

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

**BEST INTEREST DECISION  
Quarry Sawmill Subdivision Negotiated Sale**

MHT 9100617  
MH Parcel CRM 2284-02

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.** Disposal of an 11.49 acre portion of parcel CRM 2284-02.
- II. Applicant/File #.** Jerod or Melinda Cook/MHT 9100617
- III. Subject Property.**
- A. Legal Description.** Township 60 South, Range 79 East, Section 11, Copper River Meridian containing 11.49 acres, a subdivided portion of parcel CRM 2284-02.
- B. Settlement Parcel Number.** CRM 2284-02.
- C. Site Characteristics/Primary Resource Values.** The subject property is an 11.49 acre subdivided parcel within a larger parcel containing 1,560 acres and is located 10.5 miles south of Petersburg on Three Lakes Loop Road that intersects Mitkof Highway. The site is reached via a dirt access road located a half-mile from the intersection (See Attachments 1 and 2).

The subject property includes a borrow pit containing small ponds formed from surface runoff. The site contains a sawmill, log sort yard, and permanent structures that include a 3,500 square foot metal building housing a dry kiln, and a pole barn style building used as the green chain part of the mill.

Flora includes second-growth forest composed of hemlock, cedar, and Sitka Spruce trees on moderate to steeply sloping terrain. The annual rainfall is approximately 110 inches resulting in numerous streams that flow across the property in various locations.

The primary resource value of this property is real estate.

**D. Historical and Existing Uses of the Property.** Parcel CRM-2284-02 (1,560 acres) was original Trust land. The State received patent 1233083 on August 21, 1963 and the Alaska Mental Health Trust Authority received title under Quitclaim Deed 8000016 on September 20, 1996. During the period of time when the State held the land, the subject property was used by the Department of Transportation as a borrow pit and equipment staging area. The site was also used by locals for recreation and as a place to discard old cars and miscellaneous unwanted waste.

In 1997, the Trust Land Office licensed the subject property for sawmill activities and a log sort yard and again in 2010, to a new licensee, the current applicant.

**E. Adjacent Land Use Trends.** The subject property is surrounded by Trust land that has been used for timber harvest and contains a mature, second-growth forest.

**F. Previous State Plans/Classifications.** None.

**G. Existing Plans Affecting Area.** The subject property is a portion of parcel CRM 2284-02 that is included in a September 4, 2012 proposed land exchange between the U.S. Forest Service (USFS) and the Alaska Mental Health Trust Authority. The USFS does not want the subject parcel in the land exchange.

Petersburg incorporated as a borough in January, 2013. The subject property was outside the former Petersburg city limits but is now within the new Petersburg Borough management and tax structure.

**H. Apparent Highest and Best Use.** The subject site is within the new Petersburg Borough but is not zoned to date. The property is currently developed for a sawmill operation and log sort yard which is the highest and best use.

**IV. Proposal Background.** The proposed sale is comprised of 11.49 acres. Based on the historical use of the property, the Trust recognizes that it is particularly suited for a sawmill operation and a log sort yard. There is potential for quarry rock to be removed but extraction would compromise the sawmill operation and is not the intended use by the applicant.

V. **Terms and Conditions.** The applicant negotiated a sale price of \$70,089 which is 122% of the appraised value.

VI. **Asset Management Considerations.** The proposal is consistent with the TLO's adopted *Long Term Asset Management Strategy* which emphasizes maximizing return at prudent levels of risk and removing or preventing future liability risks.

VII. **Alternatives.**

A. **Do Nothing.** This alternative diminishes the opportunity the TLO has with a ready and willing buyer.

B. **Alternative Development.** There is no known alternative development option that is available for this property. The site contains permanent structures that include a 3,500 square foot metal building housing a dry kiln, and a pole barn style building used as the green chain part of the mill. It also contains heavy equipment specific to a sawmill operation and a generator building. In order to develop the site for alternative development, the sawmill operation that has dominated the grounds since 1997 would have to be removed. There are no utilities or sewer and water to the subject site further limit alternative development options.

C. **Proceed as Proposed.** This is the preferred alternative.

VIII. **Risk Management Considerations.**

A. **Performance Risks.** The TLO requires the applicant to submit the sale value in full prior to the execution of the conveyance deed.

B. **Environmental Risks.** The subject property has a history of land use of which included trespass by the local community to discard unwanted waste and refuse due to its' close proximity to Petersburg yet inconspicuous location off of Three Lakes Loop Road.

Funds were spent in 1997 to remove the waste and the site was licensed for use as a log sort yard and sawmill under MHT 9100059. In 2007 and 2008, under the same license, petroleum hydrocarbons were found to be leaking on-site. Concerns were raised by the Department of Environmental Conservation of hazardous soil and water contamination and of the potential contamination to the nearby anadromous salmon stream, Falls Creek.

The former Licensee was required to clean up the soil contamination, remove 44,000 pounds of metal and junk vehicles, and conduct a Phase I Environmental Site Assessment. The Assessment was completed September, 2008 by Chilkat Environmental LLC who conducted a final inspection after the licensee performed a clean-up operation. The findings of the report concluded that no significant soil contamination was present though shallow stains beneath generators and fuel tanks were identified.

C. **Public Concerns.** No known adverse public concerns are anticipated.

**IX. Due Diligence.**

- A. Site Inspections.** The most recent inspections by TLO staff took place May 9 and September 12, 2012.
- B. Valuation.** Land value, using the sales comparison approach, was agreed upon based on an adjusted value of an appraisal completed February 18, 2013. Only two moderately comparable properties were available for review, so prevailing market conditions and data publicly available were also used.

The current market value of the metal building with kiln, pole barn and generator shed was appraised at \$120,800. The Licensee assumed the previous Licensee's bank loan for these structures. TLO did not invest or authorize the tenant improvements. The tenant improvements are not considered in the valuation of the land sale.

- C. Terms and Conditions Review.** The purchase agreement form and the quit claim deed used for this negotiated sale have been reviewed and approved by the Department of Law to best serve the interests of the Trust.

**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 sales 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), 11 AAC 02 (Appeals); and AS 46.40 (Alaska Coastal Management Program), to the extent that it does not apply to private land owners. The TLO hereby deems the following provisions of law inconsistent with Trust responsibilities:

- 1) AS 38.05.055: Alaska Residency required for purchase of State land and AS 38.05.940: Veteran's Discount allowed on purchase price of State land. Preferences or discounts provided to Alaska residents or veterans would

be granted at a cost to the Trust, thereby violating this key trust management principle.

- 2) AS 38.05.127: Access to navigable or public water and requiring “to and along” easements on Trust properties diminishes the sale value of Trust lands and therefore is inconsistent with trust management principles.
- 3) AS 38.05.065(g): Appeal of director’s decision to commissioner, AS

**XI. Trust Authority Consultation.** The Trust Authority consultation for disposal transaction of less than \$100,000 has been delegated by Resolution 02-01 of the Board of Trustees to the Trust Authority Chief Executive Officer, who has approved this decision as of the date listed in Section XVI of this Best Interest Decision.

**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.)

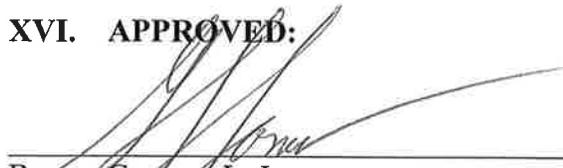
**XIV. Reconsideration.** To be eligible to file for reconsideration of this best interest decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

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](mailto:mhtlo@alaska.gov).

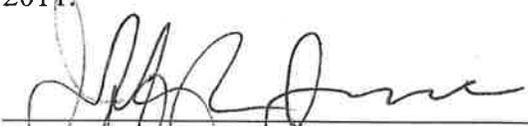
The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the Trust Land Office administrative process. For specific dates or further information about the disposal, interested parties should contact the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

**XVI. APPROVED:**

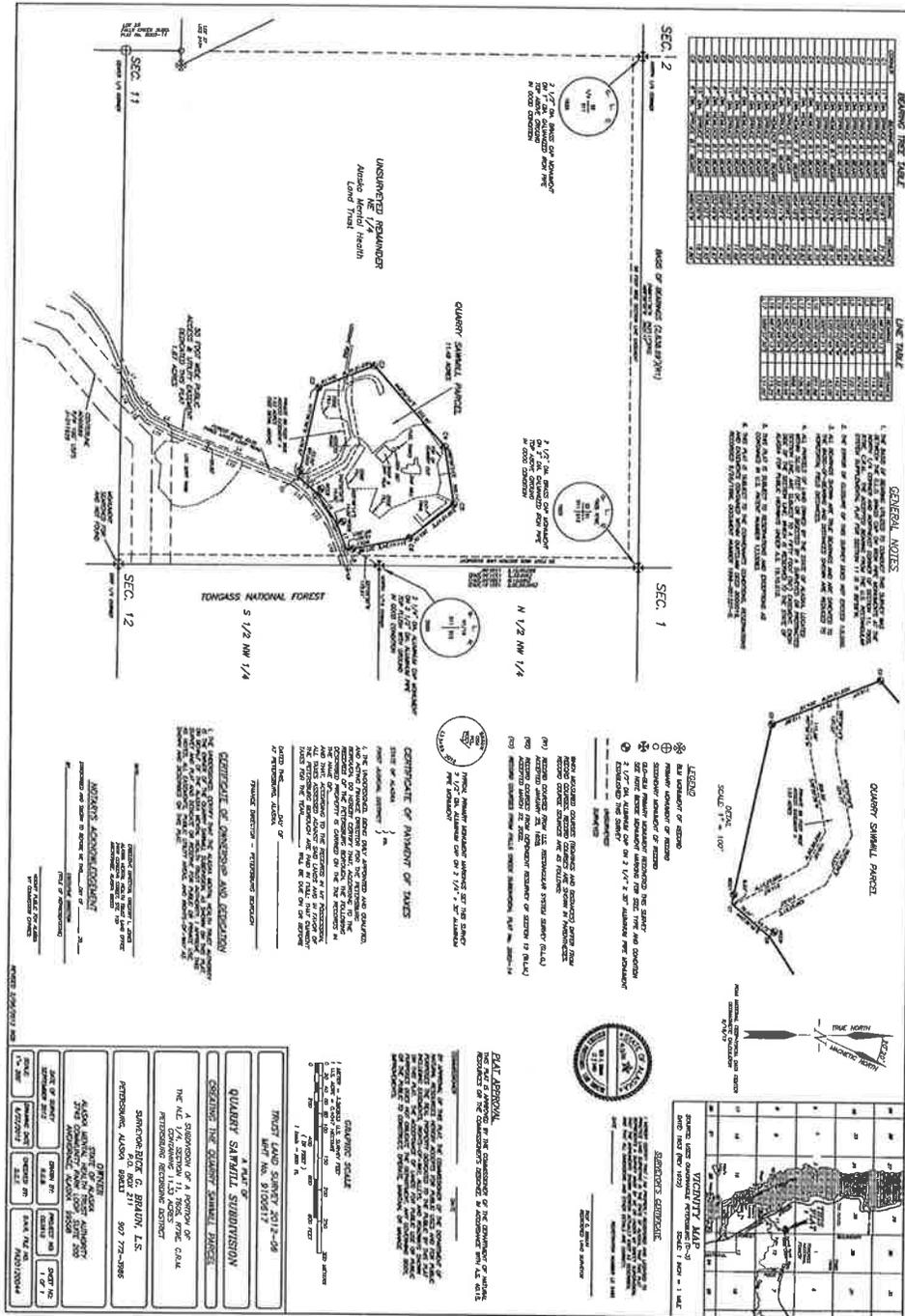
  
By: Gregory L. Jones  
Executive Director

4/3/2013  
Date

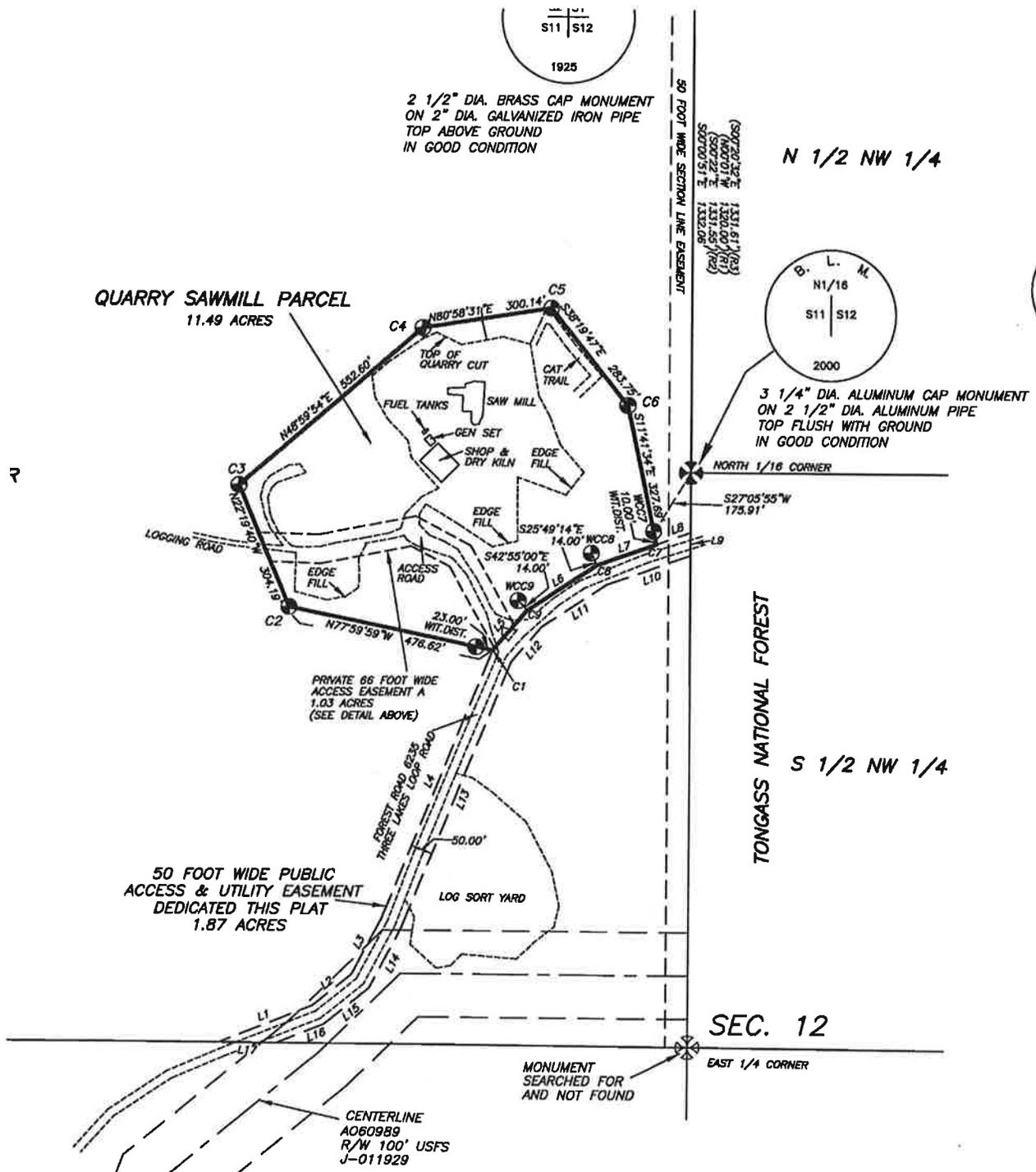
In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction pursuant to Alaska Mental Health Trust Authority Bylaws, September 2011.

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

4/10/13  
Date



Attachment 1. Quarry Sawmill Subdivision plat.



Attachment 2. Quarry Sawmill Subdivision.