

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

**FINAL FINDING & DECISION
EV 3-378
Petitioners: Daniel G. McGrath
Section Line Easement Vacation**

This Final Finding & Decision compliments, confirms, and updates the attached Preliminary Decision (PD) approved on June 20, 2024. No changes have been made to the PD.

PETITIONED ACTION:

This property site is located 1.3 miles west of the Richardson Highway at milepost 335. The physical address is 5790 Old Valdez Trail, Fairbanks Tax Lot 3411. The petitioner is requesting a keyhole vacation measuring 1,130 square feet within Parcel 3, Brunk Waiver, 78-242W, Fairbanks Recording District (Tax Lot 3411). The 1,130 square foot area encompasses a portion of the petitioner's house that encroaches into the 33-foot section line easement in Section 34. This action falls within the E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, T3S, R3E, F.M., Alaska, as depicted on Attachment A. This proposed action has been reviewed by the Fairbanks North Star Borough. The proposed keyhole vacation has been deemed acceptable by the Fairbanks North Star Borough under certain conditions of approval (see agency review section of this decision).

LEGAL AUTHORITY:

AS 38.05.035, AS 38.05.945, 11 AAC 51.065, AS 19.10.010, 11 AAC 51.025, 11 AAC 51.100 and AS 19.30.410.

The Alaska Department of Transportation and Public Facilities (DOT&PF) and the Department of Natural Resources (DNR) have concurrent authority for approving the vacation of section line easements.

PUBLIC NOTICE AND COMMENT:

Public Notice of approval of the PD, pursuant to AS 38.05.945, was posted from June 21, 2024 through July 22, 2024, on the State of Alaska Online Public Notice web site. Copies of the PD were sent to the Petitioner, to the petitioner's surveyor, FNSB, State Agencies listed below under Agency Review and Comments.

No other comments or objections to the proposed action were received during this comment period.

AGENCY REVIEW AND COMMENT:

1. The following Agencies submitted non-objection comments: DPOR (3/26/24), DOT&PF (4/2/24), Alaska Department of Fish and Game (4/15/24), and DNR Northern Regional Lands Office (5/17/24).

2. Prior to submitting the Section Line Easement Vacation Petition to DNR, an Application for Vacation and Replat for this proposed vacation was submitted to the Fairbanks North Star Borough (FNSB). The FNSB serialized this application as VA001-24: Brunk Waiver. The FNSB provided the Conditions of Approval and Findings of Fact for Application for Vacation Replat. This was presented during a public meeting to the FNSB Platting Board on December 20, 2023. A conditional approval was issued requiring “1) The new trail to be cleared, as shown on the preliminary plat, shall match the existing trail in width and degree of clearing. 2) Any improvement, including fence line as shown on the preliminary plat, shall be removed, if necessary, such that the new trail to be cleared is centered within a 10ft wide obstacle free corridor.” To review this in its entirety, please contact the Fairbanks North Star Borough for a copy of the meeting minutes.
3. No other comments or objections on the proposed EV action were received.

FINDING:

1. The proposed alternate access meets the requirements for a keyhole vacation of the subject section-line easement pursuant to AS 19.30.410 and 11 AAC 51.065. The proposed alternate route is equally useable, will be protected by an easement of record, is adequately wide to satisfy all present and reasonably foreseeable uses. Continued access to other nearby adjacent lands is not affected by this decision. No reasons were presented during the agency or public review that require retention of the portion of section-line easement proposed for vacation.
2. Pursuant to 11 AAC 51.065(e)(1), the Department has given consideration to the recommendations of the FNSB. FNSB conditional approval conditions must be met and displayed on the EV Plat.

Approval of the proposed action is contingent upon the following conditions:

1. Comply with Fairbanks North Star Borough’s conditions of approval unless waived by the Director, DMLW.
2. A final easement vacation plat (owner signed / surveyor sealed Mylar) must be submitted to DNR within two years from the date of approval of the Final Finding and Decision unless extended by DMLW, Survey Section.
3. Submittal of a Certificate to Plat, current within 90-days, with the final plat.

Prepared By:

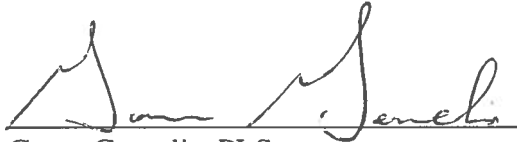
Victoria Braun
Victoria Braun,
Natural Resource Specialist

8/26/2024
Date

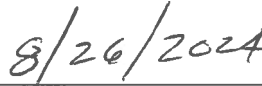
FINAL DECISION:

The finding presented above has been reviewed and considered. The requirements of all applicable statutes and regulations have been satisfied. It is the finding of the Director, Division of Mining, Land and Water, that it is in the best interest of the State of Alaska and the public, and that I hereby approve the proposed action.

Approved By:



Gwen Gervelis, PLS
Chief, Survey Section



Date

APPEAL PROVISION:

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department.

Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.