

**Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**Notice under 11 AAC 99.050 of**  
**Decision to Dispose of Interest at MH Parcel C20141 in Valdez**  
**MHT #9200666**

Notice is hereby given that, pursuant to the provisions of AS 38.05.801 and 11 AAC 99, the Executive Director of the Alaska Mental Health Trust Land Office (TLO) has determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to complete a Land Lease and/or Land Sale of certain Trust land. The basis for this determination is explained in a written best interest decision prepared by the Executive Director pursuant to 11 AAC 99.040.

The Trust land affected by the decision is adjacent or near to the City of Valdez, and is more particularly described as: A portion of the parcel annotated as "state land" on Plat 80-11 filed in Valdez, Alaska Recording District (on 9/28/1980), located within Section 35, Township 008 South, Range 006 West, Copper Meridian, containing approximately 20 acres (MH Parcel **C20141**).

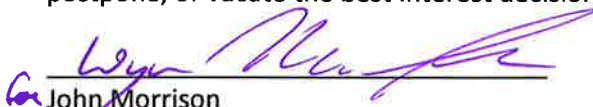
Persons who believe that the written decision should be altered because it is not in the best interests of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, June 9th, 2017**. Comments should be submitted to the TLO at **2600 Cordova Street, Suite 100, Anchorage, AK 99503**, or by fax **(907) 269-8905** or email [mhtlo@alaska.gov](mailto:mhtlo@alaska.gov). Submittal of competing interest must comply with stated deadline for comments. Following the comment deadline, the Executive Director will consider timely 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, and the best interest decision may be changed in response to such written comments or other information. Commenting parties will be provided a copy of the final best interest decision after the end of the notice period.

To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final written decision to request that the Executive Director reconsider the decision under 11 AAC 99.060(b).

Copies of the written decision are available at the Trust Land Office, or at [www.mhtrustland.org](http://www.mhtrustland.org). If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

In compliance with the Americans with Disabilities Act, the Alaska Mental Health Trust is prepared to accommodate individuals with disabilities. Please contact the Trust Land Office at (907) 269-8658 for assistance. Requests for assistance must be received at least 96 hours prior to the comment deadline in order to ensure that any necessary accommodations can be provided.

The Executive Director of the TLO reserves the right to waive technical defects in this notice or to amend, postpone, or vacate the best interest decision.

  
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John Morrison  
Executive Director

5/5/17  
\_\_\_\_\_  
Date  
Published Valdez Star: 05/10/2017

# The Alaska Mental Health Trust Authority Trust Land Office

## BEST INTEREST DECISION DISPOSAL OF INTEREST AT MH PARCEL C20141 IN VALDEZ

MHT #9200666  
MH Parcel(s) C20141

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, 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 interest through competitive or negotiated sales or leases at Mental Health (MH) Parcel #C20141 in Valdez (see Exhibit A). Under current consideration is the issuance of a ground lease to Afognak Leasing, LLC. The applicant seeks to lease an approximate five-acre portion of the parcel at the northwest end, and fronting Airport Way and Salcha Way (see Exhibit B). The use is further described as the mobilization and construction of a temporary (modularized) man-camp consisting of approximately 65 beds, a commercial kitchen, individual and shared showers, laundry facilities and recreation/workout facilities. This best interest decision goes beyond the specific transaction noted herein, and enables the Executive Director to evaluate other applications, and ultimately complete, other competitive or negotiated sale or lease transactions for the parcel under consideration.

**II. Applicant/File #.** Afognak Leasing, LLC under MHT 9200666. Future applicants to be determined.

**III. Subject Property.**

**A. Legal Description.** The parcel at Township 008 South, Range 006 West, Section 35 in the Copper River Meridian, Alaska: That unsurveyed parcel of land labeled "state land" on the Alaska State Land Survey (ASLS) No. 79-116, lying west and north of Tract "A" of ASLS No. 79-116, East of U.S. Survey 439 and U.S. Survey 5671 and South of U.S. Survey 4810. Containing twenty acres more or less (see Exhibit B), as referenced on

ASLS No. 79-116 filed in the Valdez Recording District on September 28<sup>th</sup>, 1980 as Plat 80-11.

- B. Settlement Parcel Number(s).** C20141.
- C. Site Characteristics/Primary Resource Values.** This site is a flat low lying site within the City of Valdez, and near the Valdez Airport. The site is generally unimproved, but is proximate to city sewer and water utilities as well as power available from Copper Valley Electric. The land is zoned as light industrial, and the primary resource value is as real estate with a light industrial or other conditional use.
- D. Historical and Existing Uses of the Property.** Parcel C20141 was received by Quitclaim Deed from the State of Alaska Department of Natural Resources in September of 1996. At the time of conveyance this land was vacant, and has remained as such to date.
- E. Adjacent Land Use Trends.** Adjacent lands include a multitude of uses including the Valdez Airport and supporting facilities located across the street to the north. A material supplier selling gravel and sand is also neighbors the site to the north across Airport Road. Lands to the west are mostly undeveloped and vacant. This is also the case with lands to the east across Salcha Way, which are sparsely developed or vacant.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** The land is zoned as light industrial. Applicants are responsible for confirming consistency with local zoning, or obtaining a conditional use permit in instances where the proposed use may be deemed as inconsistent with the land use zoning designation and/or other local land use guidelines or policy documents.
- H. Apparent Highest and Best Use.** Resultant to the urban location, the value is as real estate with an anticipated use as industrial or other conditional use (eg. commercial and/or residential).

- IV. Proposal Background.** Current applicant proposes to use the land for a temporary man-camp. The City of Valdez has a small construction boom including a sizeable harbor upgrade. The applicant is helping to solve a perceived housing shortage created by upcoming and existing construction projects and/or other seasonal industries. Background of future proposals remains to be determined.
- V. Terms and Conditions.** The proposed term of occupancy is a thirty-six-month lease with options for extension of two additional terms of twenty-four months each. In general, terms specific to the occupancy are established in the standard ground lease form of the Trust Land Office. Terms specific to a sale are included in the standard purchase and sales agreement form. The TLO will seek legal review of any non-standard terms or clauses if deemed necessary by the Executive Director.
- VI. Resource Management Considerations.** This proposal is consistent with the “Resource Management Strategy for Trust Land” (RMS), which was adopted in March of 2016 in consultation with the Trust. The RMS acknowledges negotiated or competitive leases or sales as acceptable actions provided they are subject to a stringent adjudication process, a component of which is this decisional document.
- VII. Alternatives.** Do nothing. This alternative offers no definitive timeline for revenue generation and leaves the site more susceptible to the potential of trespass and/or illegal dumping.

## **VIII. Risk Management Considerations.**

- A. Performance Risks.** Terms specific to the occupancy are established in the standard ground lease form of the Trust Land Office. The standard form ground lease mitigates risks associative to the occupancy through the inclusion of the requirement for a performance bond. The standard ground lease form is also inclusive of indemnification requirements as well as the requirement for standard insurance coverages for builder's risk, liability and property damage. Completion of the lease will also consider the need for any non-standard coverages, or increased limits of coverage.
- B. Environmental Risks.** Environmental risks are evaluated based on the application, applicant and proposed use. For the current applicant, environmental risks are perceived as low for the use. The site is not inclusive of, or near streams, or lakes. The proposed use is of a low impact, and is not anticipated to produce any environmental pollutants beyond ordinary household refuse. The applicant accepts the site, and is responsible for remediation of any pollution upon vacation. An additional environmental risk, or concern is the presence of existing trash through prior illegal dumping at the site which has been recently reported, but that remains to be verified by TLO Staff. This risk is exclusive of the proposed transaction, as it is possible the Trust would need to share in the cost or effort to remediate at some point in the future.
- C. Public Concerns.** None known, or anticipated.

## **IX. Due Diligence.**

- A. Site Inspection.** The TLO has yet to complete a site inspection specific to the proposed transaction, but completion of a site inspection is a contingency to executing the lease. The site will be inspected by a land manager familiar with the proposed transaction. An inspection report will be produced as an exhibit to the file, and for purposes of reference during and after the proposed period of use. The above contingency of inspection will be applicable to all future transactions.
- B. Valuation.** Valuation remains to be finalized through the execution of the lease, and is anticipated to include a monthly rental rate of up to \$1,000/acre/month, equating to up to \$5,000/month for the area under consideration. No appraisal was completed as historical land values in the area would still support the above established rate as the minimum rate. For an application for purchase an appraisal would be necessary to establish value at this location.
- C. Terms and Conditions Review.** Terms specific to the occupancy are established in the standard ground lease form of the Trust Land Office. Terms specific to a proposed purchase are addressed in the standard purchase and sales agreement form. For any transaction, the TLO will seek legal review of any non-standard terms or clauses if deemed necessary by the Executive Director.

## **X. Authorities.**

- A. Applicable Authority.** AS 37.14.009(a), AS 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust land management and disposal).
- B. Inconsistency Determination.** As the proposed lease 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 Alaska Mental Health Trust board of trustees was consulted on May 4th, 2017, and the board of trustees concurred with the motion for disposal of interest, in part, or in whole, through competitive or negotiated leases or sales subject to the outcome of the notice process.
- 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. Competing interests who may be interested in leasing the Property must submit their proposal within 30 calendar days from the date of execution of this best interest decision. Instructions for the application submission can be found online at: <http://mhtrustland.org/index.php/land/land-use-application/> . To be considered a qualified competing interest, applicants must include the application fee, a formal Letter of Intent (LOI) to include a proposed lease rate that exceeds the current rate or a sales price, conceptual plan and elevation view drawings for any proposed form of development, a proposed lease term equal to or exceeding the term proposed herein and any other terms and conditions proposed for incorporation in the standard form ground lease. The LOI must be signed by a company officer with authority to bind company, or a duly authorized agent.

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 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 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 for reconsideration, 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 TLO, 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 TLO administrative process. For specific dates or further information about the disposal, interested parties should contact the TLO at the above address, or visit the website at: [www.mhtrustland.org](http://www.mhtrustland.org).

**XVI. APPROVED:**

*for*   
\_\_\_\_\_  
John Morrison  
Executive Director  
Alaska Mental Health Trust Land Office

*5/5/17*  
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Date