

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

**Preliminary Decision**

**Petitioner: Municipality of Anchorage and CY Investments, LLC  
Section Line Easement Vacation  
EV-3-359**

**Petitioned Action:**

The subject property is located in Girdwood, Alaska. The property can be accessed by taking the Seward Highway to the Alyeska Highway turnoff. Proceed into Girdwood, then turn left on Crow Creek Road. The property lies between the Girdwood Airport and Crow Creek Road, northeasterly of Girdwood Elementary School. The petitioned action consists of vacating portions of the section line easements (SLEs) within Tracts 1, 2, and 5, Holtan Hills Subdivision, Plat No. 2024-18, Anchorage Recording District (ARD), along the North-South running section line common to Sections 8 & 9, T10N, R2E, S.M., Alaska. This action falls within the E $\frac{1}{2}$ E $\frac{1}{2}$  of Section 8 and the W $\frac{1}{2}$ W $\frac{1}{2}$  of Section 9, T10N, R2E, S.M., Alaska, as depicted on Attachment A. It should be noted, the portion of the SLE in Tract A1A, Girdwood Elementary School Subdivision, Plat No. 2014-15, ARD within Section 8 is not included in the proposed vacation for EV 3-359.

The reasons for the section-line easement vacation as cited by the applicant:

- “The [section line easement] vacation will allow for an efficient subdivision layout in the area, ultimately facilitating in construction of much needed housing in Girdwood.”

**Legal Authority:**

AS 38.05.035(e), AS 38.05.945, 11 AAC 51.065, 11 AAC 51.025, 11 AAC 51.100, AS 19.10.010, AS 38.05.127 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.

**Administrative Record:**

The DNR Survey Case File EV-3-359 constitutes the administrative record used for the basis of this decision.

**Borough:**

The proposed action is located within the Municipality of Anchorage (MOA).

**State Easement Interest:**

50-foot wide state section-line easements exist within the subject property pursuant to AS 19.10.010 (See Discussion #1).

**Underlying Interest:**

The petitioners own the estate underlying the section line easements proposed for vacation

**Alternate Route:**

The proposed alternate access consists of a 60-foot wide to-be-dedicated right-of-way (ROW) within Holtan Hills Subdivision. The planned road development in the subdivision incorporates a 60-foot ROW originating off of Crow Creek Road. Crow Creek Road is a dedicated 100-foot ROW as per Alaska State Land Survey 81-149, Plat No. 84-446, ARD. The proposed 60-foot wide alternate access ROW would run from Crow Creek Road ROW through Tracts 1, 2 and 5 of Holtan Hills Subdivision and Tract A1A, Girdwood Elementary School Subdivision to the Hightower Road Subdivision as shown on Attachment A. This will connect to the 60-foot public use easement dedicated by Doc 2009-074171-0, ARD located within Tract A1A, Plat 2014-15, ARD. The proposed 60-foot ROW within Holtan Hills Subdivision will ultimately connect Hightower Road with Crow Creek Road as shown on Attachment A.

An additional alternate access consists of a proposed 25-foot pedestrian trail easement on Tract E1 of Girdwood Elementary School Subdivision, Plat Nos. 95-35 and Tract A1A, Plat No. 2014-15, ARD. The trail would provide pedestrian access between Crow Creek Road and Hightower Road. Hightower Road abuts the Glacier Creek public access easement allowing for pedestrian access to Glacier Creek.

**Land Management Policies:**

1) Pursuant to 11 AAC 51.065, before any vacation, modification, or relocation of a public easement described in 11 AAC 51.065(a)(1), the petitioner must demonstrate to the satisfaction of the department that equal or better access is available. Equal or better access must be access that is:

- protected by an easement of record that is adequately wide for the purpose; if the easement of record is new, the petitioner must arrange for a note in the vacation document to be recorded that identifies the new easement as a replacement for the vacated easement; and,
- at least equally usable, considering length, type of terrain, and level of improvement, as the easement to be vacated; if development or improvement is needed to make the replacement easement at least equally usable, the petitioner must arrange for the development or improvement to be completed before the vacation takes effect.
- The Department will determine if the vacation is in the State's best interest.

2) Pursuant to AS 19.30.410 the Department of Natural Resources, the Department of Transportation and Public Facilities, or another agency of the state may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932 unless:

- a reasonably comparable, established alternate right-of-way or means of access exists that is sufficient to satisfy all present and reasonably foreseeable uses.

**Public Use Patterns:**

Department of Natural Resources staff members conducted a field inspection on Tuesday November 21, 2023. We accessed the area from Hightower Road. There is a gate that blocks access to the subject area. The field inspection confirmed there is a cleared foot path area which exists. It is approximately ten feet wide. The foot path is well established and clearly gets

regular use. The path terrain is level overall. We identified the section line between sections 8 and 9 of T10N, R2E, S.M. There was a ridge to the north of this portion of the section line. The terrain was moss covered with a dense full forest.

We continued towards Glacier Creek. There was a bluff where Glacier Creek ran. As we got closer, another trail was identified that runs parallel to Glacier Creek. This path was also well defined and approximately 4 feet wide. This path falls within the 50-foot public access easement identified in State of Alaska Patent 9296. We followed this path along Glacier Creek westbound. Eventually we located a cleared trail that met back up with the road by the gate where we had parked. This portion of the trail met up with the gate and was wide enough for a vehicle to traverse up to the gate.

**Practicality of Use:**

The current state of the SLE proposed to be vacated is unconstructed with heavy vegetation. The proposed alternate route will be developed on terrain that is similar in grade to the area proposed for vacation. Neither a foot, ATV trail nor vehicular use trail was visible within the SLE area on the November 21, 2023 site inspection. The 200-foot Glacier Creek Public Access Easement, identified on Plat No. 84-446 is to retain its original use and purpose. The proposed alternate access appears to be equal or better for reasonably foreseeable future uses as the section line easements proposed to be vacated. The proposed easement vacation should not adversely affect land in other ownership nor will it negatively impact public access in this area.

**Agency Review:**

Initial Agency review of the proposed action began on September 9, 2022 and concluded June 3, 2025. 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 – Southcentral Regional Land Office (SCRO), Alaska Mental Health Trust Land Office (MHTLO), DNR Division of Parks and Outdoor Recreation (DPOR) and the Municipality of Anchorage (MOA).

**Agency Comments:**

Agency Review comments and responses were received as follows:

1. The following Agencies submitted non-objection comments: DPOR (9/12/22), MHTLO (9/13/22), DOT&PF (9/27/22), and ADFG (10/10/22).
2. On 11/27/23, DNR's SCRO submitted an e-mail objecting to this action, stating:

“Thank you for the opportunity to comment on EV 3-359. As proposed, our office objects to this vacation, as the access provided to Glacier Creek via the Section Line Easement is proposed to be vacated with no suitable alternative access proposed.”
3. On January 12, 2024, an updated proposal was submitted calling attention to four alternate Glacier Creek public access easements. There were four easements identified in the updated proposal. The first is the 200-foot public access easement identified along both sides of the ordinary high water (OHW) mark of Glacier Creek as noted on Plat No. 84-446 (note #14) and

Plat No. 2024-18 (note #12), ARD. The second easement is a 50-foot easement along the OHW mark of Glacier Creek, reserved in State Patent No. 9296, Book 1662, Page 0434, A.R.D. The third is a 60-foot easement providing public access to Glacier Creek as outlined in Document No. 2009-074171-0, ARD. The fourth route highlighted in the updated proposal is the remaining 50-foot section line easement in section 8 within T10N, R2E, S.M. It should be noted, if this easement vacation proposal is successful, the portion of the SLE in Tract A1A, Girdwood Elementary School Subdivision, Plat No. 2014-15, ARD. is not included in this proposed action.

4. DNR's SCRO Manager continued to have Glacier Creek access concerns after receiving the proposal outlined in #3 above. On February 9, 2024, an amendment to the January 12, 2024 proposal came in. This amendment proposed an additional 100-foot Public Use Easement (PUE) above the NNE boundary of Tract 3 of Holtan Hills Subdivision, Plat No. 2024-18. The 100-foot easement would connect Crow Creek Road to the Public Access Easement along Glacier Creek.
5. On November 12, 2024, SCRO sent a message to the petitioners inquiring as to the following:  
"Can you remind me why the proposed [25-foot] trail was not depicted on Plat 2024-18 that recorded earlier this year [May 2, 2024]? As discussed, I think this new route goes a long way in alleviating SCRO's concerns, though a reduction from the full SLE width down to 25 feet does give me a bit of pause."
6. A response came back from the petitioner on November 14, 2024 stating:  
"The trail was not on the plat because it was not on the parcel that was being replatted [Holtan Hills Subdivision, Plat No. 2024-18, ARD], and it [Tract A1A, Girdwood Elementary School Subdivision, Plat No. 2014-15, ARD] is under Anchorage School District management authority, but it is still an MOA Real Estate parcel, if that makes sense. We intend to record the trail as an Intergovernmental Permit (IGP), because we cannot issue ourselves easements. The trail is under a powerline, and has been in existence for many decades, but has never been surveyed. We already have a letter of non-objection from the power company, and are moving forward with surveying. We don't need more than 25' for a pedestrian trail, that is the preferred width for the department that maintains the trail. The ROW through the subdivision will be 60' and would serve as the replacement vehicular and utility access. There will also be a pedestrian path (either a separated trail or sidewalk) along the ROW. Let me know if you have any other questions."
7. On January 30, 2025, the petitioner sent in the non-objection letter from Chugach Electric regarding this action. Chugach Electric's letter specified:  
"The Municipality of Anchorage's (MOA) Project Management & Engineering Right of Way Acquisition Section is planning to acquire a trail easement, approximately 25' wide, across portions of Tracts E1, E2, and A1A, Girdwood Elementary School Subdivision, to allow pedestrian access to Girdwood Elementary School from Crow Creek Road. This trail easement would encompass a decades-long existing social trail that encroaches into the 20-foot wide CEA Telecommunications & Electrical (T&E) easement, created by Book 531 Page 873."

To acquire the trail easement, MOA protocol is to request a letter of non-objection from the utilities to allow the owner of the properties, MOA, to better manage and maintain this existing social trail.”

8. An updated petition was submitted on February 25, 2025, referencing the new legal descriptions created by Holtan Hills Subdivision, Plat 2024-18, ARD. The 100-foot PUE along the boundary of Tract 3 was not included on this updated petition.
9. May 23, 2025, an updated Agency Review Comment was requested from the SCRO based on the updated petition submitted in February 25, 2025.
10. June 3, 2025, SCRO submitted an updated comment based on the updated petition stating “After reviewing the updated attachment, SCRO does not object to EV 3-359.”
11. No other comments or objections to the proposed EV action were received.

**Discussion:**

**1. Determination of the existence of the Section Line Easements:**

- a. The U.S. Rectangular Survey Plat for Township 10 North, Range 2 East, Seward Meridian, Alaska was accepted by the BLM on April 6, 1971. The subject section line is unsurveyed in this plat.
  - b. Protraction diagram S14-4 for Townships 9 to 12 North, Ranges 1 to 4 East, Seward Meridian, Alaska was approved by the Department of the Interior, Bureau of Land Management on June 29, 1960. The Notice of Filing of protraction diagram S14-4 was published in the Federal Register on August 11, 1960. The subject sections line is shown on protraction diagram S14-4.
  - c. Patent Number 50-73-0028 conveyed Tract A of T. 10 N., R. 2 E., Seward Meridian, Alaska to the State of Alaska from the United States of America, on July 28, 1972. Tract A contains protracted Sections 8 and 9. The date of entry for this action according to BLM case file AKA 053727 Abstract was January 24, 1961.
  - d. For surveyed or unsurveyed land owned by the State on or after July 1, 1960, the width of a section line identified in AS 19.10.010 is 50-feet (11 AAC 51.025, Editor’s Note #7).
2. Pursuant to 11 AAC 51.065(g) the proposed alternate access for the vacated portion of the state section line easement, upon completion of the proposed Holtan Hills Subdivision, is equal to or better and meets the requirements for vacation of a portion of the section line easement. The proposed alternate route is at least equally useable, considering length, type of terrain, and level of improvement.
  3. Pursuant to 11 AAC 51.065(e)(1), the department will give consideration to the recommendations of the Municipality of Anchorage Platting Board regarding this action when a copy of the Approved Minutes are received at DNR.

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

1. Pursuant to AS 38.05.945, a Public Notice must be completed. The Department of Natural Resources may modify the decision after analyzing public comments.

2. The petitioners must dedicate the proposed alternate access routes as stipulated in their revised EV petition to include the 60-foot wide ROW from Crow Creek Road to Hightower Road and the 25-foot pedestrian easement from Crow Creek Road to the Girdwood Elementary School/Hightower Road junction point.
3. Comply with Municipality of Anchorage's conditions of approval for the section line easement vacation. The petitioner must complete a formal platting action to obtain approval by the Municipality of Anchorage Platting Board.
4. 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.
5. Submittal of a Certificate to Plat, current within 90-days, with the final plat.

**Recommendation:**

Based on our findings, the applicant meets DNR's requirements to vacate the subject section line easement. The proposed vacation may be in the State's best interest. Therefore, the Division of Mining, Land and Water, Survey Section recommends approval of this action and may proceed with adjudication and public notice in accordance with AS 38.05.945.

Prepared by:

Victoria Braun

Victoria Braun,  
Natural Resource Specialist 2

9/29/2025  
Date

Approved by:

For Ryan Quigley  
Gwen M. Gervelis, PLS  
Chief, Survey Section

9/29/2025  
Date

Enclosures: Attachment A

**PUBLIC NOTICE:**

**Notice of Preliminary Decision  
Section Line Easement Vacation  
EV-3-359**

Per 11 AAC 51.065, the Department of Natural Resources, Division of Mining, Land and Water has made a Preliminary Decision (PD) giving contingent approval to a petition to vacate segments of the state section line easements within Tracts 1, 2, and 5 of Holtan Hills Subdivision, Plat No. 2024-18, Anchorage Recording District. The petitioned action consists of vacating a portions of the section line easements within the E½E½ of Section 8 and the W½W½ of Section 9, T10N, R2E, S.M., Alaska, as depicted on Attachment A.

The public is invited to comment on the PD. Copies are available from DMLW, 550 W. 7<sup>th</sup> Avenue, Suite 650, Anchorage, AK 99501-3576 or <https://aws.state.ak.us/OnlinePublicNotices/>. Persons wanting to provide comments on this proposed easement vacation can **submit their comments in writing or by e-mail. To be eligible to appeal under AS 38.05.035(i)(j), one must respond in writing during the comment period. All comments must be received in writing at DMLW on or before October 29, 2025.** Correspondence or questions should be addressed to DNR, DMLW, Survey Section, Attn: Victoria Braun, 550 W. 7th Ave., Suite 650, Anchorage, Alaska 99501. Comments may also be submitted via e-mail at [victoria.braun@alaska.gov](mailto:victoria.braun@alaska.gov). Please reference EV 3-359 in your correspondence, include the date, your name, telephone number, mailing and e-mail address to ensure you receive copies of all subsequent decisions.

If public comment in response to this notice indicates the need for significant changes to the Preliminary Decision, additional public notice will be given. If no significant change is required, the PD, including any minor changes, will be issued as a Final Finding & Decision.

DMLW reserves the right to waive technical defects in this publication.

Those with audio impairments may call Anchorage DNR Public Information Center, 10-5, M-F, TDD#269-8411.