

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

**BEST INTEREST DECISION  
Chugach Electric Association  
Master Utility Easement Agreement  
Quartz Creek Transmission Line (Girdwood)**

MHT 9200542  
MH Parcel S82632

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.** Construction, maintenance, and operation of an electrical transmission line.
- II. Applicant/File #.** Chugach Electric Association/MHT 9200542 associated with the Master Utility Easement Agreement, MHT 9200585.
- III. Subject Property.**
- A. Legal Description.** A strip of land 100 feet in width and 1,140 feet in length across a portion of Trust land identified as parcel S82632, which is located in the SW1/4, Section 19 in Township 10 North, Range 2 East, Seward Meridian containing approximately 2.62 acres, more or less.

- B. Settlement Parcel Number(s).** S82632.
- C. Site Characteristics/Primary Resource Values.** The site is comprised of estuarine and marine wetlands. Conservation and real estate are the primary resource values.
- D. Historical and Existing Uses of the Property.** Girdwood was a placer and lode gold mining community in the late 1800's. Much of Girdwood was logged in the early 1900's in support of construction for the Alaska Railroad and mining operations. The old townsite area was located at the mouth of Glacier Creek which is adjacent to what is now the Alyeska Highway and Seward Highway intersection. The town moved following the 1964 earthquake as it became uninhabitable due to subsidence of nearly eight feet that caused flooding. The flooding resulted in today's estuarine and marine wetlands over 74% of the subject parcel.
- E. Adjacent Land Use Trends.** A mixture of commercial, residential, and recreational properties.
- F. Previous State Plans/Classifications.** Turnagain Arm Management Plan, October 1994/Open Space
- G. Existing Plans Affecting Area.** The subject parcel is within the intertidal zone and is subject to the *MOA Anchorage Wetlands Management Plan*. The plan limits the easement area to limited trails and "utility development may be possible but shall be limited to existing easement or at fringes" (page 100).

Other MOA management plans guiding development are the *Girdwood Area Plan* adopted in February 1995 which classifies the easement area as Open Space and Commercial. The primary use of open space is for recreation excluding the transportation and utility placements. Also, the *Girdwood Commercial Areas and Transportation Master Plan*, 2001, references that much of the parcel is wetland mapped as critical resources and not developable. The uplands in the northeast corner have a minimum potential to be developable (page 74).

The proposed use is consistent with the above plans.

- H. Apparent Highest and Best Use.** Girdwood is logistically situated between Municipality of Anchorage and the Kenai Peninsula. The subject parcel is well-suited for easements related to the Seward Highway transportation corridor and utilities rights of way which connect the Kenai Peninsula to the Municipality of Anchorage. In addition, potential real estate development opportunities exist for commercial support services related to the transportation corridor in the northeast corner of the subject parcel.

- IV. Proposal Background.** The applicant constructed and operated an 115kV transmission line running from Cooper's Lake Hydropower Plant to Anchorage in 1957. The Federal Power Commission (FPC) originally authorized the transmission line Project No. 2170 for a fifty year period and again, applied to FERC (formerly FPC) for another fifty year period. FERC requires the applicant to obtain easements to be finalized prior to relicense. The applicant is now securing utility easements (Easement) from approximately 92 landowners which include the subject parcel.

- V. Terms and Conditions.** The Quartz Creek transmission line will generate annual revenues of \$712.50 contributing \$21,375 to Income over the term of the Easement. The Quartz Creek line is one of multiple transmission and distribution lines subject to the Master Utility Easement Agreement, MHT 9200585.
- VI. Asset Management Considerations.** The subject Easement was constructed in the late 1950's. Parcel S82632 is located on substitute lands conveyed from the Heritage Land Bank. The subject Easement is considered a "Long Term Market" lands under 11 AAC 99.090(c) with a predictable, long-term revenue. The applicant is an experienced electrical company which operates within industry standards and it provides little risk to the Trust.
- VII. Alternatives.**
- A. Do Nothing.** The transmission line was constructed prior to Statehood and has operated 56 years without payment. Continuing this course of action negates the potential for a willing buyer with a predictable stream of Income.
- B. Alternate Development.** The route was determined by a FERC application and it is unreasonable to relocate the transmission line from the subject parcel.
- C. Proceed as Proposed.** The applicant is willing to complete the easement disposal and return market value for the land use to the Trust.
- VIII. Risk Management Considerations.**
- A. Performance Risks.** Minimal site development is anticipated since the transmission line infrastructure was built in 1957. Operational maintenance may require clearing of brush or trees to prevent line disruptions. The standard easement indemnification, bonding, and insurance coverage naming the Trust as an additional insured should mitigate unknown liabilities.
- B. Environmental Risks.** Future seismic and tsunami activity may change the floodplain and may impact the line structural integrity. The Commercial Liability Insurance coverage requirements should mitigate environmental and liability risks.
- C. Public Concerns.** Subject to additional comments received through the public notice process; there are no known public concerns.
- IX. Due Diligence.**
- A. Site Inspections.** A site visit was not conducted prior to Agreement negotiations. An inspection will be conducted in October/November 2013.
- B. Valuation.** TLO Processing and Guidelines for Land Use Fees were reviewed and the easement fee was determined by using the rural rate per lineal foot and an adjustment voltage factor from 34.5kV to 115kV. Back rental fees were assessed to the date of the application.

**C. Terms and Conditions Review.** The Agreement used the TLO standard easement agreement which is periodically reviewed either by the Attorney General or outside legal contractors.

**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 utility easement is 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.** The Trust Resource Management Committee was not consulted on this matter, as it is considered within the general scope of day to day activities, which the board has delegated to the Executive Director and Chief Executive Officer.

**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.)

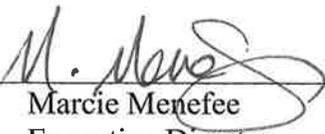
**XIV. Reconsideration.** To be eligible to file for reconsideration of this best interest decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

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).

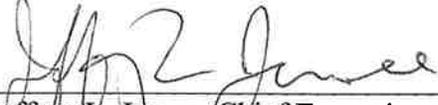
The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the Trust Land Office administrative process. For specific dates or further information about the disposal, interested parties should contact the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

**XVI. APPROVED:**

By:   
Marcie Menefee  
Executive Director

11.4.13  
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 September 7, 2011 and Resolution 02-01.

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

11/8/13  
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Date