STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES Division of Mining, Land and Water Administrative Decision ADL 421376

Alaska Department of Transportation and Public Facilities Interagency Land Management Assignment AS 38.05.020

Requested Action

On April 28, 2023, the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), received an application from the Department of Transportation and Public Facilities (DOT) to renew their existing lease authorized under ADL 39183. This lease site encompasses the Northern Region DOT Compound in Fairbanks, Alaska, which houses DOT's main offices and maintenance garages.

Recommended Action

DMLW is proposing the issuance of an ILMA, rather than a lease, for the Northern Region DOT Compound site. Management agreements are the current standard authorization for major DOT infrastructure such as maintenance yards. As the subject area is used as the Northern Region DOT headquarters, an ILMA is the more appropriate option.

Scope of Decision

The scope of this decision is to determine if it is in the State's interest to create an ILMA for the proposed use. The scope of administrative review for this authorization is limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) facts pertaining to the land or resources; and (4) issues that are material to the determination that issuing the authorization is in the interest of the State of Alaska. All other aspects of the applicant's project are outside the scope of this decision.

Statutory Authority

This ILMA application is being adjudicated pursuant to AS 38.05.020.

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 2015 Eastern Tanana Area Plan (ETAP) and other classification references described herein, the Rescission Order for Director's Order (DO) 143, and the casefile for the application serialized by DNR as ADL 421376.

Location Information

Geographic Location

The applicant has requested that DMLW authorize an ILMA located at 2301 Peger Road in Fairbanks.

Township Range

Tracts I-1 and J-1 as shown in ASLS 87-17, Section 16, Township 1 South, Range 1 West, Fairbanks Meridian

Other Land Information

Municipality: Fairbanks North Star Borough (FNSB) Regional Corporation: Doyon Ltd

Title

All of the subject lands were patented to the State on June 6, 1963 under PA 1232157 according to the US township survey dated June 7, 1913. This patent was issued with a reservation for ditches, canals, railroads, telegraph and telephone lines constructed under the authority of the United States. The patent is subject to any vested and accrued water rights and any ditches or reservoirs used in connection to those rights. These lands were patented under the former School Trust provision of the Alaska Statehood Act. School Trust lands were converted to general state lands in 1978; this action was the subject of a lawsuit, the settlement of which was addressed under DO 143. DO 143 was rescinded in 2017 after all school trust litigation had been settled and these lands are now unencumbered general state lands.

In 1981 the State conveyed portions of the S $\frac{1}{2}$ (where this project is located) to the FNSB under SPT 5978. Inadvertently, this conveyance included approximately 3 acres of lands that DMLW had leased to DOT under ADL 39183. DMLW and FNSB eventually decided on a land exchange between the encumbered municipal lands and approximately 100 acres of land in the Haystack area, which was finalized in a Memorandum of Understanding dated June 2, 1986. This land exchange is serialized under OSL 1171.

Third Party Interests

The applicant has requested an ILMA that may intersect with the following interests:

- ADL 45036- Easement for a public utility located near the northern boundary of the I-1 tract issued to Golden Valley Electric Association (GVEA).
- There is an additional Public Utility easement in the southern portion of the J-1 tract, as identified in Plat 96-39 recorded in the Fairbanks Recording District.

Planning & Classification

These lands are within the ETAP planning area but were inadvertently omitted from the plan. The classification order of ETAP, NC-10-004, supersedes and replaces all previous classifications and classification orders affecting the planning area. Under the original lease, the lands were within CO 58, which stated that these lands were for Reserved Use. According to 11 AAC 55.170, lands classified as Reserved Use are reserved for transfer to another governmental or non-governmental

agency that is performing a public service; for transfer though land exchanges, or has been designated for a public facility.

Although there is no classification for the subject lands it is not necessary for lands to be classified for them to be included in a management agreement. These lands are heavily developed and currently used as the Northern Region DOT headquarters.

Access

Access to the ILMA site is via Peger Road. There are no known RS 2477 rights-of-way or navigable or public waterways within or adjacent to the parcel.

Background

DOT obtained interest in these lands beginning June 25, 1968 when the DMLW (at that time called the Division of Lands) issued a lease agreement (ADL 39183) for 38.864 acres of land located within F001S001W Section 16 for the Fairbanks District Depot Site. The legal description of this lease site contained a metes and bounds description, which later caused confusion as mentioned in the Title section of this decision. On April 10, 1979, DOT requested to add "the area between the present south boundary of our complex and the northern limits of the proposed right-of-way reservation for the 30th Avenue Bypass" (what is now the Mitchell Expressway). The request at that time noted that the current site was not adequate for the foreseeable future, and proposed that the area to the south be added for parking and storage needs (it noted that the soils would not be adequate for building construction). An ILMA casefile was created under ADL 401902.

According to an agency review memo dated December 2, 1982, the ILMA request was held in abeyance pending resolution of municipal entitlement selections in the section. This memo stated that DMLW intended to convert the lease into an ILMA and include the area within Tract J (the lands to the south of the lease). However, a letter dated January 10, 1983 from DMLW Contract Administration recommended that the lease not be converted into an ILMA until the issues within Tract H (the area where the Borough was conveyed lands within the DOT lease) were resolved. Additionally, they recommended that rather than an ILMA thelease be amended to reflect the current legal description, which could include the requested additional lands. In April 1983 the ILMA casefile was closed and the application was incorporated into the lease casefile. A May 31, 1983 memo noted that the lease amendment would be held in abeyance until the land exchange with the FNSB was finalized, which it was as previously noted.

DOT submitted a new development plan on November 26, 1986 again requesting the addition of lands within tract J-1 to their authorization. This request was denied in a decision dated December 31, 1986. The decision states that DOT failed to provide adequate justification for needing the southern parcel, as well as a lack of funding available to develop it as the expansion would increase their current site to approximately 62 acres. The decision further argues that allocations of land for public retention must be in the best interest of the State. Due to a lack of other building sites in the area, the decision notes that it was possible that a private use could better utilize the land at fair market value. DOT requested DMLW reconsider their denial on August 12, 1987.

Via a memo dated November 24 of that year, the Regional Manager and author of the denial decision Jerry Brossia agreed to rescind the denial and continue to process the lease amendment.

The lease amendment would be processed on the condition that the land would be developed and utilized by DOT for the expansion of the existing complex, that the land be returned to the Division of Lands when no longer needed for the assigned purposes, and the lease would be reviewed on a 5 year basis. This memo authorized DOT to use the tract in J-1 as a snow dump on a temporary basis.

Thereafter this request appears to have stalled. An email from John Bennet at DOT dated July 1, 2002 lamented the fact that DOT still wanted the J-1 tract, were currently using it for storing bridge parts, and had resurveyed the area in preparation for a lease amendment, yet there was still no long term authorization. None the less, since this email no apparent progress was made.

A separate casefile adjudication again brought the issue to light but did not resolve this longstanding amendment request. ADL 417965 was an application for an easement to provide safer access to, what was at that time, a developing park project in the neighboring FNSB municipal lands. The proposed easement would pass through the J-1 parcel, creating a potential conflict with the existing DOT use as well as dividing the large parcel into small, less useful parts. While this easement was denied in 2011 for many reasons, such as the reduction in the value of the J-1 parcel due to the remnant parts and the fact that in the time it took to adjudicate the easement FNSB found alternative access, the longstanding DOT interest in the parcel played a small part in the denial as well.

As recently as January 1, 2020, DOT again requested the parcel be added to their lease. This lease is due to expire on June 24, 2025 after being extended for a two year period. The lease extension inadvertently included the J-1 parcel, which was not a part of the original lease, however, the parcel is fully included in this adjudication.

Agency Review & Public Notice

Agency Review Summary

Agency Review of the application was conducted from September 27, 2024 to October 28, 2024. The notice was sent to the following recipients:

Office of History and Archeology
Department of Transportation, Statewide
Alaska Department of Fish and Game (ADF&G), Access Defense
Fairbanks North Star Borough (FNSB)
Department of Environmental Conservation (DEC)
DEC, Contaminated Sites

Agency Review Comment & Response

DEC Contaminated Sites- There are contaminated sites within 1500 ft of the proposed project area. Active sites, closed sites, and closed sites with institutional controls need to be considered. Please contact the PM for each site for information on the possible impact of those sites. Spills or releases to soil and water are managed by the DEC Prevention and Response Program (PPRP) and are not captured in the Contaminated Sites Map.

DMLW Response- The agency review memo was forwarded to the DEC staff member listed on the Contaminated Sites Database for the sites located within 1500 ft of the proposed area, as well as the DEC IC Unit, and received no comments. Comments received from the point of contact for the site within the project area are below. DMLW standard stipulations regarding the storage of fuel and the reporting of spills will be included in the ILMA document.

DEC Contact re File Numbers 102.38.098, 102.26.120, and 102.26.049- These casefiles are related to contaminated sites within the project area. ADEC does not object to the issuance of an ILMA for the Peger Road Maintenance Station Properties. However, ADEC notes that considerable soil and groundwater contamination is present onsite and extends offsite onto FNSB property. ADEC has been assessing and monitoring contamination issues related to the complex since the 1990's and environmental work is still necessary. DNR and DOT are liable for site contamination per Alaska Statute.

DMLW Response- DMLW stipulations will require DOT to comply with all other governmental requirements, including monitoring and remediation required by DEC regarding the contaminated site. DMLW will also include stipulations requiring the proper storage of solid waste and fuel to avoid further added contamination.

Public Notice Summary

Public Notice of the application was conducted from September 27, 2024 to October 28, 2024. The notice was posted to the State of Alaska Online Public Notice System.

Public Notice Comment & Response

No comments were received during the public notice period.

Environmental Consideration

This decision considers the environmental factors directly related to the authorization for use of state lands, specifically whether the approval of the authorization is in the State's interest. The purpose of this consideration is to identify any associated mitigation measures or other requirements necessary to protect the public interest, while informing the overall decision of whether or not to approve the authorization. This decision does not authorize any part of the subject area to be used for material extraction as the subsurface remains solely under DMLW management.

There is environmental risk associated with the proposed activity. The existing lease houses major infrastructure including office buildings and the entire Northern Region vehicle fleet with its associated maintenance yard. The potential expansion into the J-1 lot would involve clearing a large portion of the lot for vehicle parking and supply storage. According to the United States Department of Agriculture (USDA) Soils Map, this area is likely to contain permafrost with a high water table. Clearing vegetation from large swaths of land may lead to instability in the soils. Any spills from parked vehicles are likely to immediately leach into nearby or underlaying waters. No new development or clearing is to occur without a detailed development plan approved by DMLW in advance. The applicant is ultimately responsible for determination of site suitability.

As noted in the comments from DEC, there is known contamination at this site. DOT is responsible for monitoring, maintenance, and regular reporting on the mitigation measures related to the contamination. Upon relinquishment, the site shall be restored to a condition acceptable to DMLW. The site is to remain open to DMLW and DEC staff for routine, pre-arranged, and/or impromptu inspections to monitor compliance with ILMA stipulations.

Discussion

DOT has been requesting an ILMA for this site for over 40 years. Every past request was denied due to title issues which have since been resolved. Management Agreements are the standard authorization for major DOT infrastructure such as maintenance yards and storage facilities. The term of this ILMA shall be until no longer needed for the specified purpose. By issuing the ILMA in perpetuity it allows for continuity of management during the lifetime of the Regional Maintenance Complex. Following termination, whether by abandonment, revocation, or any other means, the applicant shall rehabilitate the site to a condition that is acceptable to DMLW.

Survey

The requested area has already been surveyed under Plat 96-39, recorded in the Fairbanks Recording District on March 22, 1996

Fees

Per 11 AAC 05.020(b), interim and one-time issuance fee(s) for this authorization are waived as the request is in the public interest. The facility conducts the maintenance on all state-owned vehicles including the State Troopers, DOT operated plows, and light vehicles operated by state employees. These vehicles are critical for emergency services and road maintenance as well as other official duties. Additionally, the compound houses the administrative offices for Northern Region DOT. As such, the compound serves a vital role in essential public services.

Term

The term of this ILMA shall be until it is no longer needed for the Northern Region DOT Compound.

Recommendation

Based upon the information provided by the applicant, as well as review of relevant planning documents, statutes, and regulations related to this application, it is the recommendation of staff to issue an ILMA as described above, on the condition that all stipulations are followed as described in the attached authorization.

Jaclyn Cheek, Natural Resource Specialist DMLW, Northern Regional Land Office

4/25/25

Date

Manager's Decision

Based on information provided by the applicant, agency and public review, and review of relevant planning documents, statutes, and regulations related to this application, it is the decision of the DMLW to issue an ILMA to DOT as recommended above. During the term of the ILMA, periodic inspections may be conducted, at the discretion of DMLW, to ensure compliance. DMLW reserves the right to issue other compatible uses within this same area.

This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 21st calendar day after issuance.

for

<u>4/25/25</u> Date

Dianna Leinberger, Regional Manager DMLW, Northern Regional Land Office

Attachments

ILMA Document Site Diagram

Appeal

An eligible person affected by this decision may appeal 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 is available on the department's website copy of 11 AAC 02 at https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf.