

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

PRELIMINARY DECISION
Exchange of Land Under AS 29.65.090
ADL 108750

I. Proposed Action(s)

The City and Borough of Yakutat (CBY) proposes to convey 7.59 acres, more or less, of CBY-owned land to the State of Alaska. In return, the State of Alaska, Department of Natural Resources (DNR) proposes to convey surveyed parcels of state land to the CBY of approximately equal value. The CBY land for exchange is Tracts B & C of the XeitiAani' (Thunder Land) Subdivision, Plat 92-27, Juneau Recording District, containing approximately 7.59 acres. The surveyed parcels of state land for exchange will be within ASLS 71-34, north of the Yakutat School Site. The exact number of parcels and acreage proposed for exchange is not currently known, but will be of approximate equal value. Both the state and CBY lands are within Section 30, Township 27 South, Range 34 East, Copper River Meridian. The purpose of this exchange is to allow the CBY to acquire subdivided state land for housing development in exchange for the state to acquire subdivided CBY land for future disposal. The attached map depicts the location of these parcels.

II. Authority

This proposed action is authorized under *AS 29.65.090 Authorizations for Land Exchanges*. This written finding is prepared and issued under *AS 38.05.035(e) Powers and Duties of the Director*. Public Notice is being conducted under *AS 38.05.945 Notice*.

III. Administrative Record

The administrative record for this decision includes:

- DNR case files ADL 108750, Interagency Land Management Agreement (ILMA) ADL 53385, Forest Highway Subdivision ADL 108464;
- Yakataga Area Plan for State Lands (YAP, adopted April 1995, amended January 2004).

IV. Scope of Decision

The scope of this decision is limited to the determination of whether it is appropriate to exchange state land with the CBY for the purpose of housing development, and for the state to acquire approximately equal value CBY land for potential land disposal.

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V. Description

a. Location and Geographic Features

Location: Within DNR's Southeast Region, approximately three miles northeast of the Yakutat Airport within the limits of the CBY.

Geographic: The southern and center areas of ASLS 71-34 are generally flat. The northern portions of ASLS 71-34 and Tracts B & C of ASLS 92-27 have small hills with changes in elevation up to approximately 30 feet. The westernmost portions slope to the west or northwest. The vegetation within the project area are primarily Sitka spruce and hemlock. Surficial soils generally consist of a thin mat of organic material overlying gray sandy gravel containing cobbles and boulders. Well logs from approximately one-half mile north show sands and gravels typically containing cobbles and boulders near the surface; deeper sections transition to silts and clays that exclude very coarse sediments. Small, isolated wetlands exist within the project area.

Borough: City and Borough of Yakutat

Meridian: Copper River

Regional Native Corporation: Sealaska

Native Village Corporation: Yak-Tat Kwaan, Incorporated

Native Traditional Council: Yakutat Tlingit Tribe

USGS Topographic Map: Yakutat C-5

Borough Parcel Identifications:

- ASLS 71-34, CBY Parcel 31339,
- Tract B of Plat 92-27, CBY Parcel 31341, and
- Tract C of Plat 92-27, CBY Parcel 31340.

b. Title

Title Report No. 8349, current as of January 21, 2016, indicates the State of Alaska holds fee title to the land and mineral estate within ASLS 71-34 under Patent 50-84-0162, dated February 7, 1984. The applicable state case file is NFCG 2. The parcel is subject to the reservations, easements and exceptions contained in the federal patent.

The CBY will present to the state a Preliminary Commitment of Title with chain of title documents for Tracts B & C of the XeitiAani' (Thunder Land) Subdivision, Plat 92-27.

c. Background

The CBY requires land for development to house medical personnel for a clinic scheduled for construction in 2018. The state-owned land proposed for exchange to CBY is adjacent to CBY infrastructure and is thus more appropriate for CBY use and development. The CBY lands to be received in the exchange by the state can be

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added to a proposed state subdivision for a larger, more economical project. Additionally, the CBY will waive any subdivision development requirements, other than survey, for the proposed state subdivision project (ADL 108464).

The proposed subdivision will create parcels within Tracts B and C of the XeitiAani' (Thunder Land) Subdivision and create parcels within approximately 12.5 acres of the northern portion of ASLS 71-34. Once survey and appraisal are complete, DNR will exchange surveyed parcels (within ASLS 71-34) for Tracts B and C of XeitiAani' Subdivision. The value of the parcels exchanged to CBY will be of approximately equal value to Tracts B and C of XeitiAani' Subdivision.

The entirety of ASLS 71-34 is currently under an ILMA that provides the CBY authority to use the land for a school (ADL 53385). The proposed subdivision (ADL 108464) will define boundaries of the school site, and the ILMA will be reduced in size to cover only the approximately 7.5 acres of land used by the school after the subdivision and land exchange.

The project area is shown in the CBY Comprehensive Plan as mixed use (ASLS 71-34) and residential (Tracts B and C, Plat 92-27) future growth designations, both of which anticipate residential development. Review of the Comprehensive Plan did not indicate any conflicts with the proposed land exchange.

d. Planning, Classification, and Mineral Orders

Planning: The proposed land exchange is within the YAP. However, neither the state lands proposed for exchange, nor the CBY lands are within a management unit. Land classification is not required for the proposed land exchange.

Classification: Land classification is not required for the proposed land exchange.

Mineral Orders: DNR proposes to close the project area to mineral entry as a related action with ADL 108464. The entirety of the project area will be closed to mineral entry (approximately 28 acres) if the mineral order is approved in accordance with AS 38.05.185 *Generally* and AS 38.05.300 *Classification of Land* for a land disposal. Closing the entire area to mineral entry is consistent with the management intent of the YAP for Unit 8A.

e. Traditional Use Finding

The project area is located within the CBY, therefore a traditional use finding is not required per AS 38.05.830 *Land Disposal in the Unorganized Borough*. However, information on current or traditional use is welcomed and can be provided during the public comment period.

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f. Access

Access to the project area is provided by the Forest Highway to the Yakutat School for ASLS 71-34, and by Lake Street from GaGaAn Deiyi' Road for Tract B within the XeitiAani' (Thunder Land) Subdivision. The Forest Highway is maintained by the Department of Transportation. Lake Street and GaGaAn Deiyi' Road are maintained by the CBY. The project area is subject to the platting authority of the CBY. Approval of platting actions and dedication of rights-of-way will require separate processes and public notices through the borough.

g. 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.

The state has title to the mineral estate, including oil and gas beneath the CBY owned parcels. Accordingly, only the surface estate may be conveyed by the CBY.

h. Hazardous Materials and Potential Contaminants

There are no known hazardous materials or potential contaminants on the state or CBY parcels. The state and the CBY make no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State of Alaska and the CBY do 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 on the lands they are respectively exchanging with each other.

i. Performance Guarantees

Performance guarantees are not required.

j. Survey

Land surveys will be necessary for the proposed land exchange. The CBY will allow the state to further subdivide Tracts B & C, XeitiAani' (Thunder Land) Subdivision, Plat 92-27 before transfer of deeds. The state will pay 100% of the survey cost. The CBY will waive any subdivision development requirements, other than survey for the proposed subdivision project. The state and CBY platting authority must approve the final survey plat.

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k. Valuation

Land exchanges entered into under *AS 29.65.090* must be in the public interest and the land or interests in land that are exchanged must be of approximately equal value, including the nonmonetary value of public benefits.

An appraisal will be done to determine fair market value. Appraisals are subject to state review and approval. In order to exclude the value of the state-funded survey and further subdivision of Tracts B & C XeitlAani' (Thunder Land) Subdivision, which will occur prior to exchange, Tracts B and C will be appraised prior to survey and subdivision. Prior to exchange the DNR will further subdivide and survey parcels within ASLS 71-34. In order to include the value of that state-funded survey and subdivision, those parcels will be appraised after the survey and subdivision. The number of parcels and acreage meeting approximate equal value will be reached by mutual consent of the parties.

The state and CBY agree that the state will pay 100% of the cost of the fair market value appraisal. Appraisals will follow the current DNR General Appraisal Instructions, and additional special appraisal instructions. The appraiser must be acceptable to both parties in terms of education and experience before the contract is solicited. The state must approve the appraisal. CBY will be invited to review and comment on the appraisal. All appraisals and reviews will conform to the Uniform Standards of Professional Appraisal Practice.

VI. State Agency Comments

Division and agency review will be conducted concurrently with the public comment period.

VII. Discussion and Alternatives

The proposed land exchange needs to be of approximate equal value and in the public interest. The determination of land value has yet to be completed, and will proceed as described in Section V.k., Valuation. The proposed land exchange originates from requests made by the CBY, and would benefit the community by facilitating the construction of a health clinic by providing land needed for housing development. The state will benefit by allowing for a larger, more economical subdivision project within Yakutat, which assists DNR in meeting its obligations in the Alaska Constitution and statutes and maximizes public opportunities to obtain land for settlement.

DNR DMLW is considering the following alternatives:

Alternative A (preferred): Conduct the land exchange as proposed in this preliminary decision.

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Alternative B (status quo): Do not conduct a land exchange between the state and the CBY.

These alternatives, if implemented, would result in the following:

Alternative A: This alternative would benefit the Yakutat community by assisting in the development of a new health clinic and its associated housing requirements. The State of Alaska would benefit by having more subdivided parcels of land to make available for sale, which benefits the Yakutat community and the state alike by providing opportunities to obtain land for settlement.

Alternative B: This alternative would not provide the benefits discussed in the preliminary decision and would hinder plans for developing a new health clinic within the CBY.

VIII. Recommendation and Preliminary Decision

Recommendation. Alternative A, described above, is selected in this decision as the preferred alternative and forms the basis of this decision.

Stipulations. Lands conveyed to the CBY will be subject to the following stipulations:

- All valid existing rights, including reservations, easements, and exceptions in the U.S. Patent and other state or federal conveyances, and in acts authorizing the issue thereof;
- Easements, rights-of-way, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any.

Lands conveyed to the state will be subject to the following stipulations:

- All valid existing rights, including reservations, easements, and exceptions in the U.S. Patent and other state or federal conveyances, and in acts authorizing the issue thereof;
- Easements, rights-of-way, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any.

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Preliminary Decision. The preliminary decision described above, as represented by the preferred alternative (alternative A), has been reviewed and considered. I find that the recommended action may be in the best interest of the state under AS 38.05.035(e), including the broader public interest under AS 29.65.090, and it is hereby approved to proceed to public notice.

This is a preliminary decision and subsequent public and agency review may result in changes to the preferred alternative or disapproval of the proposed action altogether.

/S/

Prepared by: Colin Craven
Natural Resource Specialist II
Land Sales Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

June 29, 2017

Date

/S/

Approved by: Monica Alvarez
Section Manager
Resource Assessment and Development Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

June 29, 2017

Date

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Public Notice, Decision, and Appeal Procedures

Pursuant to *AS 38.05.945 Notice*, the public is invited to comment on the Preliminary Decision (ADL 108750) to exchange land with the City and Borough of Yakutat (CBY). The proposed exchange will involve the CBY conveying 7.59 acres, more or less, of CBY-owned land to the State of Alaska; in return the state proposes to convey surveyed parcels of state land to the CBY of approximately equal value, as shown on Exhibit A. The state land is within DNR's Southeast Region, approximately three miles northeast of the Yakutat Airport within the limits of the CBY.

The purpose of this exchange is to allow the CBY to acquire subdivided state land for housing development in exchange for the state to acquire subdivided CBY land for future disposal. The Post Master in Yakutat will be requested to post the public notice per *AS 38.05.945(b)(3)(B)*. Notice will be sent to the CBY, pursuant to *AS 38.05.945(c)(1)*. Public notice on the Internet will be posted on the state's web page (<http://www.state.ak.us>) under Online Public Notice.

DNR will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the Preliminary Decision including any deletions, minor changes, and summary of comments and DNR responses will be issued as a subsequent Final Finding and Decision without further notice.

Only persons from whom DNR receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Upon approval and issuance of these actions, a copy of the decision and order will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the appeal process to any party who provides timely written comment.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact the Department's Public Information Center. For more information refer to *Attachment C: Public Notice*.

The right is reserved to waive technical defects in this document.

Attachment A: Vicinity Map

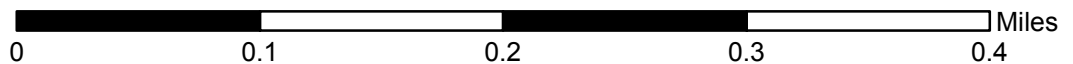
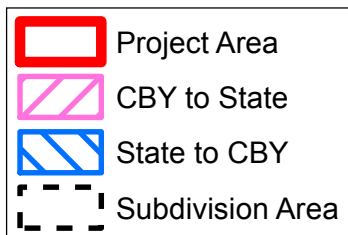
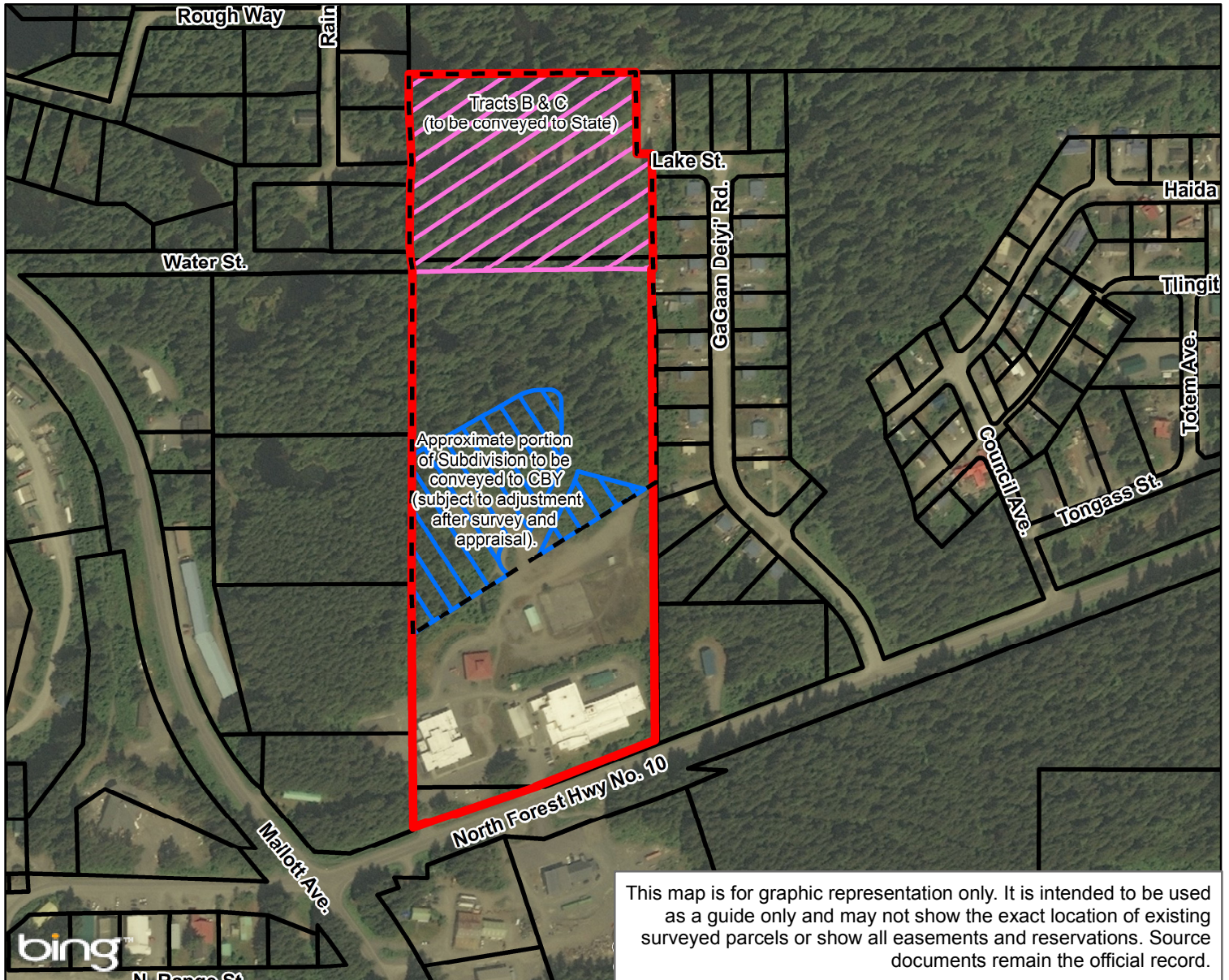
Attachment B: Public Notice



Attachment A: Vicinity Map

Proposed Forest Highway Subdivision - ADL 108464

Proposed Yakutat Land Exchange - ADL 108750



C027S034E, Section 30

TAS 04/04/2017

USGS QUAD 1:63,360

Yakutat C-5

For more information contact:

Colin Craven

Department of Natural Resources

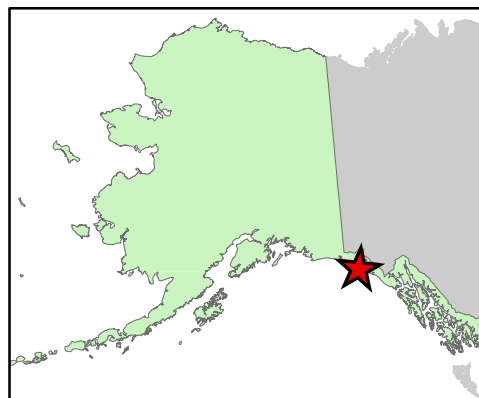
Division of Mining, Land, and Water

Land Sales & Contract Administration Section

Phone 907.451.2730

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Email: land.development@alaska.gov



**STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, & WATER
LAND SALES ADMINISTRATION SECTION**

ATTACHMENT B: PUBLIC NOTICE

Requesting Input for
a Proposed Land Offering:
Forest Highway Subdivision – ADL 108464
a Preliminary Decision and its Proposed Related Actions:
Mineral Order (Closing) MO 1202
and
a proposed exchange of land under AS 29.65.090
Municipal Land Exchange – ADL 108750

COMMENT PERIOD ENDS 5:00PM, THURSDAY, AUGUST 3RD, 2017

This proposed project includes offering for sale surveyed parcels in a future offering under the method and the related actions as described in the Preliminary Decision document. The project may be subdivided and offered in multiple offerings over time.

Location: Within DNR's Southeast Region, approximately three miles northeast of the Yakutat Airport within the limits of the City and Borough of Yakutat (CBY).

Land Offering project size: ~20 acres proposed development area, up to 40 parcels no smaller than 18,000 square feet.

Land Exchange: If approved, CBY will exchange approximately 7.59 acres for an approximate equal value of subdivided parcels.

To obtain the notice, Preliminary Decision for the land offering, draft Mineral Order, Preliminary Decision for the land exchange, or instructions on submitting comment, go to <http://landsales.alaska.gov/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907.269.8400 (TDD for the hearing impaired: 907.269.8411) or Fairbanks at 907.451.2705 (TDD for the hearing impaired: 907.451.2770), or the Southeast Land Office in Juneau at 907.465.3400 (TDD for the hearing impaired: 907.465.3888), or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, Thursday, August 3rd, 2017.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on either the Preliminary Decision for the land offering, draft Mineral Order, Preliminary Decision for the land exchange for which notice is being conducted concurrently. If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5:00PM, THURSDAY, AUGUST 3RD, 2017.** Only persons from whom DNR DMLW LSCAS receives timely, written comment during the identified comment period will be

eligible to file an appeal of the Final Finding and Decision. Written comment may be received by fax, email or postal mail. To submit comments or for direct inquiries, contact Colin Craven, 3700 Airport Way, Fairbanks, Alaska 99709, fax # 907.451.2751, land.development@alaska.gov. If you have questions, call Colin Craven at 907.451.2730.

If no significant change is required, the land offering preliminary decision and mineral order, and the land exchange preliminary decision, including any minor changes and a summary of comments and responses, will be issued as final findings and decisions without further notice. A copy of the final findings and decisions will be sent to any persons who commented timely on the preliminary decision.

DNR reserves the right to waive technical defects in this notice.