

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

**FINAL FINDING & DECISION
EV 3-396**

**Petitioners: James and LuAnne Nelson
RS 2477 Section Line & Utility Easement Vacation**

This Final Finding & Decision compliments, confirms, and updates the attached Preliminary Decision (PD) approved on October 10, 2025. No changes have been made to the PD.

PETITIONED ACTION:

The petitioner is requesting the vacation of a portion of the 33-foot wide section line easement (SLE) and the abutting 10-foot wide utility easement (UE) along the north boundary of Lot 1, Block 4, Hill Park Estates Unit 1, Plat No. 76-50, Homer Recording District (HRD). The petitioned action falls within Section 2, T5S, R14W, S.M., Alaska. They are proposing to dedicate a 33-foot wide public access and utility easement along the east boundary of said lot to serve as alternate access to the existing easements to be vacated by the petitioned action. During Agency Review, the Alaska Department of Transportation & Public Facilities (DOT&PF) required the adjustment of this action (see the Agency Review portion of this decision). Thus, the amended petition reduced the full SLE vacation area down to a 'keyhole' vacation to meet DOT&PF's requirement for approval. Essentially the request reduced the SLE area to only include the portion of the existing house that encroaches the SLE as depicted on Attachment A.

LEGAL AUTHORITY:

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

PUBLIC NOTICE AND COMMENT:

Public Notice of approval of the PD, pursuant to AS 38.05.945, was posted from October 10, 2025 through November 10, 2025, on the State of Alaska Online Public Notice website. Copies of the PD were sent to the petitioner, to the petitioner's surveyor, Kenai Peninsula Borough (KPB), and the State of Alaska Department of Fish & Game (ADF&G).

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

AGENCY REVIEW AND COMMENT:

1. Non-objection comments were submitted by the ADF&G, DNR Division of Mining, Land and Water (DMLW) – Southcentral Regional Land Office (SCRO), DNR Division of Parks and Outdoor Recreation (DPOR) and Homer Electric Association (HEA).

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, DMLW'S conditions for approval (see that portion of this decision).
3. The DOT&PF Central Region submitted an objection on December 5, 2024, stating:
 - "The State of Alaska, Department of Transportation & Public Facilities (DOT&PF) Right of Way Section has reviewed the section line easement vacation request serialized by DNR as EV 3-396. DOT &PF is concerned that the current proposal will negatively impact the functional integrity of the national Highway System by reducing the potential for East-West connections in the area. However, DOT &PF does not object to a keyhole vacation around the existing house."

The petitioning party agreed to DOT&PF's keyhole SLE vacation condition for approval.

4. No other comments or objections on the proposed 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, protected by easements of record, and is adequately wide to satisfy all present and reasonably foreseeable uses.
2. 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 27, 2026.

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. Per the conditional approval submitted from the Department of Transportation & Public Facilities, the petitioners shall limit the section line easement vacation area to adhere to the keyhole vacation requirement around the existing building as depicted on Attachment A.
3. Dedication of a 33-foot public access and utility easement along the east boundary of Lot 1, Block 4.
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.

Prepared By:

Victoria Braun

Victoria Braun,
Natural Resource Specialist

5/27/2026

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 Gervelis

Gwen Gervelis, PLS
Chief, Survey Section

5/27/2026

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. 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>.