

## FINAL FINDING AND DECISION

### CONVEYANCE OF STATE REPLACEMENT LAND TO THE MENTAL HEALTH TRUST AUTHORITY ADL 229606

June 12, 2006

This final finding and decision (FFD) complements and updates the Preliminary Finding and Decision (PFD) for this action dated December 7, 2005.

**Action:** This final finding and decision finds that it is in the best interest of the state to convey certain state lands to the Mental Health Trust Authority (Trust Authority) under the state's obligations in the Settlement Agreement<sup>1</sup> (Settlement Agreement) between the state and mental health litigants and to create a reserve of additional state land to be used in the event that additional Mental Health Trust Land (Trust Land) parcels are found to be encumbered. Land in this reserve will not to be conveyed until a need for it is established through the discovery of additional parcels of Mental Health Trust Land (Trust Land) that were conveyed in error by the state or that are determined to contain hazardous substances.

This decision also establishes a priority sequence for the conveyance of state land parcels. Table 1 lists the parcels that are to be conveyed to the Trust in fulfillment of the state's current obligations under the Settlement Agreement. These parcels have a total value of \$5.2 million. Additional parcels that may need to be conveyed to the Trust that are part of this reserve are listed in Table 2. DNR will determine when and if additional state land in this reserve is necessary to be conveyed to the Trust under the standards adopted by DNR and the Trust for this determination.<sup>2</sup> These parcels have a value of \$0.79 million.

The 'Description' section provides more detail on the proposed conveyance process and an explanation of the state's obligation to the Trust under the Settlement Agreement.

This action is contingent upon the amendment of several Department of Natural Resources (DNR) area plans and the reclassification of some land through a Land Classification Order. A Mineral Order (1054) also accompanies this action, closing the lands that are the subject of this decision to mineral entry exploration and development under AS 38.05.185. The Plan Amendments, Land Classification Order, and Mineral Order are approved by the Commissioner. Plan Amendments, the Land Classification

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<sup>1</sup> Settlement Agreement (Civil case no. 4FA-82-2208 in the Superior Court of the Fourth Judicial District. (June 10, 1994)

<sup>2</sup> 'Replacement Land Process, Section V. (January 5, 2000)

Order, and the Mineral Order are described in more length in a subsequent section of this FFD.

**Authority:** Lands are to be conveyed to the Trust in accordance with Section 40, Chapter 5, FSSLA (1994) as amended by Sections 4 and 5, Chapter 1, SSSLA 1994; Article III(c) of the Settlement Agreement; and AS 38.05.035(e).

**Administrative Record:** The administrative record includes parcel files of each tract of state land under consideration for conveyance. Also incorporated by reference are applicable DNR area plans, the Settlement Agreement between the state and the Settling Plaintiffs (June 1994), Department Order #142 (Management of Mental Health Trust Land), and Replacement Land Process (January 2, 2000) between the Division of Mining, Land, and Water and the Trust Land Office. This information is available in the Resource Assessment and Development Section in the Division of Mining, Land, and Water.

**Scope of Decision:** The scope of this decision is limited to deciding if it is in the best interest of the state to convey certain lands, or interests in land, to the Trust in order to satisfy the state's obligation to compensate the Trust for parcels conveyed in error or that contain hazardous substances. It also includes the determination of whether it is in the state's best interest to pre-identify additional state lands for possible conveyance to the Trust if it is later determined that additional Trust land contains hazardous substances or were conveyed in error during the settlement process and therefore require replacement in value.

**Discussion/Public Notice:**

Discussion. The purpose of this decision is to convey state land to the Trust in fulfillment of the obligations set by the Settlement Agreement.

The Settlement Agreement requires the state to compensate the Trust Authority for lands conveyed to the trust in error or that contain hazardous materials. This Agreement anticipated that, owing to the large number of parcels that were being conveyed under the settlement legislation in 1994 (about 4,900 parcels), that errors in conveyance were likely, and, as the Trust Authority developed its land, parcels with hazardous materials would be found that were not known in 1994. The Settlement Agreement provided for the replacement of Trust Land by state land where these conditions were found to exist. The basis for replacement was to be the market value of the Trust Land, except for mineral estate parcels where both parties agreed to accept Replacement Land on a like-kind, similar location basis. Additional parcels were determined by the state and Trust Authority to meet the conditions of the Settlement Agreement subsequent to the 1994 settlement legislation, and DNR issued a FFD in October 1998 that provided for the conveyance of about 40 parcels to the Trust Authority, estimated to be worth \$0.7 million. Since the 1998 decision, additional parcels of Trust Land have been found to be similarly encumbered. The value of these parcels is estimated at \$5.272 million and this decision compensates the Trust for that amount.

The PFD identified 66 parcels of state land Nominated Replacement<sup>3</sup> Land (NRL) for the purpose of meeting this obligation. These parcels of state land consist of the fee estate, mineral estate, or the hydrocarbon portion of the mineral estate, with most of this acreage associated with the mineral estate (6,400 acres) and the fee estate (7,404 acres). The two mineral estate parcels are situated west of the Nenana area while the fee estate parcels are scattered throughout the Northern, South-central, and Southeastern parts of the state. The single parcel involving the selection of the hydrocarbon portion of the mineral estate is located in the Knik area, north of Anchorage, and consisted of 2,236 acres. The value of the proposed NRL parcels identified exceeded the value of the former Trust land that is being returned to DNR by about \$1.15 million. NRL fee estate parcels were estimated to have a value of \$6.42 million and the value of the Trust land being returned was estimated at \$5.272 million. (The value of the NRL replacement parcels has since been lowered to \$5.2 million.) The PRD proposed to select, following public and agency review and consultation with the Mental Health Trust Land Office (TLO), those parcels of Replacement Land<sup>4</sup> for immediate conveyance to the Trust Authority that equal the value of the former Trust land (\$5.2 million). These parcels were to be conveyed to the Trust within a five-year period from the date of approval of the Final Finding and Decision.

The PFD also identified parcels for potential conveyance to Trust over an eight year period if more Trust Land is determined to contain hazardous substances or have been conveyed in error. The value of these Potential Replacement Land (PRL)<sup>5</sup> parcels was estimated at approximately \$1.152 million. (This value has since been revised, to \$0.79 million.) Since 1998, numerous additional parcels of Trust Land were found to have been conveyed in error or to contain hazardous materials, and therefore it is almost certain that some of the PRL reserve will need to be used.

Public Notice The PFD was advertised in papers throughout the state, notices were posted in post offices and community buildings, and the PFD document was sent to government agencies (local and state), Native organizations (regional and village corporations), potentially affected interest groups and organizations, community libraries,

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<sup>3</sup> Nominated Replacement Land: Land (fee estate, mineral estate, or the hydrocarbon portion of the mineral estate) nominated by DNR or the TLO with the intention of being used to compensate the Trust for designated mental health parcels previously determined to have been improperly conveyed or to contain hazardous materials.

<sup>4</sup> Replacement Land: Land (fee estate, mineral estate, and the hydrocarbon portion of the mineral estate) that have been accepted by DNR in a Final Finding and Decision that are to be used to compensate the Trust for designated mental health parcels previously determined to have been improperly conveyed or to contain hazardous materials. Replacement Land will be conveyed to the Trust within a 5-year period from the date of approval of the Final Finding and Decision.

<sup>5</sup> Potential Replacement Land: Land (fee estate, mineral estate, and the hydrocarbon portion of the mineral estate) that have been accepted by DNR in a Final Finding and Decision that may be used to compensate the Trust for mental health parcels determined to have been improperly conveyed or to contain hazardous materials within a eight year period from the date of the approval of the Final Finding and Decision that is issued by DNR.

and certain individuals. Comments were received from the Alaska Department of Transportation, DNR Division of Forestry, the City of Nenana, the Hollis Community Council, and a number of individuals.

The responses that follow are organized by region and by parcels within a region.

### Northern Region

F33021. *Issue:* According to the City of Nenana, this parcel is owned entirely by the Nenana Port Authority. The land was deeded to the City of Nenana in 1987 and it covers lot 7 and lot 11 of Section 15 and lot 7 of Section 14 within FM T4S R8W.

*DNR response:* DNR has confirmed that this parcel is owned by the Nenana Port Authority and it has been dropped from the Replacement Land pool.

F33022. *Issue:* The land that this parcel occupies is directly over the Nenana-Kantishna trail. The City is not opposed to this transfer but is concerned that the public use of this trail is protected.

*DNR Response:* This trail will be protected as part of the conveyance of the parcel to the Trust.

F33027 and F33024. *Issue:* The land that these parcels occupy is primarily used for subsistence and traditional use by indigenous residents of the area. The City is not opposed to the transfer but wishes to convey the opinion that the Totchaket Slough area has high potential for recreational/seasonal cabin locations and recommends that it remain under DNR control for that use.

*DNR Response:* These parcels involve the mineral estate (only) and therefore the issue of use conflict is moot. Moreover, DNR must balance its obligations under the Settlement Agreement to provide land to the Trust with the need to provide land for land disposals. In discussions with the Land Contracts and Land Sales Section of the Division of Mining, Land, and Water (DMLW), it is apparent that DNR will be providing land to the public at various rural locations throughout the state. Some of this land may be available near the Nenana area. Given that other land is available for the purposes, it is in the best interest of the state to provide this land to the Trust in fulfillment of our obligation.

### Southcentral

No comments were received.

### Southeast

C32029. *Issue:* The Division of Forestry objected to the conveyance of this parcel to the Trust. It is an essential part of the state's timber sale program in southern Southeast Alaska. Ten timber sales have been designated, laid out on the ground, and they have

completed public review. This sale is also part of the Division's long-term timber base and any reduction in the timber base reduces their sale program and directly impacts local processors who depend on this timber.

*DNR Response:* The Division of Forestry and the TLO have agreed on a set of conditions under which conveyance of this part to the Trust would be acceptable. The conditions follow:

- The state would retain the timber rights on this parcel and access to the parcel for the purposes of timber management.
- Other rights would be conveyed to the Trust.
- The retention of timber rights and rights to access the timber will be reviewed periodically (every 20 years). If the state determines that it is no longer necessary to retain these rights, they would be conveyed to the Trust.
- Trust authorizations for access to this parcel would be subject to state-concurrence, including consideration of compensation to the state for future use of state-constructed roads.
- Trust authorizations for other development of this parcel would be subject to state concurrence to minimize or avoid conflicts with the state's exercise of its timber rights.

These conditions are included as stipulations in this decision.

C32015. *Issue:* The Hollis Community Council is opposed to the conveyance of this parcel to the Trust. This parcel, which includes the uplands of the western half of Cat Island, is an integral part of the Harris River estuary, and should not be developed. The parcel is affected by a land use designation of Undeveloped Recreation in the Prince of Wales Island Area Plan and development of this portion of the island would be inconsistent with this plan designation. It is a roosting area for bald eagles, bears frequent the parcel in the summer during the salmon runs, and wolves migrate from the upland areas to the Island in the winter. Large flocks of ducks and geese winter over in the tidelands adjacent to the island. Further encroachment onto this habitat would be detrimental to the wildlife and waterfowl in the area. Moreover, residents that live in the residential area to the west do not want to see the island clear cut for timber harvest and converted to a lodge, as suggested by some members of the community as a likely development possibility. Any development on the west side of the island would destroy the aesthetic beauty, serenity, and solitude of the entire area. Residents from the community use this parcel on a year-round basis and the Trust has been shown, in its interaction with the community, that they do not have the interests of the Hollis community at heart. A number of individuals had similar comments to those of the community Council.

*DNR Response:* To address these concerns, we contacted the TLO to get an idea of what their development plans might be for this area, to get a sense of what type of impacts might accrue from development of the west side of Cat Island. (The Trust already owns the east half of the island, and they have no current development plans for this area.) If

the Trust were to acquire this parcel, it is not entirely certain what the eventual use would be, but their sense was that either a lodge would be a possibility or a large lot residential development. A lodge would occupy a specific site on the island and leave the majority of the remainder in its natural state; large lot residential development can be expected to occur along the coast and would probably result in some thinning for building lots. The TLO has stated that the island (the existing Trust land subject to this decision) will not be clear-cut. Due to decline in the export timber market and the likelihood that the high value trees have already been harvested (the Hollis area was logged in the 1950s) timber harvest of the island would not result in the greatest revenue return to the Trust.

Assuming that this is the most likely form of development, we believe that:

- The impact to bear and wolf populations would be largely unaffected since this area occupies only a very small portion of their range. Both species are transitory in their use of this habitat.
- Impacts to the tidelands from either form of development should not affect winter duck and geese concentrations since, as indicated, these birds use the tidelands. Additionally, the type of development envisaged by the Trust should not significantly increase the level of adverse effects upon waterfowl above those that might result from the existing residential development situated to the west. Other forms of impacts to the tidelands from development are not expected. ADEC regulations control on-site waste disposal. DNR controls tideland use.
- The nesting tree used by bald eagles is protected by federal statute and, in the Southeast; a radius of 330 feet is to be left undisturbed around a tree of this type. Activities that might affect nesting bald eagles are not permitted.
- Although there may be some disturbance of the view shed by residents situated east of the island, the amount of disturbance by either form of development should be minimal. In the case of residential development, local residents would be viewing similar types of development to those that now exist for those residents.

DNR must balance these concerns against land management and other considerations.

- The effects of the two forms of possible development are low and not appreciably different from other forms of development in the Hollis area.
- The Trust now owns the east half of the Island and this would complement their holdings in this area. Management of this isolated area would no longer be the responsibility of the state.
- The parcel has an estimated value of \$141,700, which, relative to other state parcels that are being considered for replacement land, is quite high and therefore the contribution of this parcel to the resolution of the state's financial obligation is significant.
- There are other state lands both west and south of Cat Island, which are intended to be retained by the state and can be used more effectively than Cat Island for recreation and habitat. These have better access for pedestrian use.

Taking these factors into consideration, DNR determines that it remains appropriate to convey this parcel to the Trust.

C30019.001<sup>6</sup> *Issue (Hollis Community)*: The Hollis community wants to acquire this parcel to provide an area for basic facilities and emergency services to Hollis and the surrounding communities. A heliport and fire station would be located there, and they view this site as necessary to have a “truly viable community. It is the key to our future.” They maintain that this site is the ‘hub of our community’, being close to the existing public school and community library. They believe that having this site would encourage Hollis to become a second-class city. In addition, Alaska Marine Lines, which previously leased this area, was concerned that this area, if transferred to the Trust, might not be used for industrial purposes and that the Trust might not be willing to enter into a commercial lease for this area. ADOT/PF had a similar concern. ADOT/PF would like DNR to remove approximately 0.3 acres from the proposed conveyance, in order to accommodate an unforeseen demand for an additional staging area. A staging area in close proximity to the barge landing area is necessary in order to stock pile materials taken off the barge until they can be transported to their destination. Finally, concern was expressed over the loss of this site since, lacking this area, there would be insufficient space for equipment and commodities that are barge landed or loaded and insufficient area for staging and parking.

*DNR Response*: In discussion with TLO on this issue they are relatively certain that this area, if acquired by the Trust, would be used for continued commercial and industrial purposes. Part of the intent for acquiring this parcel, according to the TLO, was to get more space and develop this parcel area with the area to the west that they own. This should resolve the concerns over sufficient operational area and whether the area is to be used for commercial and industrial purposes. The Trust regularly enters into commercial leases with private entities and can do the same for the 0.3 acre area that ADOT/PF would like to use. The concerns by the Hollis community are partly valid, but the use of this area for commercial purposes in the future would not create that much more traffic or noise than the uses that have historically occurred there. There is also substantial distance separation from this parcel and the public school/library<sup>7</sup>. There have been discussions between DNR and the Hollis community over the use of state land for an emergency services facility, and it would appear that an alternative site exists for the placement of EMS and a fire station.

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<sup>6</sup> This parcel is located in central Hollis and has served over the years as a site for the storage of equipment for commercial and industrial uses. It has been previously leased by Alaska Marine Lines for the purpose of accommodating equipment or commodities that are barged loaded or landed. The parcel is developed and is separated from the Hollis school/library by a two-lane road and a large parcel of federal land. The Trust owns the western half of the small peninsula that the parcel occupies.

<sup>7</sup> This parcel is not located adjacent to the public school/library – a large parcel of federal land separates this parcel from the school/library. The distance is about 1200 feet and there is a 30 foot differential in elevation.

Other considerations bear upon this decision. This parcel was originally nominated as Replacement Land by the Trust in 1998 and was to be conveyed to the Trust at that time when hazardous materials were discovered on site. Subsequently, a hazardous materials evaluation was prepared, resulting in the confirmation of the presence of such materials and the subsequent remediation of the site and its availability for conveyance to the Trust<sup>8</sup>. The first DNR decision was valid until November, 2003. Under this decision DNR was to convey this parcel to the Trust and it was segregated from other state land for this purpose, but there was insufficient time to do so under the then current decision. Recognizing that the authority to convey the parcel would lapse in 2003, the Trust initiated a new Nominated Replacement Land list<sup>9</sup> in November 2002 that continued the previous NRL nomination. Thus, since 1998 this parcel has been intended to be conveyed to the Trust and would have been except for the discovery of hazardous materials, which required a lengthy evaluation and precluded its scheduled conveyance in 1998. Under the terms of Department Order 142, DNR cannot dispose of state land designated Replacement Land to other entities except with the concurrence of the Trust Authority.

Because this parcel has been segregated as Replacement Land for the purpose of conveyance to the Trust Authority from 1998 onwards, the Trust undertook and paid for the environmental study, an alternative EMS/Fire Station site exists that can be used by the Hollis community, and commercial and industrial uses have occupied this site historically, DNR determines that it is appropriate to convey this parcel to the Trust.

**Traditional Use Finding:** Parcels not located within organized boroughs include those near Paxson, Nenana, Jarvis Creek (south of Delta Junction), and at a number of locations on Prince of Wales Island. Little conflict with traditional uses is expected since most parcels are located within or near established communities, specifically at Hollis, Nenana, Paxson, and Thorne Bay. Traditional uses tend to occur in the areas adjacent to the parcels in the Southcentral and Northern regions and on the more remote uplands on Prince of Wales Island. Also, the two large parcels west of Nenana are mineral estate only, which effectively eliminates any concerns associated with use conflicts.

**Planning and Classification:** The decision to convey land to the Trust Authority is contingent, for some parcels, upon the amendment of area plans and the classification/reclassification of state land to conveyable categories. Parcels that require an amendment to an area plan or that require classification or reclassification are identified in Attachment A, 'Plan Amendment and Classification Order'. Plan Amendments include changes to a plan designation, management intent statement, management guideline, or some combination of the three. Amendments to current Land Classification Orders include, for the most part, changes in classification to Settlement, but several South-central Alaska parcels are not now classified and require classification prior to disposal.

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<sup>8</sup> The Trust funded this environmental evaluation.

<sup>9</sup> Attachment to 'Process to Revise Replacement Land List: Mental Health Trust Land', dated November 29, 2002.



Depending on the situation, a parcel may require revision to a plan designation, land classification, and/or management intent language. In the Attachment, plan amendments are organized by area plan, whereas parcels requiring classification or reclassification are organized by parcel number by meridian (Seward, Copper River, and Fairbanks). In most instances, a plan amendment to change a plan designation and a reclassification to a use consistent with this designation is required; relatively few parcels require a revision to management intent language. The plan amendment and changes to classification orders only affect a specific parcel; they don't apply to other areas within an area plan or to other areas affected by a current Land Classification Order.

The requirements of AS 38.04.065(b) have been considered as they apply in this decision. DNR has considered the social, physical, and economic factors that affect the areas associated with Nominated Replacement Land. Issues not specifically germane to this decision were also considered, as required under AS 38.05.035(e)(2), and are discussed in the 'Discussion/Public Notice' section of this decision.

**Mineral Order:** Department Order 142 requires DNR to close Replacement Land to new mineral entry and location until conveyed to the Trust. The purpose of this closure is to ensure that nuisance claims are not filed whose effect would be to diminish the ability of DNR to convey lands approved for conveyance in this Decision. The mineral order does not affect existing mining claims.

Mineral Order 1046, attached, closes Replacement Land and Potential Replacement Land to mineral entry and location until conveyed to the Trust. Thereafter, mineral exploration and development will follow the requirements for the management of Trust Land under 11 AAC 99.020 and the specific requirements for mineral exploration and development under 11 AAC 99.100 (Mining Rights). This mineral order supersedes previous Mineral Orders already imposed. The authority for DNR to close areas necessary for land disposals or land exchanges is provided under AS 38.05.300(a)(2).

### **Stipulations Affecting Parcels:**

This decision maintains the requirements of the original mental health legislation which provided that "All land designated as Mental Health Trusts land ... remains subject to all encumbrances or interests of record, noted on records maintained by the Department of Natural Resources, or otherwise existing on the effective date of this section."<sup>10</sup> Land to be conveyed to the Trust as Replacement Land is subject to the following General Stipulations and to all Specific Parcel Stipulations. Table 3 lists all known encumbrances or interests of record at the time of this decision. These are to be maintained in DNR Land Administration System records.

### **General Stipulations**

The conveyance of state land to the Trust Authority is subject to the following general restrictions:

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<sup>10</sup> Section 40(2)(b) of SCS CSHB 201(FIN), 1994 SLA CH. 5 (1<sup>st</sup> SS). June, 1994.

1. A public access easement, 50 feet wide, upland of and along the ordinary high water mark of all navigable and public waters pursuant to AS 38.05.127 and 11 AAC 51.035.
2. Easements, right-of-way or other access under former 43 U.S.C. 932 (Sec. 8, Act of July 26, 1866, 14 Stat. 253 and any interests transferred to the state under the authority of the Alaska Omnibus Act (Omnibus Roads). All RS2477 rights-of-way are subject to a 100-foot wide easement.
3. Reservation of a 50-foot wide public easement on each side of all surveyed and unsurveyed section lines of the fee or land estate, in accordance with AS 19.10.010 and 11 AAC 51.025. If the section forms a boundary line of the parcel being disposed, this 50 feet is measured from the section line or, if the section line runs through the parcel, the 50 feet is measured on each side of the section line, for a total width of 100 feet.
4. All valid existing rights as of the date of this decision, including reservations, easements, and exceptions in the U.S. patent or other state or federal conveyance, and in acts authorizing the issue thereof; easements, rights-of-way, covenants, conditions, reservations, notes on plats, and restrictions of record, if any.

### **Parcel Specific Stipulations**

The following are those stipulations that are specific to parcels and are not otherwise noted in the General Stipulations.

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- The state retains the timber rights and access to the parcel for the purposes of timber management.
- The retention of timber rights and rights to access the timber will be reviewed periodically (every 20 years). If the state determines that it is no longer necessary to retain these rights, they would be conveyed to the Trust.
- Trust authorizations for access to this parcel are subject to state-concurrence, including consideration of compensation to the state for future use of state-constructed roads.
- Trust authorizations for other development of this parcel are subject to state concurrence in order to minimize or avoid conflicts with the state's exercise of its timber rights.

### **Prioritization of Replacement Land and Potential Land Parcels.**

Land to be conveyed to the Trust as Replacement Land is identified in Table 1. The lands contained in the Table are valued at \$5.2 million and consist of 13,381 acres of the fee, mineral, or hydrocarbon portion of the mineral estate. The actual amount of such land to

be conveyed will depend on the results of a subsequent adjudication by DMLW of the land proposed by the Trust Land Office as meeting the standards of Replacement Land specified in the Replacement Land Process report.<sup>11</sup> Replacement Land is to be conveyed to the Trust Authority according to a priority ranking agreed to by DNR and the TLO and is to occur within five years of the date of this decision.

Land that may be conveyed to the Trust as Replacement Land is identified in Table 2. The lands contained in the Table are valued at \$0.79 million and consist of 2,101 acres of the fee estate. These lands may be conveyed to fulfill the state's obligations under the Settlement Agreement if additional parcels of Trust Land requiring replacement are found to exist that are in excess of the value of \$5.2 million identified in Table 1 if and these parcels meet the review standards of the Replacement Land Process. This land is to be designated as Replacement Land and is to be retained by the state for this purpose for the period of eight years from the date of this decision. Land that is not required to be used as Replacement Land during this period will no longer be affected by this requirement and can be used by the state for other purposes.

### **Final Finding**

The public comments that were submitted in response to the public notice of the Preliminary Finding and Decision to convey state land to the Trust Authority have been considered and responded to as described previously in this Final Finding. The requirements of the Settlement Agreement and applicable statutes and regulations have also been considered and this decision is determined to be consistent with these requirements. The conveyance of additional state land to the Trust to compensate for lands determined to have been conveyed in error or to contain hazardous materials is required under the Settlement Agreement between DNR and the Settling Plaintiffs, the conveyance process has followed the processes required under AS 38.05.035(e) and with AS 38.05.965, and the planning and classification actions that are necessary to implement this decision meet the requirements of AS 38.05.005(b) and AS 38.05.065(b). The case files have been found to be complete.

The finding presented above has been reviewed and considered. It is my finding that it is in the best interest of the state to convey the lands identified in Table 1 to the Trust Authority and to retain the lands identified in Table 2 for possible conveyance to the Trust, if determined to be necessary for this purpose. The conveyance of state land will compensate the Trust for land conveyed in error or determined to contain hazardous materials, fulfilling the requirements of the Settlement Agreement and 1994 settlement legislation. Lands identified in Table 1 are designated as Replacement Land and are to be conveyed, based upon the results of further DNR adjudication of parcels that have been submitted by the Trust as meeting the approval requirements of Replacement Land, within the next five years of the date of this decision (June 12, 2011) . State land identified in Table 2 are also designated Replacement Land and shall remain as Replacement Land for a period of eight years from this decision (June 12, 2014) or until both parties determine that there is no further need of this land for this purpose, or

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<sup>11</sup> These standards are listed in Section V, 'Adjudication Process' of this document.

whichever comes sooner if both parties agree. If state land identified in Table 2 is not used during the eight year period, it reverts to state land and may be used by the state for other purposes. Land to be conveyed to the Trust as Replacement Land is subject to the following General Stipulations and to all Specific Parcel Stipulations.

The Plan Amendments, changes to Land Classification Orders, and the implementation of Mineral Order 1405 complement and are recognized as necessary to implement this decision.



Richard H. Mylius, Acting Director  
Division of Mining, Land, and Water

12 June 2006  
Date

### **Appeal Provision**

A person affected by this decision who provided timely written comment on this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of issuance of June 16, 2006, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to Michael L. Menge, Commissioner, Department of Natural Resources, 550 W. 7<sup>th</sup> Avenue, Suite 1400, Anchorage, AK 99501; faxed to 907-269-8918, or sent by e-mail to [dnr\\_appeals@dnr.state.ak.us](mailto:dnr_appeals@dnr.state.ak.us) If no appeal is filed by that date, this decision goes into effect as a final order and decision on July 17, 2006. An eligible person must first appeal 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. Comments must be received by **July 5<sup>th</sup>**.

**TABLE 1 PRIORITIES FOR REPLACEMENT LAND**

Region	Parcel Number	General Location	Community	MTR	Complete Legal	Estate	Acres	Value
NR	F30004	Little Willow Creek	Fairbanks	F003N001W	Sec. 11: Portion SE1/4	Fee	100	\$65,000.00
NR	F33001	Monderosa Overpass area	Nenana	F003S008W	Sec. 36: Portion of Lot 7, Blk 1, ASLS 82-123	Fee	15.2	\$10,158.00
NR	F33002	Monderosa Overpass area	Nenana	F003S008W	Sec. 36: Portion of Lot 6, Blk 1, ASLS 82-123	Fee	42.7	\$28,463.00
NR	F33003	Monderosa Overpass area	Nenana	F003S008W	Sec. 36: Portion of Tract C, ASLS 80-123	Fee	6.543	\$6,351.00
NR	F33006	Delta Junction	Delta Junction	F010S010E	Sec. 23: Lots 1 & 2, Blk 10, Delta Junction Townsite, West Addn., EPF 23-21	Fee	0.645	\$6,000.00
NR	F33007	Ester Dome	Fairbanks	F001N003W	Sec. 13: Lot 2	Fee	16.44	\$7,994.00
NR	F33008	Ester Dome	Fairbanks	F001N003W	Sec. 12: Lot 6	Fee	0.34	\$165.00
NR	F33009	Ester Dome	Fairbanks	F001N003W	Sec. 12: Lot 7	Fee	0.05	\$24.00
NR	F33010	Chena Hot Springs	Fairbanks	F001N004E	Sec. 33: Tract B, ASLS 80-140, Horseshoe Downs Subdivision	Fee	4.5	\$16,200.00
NR	F33011	Chena Hot Springs	Fairbanks	F003N008E	Secs. 20, 21, 28, 29: (configuration of USS 4261)	Fee	159.9	\$94,807.00
NR	F33012.001	Healy area	Healy	F012S008W	Sec. 21: (all)	Fee	640	\$256,000.00
NR	F33012.003	Healy area	Healy	F012S008W	Sec. 23: Tracts A, B, C and D, excluding 113.34 acres of private land.	Fee	519	\$304,704.00
NR	F33013	Healy area	Healy	F012S008W	Sec. 13: NE1/4NE1/4NE1/4NW1/4	Fee	3	\$1,200.00
NR	F33014	Healy area	Healy	F012S008W	Sec. 13: Portion of N1/2SW1/4	Fee	25	\$10,000.00

NR	F33015	Healy area	Healy	F012S008W	Sec. 13: Portion of S1/2NE1/4	Fee	29.5	\$29,500.00
NR	F33016	Healy area	Healy	F012S008W	Sec. 13: Portion of E1/2SW1/4	Fee	50	\$30,000.00
NR	F33017	Healy area	Healy	F012S008W	Sec. 24: Portion of W1/2	Fee	114	\$45,600.00
NR	F33020	Healy area	Healy	F012S008W	Sec. 24: Portion of S1/2	Fee	44	\$17,600.00
NR	F33022	Nenana	Nenana	F004S008W	Sec. 29: S1/2NE1/4, N1/2SE1/4	Fee	146.46	\$58,584.00
NR	F33029	Alder Creek	Ester	F001S003W	Sec. 29: Lot 1 ASLS 84-164	Fee	1	\$867.00
SC	S34002	Big Lake West End Lots	Big Lake	S017N004W	Sec. 27: Tract A	Fee	3.69	\$2,963.30
SC	S34004	Big Lake West End Lots	Big Lake	S017N004W	Sec. 27: Tract C	Fee	3.69	\$1,371.00
SC	S34007	Chase II Subdivision	Talkeetna	S026N004W	Sec. 5: Portion of Lot 4, Blk 19 Chase II Subdivision ASLS 79-149, Sheet 4	Fee	2.701	\$3,530.21
SC	S34011	Wasilla	Wasilla	S018N001W	Sec. 31: SE1/4NW1/4	Fee	40	\$22,750.00
SC	S34013	Kashwitna Lake	Willow	S020N005W	Sec. 12: Lot 3	Fee	36.08	\$28,322.00
SC	S34014	Kashwitna Lake	Willow	S020N005W	Sec. 13: E1/2SE1/4, excluding Parks Hwy.	Fee	69	\$86,250.00
SC	S34015	Kashwitna Lake	Willow	S020N004W	Sec. 6: Lots 8 & 9, excluding Parks Hwy.	Fee	30.65	\$45,852.40
SC	S34016	Kashwitna Lake	Willow	S020N004W	Section 7: Lot 1, E1/2NW1/4, excluding Parks Hwy.	Fee	92.76	\$115,950.00
SC	S34017	Susitna River Valley	Talkeetna	S024N005W	Sec. 9: Portion of SE1/4 that is NE of Parks Hwy.	Fee	33.00	\$49,500.00
SC	S34021	Eyak Lake	Cordova	C015S003W	Sec. 26: Tracts A & B, ASLS 77-30	Fee	3.72	\$2,295.00

SE	C30005.001	Wrangell Narrows	Petersburg	C060S079E	Sec. 3: Lots 1, 2, 3, 4	Fee	184.53	\$186,450.00
SE	C30005.002	Wrangell Narrows	Petersburg	C060S079E	Sec. 10: SW1/4, W1/2NW1/4, and Lots 1, 2, 3, 4, and 5	Fee	339.19	\$342,581.90
SE	C30015.002	Thorne Bay	Thorne Bay	C071S084E	Sec. 34: Block 5, Lot 12, Thorne Bay Subdivision, ASLS 80-121 Sheet 2	Fee	3.25	\$10,140.00
SE	C30019.001	Hollis Anchorage	Hollis	C074S084E	Sec. 4: Tract 4B (east half) ASLS 96-31	Fee	7.5	\$125,000.00
SE	C30021.001	Exchange Cove	Whale Pass	C065S080E	Sec. 20: Lots 1, 2 and 3	Fee	99.39	\$124,237.50
SE	C30021.003	Exchange Cove	Whale Pass	C065S080E	Sec. 29: Lot 6 Sec. 32: Lots 1 and 4	Fee	76.43	\$185,591.00
SE	C32007	Hollis Anchorage	Hollis	C073S084E	Sec. 33: Portion of SW1/4 ASLS 90-228	Fee	4.532	\$87,150.36
SE	C32009	Clark Bay	Hollis	C073S084E	Sec. 34: Western portion of Tract C, ASLS 79-181	Fee	7.96	\$51,740.00
SE	C32015	Cat Island (west)	Hollis	C074S084E	Secs: 8, 9, 17 (portions)	Fee	283.46	\$141,730.00
SE	C32018	Upper George Inlet	Ketchikan	C073S091E	Sec. 35: E1/2SE1/4; Sec. 36: W1/2 (uplands) ASCS 88-073	Fee	264.41	\$502,099.00
SE	C32019	Trollers Creek	Ketchikan	C074S090E	Sec. 17: W1/2NW 1/4 Sec. 18: Portion of E1/2NE1/4	Fee	190	\$285,000.00
SE	C32025	Skagway Hillside	Skagway	C027S059E	Sec. 35: SE1/4NE1/4	Fee	40	\$20,000.00
SE	C32026	Skagway Hillside	Skagway	C027S059E	Sec 36: SW1/4SW1/4NW 1/4 excluding USS 5106A	Fee	10	\$5,000.00

SE	C32027	Skagway Hillside	Skagway	C027S059E	Sec 36: portion E1/2SW1/4 excluding USS 5106A	Fee	22	\$18,150.00
SE	C32029	Thorne Bay inholdings	Thorne Bay	C072S084E	Sec 25: S1/2, S1/2N1/2	Fee	480	\$320,000.00
SE	C32030	Kasaan Bay	Kasaan	C072S084E	Sec. 35: upland portion SE1/4 (Lots 7, 8, 9 and NE1/4), USRS sheet 1	Fee	101	\$120,098.70
SE	C32033	Control Lake	Thorne Bay	C071S082E	Sec. 19: E1/2SE1/4 Sec. 20: SW1/4, W1/2SE1/4 Sec. 29: W1/2NE1/4, E1/2NW1/4	Fee	415.75	\$324,285.00

NR	F33004	Jarvis Creek	Delta Junction	F014S010E	Sec. 14: SE1/4	Mineral	160	
NR	F33024	Nenana Block - State Selected	Nenana	F002S008W	Secs. 17, 18, 19, 20, 29 & 30; (Sec. 17: 39.99 ac. O&G only)	Mineral	3662.74	\$595,378.39
NR	F33027	Nenana Block, state land	Nenana	F002S009W	Secs. 13, 14, 23 and 24	Mineral	2560	\$416,128.00

SC	S30122	Point McKenzie	Knik	S014N004W	Sec. 22 All (635.9ac); Sec. 27 All; Sec. 28, All; Section 33, N1/2NE1/4; Section 34, NE1/4 and N1/2 NW1/4	Hydrocarbon	2235.9	
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**Total Value of Parcels: \$5,208,760.75**

**Total Acreage of Parcels: 13,381.6**



**TABLE 2 PRIORITIES FOR POTENTIAL REPLACEMENT LAND**

Region	Parcel Number	General Location	Community	MTR	Legal	Estate	Acres	Value
NR	F30005.001	Valdez Creek	Cantwell	F020S001E	Sec. 24: N1/2SE1/4	Fee	80	\$117,280.00
NR	F30005.002	Valdez Creek	Cantwell	F020S002E	Sec. 9: N1/2NW1/4	Fee	70	\$102,620.00
NR	F33012.002	Healy area	Healy	F012S008W	Sec. 22: Tracts A, B, C and D	Fee	640	\$256,000.00
NR	F33030	Summit Lake	Paxson	F021S012E & F021S011E	12E Secs: 6 & 7; and 11E Sec: 1 (island uplands)	Fee	581	\$174,300.00
NR	F33018	Healy area	Healy	F012S008W	Sec. 24: Portion of NE1/4	Fee	4	\$1,600.00
NR	F33019	Healy area	Healy	F012S008W	Sec. 24: Portion of SW1/4	Fee	7.9	\$3,160.00
NR	F30001	Murphy Dome	Fairbanks	F001N003W	Sec. 8: Lot 8, Block 4, ASLS 82-159, Murphy Subdivision	Fee	7.886	\$9,031.84
NR	F30002	Murphy Dome	Fairbanks	F001N003W	Sec. 8: Lot 10, Block 4, ASLS 82-159, Murphy Subdivision	Fee	6.054	\$6,933.65
NR	F33031	Summit Lake	Paxson	F021S011E	Sec. 1: West of Summit Lake; Sec. 2: All	Fee	700	\$112,000.00
SE	C30002	Mt. Point Subdivision	Ketchikan	C076S091E	Sec. 11: Block 7, Lot 12, ASLS 80-187	Fee	0.768	\$1,739.00
SE	C30010.001	Mt. Point Subdivision	Ketchikan	C076S091E	Sec. 11: Lot 4, Block 6, ASLS 80-187	Fee	0.76	\$2,279.00
SE	C30010.002	Mt. Point Subdivision	Ketchikan	C076S091E	Sec. 11: Lot 7, Block 6, ALSL 80-187	Fee	0.73	\$2,189.00
SE	C30010.003	Mt. Point Subdivision	Ketchikan	C076S091E	Secs. 2 & 11: Lot 12, Block 8, ASLS 80-187	Fee	1	\$2,969.00
SE	C30010.004	Mt. Point Subdivision	Ketchikan	C076S091E	Secs. 2 & 11: Lot 5, Block 10, ASLS 80-187	Fee	0.993	\$2,969.00

**Total Value of Parcels on Table 2: \$795,070.48**

**TABLE 3**  
**Public Access and Other Encumbrances,**  
**and Exclusions**

NR	F30001	Murphy Dome	Subject to: a 25' non-motorized trail easement, and a 10' foot pedestrian and drainage easement as depicted on ASLS 82-159.
NR	F30002	Murphy Dome	Subject to: a 25' non-motorized trail easement, and a 10' foot pedestrian and drainage easement as depicted on ASLS 82-159.
NR	F30004	Little Willow Creek	Subject to: a 50' section line easement, and a 50 public access easement 'along' either side of Willow Creek.
NR	F30005.001	Valdez Creek	Subject to: a 50' section line easement; RST 294, the Gulkana-Denali Winter Trail, a 100' reserved easement as depicted on the status plat; and USMS 2333, AA58732, AA11127, AA58735 as depicted on the MTP.
NR	F0005.002	Valdez Creek	Subject to: a 50' section line easement; a 50' public access easement 'along' either side of Valdez Creek; RST 294, the Gulkana-Denali Winter Trail, a 100' reserved easement; and state mining claims MCL 596422 and MCL 596418 as depicted on status plat. NOTE: USMS 2330 is a patented exclusion from this parcel.
NR	F33001	Monderosa Overpass	Subject to: a 100' drainage easement as depicted on ASLS 82-123.
NR	F33002	Monderosa Overpass	Subject to: a 100' drainage easement as depicted on ASLS 82-123.
NR	F33003	Monderosa Overpass	Subject to: a material site as depicted on ASLS 82-123.
NR	F33004	Jarvis Creek	Subject to: a 50' section line easement.
NR	F33006	Delta Junction	No known encumbrances.
NR	F33007	Ester Dome	No known encumbrances.
NR	F33008	Ester Dome	Subject to: a 50' section line easement.
NR	F33009	Ester Dome	Subject to: a 50' section line easement either side of section line.
NR	F33010	Chena Hot Springs	No known encumbrances. NOTE: Chena Hot Springs Trail (RST 278) is excluded from this parcel as depicted on ASLS 80-140.
NR	F33011	Chena Hot Springs	Subject to: a 50' section line easement either side of section line; a 50' public access easement 'along' North Fork Chena River; and RST 278, Fairbanks-Chena Hot Springs Trail, a 100' reserved easement, as depicted on status plat. NOTE: The Chena Hot Springs Road (200') is excluded from this parcel (ASLS 79-44).

NR	F33012.001	Healy area	Subject to: a 50' section line easement.
NR	F33012.002	Healy area	Subject to: a 50' section line easement.
NR	F33012.003	Healy area	Subject to: a 50' section line easement and a 50' public access easement 'along' Dry Creek. Private rights-of way ADL 414756 and ADL 415159 are excluded from this parcel, as depicted on status plats.
NR	F33013	Healy area	Subject to: a 50' public access easement 'along' Dry Creek and a 25' public access easement inside all boundaries.
NR	F33014	Healy area	Subject to: a 50' section line easement; a 50' public access easement 'along' Dry Creek; and a 25' public access easement inside all boundaries.
NR	F33015	Healy area	Subject to: a 50' public access easement 'along' Dry Creek Slough and a 25' public access easement inside all boundaries.
NR	F33016	Healy area	Subject to: a 50' section line easement either side of section line; a 50' public access easement 'along' either side of Dry Creek Slough; a 25' public access easement inside all boundaries; a 30' utility easement as depicted on ASLS 90-85 and ASLS 86-159; a 50' public right-of-way (Hill Top Road) as depicted on ASLS 86-159 and RST 709, Diamond-Healy Coal Mine Dirt Road as depicted on status plat.
NR	F33017	Healy area	Subject to: a 50' section line easement; a 50' public access easement 'along' either side of Dry Creek Slough; a 25' public access easement inside all boundaries; and RST 709, Diamond-Healy Coal Mine Dirt Road as depicted on status plat and survey ASLS 89-159.
NR	F33018	Healy area	Subject to: a 25' public access easement inside all boundaries.
NR	F33019	Healy area	Subject to: a 25' public access easement inside all boundaries. Exclusion: Otto Lake-Healy Small Tracts Road (also called Hill Top Road), a 100' right-of-way as depicted on ASLS 87-217, ASLS 87-336 and ASLS 86-231.
NR	F33020	Healy area	Subject to: a 50' section line easement on either side of section line and a 25' public access easement inside all boundaries.
NR	F33022	Nenana	Subject to: a 50' section line easement and RST 346, Nenana-Kantishna Trail as depicted on status plats.
NR	F33024	Nenana Block	This parcel is Mineral Estate only and is not affected by easements.
NR	F33027	Nenana Block	This parcel is Mineral Estate only and is not affected by easements.
NR	F33029	Alder Creek	Subject to: a 50' public access easement either side of section line. NOTE: Structures remain on the property related to closed lease for AT&T communication site (ADL 410135).
SC	S34002	Big Lake West End Lots	Subject to: a 25' public access easement inside all boundaries.

SC	S34004	Big Lake West End Lots	Subject to: a 25' public access easement inside all boundaries.
SC	S34007	Chase II Subdivision	No known encumbrances.
SC	S34011	Wasilla	No known encumbrances. Note: the 'floating easement' indicated on the status plat no longer affects this parcel.
SC	S34013	Kashwitna Lake	Subject to: a 50' section line easement and a 50' public access easement 'along' the shoreline of Kashwitna Lake.
SC	S34014	Kashwitna Lake	Subject to: a 50' section line easement. Exclusions: 200' wide right of way for the Parks Highway and a 60' public right-of-way for ADL 58667, as depicted on status plat.
SC	S34015	Kashwitna Lake	Subject to: a 50' section line easement. NOTE: The Alaska Railroad right of way is excluded from this parcel.
SC	S34016	Kashwitna Lake	Subject to: a 50' section line easement. Exclusion: 200 foot right-of-way for the 200' Parks Highway.
SC	S34017	Susitna River Valley	Subject to: a 50' section line easement and a public access easement (ADL 24747) as depicted on the status plat.
SC	F33030	Summit Lake	Subject to: a 50' section line easement either side of section lines and 50' public access easement 'along' the shoreline of Summit Lake.
SC	F33031	Summit Lake	Subject to: a 50' section easement ; a 50' public access easement 'along' the shoreline of Summit Lake and either side of public water within the parcel; and Trans-Alaska Gas Line lease (ADL 413342) as depicted on status plat.,
SC	S34021	Eyak Lake	Subject to: a 50' public access easement 'along' the shoreline of Eyak Lake.
SE	C30002	Mt. Point Subdivision	No known encumbrances.
SE	30005.001	Wrangell Narrows	Subject to: a 50' section line easement; a 50' public access easement 'along' Wrangell Narrows and either side of anadromous streams; and a reserved easement for Forest Development Roads (FR 6350 and FR6335) as depicted on USGS quads.
SE	30005.002	Wrangell Narrows	Subject to: a 50 section line easement; a 50' public access easement 'along' Wrangell Narrows and either side of anadromous streams; and a reserved easement for Forest development Road 6335.
SE	C30010.001	Mt. Point Subdivision	No known encumbrances.
SE	C30010.002	Mt. Point Subdivision	No known encumbrances.
SE	C30010.003	Mt. Point	No known encumbrances.

		Subdivision	
SE	C30010.004	Mt. Point Subdivision	No known encumbrances.
SE	C30015.002	Thorne Bay	Subject to: a 50' public access easement 'along' the shoreline of Thorne Bay; a 30' public access easement 'to' Thorne Bay; and 30' public access easement inside west lot line as depicted on ASLS 80-121, sheet 2).
SE	C30019.001	Hollis Anchorage	Subject to: a 50' public access easement 'along' Hollis Anchorage.
SE	C30021.001	Exchange Cove	Subject to: a 50' section line easement; a 50' public access easement 'along' Exchange Cove and a reserved US Forest Service Development Road easement (FDR 30) as depicted on status plat.
SE	C30021.003	Exchange Cove	Subject to: a 50' public access easement either side of section line and a 50' public access easement 'along' Exchange Cove.
SE	C32007	Hollis Anchorage	Subject to: a twenty-five year lease (ADL 105161) for Alaska Power and Telephone Co. and structures associated with the utility company as depicted on ASLS 90-228.
SE	C32009	Clark Bay	Subject to: a 50' public access easement 'along' Clark Bay and a 10' utility easement as depicted on ASLS 79-181.
SE	C32015	Cat Island (west)	Subject to: a 50' section line easement either side of section lines and a 50' public access easement 'along' mean high water and either side of any public waters.
SE	C32018	Upper George Inlet	Subject to: a 50' section line easement; a 50' public access easement 'along' Upper George Inlet and either side of anadromous streams; a 300' utility easement (ADL 106839); and a 100' right-of-way easement (ADL 107241) as depicted on the status plat.
Se	C32019	Trollers Creek	Subject to: a 50' section line easement; and a 50' public access easement 'along' either side of Trollers Creek or an un-named anadromous stream.
SE	C32025	Skagway Hillside	Subject to: a 50' section line easement.
SE	C32026	Skagway Hillside	Subject to: a 50' section line easement
SE	C32027	Skagway Hillside	No known encumbrances.
SE	C32029	Thorne Bay Inholdings	Subject to: a 50' section line easement; a 50' public access easement 'along' two anadromous streams; a 60' easement for two reserved US Forest Service Development roads. Exclusion: 100' public right-of-way (ADL 104921) constructed by City of Thorne Bay as depicted on status plat.
SE	C32030	Kassan Bay	Subject to: a 50' section line easement and a 50' public access

			easement 'along' Kasaan Bay.
SE	C32033	Control Lake	Subject to: a 50' section line easement either side of section lines; a 50' public access easement 'along' the shoreline of Control Lake and 'along' either side of anadromous streams; 60' reserved public easements for two US Forest Service Development roads (FDR 20, Prince of Wales Island Road and FDR 30, Thorne Bay Road). Exclusion: right-of-way (ADL 106262) for Big Salt Road as depicted on status plat.

Note: This listing of encumbrances and exclusions is current as of June 1, 2006 but may not be necessarily inclusive. All parcels conveyed to the Trust Authority are to be subject to all encumbrances of record as of this date.

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

Commissioner's Decision  
**Plan Amendment and Classification Order**  
**Amending Area Plans and Classifying Lands**  
In Accordance With

**Conveyance of State Replacement Land**  
**Mental Health Trust Authority**  
**ADL 229606**

This plan amendment and classification order affects lands approved for conveyance to the Mental Health Trust Authority pursuant to the referenced final finding and decision.

I. Name: Final Finding and Decision approving the conveyance of state replacement land to the Mental Health Trust Authority (ADL 229606).


II. The plan amendments and land classifications in III are based on the written justification in the 'Plan Amendment and Classification Order' (PACO) dated June 1, 2006, attached hereto and made a part of this decision.

III.

Legal Description	Acreage	Acquisition Authority	Existing Classification	Classification This Action
See PACO	2,915.1	Various	Various	See PACO

Note: This Plan Amendment and Classification Order amends a number of specific area plans and classification orders.

IV. These area plan amendments and classification order amendments are issued under the authority granted by AS 38.04.065, AS 38.05.300 and 11 AAC 55.010-55.030 to the Commissioner of the Department of Natural Resources. The above described lands are hereby designated and classified as indicated. Changes to management intent or management guidelines in the affected area plans are also as indicated.

  
\_\_\_\_\_  
Commissioner  
Department of Natural Resources

Date: 6/12/06

### **Request for Reconsideration Procedures to this Decision**

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may request reconsideration, in accordance with 11 AAC 02. Any appeal must be received by **July 5, 2006** and may be mailed or delivered to Michael Menge, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by e-mail to [dnr\\_appeals@dnr.state.ak.us](mailto:dnr_appeals@dnr.state.ak.us). If reconsideration is not requested or if the Commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on July 17, 2006. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of appeal to Superior Court. 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**

**PLAN AMENDMENT AND CLASSIFICATION  
ORDER**

**FOR  
FINAL FINDING AND DECISION  
ADL 229606**

**CONVEYANCE OF STATE REPLACEMENT LAND TO THE  
MENTAL HEALTH TRUST AUTHORITY**

**JUNE 12, 2006**

## PLAN AMENDMENT

Area plans affected by final finding and decision ADL 229606 are listed below. The changes to management intent, management guidelines, or plan designations are indicated. Areas of the table left blank indicate that no change is required. Changes are specific to the parcel only.

### PRINCE OF WALES ISLAND AREA PLAN

PARCEL	PLAN SUBUNIT	MANAGEMENT INTENT OR GUIDELINE	PLAN DESIGNATION
C30021.001	1b		Current: Public Facilities (Developed) and Settlement  Change to: Settlement
C30021.002	1b		Current: Public Facilities and Public Recreation (Undeveloped)  Change to: Settlement
C30019.001	12b		Current: Public Facilities and Settlement  Change to: Settlement
C32007	12b		Current: Public Facilities and Settlement  Change to: Settlement
C32009	12b		Current: Public Facilities, Public Recreation – Commercial, Settlement  Change to: Settlement

**PRINCE OF WALES AREA PLAN (CONT'D)**

C32015			Current: Public Recreation (Undeveloped)  Change to: Settlement
C32033	11A	Delete following management guidelines: Under the Fish and Wildlife section, the requirement to retain a 300 foot corridor between Control Lake and Section 29. Under Forestry section, the requirement for a 300 foot special management area adjacent to Control Lake, and under Recreation section, the requirement for a 500 foot area to be retained next to Control Lake.	

**CENTRAL/SOUTHERN SOUTHEAST AREA PLAN**

<b>PARCEL</b>	<b>PLAN SUBUNIT</b>	<b>MANAGEMENT INTENT OR GUIDELINE</b>	<b>PLAN DESIGNATION</b>
C32018	K-14	Delete the management guideline that requires the maintenance of a 500 foot vegetation buffer between timber harvest areas and residential areas.	

**WILLOW SUB-BASIN AREA PLAN**

<b>PARCEL</b>	<b>PLAN SUBUNIT</b>	<b>MANAGEMENT INTENT OR GUIDELINE</b>	<b>PLAN DESIGNATION</b>
S34013	Rogers Creek		Current: None  Change to: Settlement
S34014	Rogers Creek		Current: None  Change to: Settlement
S34015	Rogers Creek	Delete the management guideline in Appendix 1 'Management Recommendations for Lands Adjacent to the Parks Highway' relating to the 'natural visual absorption capability' of the landscape which requires that at least 25% of the land within 0.5 miles of the Parks Highway be retained.	Current: None  Change to: Settlement
S34016	Rogers Creek	Delete the management guideline in Appendix 1 'Management Recommendations for Lands Adjacent to the Parks Highway' relating to the 'natural visual absorption capability' of the landscape which requires that at least 25% of the land within 0.5 miles of the Parks Highway be retained.	Current: None  Change to: Settlement

**SUSITNA AREA PLAN**

<b>PARCEL</b>	<b>PLAN SUBUNIT</b>	<b>MANAGEMENT INTENT OR GUIDELINE</b>	<b>PLAN DESIGNATION</b>
S34019	Talkeetna Mountains		Current: None  Change to: Settlement
F30005.001	11 1 B		Current: Public Recreation and Habitat  Change to: Settlement
F30005.002	11 1 C		Current: Recreation and Habitat  Change to: Settlement

**COPPER RIVER BASIN AREA PLAN**

<b>PARCEL</b>	<b>PLAN SUBUNIT</b>	<b>MANAGEMENT INTENT OR GUIDELINE</b>	<b>PLAN DESIGNATION</b>
S34018	28		Current: Water Resources, Public Recreation, and Habitat  Change to: Settlement

**PRINCE WILLIAM SOUND AREA PLAN**

<b>PARCEL</b>	<b>PLAN SUBUNIT</b>	<b>MANAGEMENT INTENT OR GUIDELINE</b>	<b>PLAN DESIGNATION</b>
S34021	27A		Current: Public Recreation  Change to: Settlement

**TANANA BASIN AREA PLAN**

<b>PARCEL</b>	<b>PLAN SUBUNIT</b>	<b>MANAGEMENT INTENT OR GUIDELINE</b>	<b>PLAN DESIGNATION</b>
F30001	1C1		Current: Minerals  Change to: Settlement
F30002	1C1		Current: Minerals  Change to: Settlement
F30004	1E2		Current: None  Change to: Settlement
F33006	7I1		Current: Agriculture and Settlement.  Change to: Settlement
F33007	1C1	Under General section, delete requirement for this parcel to be retained in state ownership.	Current: Minerals  Change to: Settlement
F33008	1C1	Under General section, delete requirement for this parcel to be	Current: Minerals

		retained in state ownership.	Change to: Settlement
F33009	1C1	Under General section, delete requirement for this parcel to be retained in state ownership.	Current: Minerals Change to: Settlement
F33010	1U1	Under General section, delete requirement for this parcel to be retained in state ownership.	Current: Minerals Change to: Settlement
F33012.001	4E1	Under General section, delete requirement for this parcel to be retained in state ownership.	Current: Public Recreation and Wildlife Habitat Change to: Settlement
F33013	4F1		Current: None Change to: Settlement

**STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES**

**MINERAL ORDER 1054**

  X   Closing Lands to Mineral Entry           Opening Lands to Mineral Entry

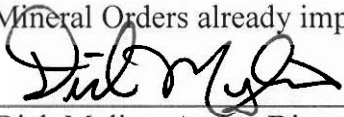
**I. Name of Mineral Order:** Lands to be Conveyed to the Mental Health Trust Authority

**II. Reason for Mineral Order:** This mineral order is based upon the attached *Commissioner's Finding* and applicable state statutes (AS 14.40.365)

**III. Authority:** AS 38.05.185 and AS 38.05.300(b)

**III. Location and Legal Description:** Lands to be closed under this order total 10,826.5 acres and are listed in the Attachment. The location of these parcels is depicted in the Preliminary Decision and Finding, 'Conveyance of State Replacement Land to the Mental Health Trust Authority' (ADL 229606), dated December 2005.

**IV.** This order is subject to valid existing rights and issued under the authority granted by AS 38.05.185 and AS 38.05.300 to the Department of Natural Resources. The above described lands, listed in the Attachment and depicted in 'Conveyance of State Replacement Land to the Mental Health Trust Authority', are hereby closed to entry under the locatable and mining laws of the State of Alaska. Its application to specific parcels will terminate upon conveyance of the land to the Mental Health Trust Authority. Thereafter, mineral exploration and development will follow the requirements for the management of Mental Health Trust Land under 11 AAC 99.020 and mineral exploration and development under 11 AAC 99.100 (Mining Rights). This mineral order supersedes previous Mineral Orders already imposed.

Concur:       6/12/06  
Dick Mylius, Acting Director      Date  
Division of Mining, Land and Water

Approve:       6/12/06  
Mike Menge, Commissioner      Date  
Department of Natural Resources



**ATTACHMENT  
MINERAL ORDER 1054**

**(Lands to be Conveyed to the Mental Health Trust Authority)**

I. The following parcels, depicted in the report, ‘Preliminary Finding and Decision, Conveyance of State Replacement Land to the Mental Health Trust Authority’ (ADL 229606), are closed to mineral entry.

Parcel	Acres	MTR	Legal Description
C30005.001	184.5	C060S079E	Sec. 3: (upland portion of E1/2) Lots 1, 2, 3, 4
C30005.002	399.2	C060S079E	Sec. 10: SW1/4, W1/2 NW1/4, and Lots 1, 2, 3, 4, and 5
C30021.002	76.4	C065S080E	Sec. 32: Lots 1, 2 and 4
C32019	7.9	C074S090E	Sec 17: W ½ NW ¼; Sec 18: portion of E ½.
C32025	40	C074S090E	Sec. 17: W 1/2 NW 1/4 Sec. 18: portion of E1/2
C32026	10	C027S059E	Sec. 35: SE1/4NE1/4
C32027	22	C027S059E	Sec 36: SW1/4SW1/4NW1/4 excluding USS 5106A
C32029	480	C027S059E	Sec 36: Portion E1/2SW1/4 excluding USS 5106A
C32030	101	C074S090E	Sec. 17: W 1/2 NW 1/4 Sec. 18: portion of E1/2
S30122	2235.9	S014N004W	Sec. 22 All (635.9ac); Sec. 27 All; Sec. 28, All; Section 33, N1/2NE1/4; Section 34, NE1/4 and N1/2 NW1/4
S34013	36.1	S020N005W	Sec.: 12 SE1/4SE1/4
S34014	80	S020N005W	Sec. 13: E1/2SE1/4
S34015	33.9	S020N004W	Sec. 6: SE1/4NW1/4, Lots 8 & 9
S34016	109	S020N004W	Section 7: NW1/2 SE1/4 and portion of SW1/4 (11 acres)
S34017	41.3	S020N005W	Sec.: 12 SE1/4SE1/4
F30005.001	80	F020S001E	Sec. 24: N1/2SE1/4
F33004	160	F014S010E	Sec. 14: SE1/4
F33006	0.645	F010S010E	Sec. 23: Lots 1 & 2, Blk 10, Delta Junction Townsite, West Addn.
F33007	16.44	F001N003W	Sec. 13: Lot 2
F33008	0.34	F001N003W	Sec. 12: Lot 6
F33009	0.05	F001N003W	Sec. 12: Lot 7
F33010	4.5	F001N004E	Sec. 33: Tract B, Horseshoe Downs Subdivision
F33011	159.9	F003N008E	Secs. 20, 21, 28, 29: (configuration of USS 4261)
F33022	146.4	F004S008W	Sec. 29: S1/2NE1/4, N1/2SE1/4
F33024	3840	F002S008W	Secs. 17, 18, 19, 20, 29 and 30
F33027	2560	F002S009W	Secs. 13, 14, 23 and 24
F33029	1	F001S003W	Sec 29: Lot 1, ASLS 84-0164

**ADMINISTRATIVE FINDING OF THE COMMISSIONER  
MINERAL ORDER NO. 1045**

**LANDS TO BE CONVEYED TO THE  
ALASKA MENTAL HEALTH TRUST AUTHORITY**

The Preliminary Finding and Decision, 'Conveyance of State Replacement Land to the Mental Health Trust Authority' (ADL 229606), indicated that a mineral order closing to mineral entry and location those state lands determined to be appropriate for conveyance to the Mental Health Trust Authority (Trust) is to be included in the Final Finding and Decision. The purpose of this mineral closure would be to ensure that DNR can effectively convey the entirety of the fee estate of a parcel of state land to the Trust (or mineral estate if only that portion of the fee estate is to be conveyed in a parcel). It is likely that the conveyance process will take at least 2 years to complete, and potentially up to seven years, if additional parcels of Trust Land are found after April 31, 2008 to be economically unusable or to contain hazardous materials, under the agreements reached between the State and the Trust. The effect of new mining claims would be to diminish the ability of the Department to convey the full value of the lands identified for conveyance in the Final Finding and Decision, if a mineral closure were not to be imposed.

New claims may also interfere with the subsequent management of land by the Trust. A claim may be located in the middle of a parcel whose best use is for a residential subdivision. Not only may a portion of the mineral estate on which a claim is located be lost to the Trust, but the highest and best use of the remaining land may be affected. The inability of the state to protect land from mining claims is a violation of the state's obligation as legal title holder to convey all of the property to the equitable title holder (Trust) and is also a violation of the intent of the Settlement Agreement between the State and the Mental Health Litigants<sup>1</sup>.

Department Order 142 (Management of Mental Health Trust Land) requires that "Replacement Land will be closed (by DNR) to mineral entry until conveyed to the Trust Authority, unless otherwise agreed to by the parties. Generally, a mineral closing order will be executed concurrently with the best interest determination to place new lands in the Replacement Land Pool." In the event that a mineral closing order is not done concurrently with the best interest determination, it will be done as soon after the fact as practical."<sup>2</sup> This Mineral Order is being processed concurrently with the best interest finding and will become effective on July 17, 2006.

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<sup>1</sup> Settlement Agreement (No. 4FA-82-2208 Civil)

<sup>2</sup> Section 7, DO 142, 'Temporary Closure to Mineral Entry and Regulatory Requirements for Mineral Entry'.

For the above reasons, I find that closing state lands to future mineral entry during the period that they remain in state ownership for the preparation of quit claim deeds will provide the best opportunity to convey land to the Trust, as intended under the Settlement Agreement. The amount of land closed under this mineral order is approximately 10,826 acres. The mineral order, unless extended, terminates on June 9, 2014, but its effect on specific parcels will be rescinded when state land is conveyed to the Trust. Thereafter, mineral exploration and development will follow the requirements for the management of Trust land under 11 AAC 99.020 generally as well as the specific requirements 11 AAC 99.100 (Mining Rights).

As no person meaningfully participated by submitting written comment on this decision, no person is eligible under AS 38.05.035(i) to file a request for reconsideration. I explicitly waive my right under AS 44.62.540 to reconsider this decision. Therefore, this decision takes effect immediately and is a final administrative order and decision of the department for purposes of an appeal to Superior Court within 30 days.

Approve:  FOR  
\_\_\_\_\_  
Michael L. Menge, Commissioner

  
\_\_\_\_\_  
Date

### **Request for Reconsideration Procedures to this Decision**

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may request reconsideration, in accordance with 11 AAC 02. Any appeal must be received by **July 5, 2006** and may be mailed or delivered to Michael Menge, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by e-mail to [dnr\\_appeals@dnr.state.ak.us](mailto:dnr_appeals@dnr.state.ak.us). If reconsideration is not requested or if the Commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on July 17, 2006. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of appeal to Superior Court. 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.