



STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
Northern Regional Land Office

Regional Manager's Decision

ADL 422455
Golden Valley Electric Association
Easement Application
AS 38.05.850

REQUESTED ACTION

On September 27, 2024, the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), received an application for a public utility easement from Golden Valley Electric Association (GVEA) for a proposed electrical powerline on state-owned, DMLW-managed lands near Fairbanks, Alaska. The purpose of the proposed easement is to provide electrical service. The applicant has requested a public utility easement approximately 150 feet long, 30 feet wide, and 0.10 acres in size.

RECOMMENDED ACTION

NRO recommends issuing the easement as requested and for a perpetual term.

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.

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 2015 Eastern Tanana Area Plan (ETAP) and other classification references described herein, and the casefile for the application serialized by DNR as ADL 422455.

LOCATION INFORMATION

Geographic Location

The applicant has requested that DMLW authorize an easement near the intersection of Spinach Creek Road and Old Murphy Dome Road, northwest of Fairbanks.

Township Range

The applicant has applied to use state-owned, DMLW-managed lands within Section 35, Township 2 North, Range 3 West, Fairbanks Meridian, approximately as shown on Attachment A.

Other Land Information

Municipality: Fairbanks North Star Borough
Regional Corporation: Doyon Ltd.

TITLE

The State of Alaska received title to lands within F002N003W Section 35 on January 18th, 1983 under PA 50-83-0057 with standard reservations for ditches, canals, railroads, telegraph and telephone lines. This patent is serialized by DMLW under state selection file GS 570.

THIRD PARTY INTERESTS

The applicant has requested an easement that may impact the following interests:

ADL 30789: A public utility easement issued to GVEA
ADL 407124: A public access easement issued to DMLW for Old Murphy Dome Road.
ADL 418997: A lease for a gas pipeline issued to the Alaska Gasline Development Corp.

Additional activities in the area of the proposed easement include permits issued to the Fairbanks North Star Borough (LAS 35093) for a living snowfence along Old Murphy Dome Road and to the Division of Forestry (LAS 33480) for brushing a firebreak along Old Murphy Dome Road.

PLANNING & CLASSIFICATION

The subject lands are within the F-17 unit of ETAP. Lands within this unit are designated for habitat and recreation dispersed and are to be managed to protect and maintain wildlife and habitat values and associated recreational values. Per Table 4-2 in ETAP, these designations correspond to the classifications of Wildlife Habitat Land (11 AAC 55.222) and Public Recreation Land (11 AAC 55.160), respectively, which identify the primary use for which the land will be managed. The F-17 unit is to continue in its natural state with development not anticipated and is inappropriate except for certain types of utilities, communication facilities, and roads that provide a general public benefit. As this easement expands the public's access to basic utilities, as well as being very small requiring no additional poles placed on state lands, the proposed project is consistent with the applicable land classifications and management intent of the plan.

ACCESS

The applicant proposes to create a public utility easement which will span across the Department of Transportation and Public Facilities (DOT&PF) managed right of way associated with Old Murphy Dome Road. DOT&PF has provided DMLW with no objection to the DMLW easement considered herein.

There are no public or navigable waters in this area. Consequently, no easements pursuant to AS 38.05.127 are necessary to ensure free access to and along any public or navigable waters.

DMLW reserves the right to create an easement pursuant to AS 38.05.127 over the authorization proposed herein.

BACKGROUND

GVEA submitted an application for a public utility easement so they could serve a customer who requested power to their parcel (Lot 5 of Alpencrest 2nd Addition Subdivision, Plat 2018-26, Fairbanks Recording District). Although there is already a public utility easement to this parcel along its southern border, it appears as though the applicant is constructing a structure close to Old Murphy Dome Road to the north. If DMLW were to direct GVEA to the existing easement it would cause a greater cost to be incurred not only to GVEA but also the property owner. The proposed easement does not preclude the development of the existing easement in the future.

DNR-DMLW's Public Access Assertion and Defense (PAAD) section noted no public waters or RS2477 trails in this area.

PUBLIC NOTICE & AGENCY REVIEW

Public Notice Summary

Public Notice of the application was conducted from October 16, 2024 to November 15, 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.

Agency Review Summary

Agency Review of the application was conducted from October 16, 2024 to November 15, 2024. The notice was sent to the following recipients:

- Office of History and Archeology
- DOT&PF
- Alaska Department of Fish and Game (ADF&G)
- Fairbanks North Star Borough

Agency Review Comment & Response

DOT&PF: No comment at this time. GVEA is aware that they will need to obtain separate permits through DOT&PF if they need to cross DOT&PF managed infrastructure.

DMLW Response: Noted.

ADF&G: No objection, however ADF&G recommends scheduling any vegetation clearing to avoid bird breeding and nesting phases.

DMLW Response: Noted, recommendations have been forwarded to the applicant.

ENVIRONMENTAL CONSIDERATIONS

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.

Environmental contamination risk associated with this proposed easement is minimal. Fuel, lubricants, and other hazardous materials will be restricted to those necessary and will be contained within vehicles and vegetation clearing equipment when such equipment is necessary for right-of-way maintenance. No fuel or other hazardous materials will be stored on site. There are no other known environmental considerations or constraints in this location. The applicant is ultimately responsible for determination of site suitability.

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. Specifically, staff assess both direct and indirect economic benefits and whether the proposed authorization encourages the development of the State's resources.

The authorization considered herein will provide a direct economic benefit to the state in the form of land use fees. Additionally, the proposed easement facilitates the expansion of the public utility system, which will promote conditions for economic development, thus providing an indirect benefit to the state. In consideration of these factors, and because there are no competing requests for authorization, approval of this easement will provide the greatest economic benefit to the State.

DISCUSSION

DMLW considered the alternative of requiring GVEA to route power via the existing public utility easement on the southern border of the target parcel, shown on Plat 2018-26, Fairbanks Recording District. However, DMLW decided to proceed with the proposed easement to an existing powerline (within ADL 30789) on the other side of Old Murphy Dome Road (within ADL 407124) which is within 150 feet of the subdivision. ADL 30789, however, does not quite overlap with the Old Murphy Dome Road easement, in which a powerline could also be authorized, thus necessitating this easement casefile (ADL 422455) to bridge the remaining gap to reach the parcel. The net additional encumbrance represented by this easement is likely less than 50 feet. Given that there are no operational objections from DOT&PF or other interests, allowing an easement for a such a tiny length of power line here seems a reasonable deviation from DMLW's usual practice of directing development within easements platted for the purpose. Nothing in this decision precludes the development of the existing public utility easement shown in Plat 2018-26 in the future, nor should this decision suggest that additional crossings of Old Murphy Dome Road by public utility easements are necessarily warranted. The term of the easement shall be in perpetuity, or until no longer needed. Following termination, whether by abandonment, revocation, or any other means, the applicant shall rehabilitate the site(s) to a condition that is acceptable to DMLW.

PERFORMANCE GUARANTY

A performance guaranty is intended to incentivize performance of the conditions of the entry authorization and easement and provide a mechanism for the State to ensure that the applicant shares in the financial burden in the event of noncompliance (including fee payment, survey, appraisal, etc.), restoration (interim and final), and any associated costs after termination or expiration of the easement. It is recommended that the applicant be required to submit a performance guaranty in the amount of \$5,000 to ensure completion of entry authorization requirements. These funds will also serve as a survey deposit (per AS 38.05.860) and may be reduced one time during the term of the entry authorization by an amount equal to payments made by the applicant to a licensed surveyor under contract for completion of an as-built survey in accordance with survey instructions issued by the DMLW Survey Section, as described herein. This performance guaranty shall remain in place during the term of the entry authorization and will be subject to release upon the acceptance of a DMLW-approved as-built survey and the fulfillment of all conditions and stipulations of this decision and the entry authorization. The guaranty may also be adjusted to reflect updates and changes in the associated project, and the applicant may be required to provide an additional performance guaranty if DMLW determines there is additional risk to the State. The guaranty may be utilized by DMLW to cover actual costs incurred by the State to pay for necessary corrective actions in the event the applicant does not comply with site utilization and restoration requirements and other stipulations contained in the entry authorization. An additional performance guaranty may be required for an extension of the entry authorization beyond the initial term proposed under this decision.

GVEA has a perpetual \$5,000 Certificate of Deposit on file with the State which meets the obligation to provide a performance guaranty.

INSURANCE

The applicant will be required to submit proof of insurance in an amount the insurance company determines necessary to protect both the State and the applicant from risks associated with the planned activities under the EA for ADL 422455. The applicant will be responsible for maintaining the necessary insurance during the term of the EA. The insurance may be adjusted to reflect updates and changes in the associated project and the applicant may be required to furnish additional insurance if DMLW determines there is additional risk to the State. A certificate of insurance listing the State of Alaska, Department of Natural Resources as an additional insured on the policy, or other insurance acceptable to the State, must be submitted to DMLW prior to entry on State land and must be maintained throughout the term of the EA.

GVEA has a current Certificate of Insurance on file with the State which meets the obligation to provide proof of insurance.

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. The applicant is required to submit a preliminary draft as-built survey a minimum of one year prior to the expiration of the entry authorization to allow adequate time for DMLW's review and approval of a final as-built survey.

FEES

The following fees are applicable to this request. These fees may be adjusted if regulation(s) pertaining to the fee(s) change during the term of the entry authorization and/or easement, and will be subject to non-sufficient fund and late payment penalty fees.

(EA fee)

- The applicant shall pay an annual interim land use fee of \$240 for up to two acres per 11 AAC 05.070 (d)(2)(I) for the term of this EA. This fee is charged concurrently with any other land use fees that may be described herein.
- Upon receipt of a DMLW approved as-built survey and prior to easement issuance, the applicant shall pay a one-time fee of \$0.56 per linear foot per 11 AAC 05.070 (d)(2)(C). This fee will be based on the actual footage of the easement as shown in the survey.

Additionally, the applicant shall pay applicable document recording fees prior to DMLW's execution and recordation of the easement document.

ENTRY AUTHORIZATION

The entry authorization is an interim authorization issued when a survey is necessary prior to easement issuance. It is recommended that an entry authorization be issued for a term ending five years from the date of issuance for the purpose of constructing, surveying, operating, and maintaining the infrastructure considered herein prior to DMLW's issuance of a public utility easement. 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 must contact DMLW no later than 30 days prior to the expiration of the entry authorization and certify there have been no changes to the approved development plan. It is recommended that an entry authorization not be granted until the following deliverables have been provided to DMLW:

- Land use fees, as described above.
- Evidence of having made request for survey instructions to the DMLW Survey Section, as recommended above.

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

Jaclyn Cheek

Jaclyn Cheek, Natural Resource Specialist
DMLW Northern Regional Land Office

9/11/2025

Date

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.

R. Bruce Sackinger

R. Bruce Sackinger, Natural Resource Manager
DMLW Northern Regional Land Office

9/12/2025

Date

ATTACHMENTS

- Entry authorization
- Draft easement document
- Attachment A: Map

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>.