

**The Alaska Mental Health Trust Authority
Trust Land Office**

**BEST INTEREST DECISION
Iron Dog Trail Easement (MHT 9200489)
Houston Lake Loop Trail Easement (MHT 9200575)
Flat Lake Connector Trail Easement (MHT 9200576)
Big Lake Trails 2 and 3 Easement (MHT 9200577)**

MHT 9200489, 9200575, 9200576, and 9200577
MH Parcel SM-1919-A, SM-2017, SM-2053, SM-
2056, SM-2072, SM-2074, SM-2080, SM-2110,
SM-2112, SM-2115, SM-2121, SM-2208, SM-
2225-A, SM-2226, SM-2227, SM-2266, SM-2267,
SM-2269, SM-2270, SM-2271, SM-2284, and SM-
2285.

In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust (“Trust”) land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the state under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of the Trust and its beneficiaries.

In determining the best interest of the Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)), the Executive Director of the Alaska Mental Health Trust Land Office (“TLO”) shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
- Protection of the corpus;
- Protection and enhancement of the long-term productivity of Trust land;
- Encouragement of a diversity of revenue-producing uses of Trust land; and
- Management of Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries.

I. Proposed Use of Trust Land. Issuance of non-exclusive trail easements to the Matanuska Susitna Borough for installation, maintenance, and winter recreational uses of the Iron Dog, Houston Lake Loop, Flat Lake Connector, and Big Lake 2 and 3 trails.

II. Applicant/File #. Matanuska Susitna Borough/MHT 9200489, 9200575, 9200576, and 9200577. Associated to Master Trails Easement Agreement (MHT 9200574)

III. Subject Property.

A. Legal Description. See Attachment A, containing 37.9 acres more or less.

B. Settlement Parcel Number(s). See Attachment A.

Site Characteristics/Primary Resource Values. Land is generally level or gently rolling and contains a mix of vegetated uplands and scrub or forested palustrine wetlands. Limited residential development surrounds most of this land, and adjoins the Little Susitna State Recreation River (SRR). Most Trust land is either adjoined by either State or private land, land owned by Native corporations, or land managed or owned by the Matanuska-Susitna Borough. With few exceptions, this non-state land is either vacant or contains limited residential uses.

Conservation easement, oil and gas development, residential, and recreation are the primary resource values in the area.

C. Historical and Existing Uses of the Property. Winter recreation use (ATV, dog mushing, and snow machining).

D. Adjacent Land Use Trends. The Big Lake – Houston Region occupies the more central, developed part of the Matanuska-Susitna Borough. Most land within this region is owned by non-state entities, including the Matanuska-Susitna Borough, Mental Health Trust, and the private sector, and much of the state land that remains is associated with the Little Susitna SRR or the Susitna Flats State Game Refuge.

Except for areas in the far southern part of the region, access to these lands is either readily available or they can be accessed easily through a combination of road and trail access.

Wetlands and areas within the Little Susitna SRR contain areas where moose are generally present and may contain moose calving and moose winter concentrations. Waterfowl are distributed throughout the region and swan-nesting sites are present in a number of lakes. Anadromous streams cross a few of the units within the region and, depending on location, contain king, silver, pink, or chum migration, rearing, or spawning areas. The Little Susitna River is a regionally significant anadromous fish stream and passes through the center of the region.

With the exception of the Little Susitna SRR, state land receives moderate to limited use, with the type of use reflecting the local patterns of recreation activity. Much more intense use is associated with the Little Susitna SRR and with the adjacent Nancy Lake State Recreation Area, situated to the north of the region. The former receives considerable use during the summer, with the intensity of that use related to

salmon runs. This area also receives considerable winter recreation use (ATV, dog mushing, and snow machining).

- E. Previous State Plans/Classifications.** Settlement, habitat, public facilities, and public recreation are the primary land uses in the area.
- i. **Habitat.** This designation applies to areas of varied size for fish and wildlife species.
 - ii. **Public Facilities.** These sites are reserved for a specific infrastructure to serve state interests.
 - iii. **Public Recreation.** This designation applies to those areas that offer or have a high potential for recreation or tourism.
 - iv. **Settlement.** This designation applies to state uplands suitable for sale, leasing, or permitting to allow private recreational or residential use. This designation will generally be used for areas appropriate for land offerings for residential uses. Unsettled or unsold land in the unit will be managed for uses compatible with settlement.
- F. Existing Plans Affecting Area.** Southeast Susitna Area Plan, Big Lake-Houston Region and the Susitna Basin Recreation Rivers Management Plan, Little Susitna River Management Unit.
- G. Apparent Highest and Best Use.** The highest and best use of this property is as oil, gas, and subdivided residential development. Establishment of the trail easements allow the Trust to capture revenue from pre-existing activities that were not authorized by the TLO. The value of adjacent Trust land, for future subdivision, would be enhanced from multiple use recreation trails.

IV. Proposal Background. The MSB applied to relocated four trails located on Trust lands to accommodate the Port Mackenzie Rail Extension (PMRE). The trails are directed to designate elevated structures located at stream or road crossings to allow for the safe passage underneath the rail bed. Local trails groups maintain these trails, which provide connectivity within the existing trail network identified in local rail plans.

- V. Terms and Conditions.** The terms and conditions are established in the Master Trails Easement Agreement (MHT 9200574).
- i. This Agreement is issued for an initial term of 20 years from August 1, 2013 and shall automatically expire at 11:59pm on September 30, 2033 unless it is extended or earlier terminated as provided in this Agreement.
 - ii. This Agreement may be extended for a period of time beyond its initial term upon written notice and request for extension. If the Grantor fails to give written notice of its acceptance of Grantee's request for an extension then this Agreement shall terminate.
 - iii. All trails are 25 feet in total width, or 12.5 feet on either side of the trail and are valued at \$1.00/Lineal foot.

- iv. Every five years, the land use fee will be subject to a price adjustment increase of at least one percent (1%).
- v. Each new Trail Easement will be subject to a one-time assessment for an application fee of \$250 in addition to the prorated Easement fee. A survey review fee of \$200 may also be collected if a survey is required by the Grantor.

VI. Asset Management Considerations. The proposed action is consistent with the key provisions of the Asset Management Strategy guidelines. Protection of the corpus and long-term productivity will be maintained by terms and conditions in the Master Trail Easement Agreement and subsequent Easements for the Iron Dog, Houston Lake Loop, Flat Lake Connector, and Big Lake 2 and 3 Trails. Secondary and cumulative impacts are reduced by the terms and conditions, which require insurance, bonding, and indemnification. The Easements will not negatively affect the Trusts opportunity to maximize revenues from this site or adjacent Trust lands over time.

VII. Alternatives.

- A. Proceed as proposed.** Issuance of the easements would establish valuable recreational features, which will enhance future residential development values. By requiring the Grantee to carry liability insurance and post a performance bond, there is no appreciable liability incurred by the Trust.
- B. Issues as a License.** Though licenses and easements share, many characteristics there are fundamental differences. An easement is an interest in the land that may not be terminated at the will of the TLO and is considered a disposal. A disposal of trust land includes renewable authorizations that exceed one year in duration under 11 AAC 99.990. If a license is functionally irrevocable, it is indistinguishable from an easement. Because of the long-term nature of the authorization and type of activity proposed, a revocable license would not be adequate to protect the corpus or manage the land efficiently.
- C. Do Nothing.** Doing nothing would preclude an opportunity to receive value for existing activities, as well as establish a valuable recreational asset that will enhance future property value. Removal or closure of the trails would be costly to Trust resources requiring active management of the area until such a time where the vegetation has been reestablished to prevent or minimize recreational use.

VIII. Risk Management Considerations.

- A. Performance Risks.** Minimal site development is anticipated as the trails are intended for winter use only. Such development may include clearing of trees or brush to facilitate winter trail use. No grubbing or other ground disturbance is anticipated. The standard Easement indemnification, bonding, and insurance coverage naming the TLO as second should mitigate unknown liabilities.

- B. Environmental Risks.** Excessive cutting of trees or failure to adequately delineate trails may increase environmental risks. Off-season recreation use could cause degradation of wetlands.
- C. Public Concerns.** Subject to additional comments received through the public notice process, there are no known public concerns.
- D. Other.** The TLO retains the ability to relocate any of the trails, at its own expense if necessary to accommodate other activities.
 - i. This Agreement, or an interest in the agreement, may not be assigned or otherwise transferred to any person(s) except upon the prior written authorization of the TLO.
 - ii. An as-built survey is required for each trail.

IX. Due Diligence.

- A. Site Inspections.** No inspection has been conducted on the project area due to the remote location and seasonal nature of the proposed activity.
- B. Valuation.** TLO Processing and Guidelines for Land Use Fees was reviewed and the rental fee was established at \$1.00 per lineal foot for trails located in remote areas.
- C. Terms and Conditions Review.** TLO Processing and Guidelines for Land Use Fees was reviewed and used as the basis for the fee. The annual rental fee was established at \$1.00 per lineal foot per year and adjusted every five years, by one percent (1%). The MSB opted to pay a one-time use fee based on the 20-year term as adjusted.

MHT	Trail Name	Full payment
9200577	Big Lake Trails #2 & #3	\$ 5,532.30
9200575	Houston Lake Loop Trail	\$ 22,286.53
9200489	Iron Dog Connector Trail	\$ 28,179.18
9200576	Flat Lake Connector	\$ 11,034.14
	Total	\$ 67,032.15

X. Authorities.

- A. Applicable Authority.** Alaska Statutes 37.14.009(a) and 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust Land management and disposal).
- B. Inconsistency Determination.** As the proposed Easements are specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the state under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes determinations that certain state statutes applicable to other state land do not apply to trust land unless determined by the executive director, on a case-by-case basis, to be consistent with 11 AAC 99.020.

The state statutes deemed inconsistent with trust management principles and inapplicable to trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and duties of the director), AS 38.05.300 (Classification of land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals).

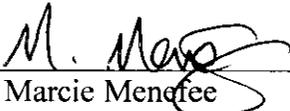
- XI. Trust Authority Consultation.** Under Article IX of the Trust Bylaws, the Chief Executive Officer may authorize disposal of assets with an annual rental of \$50,000 or less. Consultation with the Trust Resource Management Committee and the Board of Trustees is not required.
- XII. Best Interest Decision.** Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transaction is in the best interest of the Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature will require a best interest decision specific to the proposal.
- XIII. Opportunity for Comment.** Notice of this best interest decision will take place as provided under 11 AAC 99.050. Persons who believe that the decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020 or any other provision of 11 AAC 99, must provide written comments to the TLO during the notice period. Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director will then, in his or her discretion, modify the decision in whole or in part in response to such comments or other pertinent information, or affirm the best interest decision without changes. The best interest decision as modified or affirmed will become the final agency action, subject to reconsideration procedures under 11 AAC 99.060. Additional notice will be provided for a substantially modified decision. If no comments are received by the end of the notice period, this best interest decision will be affirmed and the proposed action taken. (See public notice for specific dates.)
- XIV. Reconsideration.** To be eligible to file for reconsideration of this best interest decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

Persons who submit timely written comments will be provided with a copy of the final written decision, and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director takes no action during the 20-day period following the request, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

XV. Available Documents. Background documents and information cited herein is on file and available for review at the Trust Land Office, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone (907) 269-8658. Email: mhtlo@alaska.gov.

The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the Trust Land Office administrative process. For specific dates or further information about the disposal, interested parties should contact the Trust Land Office at the above address, or visit the TLO website at: www.mhtrustland.org.

XVI. APPROVED:

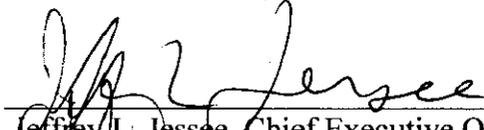


By: Marcie Menefee
Executive Director

10.11.13

Date

In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction pursuant to Alaska Mental Health Trust Authority Bylaws, revised November 15, 2012, and Resolution 02-01.



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

10/14/13

Date

ATTACHMENT A

MHT 9200489 – Iron Dog Trail

Trust Parcels: SM-2208, SM-2110, SM-2226, SM-2227, SM-2121, SM-2225-A, SM-2266, SM-2074, SM-2080, SM-2115, and SM-2112

T017N, 004W, Seward Meridian

Section 28. This segment is approximately 530 feet long and located entirely within MSB tax parcel 217N04W28A007. It travels the entire eastern parcel line in a north-south direction before ending at Flat Lake.

Section 21 and 28. This segment is approximately 5,280 feet and located on the section line shared by Sections 21 and 28. It travels from east to west along the entire section line.

Section 20 and 29. This segment is approximately 4,000 feet and located on the section line shared between Sections 20 and 29. It travels from the east side of the section towards the PMRE alignment and ends at the intersection with the Flat Lake Connector Trail on the east side of Point Mackenzie Rail Extension (PMRE) crossing #5.

Section 20. This segment is approximately 1,500 feet and located on the east side of the PMRE alignment. It travels along the north side of the Little Su tributary and ends at the eastern ROW boundary of the PMRE alignment.

Section 20. This segment approximately 3,200 feet and travels in a north-northwest direction from the west side of the PMRE ROW boundary until it intersects with the Houston Lake Loop Trail.

Section 17. This segment is approximately 1,150 feet and located within Section 17. It travels in a west-northwest direction from the Houston Lake Loop Trail intersection to the section line between Sections 17 and 18.

Section 18. This segment is approximately 5,400 feet and located in Section 18. It travels from the eastern section line to the western section line.

All trails are 25 feet in total width, or 12.5 feet on either side of the trail and contain approximately 15.9 acres.

MHT 9200575 – Houston Lake Loop Trail

Trust Parcels: SM-1919-A, SM-2017, SM-2053, SM-2056, SM-2110, SM-2072, SM-2074, SM-2267, SM-2269, SM-2270, SM-2271, SM-2284, and SM-2285

T017N, 004W, Seward Meridian

Best Interest Decision

MHT 9200489, 9200575, 9200576, and 9200577

MH Parcel SM-1919-A, SM-2017, SM-2053, SM-2056, SM-2072, SM-2074, SM-2080, SM-2110, SM-2112, SM-2115, SM-2121, SM-2208, SM-2225-A, SM-2226, SM-2227, SM-2266, SM-2267, SM-2269, SM-2270, SM-2271, SM-2284, and SM-2285.

Section 1. This segment is approximately 4,400 feet long and travels in a southwest direction from the north section line of Section 1 to the west section line.

Section 1 and 2. This segment is approximately 1,180 feet long and located equally on Section 1 and Section 2, on the north side of the rail alignment. It travels along the section line due south to Point Mackenzie Rail Extension (PMRE) crossing #4.

Section 1 and 2. This segment is approximately 680 feet long and located equally on Section 1 and Section 2, on the south side of the rail alignment. It travels along the section line due south from PMRE crossing #4 to the south section line boundary corner shared by Sections 1 and 2.

Section 9. This segment approximately 1,300 feet long and located in the northwest corner of MSB tax parcel 217N04W09A001 and travels from the north section line to the east section line where the trail then travels off of the property.

Section 14. This segment is approximately 490 feet long and located in Section 14 on MSB tax parcel 217N04W14B007, and is situated entirely with the property along the north boundary of the parcel. It accommodates a portion of the Houston Lake Loop Trail reroute and travels in an east-west direction.

Section 15. This segment approximately 4,230 feet long and begins on the east parcel line of MSB tax parcel 217N04W15B001 and travels in a southwest direction, between a small state- and privately-owned parcel, to the south section line of Section 15.

Section 20. This segment is approximately 2,480 feet long and located in the northwest corner of Section 20. It travels from the north section line in a southwest direction to the west section line, where it intersects Borough land.

Section 17. This segment is approximately 1,575 feet long and accommodating a portion of the Houston Lake Loop Trail. It is located in Section 17, in the northwest corner of MSB tax parcel 217N04W17A001, and travels in a southwest direction from the north section line to the west parcel line boundary.

Section 17. This segment is approximately 2,900 feet long and located in MSB tax parcel 217N04W17C001. It travels from the north parcel line in a southwest direction, intersects the Iron Dog Connector Trail, and ends at the south section line of Section 17.

Section 22. This segment is approximately 720 feet long and accommodating the Houston Lake Loop Trail. It is located in Section 22, in the northwest corner, and travels in a southwest direction from the north section line to the west section line.

Best Interest Decision

MHT 9200489, 9200575, 9200576, and 9200577

MH Parcel SM-1919-A, SM-2017, SM-2053, SM-2056, SM-2072, SM-2074, SM-2080, SM-2110, SM-2112, SM-2115, SM-2121, SM-2208, SM-2225-A, SM-2226, SM-2227, SM-2266, SM-2267, SM-2269, SM-2270, SM-2271, SM-2284, and SM-2285.

Section 30. This segment is approximately 2,000 feet long and comprised of four small segments located within Section 30. The segments travel from the north section line in a southwest direction and is broken up by several short lake crossings. The segment ends at the southwest corner of MSB tax parcel 217N04W30A001.

All trails are 25 feet in total width (12.5 feet on either side of the trail), and contain approximately 12.6 acres.

MHT 9200576 – Flat Lake Connector Trail
Trust parcel: SM-2110

T017N, 004W, Seward Meridian

Section 29. The first part of this trail segment is approximately 1,400 feet long and travels from the eastern edge of the section (beginning at a Borough-owned parcel adjacent Flat Lake) and veers to the south and ends at the southern section line boundary, before traveling onto Borough land again.

Section 20 and 29. This segment is approximately 7,650 feet long and travels from the south section line of Section 29, zigzags between privately owned parcels, then travels in a northwest direction toward the PMRE alignment. The segments veers to the northeast, runs somewhat parallel to the Point Mackenzie Rail Extension (PMRE) alignment, then turns to the northwest again before ending at the eastern ROW boundary. There is a small segment of the trail curve that is located on Section 20.

Section 20 and 29. This segment is approximately 1,150 feet long and is part of the rerouted trail passing under PMRE crossing #5. This segment is located in Sections 20 and 29. It travels from the western ROW boundary at crossing #5 and curves to the southwest, joins with the section line, then travels due west to section corner.

Section 17 and 18. This short segment is approximately 670 feet long and travels from the southern section corner shared by Sections 17 and 18, before intersecting the Iron Dog Connector Trail. This segment is equally located on both sections.

All trails are 25 feet in total width (12.5 feet on either side of the trail), and contain approximately 6.3 acres.

MHT 9200577 – Big Lake Trails #2 and #3
Trust parcel: SM-1919-A

Best Interest Decision
MHT 9200489, 9200575, 9200576, and 9200577
MH Parcel SM-1919-A, SM-2017, SM-2053, SM-2056, SM-2072, SM-2074, SM-2080,
SM-2110, SM-2112, SM-2115, SM-2121, SM-2208, SM-2225-A, SM-2226, SM-2227,
SM-2266, SM-2267, SM-2269, SM-2270, SM-2271, SM-2284, and SM-2285.

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Form No. DE 1.1

T017N, 004W, Seward Meridian

Section 1. This segment is approximately 5,450 feet long and located on the southern boundary line of and entirely within Section 1, on the south side of the rail alignment. It begins on the east section line at the intersection with Big Lake Trail #2 and travels south for approximately 170 feet then travels the entire south section line to the west, intersects Big Lake Trail #3 and extends to the southwest corner of Section 1.

All trails are 25 feet in total width (12.5 feet on either side of the trail), and contain approximately 3.1 acres.

Best Interest Decision

MHT 9200489, 9200575, 9200576, and 9200577

MH Parcel SM-1919-A, SM-2017, SM-2053, SM-2056, SM-2072, SM-2074, SM-2080, SM-2110, SM-2112, SM-2115, SM-2121, SM-2208, SM-2225-A, SM-2226, SM-2227, SM-2266, SM-2267, SM-2269, SM-2270, SM-2271, SM-2284, and SM-2285.