination for waters within the affected townships for title purposes.

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

IX. Physical Characteristics and Hazards

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.

Terrain and Major Features: The terrain is mild with a gentle slope from the shoreline to an interior plateau approximately 80 to 120 feet in elevation. The island has a thin strip of hemlock forest along the shoreline, and mostly flat broken scrub forest and muskeg in the interior. The proposed development area is primarily within the strip of hemlock forest.

View: Parcels will have views of Cleveland Peninsula, Spacious Bay, and/or Behm Canal.

Vegetation: Vegetation consists of broken scrub spruce and muskeg with a mature hemlock forest along the coast of the island.

Soils: Soils within the project area generally consist of poorly drained muck and a well-drained plant material and gravelly soil. The primary soil types are Karheen peat and Salt Chuck extremely gravelly loam. Karheen peat is very poorly drained soil with a high water table. Salt Chuck extremely gravelly loam is well drained with a 10-inch organic layer, and a low water table. Away from the shorelines, the project area also contains Kaikli-Kina association which is a very poorly drained mucky soil with a high water table. There are some intermixed muskeg areas toward the center of the island.

Wetlands: Freshwater Forested/Shrub Wetlands exist within the portions of the project area that are inland from the shoreline. Wetlands will be considered in the subdivision design.

Geologic Hazards: Geologic hazards are common throughout Alaska. Information received from DGGS 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.

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Square Island Subdivision – ADL 109029

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Fire Information: Pursuant to information received from the Division of Forestry, fire risk in the area is likely low. There is no reported history of fires within the vicinity. The project area is within the Limited Fire Management Option Area.

Fire management options and policies for the area are identified in the Alaska Interagency Wildland Fire Management Plan available from DNR Division of Forestry. The current fire management option for most of the project area is “Limited.” The guidelines on areas with the “Limited” management option reads, “Limited Management Option fires are assigned the lowest resource allocation priority.” 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 no well or water quality information within the area. Potential water sources in the area include rainwater collection or collection from the several small, unnamed streams. Water quality is unknown. Additional information on wells, water quality, and drinking water may be obtained from the Alaska Department of Environmental Conservation.

Utilities: No known services exist within the project area.

Waste Disposal: No waste disposal facilities are available in the area. All on-site waste water disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

X. Background:

The state acquired the land within the project area under statehood entitlement, National Forest Community Grant (NFCG) for the purpose of furthering the development and expansion of communities. The state received tentative approval for the land in 1996, and patent for the surface and mineral estate in 2003. A one-acre parcel on the south shore of Square Island was conveyed into private ownership in 1999 through a non-competitive preference right sale. No other private property or prior State land offerings have occurred or exist in the area.

In 2008, state-owned land on the Cleveland Peninsula, along with the land within the project area was conveyed to the Board of Regents of the University of Alaska (UA) under case file ADL 229389. Shortly thereafter, the Supreme Court of Alaska enjoined the State from conveying the land to the UA, and the land was conveyed back to DNR in 2010. The reconveyed land was serialized as case file OSL 1424 and all original land classifications remained.

Preliminary Decision

Square Island Subdivision – ADL 109029

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LCS identified the project area for this project based on the purpose of the state's selection under NFCG No. 283 as a sufficient area to support a future remote community. While the area plan designated the project area as General Use, the proposed Area Plan Amendment intends to update the designation to Settlement/Settlement Commercial.

The project area is surrounded by Spacious Bay, Behm Canal, and the Cleveland Peninsula. Outside of the state-owned uplands on the Cleveland Peninsula to the south of the project area, all other uplands in the surrounding area are federally owned and part of the Tongass National Forest. The area is currently used by Ketchikan area residents for hunting and recreational use.

The project area is accessed by water, either by boat or float plane. Images and video footage from the NOAA ShoreZone viewer show that the north and east sides of the island contain a shoreline with rocky tidelands, while the south and west sides of the island are comprised of tidelands that are sandy. Driftwood has accumulated around the island above the line of mean high water. The uplands appear to be accessible without any bluffs. There are no known utilities or services within the project area. LCS intends to complete a field inspection of the project area prior to the final finding and decision.

LCS proposes to develop a subdivision of primarily waterfront parcels along the exterior of the island. The majority of the interior of the island will be retained in State ownership. Additionally, LCS intends to retain portions of the shoreline, connecting to the interior of the island to allow for public use, access, and wildlife habitat corridors. The proposal is limited to up 150-acres to be offered for sale, and the remaining approximately 186-acres will remain in State ownership.

The proposed subdivision will contain a minimum of one commercial parcel greater than five acres. The larger parcel size is necessary to accommodate topography and the possibility for small scale commercial development such as a commercial lodge. The larger parcels and retained lands will minimize adverse effects on other uses in the area.

The proposed subdivision within the project area will help fulfill 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. The subdivision will provide an excellent opportunity for the public to obtain waterfront land for settlement in a scenic area that is desirable for recreation, but also accessible by water from Ketchikan.

XI. Planning and Classification

The project area is within Central/Southern Southeast Area Plan (CSSEAP, adopted 2000), Region 5 - Ketchikan, Unit C-02 – Square Island. Lands within this unit are currently designated General Use, and classified Resource Management Land under Land Classification Order No. SE-00-001. The project area consists of all of the management unit. LCS reviewed the general management intent of the area plan and management unit for consistency with the proposed offering.

Region 5, Unit C-02 Considerations: Unit management intent states that this parcel is to be managed for dispersed recreation during the planning period. Only limited development activities may be authorized, except for facilities related to public safety and recreation. Management intent provides that land disposals and timber sales are not authorized during the planning period. The Parcel Description and Related information states that the parcel was selected under NFCG 282 for Remote

Preliminary Decision

Square Island Subdivision – ADL 109029

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Settlement. Management intent provides that the appropriateness of remote settlement in this tract shall be re-evaluated during the next CSSEAP update or when a revised Forest Plan is prepared by the US Forest Service; and, that the re-evaluation shall address the appropriateness of remote settlement and timber harvest on this tract.

The current plan is near the end of the 20-year planning period. LCS is proposing an area plan amendment to change the designation of Unit C-02 from General Use to Settlement and Settlement Commercial. The island is within a relatively remote location with access by boat or plane from Ketchikan. The area is attractive for remote settlement for recreational parcels, as well as commercial parcels for potential commercial recreation use. Given the relatively thin strip of Hemlock forest along the coast, LCS does not consider the parcel appropriate for timber harvest.

Area-wide Considerations: LCS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies. LCS will incorporate these considerations 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 provide that public notice in accordance with *AS 38.05.945* is required for decisions involving the sale of State land, and that notice will be given to parties known or likely to be affected by an action. Public notice is being conducted in accordance with *AS 38.05.945*. Refer to section XVI. Submittal of Public Comments for more information.

Cultural Resources: Management guidelines provide that cultural surveys or inventories should be conducted prior to the design of land offerings, and that the Division of Parks and Outdoor Recreation Office of History and Archaeology (OHA) determines which areas have high potential to contain important cultural sites. LCS has coordinated with OHA early in the development of this proposal and will continue to coordinate with OHA through the design of the subdivision.

Fish and Wildlife Habitat and Harvest Areas: These management guidelines primarily provide guidelines for areas designated Habitat or Harvest. However, management guidelines regarding fish and wildlife habitat provide that all land use activities will be conducted with appropriate planning and implementation to avoid or minimize adverse effects on fish, wildlife, or their habitats. Impacts to fish and wildlife habitat will be mitigated by retaining the interior portion of the island, as well as corridors to the coastline. In addition, ADF&G was consulted during the agency review period and recommended that the state retain land within 500 feet of two known harbor seal haulouts on the northeast shore of the island. ADF&G had no objections to the proposed disposal.

Forestry: Area-wide management guidelines provide that in areas designated Settlement, state commercial timber sales will adhere to the Forest Resources and Practices Act (FRPA) and pertinent state regulations for commercial forestry, and will not be considered a "land use conversion" as described in FRPA. Such timber

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Square Island Subdivision – ADL 109029

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harvest shall be a direct support of current or future state subdivision development. However, beach salvage and salvage of damaged trees may occur separately from subdivision design. A license is required for beach log salvage. Given the relatively thin strip of Hemlock forest along the coastline, LCS does not propose timber harvest prior to sale.

Material Sites: Management guidelines provide that generally, if a settlement area contains high value material resources, a pit area should be identified and retained in State ownership. No high-value material resources have been identified within the project area.

Recreation, Tourism, and Scenic Resources: Area-wide goals provide that land sales may encourage commercial development of recreational facilities and services that are provided by private enterprise, while minimizing environmental impacts and conflicts with existing users of the area. LCS proposes to include at least one or more larger lots within the subdivision to be made available for commercial use.

Settlement: Goals regarding settlement provide that DNR will offer land suitable for year-round residences for community expansion, seasonal residences for recreation, and industrial or commercial development. Applicable management guidelines include Planning and Coordination; Protection, Management, and Enhancement of Other Resources; and, Design. These guidelines have been considered in the development of this proposal. DNR should retain greenbelts, buffer areas, public use corridors, stream corridors, scenic areas, legal access, and other public facilities as appropriate to help preserve important habitat, recreational, educational, and public use areas. Subdivision design will preserve and enhance the natural setting and will take into account site limitations such as slope, drainage, soils, and erosion to ensure that land is buildable and environmental impact can be mitigated.

Shorelines and Stream Corridors: Area-wide management guidelines provide that DNR should reserve public access to waterbodies when transferring land out of state ownership. LCS will reserve a 50-foot easement along the Mean High Water (MHW) of Spacious Bay and any other water bodies determined to be public water, and will reserve a 25-foot building setback outside of this easement. Refer to the *Easements, Setbacks, and Reservations* subsection for more information.

Subsurface Resources: Management guidelines note that mining operations are judged to be incompatible with future settlement and settlement related activities. The project area was not designated settlement and was not closed to mineral entry at the time the plan was adopted. Consistent with the general management intent of the plan, LCS proposes to close the project area to mineral entry via MO 1234.

Trail and Public Access Management: Area-wide management guidelines provide that public access to areas with significant public resource values should be retained or improved by retaining means of access in public ownership, reserving rights of access when selling or leasing state land, or asserting rights-of-way. There are no trails identified in the project area, however, the state will retain easements as appropriate to maintain access through and within the project area. See the Access To, Within, and Beyond Project Area section for more information.

Preliminary Decision

Square Island Subdivision – ADL 109029

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The proposed offering will be consistent with area-wide land management policies and general management intent of the CSSEAP and specific management unit if the proposed Area Plan Amendment, Land Classification Order, and mineral order are approved in accordance with *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally*. The project area is currently designated General Use and classified Resource Management, and requires an amendment to the CSSEAP and a Land Classification Order prior to disposal. The proposed amendment will change the designation of Unit C-02 from General Use to Settlement and Settlement Commercial. This parcel is to be managed as settlement land under the amendment.

AS 38.04.065 (b) Requirements: The factors identified in this section of statute have been considered in this plan amendment and the proposed action is consistent with that portion of statute.

Area Plan Amendment: DNR proposes to amend the Central/Southern Southeast Area Plan (CSSEAP, adopted 2000) to change the designation of Unit C-02 from General Use to Settlement and Settlement Commercial. The management intent will be changed to state that residential and commercial uses are appropriate and the land be closed to mineral entry prior to disposal.

Land Classification Order: In relation to the proposed Area Plan Amendment, LCS proposes to reclassify Unit C-02 with a Land Classification Order from Resource Management to Settlement land.

Mineral Activity and Order: No mineral activity has been identified on these lands. The entirety of the project area (approximately 336 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. Closing the entire area to mineral entry is consistent with the management intent of the CSSEAP amendment.

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 between land estate and mineral estate users. Area plan management guidelines regarding subsurface resources state that mining operations are judged to be incompatible with future settlement and settlement related activities. Consistent with the general management intent of the plan, LCS proposes to close the project area to mineral entry prior to sale.

Preliminary Decision

Square Island Subdivision – ADL 109029

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Local Planning: The project area is within the KGB and property purchased through this proposed offering will be subject to the applicable zoning, ordinances, and restrictions of the borough. The project area is within the boundary of the Ketchikan Comprehensive plan, however, the plan does not discuss the project area. Review of the plan did not indicate any conflicts with the proposed State land disposal.

XII. Traditional Use Finding

The project area is located within the KGB and a traditional use finding is therefore not required per *AS 38.05.830 Land Disposal in the Unorganized Borough*. However, information on current or traditional use is welcomed and can be given during the public comment period. See the **Section VIII. Submittal of Public Comments** at the end of this document and *Attachment B: Public Notice* for details on how to submit comment.

Access To, Within, and Beyond Project Area

Access to the project area is via boat or float plane. Subdivision design will take into account topography and access to lands beyond the project area and within the project area boundaries. The project area is subject to the platting authority of the KGB. Approval of platting actions and dedication of rights-of-way will require separate processes and public notices through the borough.

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*, and *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*.

Parcels will be subject to access reservations in accordance with *AS 38.05.127 Access to Public or Navigable Water* and a 25-foot building setback outside of easements along the MHW 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 CSSEAP.

Building Setbacks From Public or Navigable Water: If subdivision is deemed feasible, LCS proposes to place a note on the final survey plat describing a building setback upland from the Ordinary High Water (OHW) or MHW 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, except for utilities, water-dependent structures whose purpose is access to or across the

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stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function.

Easements, Setbacks, and Reservations: 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. Standards for easements are provided in *11 AAC 51.015* or by local platting ordinances. Final width and location of easements and reservations will be determined as part of the local platting process, which will include an additional opportunity for public participation.

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 and 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 or MHW of public or navigable water bodies in accordance with *AS 38.05.127 Access To Navigable or Public Water*;
- a minimum 25-foot building setback adjacent to buffers or easements from the MHW of public or navigable water bodies, in accordance with the area plan;
- 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; and,
- additional reservations and/or restrictions required through the local platting authority.

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

Retained Lands: A minimum of 185 acres toward the center of the island will be retained in State ownership. This land will continue to be available for public recreational use. The subdivision will be designed with parcels located around the perimeter of the island, with several corridors of retained land to provide public access to the center of the island.

XIII. 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

Preliminary Decision

Square Island Subdivision – ADL 109029

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of the site should such substances eventually be found. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land prior to bid or application submittal.

LCS 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 the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, LCS is of the opinion that the benefits of offering the land outweigh the potential risks.

XIV. Survey, Platting, and Appraisal

After evaluating 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.

This proposed project area is located within the Ketchikan Gateway Borough, and therefore survey and platting will be subject to the relevant subdivision standards. The borough's platting requirements provide for separate public notice periods and processes for platting actions. These additional opportunities for public involvement occur after DNR issues a Final Finding and Decision, if this proposed action is approved.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR 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.

XV. 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. Combined Division and Agency review was conducted for the proposed Area Plan Amendment and Land Classification Order from November 23, 2019 through December 20, 2019. Combined Division and Agency review was conducted for the land disposal from February 26, 2020 through March 12, 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 regarding the proposed Area Plan Amendment, Land Classification Order, and land disposal from the following agencies: DNR Division of Oil and Gas; DNR Division of Forestry; DNR Division of Parks and Outdoor

Preliminary Decision

Square Island Subdivision – ADL 109029

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Recreation; Alaska Department of Transportation & Public Facilities; Alaska Mental Health Trust Land Office; and, DNR Division of Geological & Geophysical Surveys.

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

Alaska Department of Fish and Game, Division of Wildlife Conservation (ADF&G) Comment: ADF&G states that hunters and trappers do not intensively use Square Island, likely due to exposure. The surrounding area has a sea cucumber fishery and numerous anadromous water bodies that empty into Spacious Bay from Cleveland Peninsula. Two harbor seal haulouts exist approximately 350 meters offshore of the northeast side of the island and four more are within Spacious Bay, however, these are not considered key haulouts. Increased boat and aircraft traffic near these haulouts can potentially disturb seals. ADF&G recommends maintaining a minimum altitude of 457 meters when traveling over by aircraft and a minimum distance of 500 meters by watercraft.

ADF&G states that the proposed subdivision would not likely produce a significant impact to fish and wildlife resources or public access to them. However, ADF&G recommends retaining portions of the shoreline in state ownership as well as dedicating several public access easements from the shoreline to the interior of the island to support public access. In addition, ADF&G recommends retaining a portion of the northeast shore of the island within at least 500 meters of the mentioned harbor seal haulouts.

DNR DMLW LCS Response: LCS appreciates your review of this proposal. LCS intends to create several public access corridors from the shoreline to the interior through subdivision design. This land will be retained in state ownership. In addition, LCS will also consider the recommended 500-meter buffer from the harbor seal haulouts adjacent to the island during subdivision design.

DNR Division of Parks and Outdoor Recreation, Office of History and Archaeology (OHA) Comment: The Alaska Heritage Resources Survey (AHRS) database indicates a potential location of interest within the proposed project area.

DNR DMLW LCS Response: LCS will coordinate with OHA and alter subdivision design to limit impact to cultural resources within the project area. Any identified locations of interest will be retained in state ownership.

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

- Department of Environmental Conservation;
- Department of Natural Resources;
 - Division of Agriculture;
 - Office of Project Management and Permitting; and
 - State Pipeline Coordinator's Section;
- Alaska Railroad;
- Alaska Soil and Water Conservation Districts; and,
- University of Alaska Land Management.

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Square Island Subdivision – ADL 109029

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XVI. Submittal of Public Comments

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

Pursuant to *AS 38.05.945 Notice*, LCS is issuing public notice inviting comment on this Preliminary Decision, draft Area Plan Amendment, draft Land Classification Order, 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 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, draft Area Plan Amendment, draft Land Classification Order, 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.

If the proposals are approved and no significant change is required, the Preliminary Decision, draft Area Plan Amendment, draft Land Classification Order, 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, CSSEAP Amendment No SE-00-001A08, Land Classification Order CL SE-00-001A08, and Mineral Order 1234 without further notice. All related actions will be developed separately. However, approval of any action is dependent upon one another. One action will not proceed without approval of all actions.

Only persons from whom LCS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the Final Finding and Decision, CSSEAP Amendment No SE-00-001A08, Land Classification Order SE-00-01A08, and Mineral Order 1234. Upon approval and issuance of a Final Finding and Decision and these actions, a copy of the decision, orders, and amendment 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.

LCS 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 B: Public Notice*.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS
5:00 PM, TUESDAY, OCTOBER 27, 2020**

XVII. Alternatives and Discussion

LCS is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of up to 40 parcels no smaller than one acre and offer those parcels for sale. The development and offering of

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Square Island Subdivision – ADL 109029

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these parcels may be completed in multiple stages. This proposal includes amendment to the CSSEAP, Land Classification Order, and mineral order.

Alternative 2: (No Action) 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 for recreation. This proposal, if approved in a subsequent Final Finding and Decision, will allow LCS 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 more Alaskans to purchase land within this area. Due to the recreation amenities of the area, views, waterfront access, and location relative to the community of Ketchikan, the project area is better suited to subdivision prior to offering. Alternative 1 is preferred.

The related actions are necessary to allow for the offering of the project area. The primary action and related actions are dependent upon one another, and if DNR does not approve the project, the related actions will not be processed.

Alternative 2 does not meet the legislative and public desire for DNR to offer State-owned land for private ownership. Retention of this land would inhibit DNR 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 was selected by the State as a sufficient area to support a future remote community. Alternative 2 is not preferred.

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

Recommendation follows.

Preliminary Decision

Square Island Subdivision – ADL 109029

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XVIII. Recommendation

This Preliminary Decision for the proposed disposal of State lands, CSSEAP Amendment No SE-00-001A08, Land Classification Order CL SE-00-001A08, and Mineral Order 1234 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, CSSEAP Amendment No SE-00-001A08, Land Classification Order CL SE-00-001A08, and Mineral Order 1234. If the decision is approved, CSSEAP Amendment No SE-00-001A08, Land Classification Order CL SE-00-001A08, and Mineral Order 1234 will accompany and precede any Final Finding and Decision issued.

Signature on file

Prepared by: John King
Natural Resource Specialist III
Land Conveyances Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

9/22/2020

Date

Signature on file

Approved by: Tim Shilling
Natural Resource Manager II
Land Conveyances Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

9/22/2020

Date

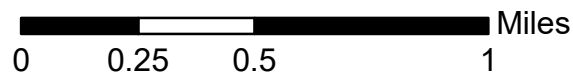


Attachment A: Vicinity Map Square Island Subdivision ADL 109029



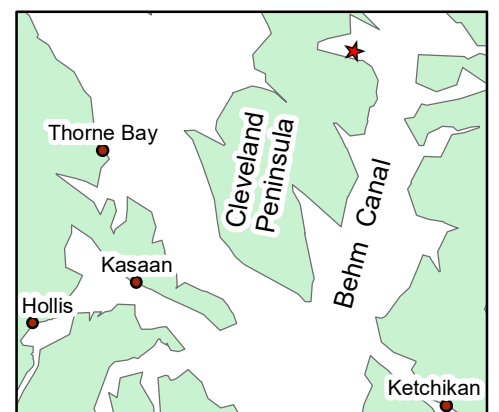
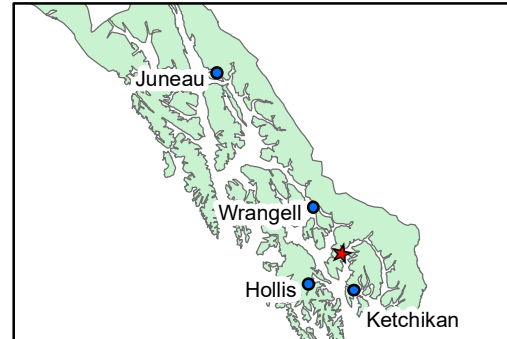
Legend

- Project Area
- ADL 106307; ASLS 98-7



Sections 29-32, T69S, R89E excluding ASLS 98-7; Sections 25 & 36, T69S, R88E, Copper River Meridian

JDK 8/10/20



USGS QUAD 1:63,360
 Ketchikan (D-6), Alaska
 For more information contact:
 John King
 Department of Natural Resources
 Division of Mining, Land, and Water
 Land Conveyance Section
 Phone 907.465.3511
 Fax 907.500.9011
 Email: land.development@alaska.gov

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

ATTACHMENT B: PUBLIC NOTICE

Requesting Input for a Proposed Land Offering:
Square Island Subdivision – ADL 109029

COMMENT PERIOD ENDS 5:00PM, TUESDAY, OCTOBER 27, 2020

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

Location: Square Island, approximately 35 miles north of Ketchikan within Sections 25 and 36, Township 69 South, Range 88 East, and Sections 29, 30, and 31, Township 69 South, Range 89 East, Copper River Meridian, within the Ketchikan Gateway Borough (KGB).

Project size: Approximately 336 acres with 150 acres proposed development area

Proposed Offering: up to 40 parcels no smaller than one acre

To obtain a copy of the Preliminary Decision, Mineral Order, Land Classification Order, Area Plan Amendment, 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, October 20, 2020.

Pursuant to *AS 38.05.945 Notice*, the public is invited to submit comment on the Preliminary Decision, Mineral Order, Land Classification Order, and/or Area Plan Amendment 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, OCTOBER 27, 2020.** Only persons from whom DNR DMLW LCS 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 email, fax, or postal mail. To submit comments or for direct inquiries, contact John King, Natural Resource Specialist III: land.development@alaska.gov, fax # 907-500-9011, or P.O. Box 111020 Juneau, AK 99811. If you have questions, call John King at 907-465-3511.

DNR will be holding a Public Meeting to discuss the proposal and share information about the project area. The Public Meeting will be held from 5 p.m. – 7 p.m. on Thursday, October 1, 2020 at The Landing Hotel (3434 Tongass Avenue Ketchikan, Alaska 99901) in the banquet room adjacent to Jeremiah's lounge. Use of face masks or face coverings is strongly encouraged for attendees.

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, Mineral Order 1234, Land Classification Order CL SE-00-001A08, and Area Plan Amendment SE-00-001A08, without further notice. A copy of the Final Finding and Decision and related actions will be sent to any persons who commented timely on the Preliminary Decision.

Attachment B: Public Notice

Square Island Subdivision – ADL 109029

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

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

MINERAL ORDER No. 1234

 X Closing Lands to Mineral Entry _____ Opening Lands to Mineral Entry

- I. Name of Mineral Order: Square Island Subdivision – ADL 109029

- II. Reason for Mineral Order: This Mineral Order is based upon the attached *Commissioner’s Administrative Finding*, applicable statutes, and the written justification contained in the following:
Central/Southern Southeast Area Plan Amendment SE-00-001A08 (adopted 2021)
Preliminary Decision, Square Island Subdivision – ADL 109029, September 22, 2020 and the subsequent Final Finding and Decision for same.

- III. Authority: AS 38.05.185 and AS 38.05.300.

- IV. Location and Legal Description: Located within DNR’s Southeast Region, approximately 35 miles north of Ketchikan within Sections 25 and 36, Township 69 South, Range 88 East, and Sections 29, 30, and 31, Township 69 South, Range 89 East, Copper River Meridian, within the Ketchikan Gateway Borough (KGB), First Judicial District, Alaska, more specifically described as:

Tract B, Township 69 South, Range 88 East, Copper River Meridian, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, officially filed on June 24, 2002, containing 8.42 acres, more or less; and that portion of Tract A, Township 69 South, Range 89 East, Copper River Meridian, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, officially filed on July 01, 2002, excluding ASLS No. 98-7, recorded November 20, 1998 as Plat No. 98-59, Ketchikan Recording District, containing 327.88 acres, more or less. The areas described aggregate 336.3 acres.

- V. Mineral Order: This order is subject to valid existing rights and is issued under the authority granted by AS 38.05.185 – AS 38.05.275 and AS 38.05.300 to the Alaska Department of Natural Resources. In accordance with AS 38.05.185(a), I find that the best interests of the State of Alaska and its residents are served by closure of the land described in this mineral order to entry under mineral location and mining laws of the State of Alaska. The above described lands are hereby **closed** to entry under the locatable mineral and mining laws of the State of Alaska.

Concur: /s/ Martin W. Parsons
Martin W. Parsons, Director
Division of Mining, Land and Water
Department of Natural Resources

 August 26, 2021
Date

Approved: /s/ Corri A. Feige
Corri A. Feige, Commissioner
Department of Natural Resources

 August 26, 2021
Date

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

**ADMINISTRATIVE FINDING
MINERAL ORDER NO. 1234
Closing Lands to Mineral Entry**

SQUARE ISLAND SUBDIVISION

Pursuant to AS 38.05.035, the State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water proposes to issue an Area Plan Amendment in order to potentially convey State-owned land into private ownership within the Square Island project area (ADL 109029). As noted in the Preliminary Decision – Proposed Land Offering Square Island Subdivision – ADL 109029, issued September 22, 2020, the project area is within Region 5, Ketchikan - Cleveland Peninsula, Management Unit C-02 of the *Central/Southern Southeast Region Area Plan*. In accordance with the area plan amendment, DMLW proposes to close the entire project area to mineral entry. The attached mineral order includes the legal description of area to be closed to mineral entry.

The Division of Mining, Land, and Water requests the mineral estate of approximately 336.3 acres, identified in the attached mineral order, be closed to mineral entry and location, in accordance with AS 38.05.300 for a land disposal. Mining activity on the project area would be incompatible with the current and proposed land estate uses. The land does not contain any known mineral deposits and was not selected for mineral values. There are no mining claims on the land.

Public notice of the comment period for the proposed mineral order was conducted in accordance with AS 38.05.945. The Department did not receive objections or comments regarding the proposed mineral order from the public or agencies during the comment period.

In accordance with AS 38.05.185 (a) and AS 38.05.300, I find that the best interests of the State of Alaska and its residents are served by closure of the land to entry under the mineral location and mining laws of the State of Alaska as described by Mineral Order (Closing) No. 1234.

Approved: /s/ Corri A. Feige
Corri A. Feige, Commissioner
Department of Natural Resources

August 26, 2021
Date

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

CENTRAL/SOUTHERN SOUTHEAST AREA PLAN AMENDMENT
SE-00-001A08

Region 5, Ketchikan - Cleveland Peninsula, Management Unit C-02
Square Island

related to the
Square Island Subdivision – ADL 109029

The Commissioner of the State of Alaska, Department of Natural Resources (DNR) finds that the following amendment to the Central/Southern Southeast Area Plan, described more fully in the Attachment, meets the requirements of *AS 38.04.065 Land Use Planning and Classification* and *11 AAC 55.010-030(f) Land Planning and Classification* for land use plans and hereby adopts the amendment. The Department of Natural Resources will manage state lands within the area of the revision consistent with this designation and management intent.

- Designation: Change from General Use to Settlement/Settlement Commercial for management unit C-02.
- Management Intent: This parcel is to be managed for remote settlement for both residential and commercial recreational uses with the goal of providing private and commercial parcels. The parcel should be closed to mineral entry prior to disposal.

Approved: /s/ Corri A. Feige
Corri A. Feige, Commissioner
Department of Natural Resources

August 26, 2021
Date

ATTACHMENT

to the
CENTRAL/SOUTHERN SOUTHEAST AREA PLAN AMENDMENT
SE-00-001A08

Region 5, Ketchikan - Cleveland Peninsula, Management Unit C-02
Square Island

related to
Square Island Subdivision – ADL 109029

Location and legal description: Located within DNR's Southeast Region, approximately 35 miles north of the Ketchikan in Spacious Bay on the east side of Cleveland Peninsula, more specifically described as:

Tract B, Township 69 South, Range 88 East, Copper River Meridian, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, officially filed on June 24, 2002, containing 8.42 acres, more or less; and that portion of Tract A, Township 69 South, Range 89 East, Copper River Meridian, according to the plat accepted by the United States Department of the Interior, Bureau of Land Management, officially filed on July 01, 2002, excluding ASLS No. 98-7, recorded November 20, 1998 as Plat No. 98-59, Ketchikan Recording District, containing 327.88 acres, more or less. The areas described aggregate 336.3 acres.

Authority: The authority to revise plans derives from *AS 38.04.065(b) Land Use Planning and Classification. 11 AAC 55.030(f) Land Use Plan* defines when a revision constitutes a plan amendment.

Current Plan: Lands within this unit are currently designated General Use. The management intent for the unit provides that the parcel is to be managed for dispersed recreation and that only limited development activities may be authorized except for development activities related to public safety and recreation. The management intent further states that the appropriateness of the unit for remote settlement and timber harvest shall be reassessed during the next plan update or at the time that a revised Forest Plan is prepared by the National Forest Service (pg. 3-275, CSSEAP).

Proposed Plan Amendment: DNR proposes to amend the Central/Southern Southeast Region Area Plan (CSSEAP, adopted 2000) to change the designation of Unit C-02 from General Use to Settlement and Settlement Commercial, and the classification from Resource Management Land to Settlement Land. The management intent will be changed to state that residential and commercial recreational uses are appropriate and that the land be closed to mineral entry prior to disposal.

Explanation: The CSSEAP was adopted in 2000. The current plan is past the projected 20-year planning period, and the timing is appropriate for update. The management intent for the subunit states that it should be managed for dispersed recreation during the planning period with the appropriateness of development to be re-evaluated during the next plan update. The management intent states that the re-evaluation shall reassess the appropriateness of remote

settlement and timber harvest. Most of the timber is located close to shoreline with very sparse tree coverage in the island interior. The parcel was selected by the State under National Forest Community Grant (NFCG) 283 and intended for remote settlement. There is a demand from the public for both commercial and private remote recreational settlement land in the area. The unit is in relatively close proximity to the city of Ketchikan, contains quality land suitable for settlement, and sale of land within the area would help meet the demand for purchasing land and provide revenue to the State.

Division/Agency Reviews: No objections were received to this area plan amendment. Division of Forestry did not have any concerns with the area plan amendment. Area plan management guidelines provide that mining operations are judged to be incompatible with future settlement and settlement related activities. Therefore, this parcel will be closed to Mineral Entry with Mineral Order No. 1234.

Assessment: The following alternatives are being considered:

1. (Preferred) Amend Central/Southern Southeast Region Area Plan as described above to change the designation to Settlement/Settlement Commercial, change the classification from Resource Management Land to Settlement Land, and update the management intent. Amending the plan is the preferred alternative as it will allow the sale of settlement-designated land, providing the public an opportunity to obtain property in a desirable area for settlement or commercial purposes.
2. (No action) Do not amend Central/Southern Southeast Region Area Plan. This alternative is not preferred as it would disallow the offering of settlement/settlement commercial-designated land and deny many Alaskans the opportunity to obtain land in this area.

Requirements of AS 38.04.065 (b): The factors identified in this section of statute have been considered and the proposed action is consistent with that portion of the statute.

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

LAND CLASSIFICATION ORDER
NO. CL SE-00-001A08

Related to the Square Island Subdivision - ADL 109029

- I. Name: Square Island Subdivision
- II. The classifications in Part III are based on written justification contained within the following:
- a Preliminary Decision for the Proposed Square Island Subdivision within an Organized Borough, dated September 22, 2020; and
 - an Amendment to the Central/Southern Southeast Region Area Plan No. SE-00-001A08.

III.	<u>Legal Description</u>	<u>Acreage</u>	<u>Acquisition Authority</u>	<u>Existing Classification</u>	<u>Classification by this Action</u>
	Tract B, Township 69 South, Range 88 East, Copper River Meridian; & Tract A, Township 69 South, Range 89 East, Copper River Meridian, excluding ASLS 98-7; as depicted on the attached map.	336 acres	NFCG 283	Resource Management	Settlement

- IV. This order is issued under the authority granted to the Commissioner of the Department of Natural Resources by *AS 38.04.065 Land Use Planning and Classification* and *AS 38.05.300 Classification of Land*. The above described lands are hereby designated and classified as indicated. Nothing shall prevent the reclassification of these lands if warranted in the public interest.

Approved: /s/ Corri A Feige
Corri A. Feige, Commissioner
Department of Natural Resources

August 26, 2021
Date