STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES

Southcentral Regional Land Office

Regional Manager's Decision

ADL 233137
Alaska Department of Fish & Game
Public Easement
Tolsona Mountain Lake Trail

REQUESTED ACTION

On May 14, 2018, the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), received an application for an easement from the Alaska Department of Fish & Game (ADF&G; the applicant) for an existing trail on State-owned, DMLW-managed uplands near Tolsona, Alaska. The casefile was reopened on September 3, 2024. The purpose of the proposed easement is to continue maintenance of the trail, which will include brushing with hand tools, and to ensure continued public access. The applicant has requested a public easement approximately 19,000 feet long, 60 feet wide, and approximately 26 acres in size.

RECOMMENDED ACTION

An easement be created with the following parameters:

Width: 60 feetLength: 19,000 feet

• Acreage: approximately 26 acres

• Term: Indefinite

• Grantee: Alaska Department of Fish & Game

• Type of easement: Public Easement

• Additional actions: Half acre public site easement for existing tent platform associated with the Tolsona Mountain Lake Trail

SCOPE OF DECISION

The scope of this decision is to determine if it is in the State's interest to create an easement 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 easement application is being adjudicated pursuant to AS 38.05.850 and the Alaska Land Act as amended, and AS 38.05.127.

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 herein,

the 1986 Copper River Basin Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as ADL 233137.

LOCATION INFORMATION

Geographic Location

The applicant has requested that DMLW authorize an easement in Tolsona, Alaska near milepost 165 on the Glenn Highway.

Meridian Township Range Section

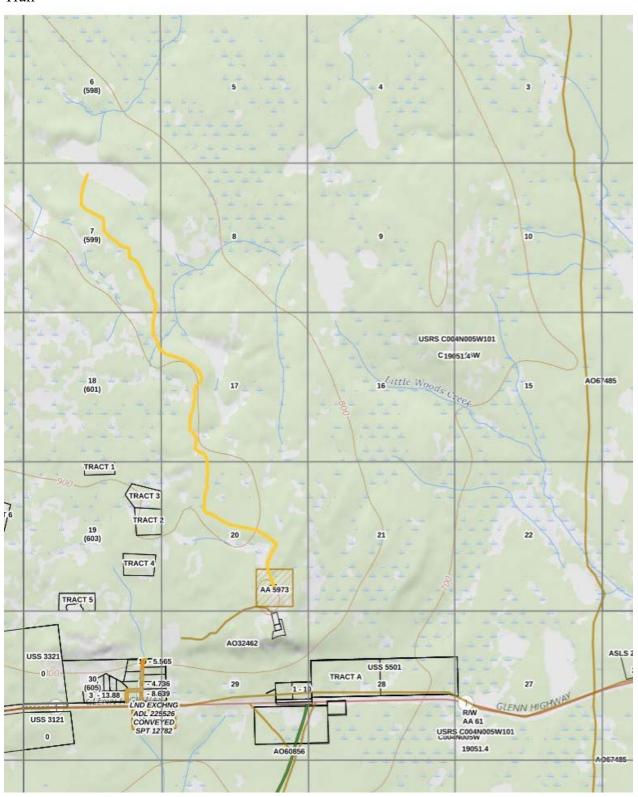
The applicant has applied to use State-owned, DMLW-managed lands within Sections 7, 17, 18, and 20 of Township 4 North, Range 5 West, Copper River Meridian.

Other Land Information

Regional Corporation: AHTNA, Incorporated



 $\textbf{FIGURE 2} - A \text{ map supplied by the applicant that depicts the area of Tolsona Mountain Lake } \\ Trail$



TITLE

The State of Alaska holds title to applicable portions of lands within Sections 7, 17, 18, and 20 of Township 4 North, Range 5 West, Copper River Meridian, Alaska, per Tentative Approval Number AA-4802 recorded at Chitna Recording District, associated DNR land acquisition casefile is GS 1640.

Any State-owned, DMLW-managed lands, or State-selected lands that may be managed by DMLW in the future that are crossed by the authorization considered herein at the time of this decision, which are omitted from this list, and are subsequently identified, are included in this decision. Navigable and public water determinations are subject to change pursuant to future findings.

THIRD PARTY INTERESTS

The applicant has requested an easement that may impact the following interests. Third party interest notification has been sent to all interest holders noted below.

• ADL 222818 - SBA TOWERS VI, LLC - Communication Site - Lease

PLANNING & CLASSIFICATION

The proposed easement falls within the boundaries of the 1986 Copper River Basin Area Plan (CBAP), Management Unit 5 – Lake Louise Road Area (pg. 3-34), Subunits 5E: Tolsona Ridgetop, and 5H.

The Land Use Designation Table for 5E (pg. 3-37) states that the primary land use is Public Recreation, which converts to the classification of Public Recreation Land (pg. 4-11), and Communication Site, with the secondary uses being Wildlife Habitat and Forestry, which converts to the classification of Wildlife Habitat Land and Forest Land (pg. 4-11). The Resource Information Summary Table (pg. 3-40) for Subunit 5E identifies caribou habitat (A-2) and scenic qualities as resources for this subunit. The management intent for 5E states that these state lands will remain in public ownership for multiple use, particularly as an undeveloped recreation area and for forestry (pg. 3-34).

The Land Use Designation Table for 5H (pg. 3-38) states that the primary land use is Wildlife Habitat, which converts to the classification of Wildlife Habitat Land (pg. 4-11) with secondary uses of Forestry and Public Recreation, which converts to the classification of Forest Land and Public Recreation Land (pg. 4-11). The Resource Information Summary Table (pg. 3-40) for Subunit 5H identifies caribou and moose habitat (A-2) and forests as resources for this subunit. The management intent for 5H states that these state lands will remain in public ownership for multiple use (pg. 3-33).

A-2 habitat lands "are habitats with fish and wildlife and related human use values of regional or statewide significance. The potential for reducing these values due to impacts from other uses is considered high and, in most instances, unavoidable. These areas include the most intensive or highest quality public-use area or the most productive fish and wildlife habitats. ADF&G recommends that wildlife be the primary use with only compatible (secondary use) activities allowed" (Glossary, pg. B-1 and B2).

This proposed easement involves public recreational use which is the primary or secondary use of each unit, therefore, SCRO has determined that the proposed easement does not conflict with the intent of the plan.

ACCESS

Functional legal access to the state land discussed herein exists via Radio Tower Access Road, off of the Glenn Highway at DOT milepost 165.

PUBLIC NOTICE & AGENCY REVIEW

Public Notice Summary

Public notice of the application was conducted from July 21, 2025, to August 20, 2025. The notice was posted to the State of Alaska Online Public Notice System and was sent to the Copper Center, Glennallen, and Gakona post offices for display on their notice boards. The notice was also sent to the following recipients:

• AHTNA, Inc.

No comments were received.

Agency Review Summary

Agency review of the application was conducted from July 21, 2025, to August 20, 2025. The notice was sent to the following recipients:

State Agencies

- DNR Division of Parks and Outdoor Recreation (DPOR); Permitting
- DNR DPOR Office of History and Archaeology (OHA)
- DNR DMLW Land Conveyance Section (LCS)
- DNR DMLW Realty Section
- DNR DMLW Survey Section
- DNR DMLW Mining Section
- DNR DMLW Water Section
- DNR DMLW Public Access Assertion and Defense Section (PAAD)
- DNR DMLW Resource Assessment and Development Section (RADS)
- DNR Statewide Abatement of Impaired Lands
- DNR Division of Oil and Gas, State Pipeline Coordinator Section
- DNR AK Mental Health Trust Land Office
- Department of Environment Conservation (DEC), Division of Environmental Health; Drinking Water Program
- DEC, Division of Environmental Health, Solid Waste Program
- DEC, Division of Spill Prevention and Response; Contaminated Sites Program
- DEC, Division of Air Quality; Permitting
- DEC, Division of Air Quality; Air Non-Point and Mobile Sources
- Alaska Department of Fish and Game (ADF&G), Habitat Section
- ADF&G Wildlife Conservation, Access Defense Program
- Division of Commerce, Community, and Economic Development, Division of Community and Regional Affairs,

- Department of Transportation & Public Facilities (DOT&PF); Statewide ROW **Federal Agencies**
- US Army Corps of Engineers
- Bureau of Land Management

Agency Review Comment & Response

A total of 3 comments were received during the agency review and are summarized below:

Comment: On July 21, 2025, DEC, Division of Spill Prevention and Response; Contaminated Sites Program states that "based on the information provided, the Alaska Department of Environmental Conservation (DEC), Contaminated Sites Program (CSP) has found no sites within 1,500 feet of the proposed project and does not have any comments related to this information request. If the scope of the project changes, update your research and contact CSP as needed. Please note that residual contamination may remain at cleanup completed sites, and those sites should also be evaluated. DEC must be notified if contamination is encountered."

Response: SCRO acknowledges the comment.

Comment: On July 22, 2025, the Army Corps of Engineers stated, "no comment".

Response: SCRO acknowledges the response.

Comment: On August 5, 2025, DOT&PF stated, "no comment".

Response: SCRO acknowledges the response.

No other comments were received during the agency notice period.

ENVIRONMENTAL CONSIDERATIONS

Environmental contamination risk associated with this proposed easement is minimal. Staff recommend that fuel, lubricants, and other hazardous materials be restricted to those necessary and be contained within tools and vehicles when equipment is necessary for construction and maintenance activities. Staff further recommend that no fuel or other hazardous materials are authorized to be stored on site. There are no other known environmental considerations or constraints in this location.

ECONOMIC BENEFIT & DEVELOPMENT OF STATE RESOURCES

In accordance with AS 38.05.850, DMLW considers if the requested authorization will provide the greatest economic benefit to the State and development of its natural resources. This authorization facilitates the expansion of the public recreational resources, which will promote conditions for economic development, thus providing an indirect benefit to the State. There are no known competing projects for use of these lands, therefore the issuance of this easement provides for the greatest economic benefit to the State and is consistent with the legislative intent expressed in AS 38.05.850.

DISCUSSION

There is an existing 12-foot by 20-foot wooden tent platform on treated timber cribbing and a 4-foot by 4-foot pit latrine near the end of the trail that was previously constructed by ADF&G. In addition to the easement for the existing trail, a public site easement approximately 0.5 acres in size will be granted under ADL 233137. This site easement will accommodate existing infrastructure and allow ADF&G to the ability to make minor adjustments to the location of the tent platform, if needed.

PERFORMANCE GUARANTY

A performance guaranty is intended to incentivize compliance with the terms and conditions of the entry authorization and easement. It also provides a mechanism for the State to ensure that the applicant shares in the financial burden in the event of noncompliance (including fee payment, survey, etc.), restoration (interim and final), and any associated costs after termination or expiration of the easement. In consideration of the low risk associated with the proposed authorization and the applicant's known history of compliance, staff recommend that a performance guaranty not be required at this time. DMLW reserves the right to require a performance guaranty during the terms of either the entry authorization or the easement.

History of Compliance

DNR Land Administration System records indicate that the applicant is in a state of compliance with the terms of other DMLW-issued authorizations.

INSURANCE

Insurance is not required as the applicant is self-insured. Staff recommend that the applicant be required to provide proof of its contractor's insurance upon DMLW's request.

SURVEY

A DMLW-approved as-built survey is required to determine the proper location and acreage of installed improvements and the associated easement on State-owned, DMLW-managed lands. The applicant will be required to request survey instructions prior to issuance of the entry authorization. The survey must be produced in accordance with survey instructions provided by the DMLW Survey Section and stamped by a Professional Land Surveyor registered in the State of Alaska. A final easement will not be issued until the as-built survey has been approved by DMLW.

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. Additionally, the easement document will be sent to the Recorder "State Business - No Charge" as the applicant is a state agency.

ENTRY AUTHORIZATION

An entry authorization shall be issued for a term ending 5 years from the effective date of this decision for the purpose of constructing, surveying, operating, and maintaining the infrastructure considered herein prior to DMLW's issuance of a public access easement. The entry authorization may be revoked if the applicant has not submitted DMLW with a draft as-built survey one year prior to the expiration of the entry authorization. An extension of the entry authorization may be granted at the written request of the applicant if granting the extension is deemed appropriate by

DMLW and may be subject to applicable fees. If an extension is required, the applicant should contact DMLW at least 30 days prior to the expiration of the entry authorization and certify there have been no changes to the approved development plan.

No authorization shall be granted until the following deliverables have been provided to DMLW:

• Evidence of having made request for survey instructions to the DMLW Survey Section.

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 easement as described above, on the condition that all stipulations are followed as described in the attached authorization.

Savannah Lilyhorn	9/8/2025	
Savannah Lilyhorn, Natural Resource Specialist	Date	
DMLW Southcentral Regional Land Office		

REGIONAL MANAGER'S DECISION

When adjudicating an easement authorization pursuant to AS 38.05.850, DMLW seeks to responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with public interest. In consideration of all events and criteria listed above, I hereby determine that the authorizations to be granted by this decision are consistent with DMLW's mission, that this project is consistent with the overall classification and management intent for this land, and that issuance of an authorization as described above is in the interest of the State of Alaska. The Department assumes no responsibility for maintenance or liability for injury or damages attributable to this authorization.

This decision may be rescinded by written notification if, after 60 days from the effective date of this decision, the applicant has not completed all requirements outlined in this decision for issuance of the authorization. Additional time may be allotted to complete these requirements; however, this will not extend the total term of the authorizations issued under this decision. This decision goes into effect and becomes a final administrative order and decision of the department on the first business day after the twentieth calendar day after signature.

Brent Reynolds	9/8/2025	
Brent Reynolds, Easement Unit Manager	Date	
DMLW Southcentral Regional Land Office		

ATTACHMENTS

• Entry authorization, unsigned

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 copy of 11 AAC 02 is available on the department's website at:

https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf.