

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

**Preliminary Finding & Decision
Petitioner: State of Alaska Mental Health Trust Lands Office
Section Line Easement Vacation
EV 3-404**

Petitioned Action:

The Mental Health Trust Land Office (MHTLO) is requesting the vacation of portions of 50-foot section line easements (SLEs) in an area being subdivided as West Cohoe Subdivision, located along the west bank of Lower Cohoe Lake and approximately 3,000 feet westerly of Upper Cohoe Lake. This action falls within the S½SW¼ of Section 22, the NW ¼ of Section 27, and the NW ¼ NE ¼ Section 27, T3N, R12W, S.M., Alaska, as depicted on Attachment A.

The reasons cited by the applicant on the EV application:

- “The TLO is proposing to subdivide their property into multiple lots for residential development. To facilitate the intended subdivision access and improve overall use of the land, TLO is requesting a vacation of all section line easements within the proposed subdivision to be replaced by new dedicated rights-of-way with equal or better access. The east-west section line easement bisects four of the proposed new tracts, negatively impacting the ability of the TLO or future landowners to develop their property. To mitigate this impact, and create alternate rights-of-way that are equal or better, we proposed to dedicate new rights-of-way that improve circulation throughout the subdivision while also improving access to adjacent parcels.”

Legal Authority:

AS 19.10.010, AS 38.05.127, AS 19.30.410, AS 38.05.035(e), AS 38.05.945, 11 AAC 51.025 and 11 AAC 51.065.

The Alaska Department of Transportation & Public Facilities (DOT&PF) and the Department of Natural Resources (DNR) have concurrent authority for approving the vacation of SLEs.

Administrative Record:

The DNR Survey Case File EV 3-404 constitutes the administrative record used for the basis of this decision.

Borough:

The proposed action is located within the Kenai Peninsula Borough (KPB).

State Easement Interest:

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

Underlying Interest:

The petitioner owns the estate underlying the SLEs proposed for vacation.

Alternate Route:

The proposed alternate access will be dedicated as a required part of this easement vacation action. The proposed alternate access will be dedicated by the future development of West Cohoe Subdivision. The alternate access, shown on Attachment A, will consist of multiple right-of-way (ROW) dedications varying in width along the east, west, and north boundaries of the subdivision as described below:

- **Shaw Airstrip Avenue** will be a 100-foot wide ROW dedication running along the west boundary of the proposed West Cohoe Subdivision. This 100-foot wide ROW will contain the current footprint of 50-foot section line easements being vacated along the north-south running section lines common to Sections 27 & 28, and Sections 21 & 22, as depicted on Attachment A.
- **An unnamed 100-foot wide ROW** dedication running along the north boundary of the proposed West Cohoe Subdivision, as depicted on Attachment A. ROW name to be determined.
- **A 70-foot wide ROW** dedication running along the east boundary of the proposed West Cohoe Subdivision in the S½ SW¼ Section 22 and extending 50 feet into Section 27, as depicted on Attachment A. This ROW dedication will be adjacent to the existing 30-foot dedication of Goofy Street within Cohoe Lakes Subd. Shaw's Landing Addition #2 (Plat No. 2004-3, Kenai Recording District [KRD]), bringing the total ROW width to 100-feet.
- **An unnamed 50-foot wide ROW** dedication in the NE¼ of Section 27, running along the section line common to Sections 22 and 27, intersecting the proposed dedication adjacent to Goofy Street and terminating at Lower Cohoe Lake, as depicted on Attachment A. This 50-foot wide ROW will be coincident with the current footprint a 50-foot section line easement being vacated at this location. Note that the existing 33-foot wide SLE north of the section line at this location will remain and is not included in the petitioned action.

Land Management Policies:

1) 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.

2) Pursuant to 11 AAC 51.065, before any vacation, modification, or relocation of a public easement, 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.

Public Use Patterns:

A field inspection was not conducted. Recent satellite imagery indicates the section line easements proposed for vacation have not been cleared and are densely populated with trees. The public does not appear to be utilizing the uncleared lands underlying the SLEs within this project area for any pedestrian, ATV, or vehicular use. The elevation in this area is gently sloping and access to other lands in the vicinity will not be negatively impacted by this action.

Practicality of Use:

The proposed 100-foot wide ROW dedications along the north and west boundaries, and the 70-foot wide ROW dedication along the east boundary of the proposed West Cohoe Subdivision will provide adequately wide access to the subject area. These dedications will replace the portions of the east-west SLEs common to Sections 22 and 27 proposed for vacation. The grades of the SLE's proposed for vacation and the replacement ROW dedications are similar. Access to the waters of Lower Cohoe Lake will be via the 70-foot dedication adjacent to existing 30-foot Goofy Street. This dedication will extend 50-feet into Section 27 and head due east to Lower Cohoe Lake as a 50-foot dedication overlaying the section line easement proposed for vacation to offer public access to the waters of Lower Cohoe Lake. Access to adjacent parcels is not diminished by this action.

Agency Review:

Initial Agency review of the proposed action began on July 3, 2025 and concluded August 27, 2025. Agencies notified included Department of Transportation & Public Facilities (DOT&PF) Central Region, Alaska Department of Fish and Game (ADF&G), DNR Division of Mining, Land and Water – Southcentral Regional Land Office (SCRO), DNR Division of Parks and Outdoor Recreation (DPOR), and the Kenai Peninsula Borough (KPB).

Agency Comments:

1. The following agencies submitted non-objection comments: DPOR, ADFG, DOT&PF and SCRO.
2. KPB indicated they would fully review this action when the surveyor formally presents the easement vacation plat to KPB's Planning Commission. The Borough's review is incorporated into DNR Division of Mining, Land, & Water (DMLW)'s conditions for approval (see that portion of this decision).
3. No other comments or objections to the proposed action were received.

Discussion:

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

- a. The U.S. Rectangular Survey Plat for Township 3 North, Range 12 West, Seward Meridian, Alaska, was approved on July 19, 1921, by the U.S. Surveyor General's Office. This plat surveyed the subject section lines.

- b. Bureau of Land Management (BLM) Patent No. 1225974 conveyed the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, T3N, R12W, S.M. to the State of Alaska on March 28, 1962, pursuant to the Alaska Statehood Act. The date of entry (application filed) according to the BLM Case Abstract Serial No. AKA 050463 was October 30, 1959.
- c. BLM Patent No. 50-67-0124 conveyed the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22 and Government Lots 2-4 of Section 27, T3N, R12W, S.M., Alaska, to the State of Alaska on August 31, 1966, pursuant to the Alaska Statehood Act. The date of entry (application filed) according to the BLM Case Abstract Serial No. AKA 060527 was November 29, 1963.
- d. The subject lands were conveyed from the State of Alaska to the Alaska Mental Health Trust Authority by Quitclaim Deed No. 8000071 on September 20, 1996, recorded in Book 493, Page 435, on September 25, 1996 in the Kenai Recording District.

According to situation #2 of the “Concurrence on Applicability of Section Line Easements on Alaska Mental Health Trust Land,” updated September 2022, “a statutory section line easement exists on trust land that was surveyed, state-owned land at the time it was designated as replacement trust land...such a section [line] easement is referred to as a state section line easement and is 50 feet wide on each side of the center line of the surveyed section line.”

- e. According to 11 AAC 51.025 editor’s note #7, “for surveyed or unsurveyed land owned by the state on or after July 1, 1960, the width, as identified in AS 19.10.010, is 50 feet.”
- 2. The proposed alternate access is reasonably comparable and meets the requirements for vacation of the subject section line easements pursuant to AS 19.30.410 and 11 AAC 51.065. The proposed alternate route is adequately wide to satisfy all present and reasonable foreseeable uses.
 - 3. Pursuant to 11 AAC 51.065(e)(1), the Department will give consideration to the recommendations of the Kenai Peninsula Borough’s Platting Board regarding this action when a copy of the Approved Minutes have been 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. Comply with KPB’s conditions of approval unless waived by the Director, DMLW.
- 3. Submittal of a Certificate to Plat, current within 90-days, with the final plat.
- 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.

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.

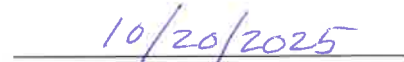
Prepared by:


Victoria Braun
Natural Resource Specialist 2


Date

Approved by:


Gwen M. Gervelis, PLS
Chief, Survey Section


Date

Enclosures: Attachment A

PUBLIC NOTICE:

**Notice of Preliminary Decision
Section Line Easement Vacation
EV 3-404**

Per AS 19.30.410 & 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 vacate portions of 50-foot section line easements (SLEs) in an area being subdivided as West Cohoe Subdivision, located along the west bank of Lower Cohoe Lake and approximately 3,000 feet westerly of Upper Cohoe Lake. This action falls within the S½SW¼ of Section 22, the NW ¼ of Section 27, and the NW ¼ NE ¼ Section 27, T3N, R12W, S.M., Alaska, as depicted on Attachment A.

The public is invited to comment on the PD. Copies are available from DMLW, 550 W. 7th 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 email. 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 by DMLW on or before November 20, 2025.** Correspondence or questions should be addressed to DNR, DMLW, Survey Section, Attn: Victoria Braun, 550 W. 7th Avenue, Suite 650, Anchorage, AK 99501. Comments may also be submitted via e-mail at victoria.braun@alaska.gov. Please reference EV 3-404 in your correspondence, include the date, your name, telephone number, mailing address and e-mail address to ensure you receive copies of all subsequent decisions.

If public comment analysis indicates the need for significant changes to the PD, additional public notice will be given. If no significant change is required, the PD, including any minor changes, will be issued as a Final Decision (FD).

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

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