

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

**FINAL FINDING & DECISION  
EV 3-338**

**Petitioners: Three Bears Alaska, Inc.  
Section Line Easement Vacation**

This Final Finding & Decision compliments, confirms, and updates the attached Preliminary Decision (PD) approved on January 16, 2025. No changes have been made to the PD.

**PETITIONED ACTION:**

EV 3-338 falls within the Kenai Peninsula Borough, in Cooper Landing between mileposts 44 and 45 on the south side of the Sterling Highway. The proposed action consists of vacating portions of the two 50-foot wide section line easements (SLEs) along the section line common to sections 25 and 36 and lying within Tract B1 of Quartz Creek Subdivision Outfitters Way Replat, recorded as Plat 2024-14, Seward Recording District. This action lies in the SE¼ of Section 25 and the NE¼ of Section 36, within T. 5 N., R. 3 W., S.M., Alaska as depicted on Attachment A.

**Legal Authority:**

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

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 January 17, 2025, through February 18, 2025, on the State of Alaska Online Public Notice web site. Copies of the PD were sent to the Petitioner, to the petitioner's surveyor, Kenai Peninsula Borough (KPB), and Alaska Department of Fish and Game.

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

**AGENCY REVIEW AND COMMENT:**

Initial Agency review of the proposed action began on November 3, 2021 and concluded November 23, 2023. Agencies notified included Department of Transportation/Public Facilities (DOT/PF) Central Region, Alaska Department of Fish and Game (ADFG), DNR Division of Mining, Land and Water – South Central Regional Office (SCRO), Alaska Mental Health Trust Land Office (MHTLO) and DNR Division of Parks and Outdoor Recreation (DPOR).

**Agency Comments:**

1. All agencies submitted comments of non-objection except DOT&PF.

2. On October 25, 2021, the DOT&PF submitted an objection to the SLE vacation stating the following:
  - “It is not in the best interest of the State to vacate the SLE for future public access. The SLE is of value to the public.
  - Inconsistently treating land use and access between MP 44 and 45 would void over 40 years of expensive highway and land use planning conducted for the highway immediately south of this area.
  - DOT&PF would consider support of the SLE vacation if it was replaced with a more feasible East-West easement of equal value and utility. This support would require: Dedicated access from Quartz Creek Road to the subject parcel and beyond to the adjoining parcel”

On November 22, 2021, an Agency Response Letter was sent to the petitioner and their surveyor communicating DOT&PF’s objection and proposed stipulation for conditional approval. Comment reconciliation discussions between DOT&PF staff, the petitioner and the surveyor continued through January 14, 2022. The petitioning party agreed to a 60-foot ROW dedication to be in compliance with DOT&PF’s condition for approval. This agreement was termed the “Outfitter’s Way proposal”. Outfitter’s Way is a dedicated 60-foot ROW that is adjacent to the Sterling Highway within Tract B1 (the proposed site), Tract C1 and Tract A1 of Plat 2024-14. On August 31, 2023, DOT&PF staff informed the DNR, Survey Section they were formally withdrawing their department’s objection based on the Outfitter’s Way proposal which was in process. The Quartz Creek Subdivision Outfitters Way Replat was recorded on August 9, 2024, as Plat 2024-14 satisfying DOT&PF’s conditional approval requirement.

3. No other comments or objections on the proposed EV action were received.

#### **FINDING:**

1. The proposed alternate access meets the requirements for 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 easements of record, and is adequately wide to satisfy all present and reasonably foreseeable uses.
2. No reasons were presented during the agency or public review that require retention of the easement proposed for vacation.
3. Pursuant to 11 AAC 51.065(e)(1), the Department has given consideration to the recommendations of the KPB. The KPB reviewed this proposed section line easement vacation on April 28, 2025.

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

1. Comply with Kenai Peninsula Borough’s conditions of approval unless waived by the Director, DMLW.
2. The petitioner has complied with DOT&PF’s Outfitters Way Plat requirement. The recording of Plat 2024-11 satisfied DOT&PF’s condition of approval.

3. A final 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.
4. Submittal of a Certificate to Plat, current within 90-days, with the final plat.

Prepared By:

Victoria Braun  
Victoria Braun,  
Natural Resource Specialist

May 2, 2025  
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 M. Gervelis  
Gwen Gervelis, PLS  
Chief, Survey Section

5/2/2025  
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](mailto: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>.