

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

**Proposed Non-competitive Sale to Preference Right Applicant
Snotty Dog, LLC**

**PRELIMINARY DECISION – AS 38.05.102
ADL 64774**

Proposed Action: Non-competitive Sale: The Department of Natural Resources (Department), Division of Mining, Land and Water (Division), has received an application to purchase a parcel of state land pursuant to Alaska Statute 38.05.102. Lessee preference. The proposed decision will allow the parcel to be sold through a non-competitive sale to the current lessee, Snotty Dog, LLC. The parcel is located at 5161 West Stacy Street approximately 5 miles west of Wasilla and approximately one-half mile north of the Parks Highway. The legal description of the parcel is the W½ SE¼ Section 2, Township 17 North, Range 2 West, Seward Meridian. The parcel is approximately 80 acres in size. See Attachment A.

The public is invited to comment on this Preliminary Decision of the non-competitive sale. The deadline for comments is May 31, 2012; see page 10 for details on how to send comments and where they should be sent.

Authority: The applicable authority includes, but is not limited to, the following Alaska Statute (AS):

AS 38.05.102. Lessee preference

Administrative Record: The administrative record for the proposed actions consists of the following case file: ADL 64774. Also incorporated by reference are Mineral Closing Order 239, Land Classifications SC-85-002 and SC-08-001, ADL 214785 (University land settlement), OSL 789, state and federal plats, and the Southeast Susitna Area Plan adopted April 2008.

Scope of the Decision: The scope of this decision is limited to determining if the current lessee (hereafter “applicant”) and the subject parcel are eligible for a preference right purchase, if it is in the state’s best interest to sell the parcel, and if it is in the state’s best interest to sell to the current lessee under AS 38.05.102. Lessee preference.

The proposed decision will allow this parcel to be sold through a noncompetitive sale to the applicant. This action complies with the general recommendations of the Southeast Susitna Area Plan. The purchase price for the parcel will be set at the appraised fair market value.

The applicant is responsible for bearing the cost of the public notice and appraisal. The Division does not intend to impose deed restrictions to control post-patent land use. Restrictions regarding land use will be handled by the local land management authority.

Proposed Related Orders: None are required.

Description:

Location: The subject parcel is located between the cities of Wasilla and Houston approximately one-half mile north of the Parks Highway at 5161 West Stacy Street.

Geographic Features: The subject parcel is forested, except for the southwest portion where Wilderness Estates Trailer Park is located and a small portion of the southeastern corner where the well house and former gravel extraction operation are located.

Potential Flood Hazard: According to available FEMA maps, the area of the subject parcel is Zone C – Areas of minimal flooding.

Municipality/Borough: The subject parcel is located within the Matanuska-Susitna Borough in the area known locally as Meadow Lakes. It is outside the municipal boundaries of Wasilla and Houston.

Regional/Village Corporations/Councils: The Native regional corporation is Cook Inlet Region, Inc. (CIRI). There are 2 Native village corporations within 25 miles of the subject property: Knikatu, Incorporated and Eklutna, Incorporated. There are also 2 Native councils: Knik Tribal Council and Native Village of Eklutna.

USGS Map Coverage: The subject parcel is located on USGS Quad Anchorage C-7 SW.

Legal Description: W½ SE¼ Section 2, Township 17 North, Range 2 West, Seward Meridian.

Title:

Acquisition Authority: Title report FY-08-012 (SC) was completed for the subject parcel on August 9, 2007 and updated on July 27, 2010 and July 6, 2011. The State of Alaska received patent to the subject parcel under a University Grant on June 27, 1961. The University of Alaska received title to the subject parcel by statutory quitclaim deed on October 21, 1983. Title was returned to the State of Alaska by statutory quitclaim deed on December 2, 1983. The applicable State case files are UNIV 32, ADL 214785 and OSL 789.

Title Status: State land, patent number 1220828 and statutory quitclaim deed OSL 789.

Title Restrictions: The parcel is subject to the reservations, easements, and exceptions contained in the federal conveyance document and subsequent conveyance documents between the state and the University of Alaska.

Native Interest: The subject parcel is within the boundaries of Cook Inlet Region, Inc. There are no Native interests identified with this parcel.

School Trust Land: This is not School Trust Land.

Other Conflicts or Pending Interest: None have been identified.

Background: A 55-year lease was issued for the subject parcel on July 8, 1974 to Edward Meekins. The lease has gone through several assignments since then. The current lessee is Snotty Dog, LLC. All security assignments and liens on the lease have been cleared. The lease terminates on July 7, 2029. There is a trailer park in the southwest corner of the subject parcel, occupying approximately 20 acres of the 80-acre site. Across the access road near the well house in the southeastern corner of the parcel is a gravel extraction operation developed ostensibly by the lessees which is no longer in operation. The balance of the site is undeveloped.

The State received Federal Patent #1220828 to the land and mineral estates under a University Grant on June 27, 1961. The State of Alaska, Department of Natural Resources, pursuant to the terms of the State of Alaska/University of Alaska Settlement Agreement #1, issued State of Alaska Quitclaim Deed (QCD) #586 dated October 21, 1983 to the Board of Regents of the University of Alaska, conveying fee title to, in part, the subject land. The Board of Regents issued a Statutory Quitclaim Deed dated December 2, 1983 to the State of Alaska, Department of Natural Resources, conveying back to the state the land contained in QCD #586. The State of Alaska, DNR, has designated the land conveyed by the University of Alaska as Other State Land (OSL) #789.

HB 248 (Ch 81 SLA 1985) established an opportunity for lessees of University land to purchase their leased parcels from the state. The statute established an application deadline of December 31, 1985, with a property valuation date of June 17, 1983.

On June 20, 1984 the state offered the lessees at the time the option to purchase the 80 acres pursuant to the terms of the State of Alaska/University settlement for the amount paid to the University by the state, which was \$200,000. A second letter dated August 1, 1984 offering the property for sale established a deadline of October 8, 1984 to accept the offer to purchase.

By letter dated August 29, 1984, the lessees requested an extension of the acceptance deadline for one year, to October 8, 1985. The state replied on October 8, 1984 extending the deadline to December 31, 1984. On December 31, 1984, the lessees submitted an application to purchase the property pursuant to AS 38.05.035(b)(2). On July 15, 1985, the state notified the lessees they could apply to purchase the property

pursuant to HB 248. In order to do so, the lessees had to submit an application to purchase before January 1, 1986 and had to be in good standing with respect to the lease. The purchase price was the amount the state paid the University for the land; if the lessee purchased the property the lessee had to relinquish all rights under the lease. The letter offered the parcel for \$200,000. Upon receipt of the lessees' "option to purchase", the Southcentral Region Office would prepare a decision.

The lessees' attorney, by letter dated November 15, 1985, accepted the offer to purchase, but contested the sale price and stated a second appraisal would be obtained. The lessees were notified by DNR that the appraisal had to be submitted to and approved by DNR by January 1, 1986. The lessees objected to that deadline as well. The lessees then notified the state on December 31, 1985 that the offer to purchase for \$200,000 was accepted.

A Preliminary Decision was issued effective April 17, 1987 approving sale of ADL 64774 to the lessees pursuant to HB 248. A Final Finding was issued July 1, 1987. The lessees of record transferred their interest in the lease to James Hotchkiss to take advantage of his veteran's discount. Mr. Hotchkiss was notified on July 17, 1987 that the purchase price had been reduced to \$150,000 due to his veteran's preference discount. On May 27, 1988 DNR notified Mr. Hotchkiss that he had not responded to the offer to purchase; he was given a deadline of July 28, 1988 to pay the required costs and submit the required forms or the offer to purchase would be terminated. DNR notified Mr. Hotchkiss on December 16, 1988 that the offer to purchase was withdrawn due to failure to remit the required fees and payments. He was told the lease would remain in effect and he could now request a purchase pursuant to AS 38.05.102. Mr. Hotchkiss passed away in December, 1989.

Subsequently, the lease went through a number of assignments, amendments and a foreclosure until the current lessee, Snotty Dog LLC, was assigned the lease on September 14, 2007.

Planning, Classification and Mineral Orders:

DNR Land Use Plan: DNR adopted the Willow Sub-basin Area Plan in October, 1982. The subject parcel was designated Settlement in this plan. The Southeast Susitna Area Plan, adopted in 2008, superseded the Willow Sub-basin Area Plan. The subject parcel is located within the Palmer-Wasilla Management Unit of the Southeast Susitna Area Plan. Recommended land use for the general area surrounding the subject parcel was settlement. See the Land Classification and Land Classification Order and Plan Amendment sections below for further discussion.

Area wide subsurface management policy states in general parcels scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between surface and subsurface users. Mineral Closing Order 239 issued in 1982 closed the subject parcel to mineral entry.

Land Classification: The state classified the subject parcel as Settlement in the Willow Sub-basin Area Plan adopted October 1982 under Classification Order SC-85-002. Classification Order SC-08-001 was issued concurrently with the Southeast Susitna Area Plan but did not revise the existing management intent or Settlement classification of the general area in which the subject parcel is located. However, the Southeast Susitna Area Plan inadvertently omitted the subject parcel from the plan as it had mistakenly been identified as privately owned. Therefore, the parcel was not classified by Classification order SC-08-001.

Land Classification Order and Plan Amendment: Chapter 4 of the Southeast Susitna Area Plan provided mechanisms for classification of state lands that were inadvertently omitted from the plan as described above. Unclassified land could be considered classified the same as adjacent classified state land or could be considered classified Settlement if located within or adjacent to a community.

In recognition of this oversight and in light of the provisions of the Southeast Susitna Area Plan, it has been determined the subject parcel should have been designated Settlement and classified Settlement Land. Therefore DNR has issued Determination 2012-1: Determination of Plan Designation and Land Classification for State Lands Inadvertently Omitted in the Southeast Susitna Area Plan (Attachment B).

Determination 2012-1 amended the Southeast Susitna Area Plan to include the subject parcel in Unit P-18 and amended Land Classification Order SC-08-001 to classify the subject parcel Settlement Land. Additionally, Plan Map #6 and the Resource Allocation Table for the Palmer-Wasilla region are amended to append the missed subject parcel to plan Unit P-18.

Coastal Issues: The subject parcel is located within the Matanuska-Susitna Borough. The department will notify the Matanuska-Susitna Borough of this proposed action.

Mineral Order: The parcel has been previously closed to mineral entry by Mineral Closing Order 239 issued in 1982.

Area plan subsurface management policy states that, in general, areas or parcels scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between surface and subsurface users. However, the subject parcel may still be subject to oil and gas leasing and exploration.

Mineral orders for closure, where they have been established, close the area to exploration and development of locatable minerals such as gold, copper, platinum, etc. Mineral orders do not apply to leasable minerals, including oil and gas, coal, shallow gas, or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, Alaska law also provides that the surface owner will be compensated for damages resulting from mineral exploration and development (AS 38.05.130).

Local Planning: The proposed decision is in compliance with the Meadow Lakes Comprehensive Plan adopted by the Matanuska-Susitna Borough in October 2005. The plan designates Land Use Districts for the Meadow Lakes planning area; the subject parcel is within an area designated as Rural Residential.

Easements and Setbacks: A 50-foot section line easement will be reserved along the south boundary of the parcel. The Matanuska-Susitna Borough has this section line easement marked out as the continuation of West Stacy Street on the borough GIS web site.

Traditional Use Findings: A traditional use finding is not necessary because the subject parcel is located within an organized borough

Access: Access to the parcel is from West Stacy Street.

Access To and Along Public or Navigable Water: This parcel is not adjacent to any water bodies.

Reservation of Mineral Estate: In accordance with section 6(i) of the Alaska Statehood Act and AS 38.05.125, the state, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with AS 38.05.130 and other applicable statutes and regulations.

Hazardous Materials and Potential Contaminants: There is a possibility of contamination in the area of the trailer park since there are fuel lines that service the trailer park. There are also utility and sewage lines within the trailer park. In April 2007 and in spring of 2010 there were sewage overflows from onsite septic tanks. There have also been petroleum spills near the well house. The trailer park occupies the southwestern 20 acres of the 80-acre parcel; the remainder is undeveloped. The Department recognizes there are potential environmental risks associated with development that may occur when public land is transferred into private ownership. This is a risk that does not outweigh the need to offer quality and accessible land to the public.

The State of Alaska makes no representations and no warranties, expressed or implied, as to the presence or absence of hazardous substances, hazardous wastes, contaminants, or pollutants on the land proposed here for conveyance. The State of Alaska does not assume any liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants nor for the remediation of the site should such substances ever be identified. The subject land is sold on an "as is" basis and in the condition as of the date of sale.

Performance Guaranties and Insurance: Not applicable to this decision.

Survey: In order for a parcel of state land to be sold, it must be surveyed. The state has determined that this site is surveyed in a survey determination issued February 8, 2011 (SD 2007-10). The survey determination noted that the Matanuska-Susitna Borough confirmed the borough considers the site surveyed.

Compensation/Appraisal: AS 38.05.840(a) states, "Land may not be sold or leased for less than the approved, appraised market value..." The valuation date of the appraisal will be set as the date of issuance of an approved Final Finding and Decision or subsequent Amended Final Finding and Decision. At the appropriate time, the Division will notify the lessee to begin the appraisal process and make available a list of approved appraisers. The DNR Appraisal Unit will provide appraisal instructions to an approved appraiser. The applicant bears the cost of the appraisal.

Agency Review: Agency review has been completed and agency comments were considered and addressed as appropriate in this Preliminary Decision. No objections or issues were raised in agency review.

Alternatives: The following alternatives were considered:

Alternative 1: Offer the leased parcel for sale as proposed. Converting long term leases to sale is more cost effective for the Department than managing long term leases. The sale of the subject parcel will provide settlement land to the private sector as well as generate revenue for the State. AS 38.05.102 authorizes the state to sell a leased parcel to the lessee if the lessee is in good standing upon a determination that the sale is in the state's best interest. Selling this parcel is in compliance with the Southeast Susitna Area Plan and the Matanuska-Susitna Borough's Meadow Lakes Comprehensive Plan. The lessee is presently in good standing and the state has found the proposed sale to be in the state's best interest. This is the preferred alternative.

Alternative 2: Upon expiration of the lease, offer the subject parcel in a competitive public sale. The lease terminates on July 7, 2029. The State would have to manage the lease until its termination. Thereafter, the State would be responsible for managing the trailer park as well as managing a competitive sale. This is not in the best interest of the State. If unsuccessful in purchasing the subject parcel, the former lessee may suffer detriment with respect to improvements placed on the parcel by the former lessee. This alternative is not preferred.

Alternative 3: The Department will take no action and retain the parcel upon the expiration of the lease. Retaining this parcel is not in compliance with the proposed classification of Settlement and the management intent of the Southeast Susitna Area Plan. The State would have to manage the lease until its termination. The State would need to expend resources managing the property while forgoing the income that could have been generated in a sale. A portion of the subject parcel is occupied by a trailer park which contains numerous trailers owned by individuals, not the applicant. The

state would have to manage those improvements in some fashion. This is not in the best interest of the State. This alternative is not preferred.

Recommendation: The proposed action, Alternative 1, is believed to be in the overall best interest of the state and is consistent with the requirements of AS 38.05.102. Alternative 1 provides accessible, quality land for private ownership. The proposed action is consistent with the Southeast Susitna Area Plan and will generate revenue for the State. Comments received during public notice may result in changes to the preferred alternative, or a decision to stop the action. A Final Finding and Decision will address comments submitted during the public review process.

The state does not guarantee the condition or usefulness of the subject parcel. The land is offered "as is" with no guarantees, expressed or implied, as to its suitability for any planned or potential use, or as to the availability of any public or private services.

Stipulations: The following stipulations must be met by the applicant:

1. Within 60 days from the date of issuance of the Final Finding and Decision, the applicant must submit to the Department the following:
 - Reimbursement of the cost of publishing the public notice in the Anchorage Daily News and the Mat-Su Valley Frontiersman. Public notice costs must be paid before the state will authorize the applicant to proceed to the next stage of the process.
2. Within 2 years from notification that the state has received payment for public notice costs and issued the notice to proceed to appraisal, the applicant must submit to the Department an appraisal for review and approval.
3. Upon approval of the appraisal by the Department, the lessee will be sent a notice to proceed to purchase. Within the time period specified in this notice, the lessee must submit to the Department the following:
 - A completed Declaration of Intent form and \$100 document handling fee;
 - A properly executed Relinquishment of Land Lease form; and
 - Payoff amount or a minimum deposit of 5% of the purchase price required for the issuance of a Contract for the Sale of Real Property.
4. Prior to the completion of the purchase and issuance of a state title document, the applicant must remain in good standing with respect to all terms of the lease, including lease payments, late fees, and municipal or borough taxes if any. If the applicant enters into a Contract for the Sale of Real Property the applicant must remain in compliance with all terms of that contract throughout its term. The lessee must also remain in compliance with all applicable state and local ordinances and regulations. Failure to do so may result in termination of the lease and/or sale.

If the applicant fails to complete any of the above mentioned stipulations within the time limits specified, an Amended Final Finding and Decision and further public notice may be required prior to the completion of the purchase unless the delay and extenuating circumstances are pre-approved by the Department. The effective date of the appraisal will be adjusted to the date of issuance of the Amended Final Finding and Decision. The applicant is responsible for submitting an updated appraisal and for any additional appraisal and public notice costs.

If the applicant assigns the lease prior to entering into a Contract for the Sale of Real Property, the new lessee is required to comply with all the terms and stipulations of the Final Finding and Decision or an Amended Final Finding and Decision. The new lessee will be required to submit an amended application in order to continue with the purchase of the subject parcel.

Failure on the part of the applicant to make a good faith effort to comply with the stipulations and terms of the Final Finding and Decision or an Amended Final Finding and Decision may result in the closure of the preference right purchase case unless the delay and extenuating circumstances are approved in advance by the Department.

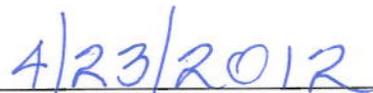
Proposed Action Approved for Public Review:

The proposed action may be in the best interests of the state and the Preliminary Decision is hereby approved and the state may proceed to Public Notice in accordance with AS 38.05.945.

Prepared by:

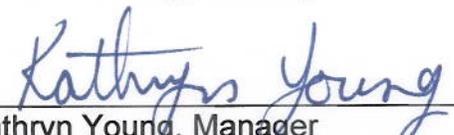


Ed Busch, Natural Resource Specialist III
Land Sales and Contract Administration Section
Division of Mining, Land and Water

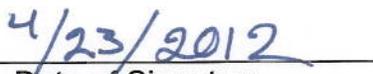


Date of Signature

Recommend approval by:



Kathryn Young, Manager
Land Sales and Contract Administration Section
Division of Mining, Land and Water



Date of Signature

Submittal of Public Comments: Pursuant to AS 38.05.945, the public is invited to comment on the proposed action. Copies of the Preliminary Decision are available at the following locations:

1. Division of Mining, Land and Water, Land Sales and Contract Administration Section, 550 West 7th Avenue, Suite 640, Anchorage, AK 99501;
2. the Department's Public Information Centers in Juneau, Fairbanks, and Anchorage;
3. the Department's website at www.dnr.alaska.gov/mlw/landsale/;
4. by contacting Ed Busch by phone at (907) 269-8469, by email at edward.busch@alaska.gov, or by fax at (907) 269-8916.

Comments must be received in writing by the Division of Mining, Land and Water, Land Sales and Contract Administration Section, attention Ed Busch, at the above address, on or before May 31, 2012 in order to ensure consideration. Comments may be submitted by electronic mail, regular mail or facsimile. All written timely responses will be considered.

Only persons who submit written comments during the public notice period will be eligible to file an administrative appeal of the Final Finding and Decision.

The State is prepared to accommodate individuals with disabilities who wish to participate in this review by providing auxiliary aids, services, or special modifications. Individuals who may need such assistance should contact the Department's Public Information Center in Anchorage between the hours of 10:00 am and 5:00 pm, Monday through Friday, at (907) 269-8400 by telephone or by TDD at (907) 269-8411 no later than May 21, 2012.



Attachment: A
Long Term Lease - ADL 64774
Preference Right Application - AS 38.05.102



DETERMINATION OF PLAN DESIGNATION AND LAND CLASSIFICATION
for STATE LANDS INADVERTENTLY OMITTED in the
SOUTHEAST SUSITNA AREA PLAN
DETERMINATION 2012-1

Background: The Southeast Susitna Area Plan (SSAP) and Land Classification Order SC-08-001 (LCO) were adopted on April 28, 2008. The SSAP superseded the Willow Subbasin Area Plan and the LCO superseded all previous land classification orders within the plan area of the SSAP.

Within T17N2W (SM), the W1/2SE1/4 Section 2 is an 80 acre parcel (hereinafter referred to as the Parcel) that was thought to be owned by the University of Alaska and was therefore not included in the SSAP. Further research has shown that the University returned title to the State of Alaska by statutory quitclaim deed and the Parcel is state land (OSL 789.) Since the Parcel is state land, it should have been designated and classified by the SSAP and LCO had the ownership not been misidentified.

Authority: The SSAP provides for the determination of a missed area in the Chapter 4 section titled 'Applicability of Plan Designations/Classifications to State Lands not Identified in the Plan Text or Plan Maps'. These procedures were included in this and previous plans to provide guidance on how missed areas are to be designated and classified without the need for a formal plan amendment and land classification process.

The applicable part of this section is 'Parcels in or near Existing Communities'. It provides that "If the parcel is in or is immediately adjacent to an existing community or past state land offering, the designation of Settlement and classification of Settlement Land apply."

Determination: Map 6 in Chapter 3 identifies the Parcel as University land sitting just north of the Parks Highway at Mile 47. Its location is just 5 miles west of the center of Wasilla in a predominantly residential setting. It is surrounded by mostly private land with some borough land along the western boundary. This Parcel was in fact designated Settlement in the Willow Subbasin Area Plan, the plan superseded by the SSAP. It lies two miles north of unit P-18, another small parcel of state land that is designated Settlement by the SSAP.

It is my determination that the missed Parcel should have been designated Settlement and classified Settlement Land. The SSAP and Land Classification Order SC-08-001 are hereby amended to reflect this determination. Additionally, Plan Map #6 and the Resource Allocation Table for the Palmer-Wasilla region are amended to append the missed land area to unit P-18. The plan designation, management intent, and management guidelines of unit P-18 shall apply to the aforementioned lands.

Inadvertently Missed Lands Legal Description:

T17N R2W SM

W1/2 SE1/4 of Section 2

Containing 80 acres, more or less.

Bruce Phelps

Bruce Phelps, Chief

Resource Assessment and Development Section

2/7/12

Date