

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Sale of Material Resources - Wasilla
MHT #9200764

Notice is hereby given that, pursuant to the provisions of AS 38.05.801 and 11 AAC 99, the Executive Director of the Alaska Mental Health Trust Land Office (TLO) has determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to complete a negotiated sale of Trust gravel material resources to QAP in support of the Parks Highway MP 44-52 Phase III Improvement Project and additional material needs beyond the project life. The basis for this determination is explained in a written best interest decision prepared by the Executive Director pursuant to 11 AAC 99.040.

The Trust land affected by the decision is adjacent to the community of Wasilla, on Sylvan Road, more specifically described within the Southwest quarter of Section 10, Township 017 North, Range 002 West, Seward Meridian, containing approximately 160 acres (MH Parcel S20525).

Persons who believe that the written decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, October 27, 2020. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 201, Anchorage, AK 99503, or by fax (907) 269-8905 or email mhtlo@alaska.gov.** Following the comment deadline, the Executive Director will consider timely comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99, and the best interest decision may be changed in response to such written comments or other information. Commenting parties will be provided a copy of the final best interest decision after the end of the notice period.

To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final written decision to request that the Executive Director reconsider the decision under 11 AAC 99.060(b).

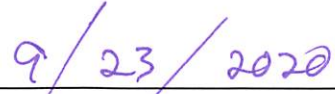
Copies of the written decision are available at the Trust Land Office, or at <https://alaskamentalhealthtrust.org/trust-land-office/>. If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

In compliance with the Americans with Disabilities Act, the Alaska Mental Health Trust is prepared to accommodate individuals with disabilities. Please contact the Trust Land Office at (907) 269-8658 for assistance. Requests for assistance must be received at least 96 hours prior to the comment deadline in order to ensure that any necessary accommodations can be provided.

The Executive Director of the TLO reserves the right to waive technical defects in this notice or to amend, postpone, or vacate the best interest decision.



Wyn Menefee
Executive Director



Date
Published in Frontiersman: 09/25/2020

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Sale of Material Resources - Wasilla

MHT: #9200764
MH Parcel(s): S20525

In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust (“Trust”) land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of the Trust and its beneficiaries.

In determining the best interest of the Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act, the Executive Director of the Alaska Mental Health Trust Land Office (“TLO”) shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
- Protection of the corpus;
- Protection and enhancement of the long-term productivity of Trust land;
- Encouragement of a diversity of revenue-producing uses of Trust land; and
- Management of Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries.

I. Proposed Use of Trust Land. The proposed action is a negotiated sale of gravel material, gravel extraction, processing and reclamation.

II. Applicant/File #. QAP / MHT 9200764

III. Subject Property.

A. Legal Description. The property is located on Sylvan Road in Wasilla, on Parcel S20525 within Township 17N, Range 2W, SW1/4 Section 10, Seward Meridian. The parcel contains 160 acres more or less according to the survey map examined and approved by the U.S. Surveyor General’s Office in Juneau, Alaska on January 15, 1915.

B. Settlement Parcel Number(s). S20525

C. Site Characteristics/Primary Resource Values. The site is located on Sylvan Road in Wasilla, Alaska and is part of the Matanuska-Susitna Borough. The parcel is currently vegetated with a mixed birch and spruce forest. A rivulet drainage of Blodgett Lake runs west to east through the midpoint of the parcel and evidence of paleo-channel meanders remain. Approximately one third of the parcel is on a bench and is 20-30 feet higher elevation than the remaining two

third of the parcel to the north. Roughly ten acres of the parcel is considered wetlands and is within the southeast quarter-quarter section of Section 10.

The primary resource value of the parcel is anticipated to be in gravel material. Other potential resource values may be through land sale or potentially by timber sale. Currently, there is no known demand for either alternative use at this time.

- D. Historical and Existing Uses of the Property.** The subject property is vacant and undeveloped. The parcel previously saw forestry activity via a negotiated timber sale. Additionally, the parcel was subject to a targeted thinning of hazard fuels (fire prevention) from 2007-2013. The parcel was also tested using soil borings and test pits by parties interested in material extraction.
 - E. Adjacent Land Use Trends.** Adjacent lands are developed in residential subdivisions and significant industrial/commercial developments to the west.
 - F. Previous State Plans/Classifications.** None.
 - G. Existing Plans Affecting the Subject Parcel.** There are no current Area Plans affecting the subject parcel.
 - H. Apparent Highest and Best Use.** In consideration of current market values and future demand of gravel material in the region, facilitating the sale of gravel material at this time supports the Trusts management principles for “best market” resources.
- IV. Proposal Background.** QAP would like to purchase approximately 300,000 tons of gravel material in support of the Parks Highway MP 44-52 Phase III Improvement Project (Project No. Z543730000). The Project is a federally funded Alaska Department of Transportation (ADOT) construction project beginning in spring 2021 and continuing through the 2022 construction season. The goal of the project is to increase the Parks Highway safety rating and to reduce the high severity of crashes in the corridor. The improvement will install grassy medians, improve and extend frontage roads and consolidate driveway approaches to the highway. The sale will encompass road construction grade gravel material located centrally to the project area.

The applicant also proposes to utilize the site once developed for future gravel material extraction and processing needs for a term of 20 years.

- V. Terms and Conditions.** The sale will have a term of twenty (20) years. Gravel material will be held at a royalty rate of \$1.00/ton. The contract will be for exclusive use with an initial purchase requirement of 300,000 tons within the first two years and a minimum of 20,000 tons annually for each year thereafter. In years three through 20, if less than 40,000 tons are purchased on an annual basis, the contract becomes non-exclusive and the Trust reserves the right to make additional sales of material within the parcel. Payments are to be made monthly by accounting for truck loads. An annual cross section survey of the excavated area will be conducted to confirm sale quantities for that year. Standard sale and reclamation conditions will apply.

VI. Resource Management Considerations. The proposal is consistent with the “Resource Management Strategy for Trust Land” (RMS), which was adopted March 2016 in consultation with the Trust and provides for the TLO to focus first on resources at the high end of market values (“best markets”). Given the current market values of material, and in consideration of the future potential demand for gravel material in this quantity, facilitating this sale supports the Trusts’ objectives of diversifying revenues of material resources.

VII. Alternatives.

1. **Do Nothing:** This alternative assumes that the sale of material will not be maximized by extraction at this time, or within the next twenty years.
2. **Alternative Development:** The Trust could facilitate a competitive timber sale or sell the land. The anticipated return to the Trust is not comparable to a material sale of this size.
3. **Proposed Alternative:** This preferred alternative will provide the Trust with revenue. The material sale should not adversely impact other future development or uses of the parcel post reclamation. Facilitating the material use now will ensure the Trust capitalizes on the material demand for this project. A long term sale will ensure the Trust continues to receive a revenue stream from material resources.

VIII. Risk Management Considerations.

- A. **Performance Risks.** Performance risk will be mitigated by appropriate bonding and insurance. Performance of duties under the sale contract, including reclamation, will be monitored by the Trust Land Office and the Alaska Department of Transportation and Public Facilities as it may pertain to the Parks Highway MP 44-52 Phase III Improvement. Post project, the Trust Land Office will manage the site development and reclamation activities.
- B. **Environmental Risks.** There are minimal anticipated environmental risks to this activity due to proactive mitigation. A Storm Water Pollution Prevention Plan (SWPPP) has been developed to mitigate potential storm and surface water pollution for the project area. The contractor will develop and maintain a Hazardous Materials Control Plan to mitigate potential fuel and hydraulic spills from impacting soils and waterways. Erosion control measures and rigorous inspection will be utilized to mitigate potential erosional features.
- C. **Public Concerns.** The Trust Land Office will offer a 30-day public comment period as outlined below.

IX. Due Diligence.

- A. **Site Inspection.** The contractor has inspected the site for the proposed use. The contractor has relevant experience and is a qualified person to conduct such evaluation. Trust Land Office staff have observed the site location and are familiar with its characteristics. Test pit results were also reviewed by the TLO’s licensed geologist.
- B. **Valuation.** The royalty rate was established in consideration of competitive market values for the material and quantity required for the project.

C. Terms and Conditions Review. Terms and conditions of the sale are standard to material sale contract facilitated by the Trust Land Office. Any special Terms or Conditions deemed necessary to protect the Seller may require review by the Department of Law.

X. Authorities.

A. Applicable Authority. AS 37.14.009(a), AS 38.05.801, and 11 AAC 99.

B. Inconsistency Determination. As the proposed negotiated sale is specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes determinations that certain State statutes applicable to other State land do not apply to Trust land unless determined by the Executive Director, on a case-by-case basis, to be consistent with 11 AAC 99.020. The State Statutes deemed inconsistent with Trust management principles and inapplicable to Trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and Duties of the Director), AS 38.05.300 (Classification of Land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals). 11 AAC 71 does not apply to Trust land as it does not consider the best interest of the Trust or its management principals.

XI. Trust Authority Consultation. The Alaska Mental Health Trust Board of Trustees was consulted on August 28, 2020, and the board of trustees concurred with the negotiated sale of gravel materials subject to the outcome of the notice process.

XII. Best Interest Decision. Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transaction is in the best interest of the Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature will require a best interest decision specific to the proposal.

A. Non-competitive Disposal Determination. 11 AAC 99.020 (d) allows for the disposal of Trust land through a competitive basis, unless the Executive Director in consultation with the Trust Authority, determines in a written decision required by 11 AAC 99.040 that a non-competitive disposal is in the best interest of the Trust and its beneficiaries. If another party submits a qualified offer as explained in Section XIII, the Executive Director may consider a competitive sale under the authority of this decision. This sale will be conducted on a non-competitive basis. A competitive disposal is not in the best interest of the Trust and its beneficiaries due to the ADOT project bidding process. Should the Trust have conducted a

competitive sale, the apparent high bidder for the Trust would unlikely be the lowest bidder for ADOT.

XIII. Opportunity for Comment. Notice of this Best Interest Decision will take place as provided under 11 AAC 99.050. Persons who believe that the decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020 or any other provision of 11 AAC 99, must provide written comments to the TLO during the notice period. Other persons who may be interested in purchasing the Property must submit their proposals during the 30-day public notice period. Instructions to apply can be found online at <https://alaskamentalhealthtrust.org/trust-land-office/land-sales/land-use-application/>. To be considered a qualified competing interest, applications must include the application fee, a formal Letter of Intent to include an offer price that matches or exceeds the current offer of \$660,000 for the gravel material, a deposit of 10% of the offered price in certified funds. In the event that there is competing interest, all qualified interested parties will be notified by phone, fax, or e-mail how they may participate in the alternative sale process. Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of the Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director may then, in his or her discretion, modify the decision in whole or in part in response to such comments or other pertinent information, or affirm the Best Interest Decision without changes. The Best Interest Decision as modified or affirmed will become the final agency action, subject to reconsideration procedures under 11 AAC 99.060. Additional notice will be provided for a substantially modified decision. If no comments are received by the end of the notice period, this Best Interest Decision will be affirmed, and the proposed action taken. (See notice for specific dates.)

XIV. Reconsideration. To be eligible to file for reconsideration of this Best Interest Decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

Persons who submit timely written comments will be provided with a copy of the final written decision and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). This request must be accompanied by the fee established by the Executive Director under 11 AAC 99.130, which has been set at \$500, to be eligible for reconsideration. The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director takes no action during the 20-day period following the request for reconsideration, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

XV. Available Documents. Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 201, Anchorage, Alaska 99503. Phone: (907) 269-8658. Email: mhtlo@alaska.gov.

The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the TLO administrative process. For specific dates or further information about the disposal, interested parties should contact the TLO at the above address, or visit the website at: <https://alaskamentalhealthtrust.org/trust-land-office/>.

XVI. APPROVED:



Wyn Menefee
Executive Director
Alaska Mental Health Trust Land Office

9/23/2020

Date