

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

PRELIMINARY DECISION

ADL 233646

Matthew Keller dba Blue Ice Aviation Inc.

Application for Lease

AS 38.05.070

This Preliminary Decision (PD) is the initial determination on a proposed disposal of interest in state land and is subject to comments received during the public notice period. The public is invited to comment on this PD. The deadline for commenting is **5:00 PM May 21, 2021**. Please see the Comments section of this decision for details on how and where to send comments for consideration. Only the applicant and those who comment have the right to appeal the Final Finding and Decision (FFD).

Proposed Action:

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) has received a request from Matthew Keller dba Blue Ice Aviation Inc. (BI) to lease 1 acre of land, more or less, for 10 years for the purpose of a commercial alpine hut located near the Matanuska Glacier and approximately 25 miles southeast of Chickaloon, Alaska. The location of the project area is further described as being within Section 29, Township 18 North, Range 10 East, Seward Meridian. BI is proposing to use this site for the construction, use, operation, and maintenance of an alpine hut used as a fly-in fly-out vacation rental. A map showing the proposed location can be found on page 2.

SCRO is considering the issuance of a 10-year lease to BI for the construction, use, operation and maintenance of a commercial alpine hut. SCRO would issue an Entry Authorization (EA) for construction of the lease site prior to lease issuance.

Scope of Review:

The scope of this decision is to determine if it is in the State's best interest to issue a 10-year land lease, serialized by DNR as ADL 233646 to BI.

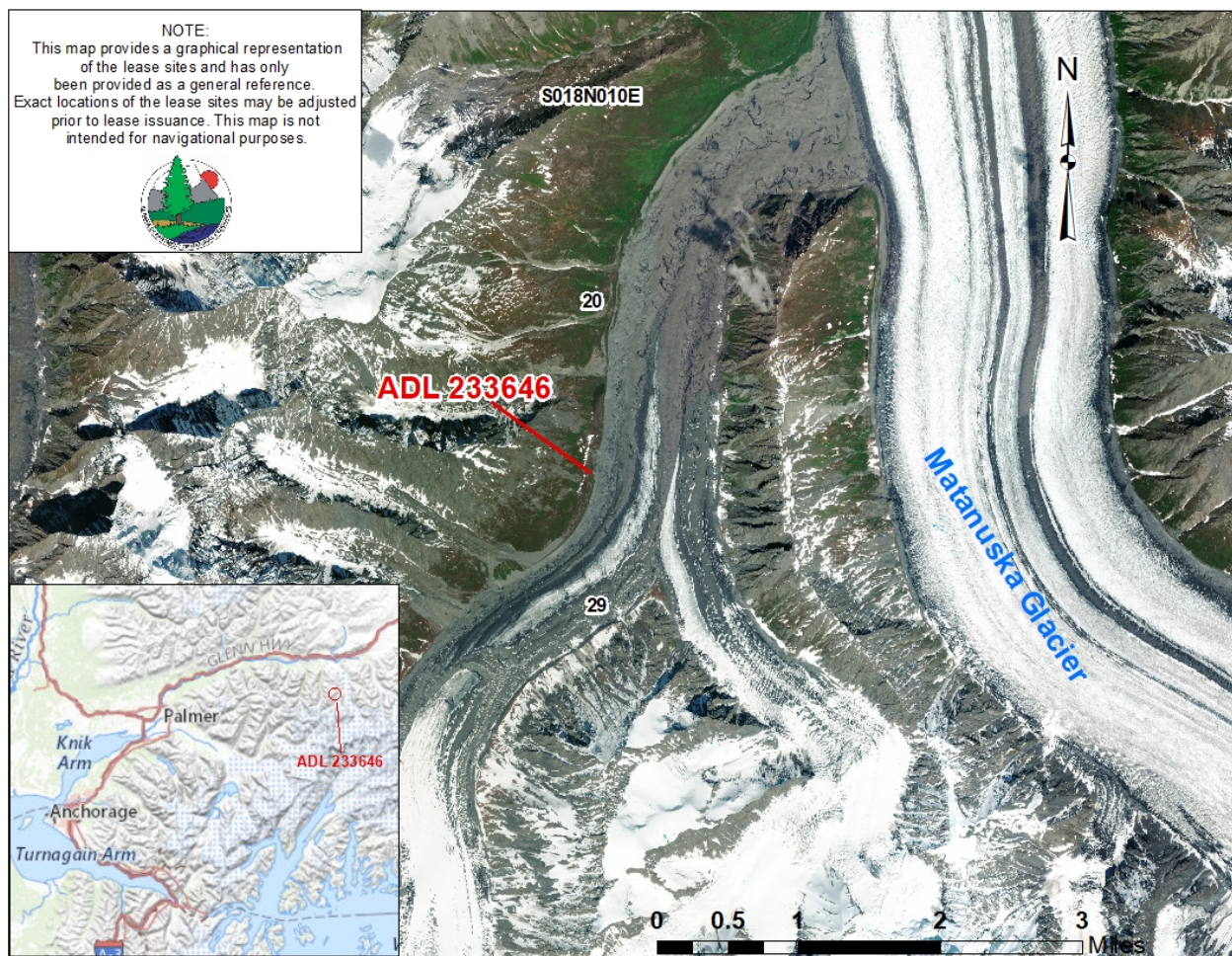


Figure 1: Overview Map of Project Area

Authority:

This lease application is being adjudicated pursuant to AS 38.05.035(b)(1) and AS 38.05.035 (e) Powers and Duties of the Director; AS 38.05.070(b) Generally; and AS 38.05.945 Notice.

The authority to execute the PD, FFD, the EA, and the lease has been delegated to the Regional Managers of DMLW.

Administrative Record:

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced here-in, the 2011 Susitna Matanuska Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as ADL 233646.

Legal Description, Location, and Geographical Features:

The state land where this proposed lease is located is described as follows:

- **Legal description:** Located within the NE1/4 of Section 29, Township 18 North, Range 10 East, Seward Meridian, approximately 25 miles southeast of Chickaloon, Alaska
- **Geographical location:** Matanuska Glacier, Chugach Mountains
- **Approximate Lat/Long:** 61° 37' 40.78" N, 147° 40' 15.60" W
- **Area geographical features:** Rocky terrain
- **Existing surveys:** None
- **Municipality/Borough:** Matanuska Susitna Borough
- **Native Corporations/Federally Recognized Tribes:** Ahtna, Inc.
- **Size:** 1 acre, more or less
- **Area Plan:** 2011 Susitna Matanuska Area Plan

Title:

The subject land has been vested to the State of Alaska under Tentative Approval (TA#19800173) dated September 30, 1980. A DNR Title Report (RPT-21184) issued on October 5, 2020 from DMLW's Realty Services Section attests that, aside from the usual reservations for ditches, canals, railroads, telegraph and telephone lines, and water rights, there are no other reservations within the proposed leasehold.

Visitor Day Use Fee:

All commercial recreation authorizations are subject to a \$4.00/day "Visitor Day" fee under 11 AAC 96.250(18), for each client using state land. *A Visitor Day is defined as meaning all or any part of a calendar day which a commercial recreation client is present, with each client representing a separate visitor day if multiple clients are present at any time during a calendar day.* This fee is collected once a year and will be due on the same day as the annual fee.

Third Party Interests:

No third-party interests are known at this time.

Classification and Planning:

The project area is subject to the 2011 Susitna Matanuska Area Plan, Chugach Mountains Region, Management Unit C-02 (map number 3-3). The land use designation for the proposed lease site is General Use which converts to the classification of Resource Management Land. Under 11 AAC 55.200, land classified as Resource Management is either: 1) land that might have a number of important resources, but for which a specific resource allocation decision is not possible because of a lack of adequate resource, economic, or other relevant information; or for which a decision is not necessary because the land is presently inaccessible and remote and development is not likely

to occur within the next 10 years; or 2) land that contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use. The general management intent described in Chapter 3 for the Chugach Mountains Region, Unit C-02 is to “manage land to protect its unique geologic and hydrologic values. Retain land in state ownership.”

Chapter 2 of the Plan outlines goals for Recreation and Scenic Resources and states “undeveloped lands should be provided for recreation pursuits that do not require developed facilities.” Per the Plan, one of the methods through which this can be realized is by “encouraging commercial development of recreational facilities and services through concession contracts, land sales, leases, and permits where public recreation needs can most effectively be provided by private enterprise, while minimizing environmental impacts and conflicts with the existing users of an area.” Additionally, under Management Guidelines for Recreation and Scenic Resources, section B: Private Commercial Recreation Facilities and Operations on State Land states that “Lodges or other private commercial facilities and operations designed to be run as or to support private commercial recreation facilities may be authorized if the facility or operation fulfills the conditions outlined in this section, conforms to the requirements of AS 38.05.850, AS 38.05.070 and AS 38.05.075 or AS 38.05.073, or a management plan is prepared in accordance with AS 41.21.302(c) authorizing the facility.” The lease application is being adjudicated pursuant to AS 38.05.070 that allows for the Director of DMLW to determine State lands that are suitable for lease, except for the extraction of natural resources. No natural resources will be extracted, and the proposed activities conform to the requirements of AS 38.05.070.

DMLW has determined that the proposed lease is consistent with the designation, classification, and management intent of the 2011 Susitna Matanuska Area Plan.

Traditional Use Findings:

Pursuant to AS 38.05.830 a traditional use finding is not required as the proposed site is located within the Matanuska Susitna Borough.

Access:

There is no road access to the proposed leasehold. Access to the proposed leasehold is via aircraft only.

Agency Review:

An agency review was conducted on October 2, 2020. The deadline for agency comments was October 23, 2020.

The following agencies were included in the review:

- DNR DMLW - Mining
- DNR DMLW - Water
- DNR DMLW- Land Sales

- DNR DMLW Realty Services
- DNR DMLW Survey Unit
- DNR Division of Oil and Gas
- DNR Division of Oil and Gas, State Pipeline Coordinator Section
- DNR Natural Resource Conservation and Development Board
- DNR Office of History and Archaeology
- DNR Parks & Outdoor Recreation
- Alaska Department of Commerce, Community, and Economic Development
- Alaska Department of Environmental Conservation
- Alaska Department of Fish and Game - Habitat
- Alaska Department of Fish and Game - Wildlife Conservation
- Alaska Department of Transportation and Public Facilities
- National Oceanic and Atmospheric Administration
- U.S. Army Corps of Engineers
- U.S. Coast Guard
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- U.S. Department of the Interior, Bureau of Land Management

SCRO received one comment during the agency review from the Alaska Department of Fish and Game (ADF&G).

ADF&G Comment:

“The Alaska Department of Fish and Game (ADF&G) has reviewed the application for a 10-year lease of 1 acre of state land on a moraine adjacent to Matanuska Glacier within Section 29, T18N, R10E, SM. The applicant, Matt Keller dba Blue Ice Aviation, is requesting the lease in order to construct a cabin, outhouse and sauna to operate a vacation rental business. Access to the site will be via the applicants fixed-wing aircraft (Cesna 185 or Super Cub). ADF&G does not object to the lease, however we would like to submit the following comments.

ADF&G would like to remind the applicant that all fuel, trash, food and any other potential wildlife attractant (to include any petroleum based product) should be properly stored to prevent conflicts with wildlife. The use of bear resistant containers, electric fencing, and the maintenance of a clean site will reduce the likelihood of nuisance encounters with bears and other wildlife. The complete removal of all food, trash or fuel when the site is unoccupied will reduce risks.

For more information about staying safe in bear country and avoiding negative interactions with bears including bear resistant containers and electric fences can be found on ADF&G’s website (ADF&G Living with Bears). The applicant should report any nuisance wildlife interactions to ADF&G Division of Wildlife Conservation at ADF&G Wildlife Encounter Report.

ADF&G requests a copy of the decision and permit is issued. Thank you for the opportunity to review and comment on this land use permit. Please feel free to contact me regarding these comments.”

SCRO Response:

BI will be notified of these comments through this decision and ADF&G shall be provided with a copy of the Final Finding and Decision, EA, and lease.

Lease Discussion:

On June 15, 2020, BI submitted an application for a state land lease serialized as ADL 233646 for the purpose of establishing a commercial alpine hut to support their business for a term of 10 years. BI operates an air taxi service with a base of operations located fifteen miles from the proposed location. The glacier hut will be offered as a short-term rental. Clients will be flown in and out by BI for their stay. The proposed lease will consist of a 16’ x 28’ cabin, a 12’ x 12’ sauna, and 4’ x 12’ outhouse/shed. Foundations will consist of treated posts buried approximately 48” deep.

Based on the proposed infrastructure and activities, a short-term lease of 10-years, issued under statutory authority AS 38.05.070 would be in the State’s best interest, allowing DNR an opportunity to reevaluate any impacts on the surrounding area.

The proposed lease will be subject to the terms of SCRO’s standard lease document (available for review upon request) and any stipulations based, in part, upon the following considerations.

Development Plan:

The Development Plan (DP) attached to this decision (Attachment A) and dated June 15, 2020 is under consideration by SCRO. Should the proposed lease be granted, it is anticipated that the DP will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by SCRO before any construction, deconstruction, replacement of infrastructure, or change in activity. SCRO reserves the right to require additional agency review and/or public notice for changes that are deemed by SCRO to be beyond the scope of this decision.

Hazardous Materials and Potential Contaminants:

Hazardous materials, specifically propane and unleaded fuel, will be used and stored in small quantities of less than 10 gallons on the leasehold. Stipulations will be included in the lease to ensure proper handling and storage. Human waste will be contained within a pit latrine. Typical household trash shall be flown out at the end of each stay.

The use and storage of all hazardous substances must be done in accordance with existing federal, state, and local laws. Debris (such as soil) contaminated with used motor oil, solvents, or other

chemicals may be classified as a hazardous substance and must be removed from the lease site and disposed of in accordance with state and federal law.

Lease Performance Guaranty (bonding):

In accordance with AS 38.05.035 and AS 38.05.860, BI will be required to submit a performance guaranty for the lease site.

- **\$2,500.00 Performance Bond:** This bond will remain in place for the life of the proposed lease. The bond amount is based upon the level of development, amounts of hazardous material and/or substances on site, and the perceived liability to the State. This bond will be used to ensure the applicant's compliance with the terms and conditions of the lease. This bond amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments, assignments, reappraisals, changes in the DP, changes in the activities conducted, or changes in the performance of operations conducted on the authorized premises, and as a result of any violations to one or more of the authorizations associated with the project.
- **Reclamation Bond:** SCRO is reserving the right to require a reclamation bond due to noncompliance issues during the term of the lease or near the end of the life of the project.

Insurance:

BI will be required to submit proof of liability insurance to SCRO, with the State of Alaska listed as a "NAMED" insured party. BI will be responsible for maintaining such insurance throughout the term of the EA and the lease.

Survey:

In accordance with AS 38.04.045, this short-term land lease does not require a survey. However, the State of Alaska reserves the right to require one in the future, should the need arise due to changes in statutes or increased use of the area. The applicant will be required to submit GPS coordinate points for the leased area.

Compensation and Appraisal:

As this application is for a short-term lease for a 1-acre commercial alpine hut located on remote uplands without waterfront, off the road system and has no public utilities, the proposed lease qualifies under DMLW's Fee Schedule (Report Number 2618-14), which sets the annual fee at **\$1,070.00**. As the Fee Schedule satisfies the requirements of AS 38.05.840, no appraisal will be required from the applicant. Furthermore, in accordance with AS 38.05.105, the proposed lease will be subject to adjustment of the annual fee/rent at five-year intervals after the issuance of the proposed authorization.

If the applicant does not agree with the fee schedule amount of \$1,070.00, a fair market value determination can be obtained by the applicant. Fair market value is determined by obtaining a DNR approved appraisal of the lease. If an appraisal is conducted to determine fair market value of the lease site, the applicant will be required to pay the appraised amount and the \$1,070.00 annual fee will no longer be an option. The appraisal cost will be borne by the applicant. The parcel may need to have an approved Alaska State Land Survey or Alaska Tidelands Survey to accomplish the appraisal. If a survey is required, the cost will be incurred by the applicant. The parcel may need to have an approved Alaska State Land Survey or Alaska Tidelands Survey completed to accomplish the appraisal.

Subleasing:

Subleasing is permissible through AS 38.05.095, if the proposed lease is approved. A sublease is defined as improvements not owned by the lessee that are located within the leasehold on the land or located on structures owned by the lessee. A sublease pertaining to the proposed lease includes but is not limited to, user agreements, license agreements, communication site agreements, or any contracts between the lessee and other commercial entities. All potential subleases must first be approved in writing by SCRO. Depending on the activity of any potential subleases, SCRO is reserving the right to reevaluate the need for further agency review and/or public notice before making a determination on the appropriateness of the proposed sublease. Sublease compensation to the State will be determined by SCRO according to AS 38.05.073(m), under the authority of AS 38.05.075(a) Leasing Procedures. In any case, the sublease fee for commercial activities will not be less than 25% of the annual fee paid to leaseholder by the sublessee.

Assignment of Lease:

The proposed lease, if issued, may be transferred or assigned to another individual or corporation only with written approval from the DMLW. A lease will not be assigned to an entity if that entity does not meet the statutory requirements of the lease, or if the lessee is considered not to be in “good standing” with DMLW or any other agency authorization. DMLW reserves the right to amend the terms of the lease prior to assignment.

Reclamation:

In accordance with AS 38.05.090(b), all lessees must restore their lease site to a “good and marketable condition” within 120 days after termination of the lease. What level of reclamation constitutes as being “good and marketable” is at the discretion of SCRO.

Public Notice of the Preliminary Decision:

Pursuant to AS 38.05.945, this PD will be advertised for 30-day public comment period. Notice will be posted on the Alaska Online Public Notice System at

<http://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and the post offices located in Chickaloon and Sutton. Courtesy notices will also be mailed or emailed to neighboring property owners, permit/lease holders, and other interested parties on April 21, 2021 for a 30-day public comment period.

Comment(s):

This decision is subject to both public and agency comments, and all written comments received by the comment deadline will be considered in the FFD. Only those who timely provide written comment, and the applicant have the right to appeal the FFD.

**Written comments about this project must be received in this office no later than
5:00 PM on May 21, 2021 to be considered.**

To submit comments, please choose one of the following methods:

Postal: Department of Natural Resources
Division of Mining, Land and Water
Southcentral Regional Land Office
ATTN: Todd Derks
550 West 7th Avenue, Suite 900C
Anchorage, AK 99501-3577
Email: todd.derks@alaska.gov
Fax: (907) 269-8913

Questions about the lease portion of this project can be directed to Todd Derks at (907) 269-8479.

If public comments result in significant changes to the Preliminary Decision, additional public notice will be given. To be eligible to appeal the Final Finding and Decision, a person must provide written comments during the Preliminary Decision comment period per AS 38.05.035(i)-(m).

Signature page follows

Recommendation:

DMLW has completed a review of the information provided by the applicant, examined the relevant land management documents, and has found that this project is consistent with all applicable statutes and regulations. SCRO considered three criteria to determine if this project provided the best interest to the State and the development and enjoyment of its natural resources. The criteria include direct economic benefit to the State, indirect economic benefit to the State, and encouragement of the development of the State's resources. This authorization provides a direct economic benefit to the State with the collection of fees for ADL 233646 and an indirect economic benefit through the encouragement and development of the State's resources. The authorization of this lease is in the State's best interest as it will provide development and enjoyment of an area of the Chugach Mountains that is only accessible by aircraft. It is recommended that SCRO issue a 10-year lease to BI.



3/17/2021

Todd Derks, Natural Resource Specialist II

Date

Southcentral Regional Land Office, Division of Mining, Land and Water

Preliminary Decision:

It is the determination of the Division of Mining, Land and Water that it may be in the State's best interest to issue a lease for 10 years to BI, as described above. Upon authorization of the lease, the applicant will be required to pay the annual lease fee of \$1,070.00, submit a \$2,500.00 performance bond, and provide proof of liability insurance. SCRO will issue an Entry Authorization for the lessee's entry onto state lands for construction of the site. This Preliminary Decision shall now proceed to public notice.



4/20/2021

Samantha Carroll, Regional Manager

Date

Southcentral Regional Land Office, Division of Mining, Land and Water

Attachments

Attachment A – Development Plan

Attachment A – Location Maps

Attachment A

Development Plan

Blue Ice Aviation Glacier Hut Development Plan

The township in which Blue Ice Aviation Inc. would like to build the proposed Blue Ice Aviation Glacier Hut is S018N010E block 20. It is extremely near the boundary to block 29 (please see attached image). In the WGS 84 coordinate system and in decimal degrees the latitude and longitude of the proposed hut is N61.628 W147.671.

This location places the hut directly on top of the historic lateral moraine of an un-named glacier. This is important to understand because the ground in this region is relatively un-even making proposed building sites difficult at best. The ground underneath the hut is solid glacial till combined with rock. This is covered in a thin veneer of grasses and moss. The hut will sit approximately 200 yards laterally and 30 yards vertically from the level of the glacier. The only water nearby the building site is seasonal snow melt.

Brush in the region seldom gets more than waist high and there is no old growth forest within 10 miles. Without access to any equipment at this location the only way to build a level floor will be to establish a foundation on some form of piling. With the lack of water in the area I will likely use treated posts sunk 48" into the ground. This will be done with a shovel, pulaski, and wheelbarrow.

HUT

The floor construction will be framed with wood, as will the walls and roof. We hope to start construction as soon as the snow melts in the Spring of 2021. I expect the construction process of the hut and out house to take 2-3 months. The primary intention of the hut is to be a vacation rental during summer months. It is possible that there could be some demand for winter/spring use for back country skiers. The hut will consist of a simple kitchen, sitting area, bed, and small utility room. There will be a propane cooking stove, a propane hot water heater, and a propane fireplace.

OUTHOUSE

The outhouse will be of standard wood construction. The intention is to use a portion of the outhouse structure as a shed for 20 lb. propane bottles, 5-gallon gas cans, and tools.

SAUNA

The sauna will be a 100 square foot structure consisting of a sitting area and a dressing area. I intend to install a wood stove as the heat source for the sauna. I will fly firewood into this location as there is nothing large enough to burn in the region.

Power will be supplied to the hut by a gasoline generator initially, but I will hope to install a solar system with batteries for clients in the future. This will likely be a 12volt system consisting of six 2volt deep cycle batteries. Electricity demands should be low without any microwave, dryer, or dishwasher.

Without access to any ATVs or heavy equipment there is no intention to have any large quantities of hazardous materials. A small gasoline generator and several 20lb propane bottles will supply the energy needs for this entire operation. Human waste will be contained in the ground. This is not intended to be a long-term rental. I expect stays of less than 5 days. This is important in understanding that bulk

fuel storage will not be needed. Supplies will be front hauled on flights to retrieve clients who have completed their stay.

Water supply is my greatest concern because there are no streams or ponds nearby. Annual snow melt, and rain will need to provide domestic water demands through large containment likely held underneath the hut. Drinking water will need to be flown in. The grey water from the sink will drain into a rocky leach pan a short distance from the hut.

The hut will be serviced by myself, my wife, and my daughters. I own an air taxi and live just 7 minutes away by aircraft. A natural landing zone has been established a short distance down valley on which I can land my Cessna 185 or Super Cub. There is absolutely no way to drive any motorized equipment into this dead-end valley. The terrain is far too extreme. Even aircraft seldom fly into this valley as it is boxed in with 7500' peaks and no low passes to provide escape. There will be no equipment stored or parked on the property. The only engine will be the small gasoline generator. I intend to do the construction and maintenance of this facility by myself with help from my family.

I hope to provide a unique experience to travelers/adventurers in this beautiful location. We are currently offering a high-quality rental on Airbnb called the Blue Ice Aviation Lounge and hope to add the Glacier Hut to the list of services we provide. Since we already operate a successful air taxi in the immediate area the cost of servicing a hut in this capacity is affordable. I envision promoting this hut and using it to provide income as part of Blue Ice Aviation Inc. for the foreseeable future. Reclamation of the land back to original condition would consist of removing doors, windows, flooring, and appliances. These would need to be flown out with my aircraft just as they were flown in. The wooden structures would then be burned.

As an important side note it is especially important to me to take care of this land. My grand-father-in-law homesteaded our base of operation at Sheep Mountain in the 40's. So, our family (the Meekin's) have an 80-year history in this immediate area and we have no intention of creating or leaving junk on the landscape, this is personal. The Blue Ice Aviation Glacier Hut business venture is in a desire to share this incredible area in a uniquely luxurious way. This will be something like a New York City loft tucked away in a glacially carved valley. Thank you for considering my application and development plan.



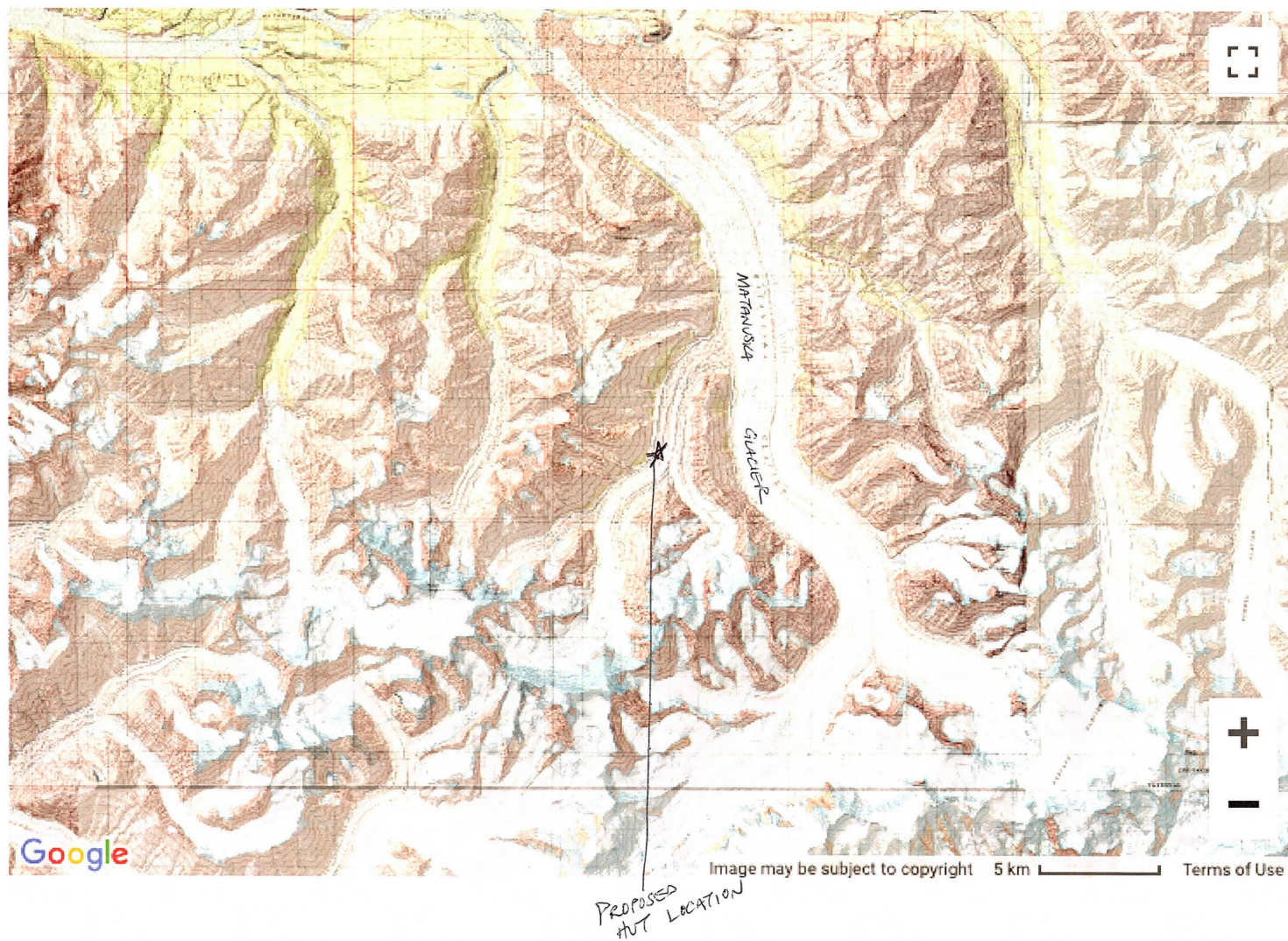
-Matt Keller

Blue Ice Aviation Inc.





Attachment B Location Map



Attachment B Location Map



PROPOSED
HOT LOCATION