

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

PRELIMINARY DECISION

Silverbow Creek Remote Recreational Cabin Sites, ADL 420295
Proposed Public Access Trail Easements, ADL 421305, 421306, and 421307
Proposed Public or Private Driveway Easements

Proposed Land Offering in the Unorganized Borough
AS 38.05.035(e), AS 38.05.045, AS 38.05.600, AS 38.05.850

RELATED ACTION:
Proposed Mineral Order (Closing)
AS 38.05.185 and AS 38.05.300

PUBLIC COMMENT PERIOD ENDS 5:00PM, THURSDAY, JANUARY 23, 2020

I. Proposed Actions

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Proposed Public Access Trail Easements, ADL 421305, 421306, and 421307
Proposed Public or Private Driveway Easements

Attachment A: Vicinity Map

Attachment B: Area Data Summary Table

Attachment C: Public Notice

Public is also invited to comment on the proposed related actions:
Draft Mineral Order No. 1197 (Closing)

Primary Proposed Action: The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales Section (LSS) is to offer up to 30 parcels ranging from 5 to 20 acres in this project area, for a maximum of 600 acres of State-owned land within the identified project area.

Located within DNR's Northern Region, approximately 65 miles northwest of Fairbanks, 15 miles west of Minto, and 15 miles northeast of Manley Hot Springs, Alaska, the project area is within portions of Township 3 North, Ranges 12 and 13 West, and Township 4 North Ranges 11, 12, and 13 West, Fairbanks Meridian, within the Unorganized Borough. The project area encompasses approximately 17,500 acres. See *Attachment A: Vicinity Map* for a depiction of the project area.

In accordance with the governing area plan and proposed mineral order, and for the purpose of providing land for settlement, DNR proposes to sell land within the Silverbow Creek Remote Recreational Cabin Sites (RRCS) project area. To offer these lands for sale, if approved and deemed feasible, DNR may offer authorizations to stake up to 30 parcels ranging from 5 to 20 acres in this project area, for a maximum of 600 acres sold through this offering under AS 38.05.600 Remote Recreational Cabin Sites. Authorizations will be awarded by drawing. When so authorized, entrants may stake a parcel within a defined

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staking area, lease the staked parcel during the survey, platting, and appraisal process, and convert the lease to a sale at a purchase price established by the appraised value, plus associated fees. Although the total disposal authorized under this proposal will not exceed the stated maximums, the development and offering of the project area may be completed in multiple stages. This proposed project area is located within the Unorganized Borough and therefore survey, platting, and access to and within the project area will be subject to State subdivision standards.

After the staking period closes, DMLW may also identify and survey additional parcels in a staking area known as administrative parcels. Administrative parcels are not restricted to the size requirement for staked parcels. Parcels that are staked but later relinquished, terminated, or expired before converting to sale, and parcels administratively created by DMLW, will be offered at public auction or by another method under *AS 38.05.045 Generally*. The total number of acres and total number of parcels will not exceed the maximum number specified for sale by this proposal.

If this proposed primary action is approved, the actual staking area may consist of all or only a portion of the overall project area. After consideration of public comment, the size and boundaries of the staking area will be described in a subsequent Final Finding and Decision, if the project proceeds to that step. Additional adjustments may be made up to or throughout the staking period, as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with platting requirements. Although actions under this proposal are limited to the stated maximums, additional offerings may be authorized under future proposals, which could increase the density of privately-owned parcels within, adjacent to, or near the project area.

Proposed Related Action: This related action will be developed separately; however, public notice is being conducted concurrently.

Mineral Order (Closing): DNR proposes a mineral order to close the project area to new mineral entry. No identified mining claims exist within the project area. Refer to the *Mineral Activity and Order* subsection of this document for more information on this proposed related action.

This related action will be developed separately. However, approval of the proposed actions is dependent upon one another in that one action will not proceed without approval of all actions.

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Proposed Public Access Trail Easements: DNR DMLW proposes to authorize public access easement for trails within the Silverbow Creek RRCS project area up to 60 feet in width. These easements approximately follow the main thread of the existing trails.

ADL 421307:

- Starting from the easterly boundary of the Elliott Highway right of way (ROW) at approximately highway milepost 121;
- heading southeasterly through the project area within Section 13, Township 4N, Range 12 W; and
- ending at private property within Section 18, Township 4N, Range 11 W, Fairbanks Meridian, for an approximate length of 3,800 feet.

ADL 421306:

- Starting from the southerly boundary of the Elliott Highway ROW at approximately highway milepost 123.5;
- heading southerly through the project area within Sections 15, 22, 27, 28, 33, and 34 of Township 4N, Range 12W and Section 3 of Township 3N, Range 12 W; and
- ending south of the project area at the junction with other trails within Section 10, Township 3N, Range 12W, Fairbanks Meridian, for an approximate length of 5.4 miles.

ADL 421305:

- Starting from the southerly boundary of the Elliott Highway ROW at approximate highway milepost 128.8;
- heading southeasterly within Sections 23 and 26 of Township 4N, Range 13W;
- heading southerly through the project area within Sections 25 of Township 4N, Range 13W, Sections 30 and 31 of Township 4N, Range 12 W, and Section 6 of Township 3N, Range 12W;
- heading easterly within Sections 7, 8, 9, and 10 of Township 3N, Range 12W; and
- ending where it joins ADL 421306 within Section 10, Township 3N, Range 12W, Fairbanks Meridian, for an approximate length of 7.5 miles.

See *Attachment A* for a depiction of proposed easements within project area. While the public may access areas within and beyond the project area via generally allowed uses on State land (*11 AAC 96.020*), the proposed easements will help provide a basis for legal access to parcels staked within the project area.

If approved, these easements will be issued to DNR DMLW with the intent to create and protect legal access to parcels created within the project area. DNR DMLW would manage the easement, but would not be obligated to construct, upgrade, or maintain the trails.

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Proposed Private or Public Access Driveway Easements: DNR DMLW commonly receives requests for easements on State land to access parcels located near highways. Authorizing driveway easements within the Silverbow Creek RRCS project area as part of this decision, subject to compliance with terms and conditions to be outlined in the Final Finding and Decision, will minimize the administrative burden of processing such requests separately. Furthermore, including the proposed easement authorizations along with the proposed land sale provides the public a more complete representation of the development anticipated within the project area.

DNR DMLW proposes to authorize private or public access easements up to 60 feet wide from the Elliott Highway to parcels within the Silverbow Creek RRCS project area staked within approximately 1,320 feet of the highway ROW. If approved, a leasee or landowner within the project area may submit to DNR DMLW an easement application consistent with terms and conditions determined in the Final Finding and Decision. Applicants must also acquire a driveway permit from the Alaska Department of Transportation and Public Facilities for permission to build within the highway ROW.

If approved, the applicant will receive an entry authorization for construction and survey of access. If created as a public easement, it will be issued to DNR DMLW. If created as a private easement, it will be issued to the applicant and be made subject to the condition that DNR DMLW reserves the right to authorize other users under this decision or convert the easement to a public access easement.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal and related actions. Public notice is being conducted concurrently for all actions.

See **Section VIII. Submittal of Public Comments** at the end of this document and *Attachment C: Public Notice* for details on how to submit a comment for consideration. If, after consideration of timely, written comments, DNR moves forward with the proposal, a Final Finding and Decision will be issued.

II. Method of Sale

AS 38.05.600 Remote Recreational Cabin Sites authorizes the Department to conduct leasing and sale of land for Remote Recreational Cabin Sites. *11 AAC 67.800 - 11 AAC 67.845 Remote Recreational Cabin Sites* and other related regulations describe how DMLW offers authorizations to select and stake Remote Recreational Cabin Sites in designated areas during the specified offering period.

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After approval of a Remote Recreational Cabin Sites disposal through a Best Interest Finding process such as this, DMLW plans a future announcement of an offering of staking authorizations and the availability of offering brochures pursuant to *AS 38.05.945 Notice*. The brochures generally describe simultaneous offerings of multiple areas; the relevant application period; and the related procedures, conditions, and eligibility requirements. Participants submit applications and DMLW conducts a drawing, a method of sale that offers all eligible parties an equal chance at acquiring a staking authorization for an area. Authorizations to stake a parcel of State-owned land within a designated project area during a specified period are awarded to applicants drawn first. Authorized stakers are then issued a staking packet that includes instructions for properly staking a parcel and other information pertaining to the program and specific staking area. Authorized stakers then enter onto the land, stake a parcel of their choice in compliance with the staking instructions, and file a lease application. If approved, a short-term lease is issued and the lessee makes quarterly, prorated payments to cover associated development costs and an annual lease fee. While under lease, the parcel is then surveyed, platted, and appraised, typically over a three to four-year period. Upon successful completion of the lease terms and upon completion of the survey, platting, and appraisal, the lessee is given the option to convert from lease to sale at a purchase price based on the appraised value, plus associated fees, with credits given for the survey and platting deposits collected while the parcel is under lease. The lessee's other option is to renew the lease for a second term at the cost listed in regulation, which does not contribute to paying down the purchase price. A lessee in good standing can opt to purchase the parcel at any time during this optional renewal term, but if the lessee does not purchase the parcel by the time the renewed lease term expires, their interest expires.

After the staking period closes and lease applications have been received from authorized stakers, DMLW may identify and survey additional administrative parcels in a project area. Additionally, DMLW may opt to complete the survey on staked parcels relinquished, terminated, or expired before converting to sale. Such administrative parcels would generally be surveyed for future offering under *AS 38.05.045 Generally*. Although administrative parcels are not restricted to the size requirements stated for staked parcels, the total number of acres and parcels will not exceed the maximum number specified for disposal under this proposal.

Offering administrative parcels under *AS 38.05.045 Generally* allows DMLW to offer its surveyed parcels under a uniform set of statutes, administrative regulations, and policies, usually in a statewide offering of varied parcels to increase administrative efficiencies and improve the effectiveness of marketing efforts. Successful buyers may purchase the properties by highest sealed bid or by application at prices based on their appraised value. Appraised values account for the benefits of the surveying and platting. Without the inclusion of this additional method of sale in this proposal, sales of parcels initially developed under *AS 38.05.600 Remote Recreational Cabin Sites* and *11 AAC 67.815 (b) Offering Remote Recreational Cabin Sites* would require purchasers to reimburse DMLW for the cost of surveying, platting, and appraising the site within 30 days of being notified of a successful purchase, in addition to the usual minimum down payment. That is to say, that the State would not finance the reimbursable survey, platting, and appraisal costs. To maintain this requirement without allowing for the differing method of sale of subdivided parcels under *AS 38.05.045* would create an unrealistic burden upon purchasers, hinder the marketability of the property, create confusion with the public, and be an inefficient use of staff time and resources.

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Parcels offered through this action are offered fee-simple for the surface estate only. For more information about the land sales program, please visit the website at <http://landsales.alaska.gov>.

III. Authority

DNR has the authority under *AS 38.05.600 Remote Recreational Cabin Sites* and *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." In addition to *AS 38.05.600 Remote Recreational Cabin Sites*, *11 AAC 67.805 Designating Areas for Remote Recreational Cabin Sites*, and *11 AAC 67.815 Offering Remote Recreational Cabin Sites* apply.

DNR DMLW has the authority under *AS 38.05.850 Permits* to issue easements on State land.

For related actions, *AS 38.05.300 Classification of Land* and *AS 38.05.185 Generally* allow for mineral orders.

IV. Administrative Record

The project file, Silverbow Creek Remote Recreational Cabin Sites - ADL 420295, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Yukon Tanana Area Plan for State Lands (adopted 2014) and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan 2016* (March 2019 update);
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*;
- *1979 Exploratory Soil Survey of Alaska*; and
- DNR case files: material site ADL 419657 (Master Site) and ADL 418458 (contract); public access easements ADL 421305, 421306, and 421307.

V. Scope of the Proposal

The scope of this proposal, under the statutes and regulations described in the preceding **Section III. Authority**, is limited and specific to DNR's proposal to offer State-owned land within the defined project area for disposal, to authorize the trail and driveway easements, and to approve the mineral order as described herein. The scope of this proposal does not include the control of post-patent use and DNR does not intend to impose deed restrictions for this purpose. The offering of the project area may be conducted in multiple stages

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VI. Description

Location: Within DNR's Northern Region, approximately 65 miles northwest of Fairbanks, 15 miles west of Minto, 15 miles northeast of Manley Hot Springs, and 25 miles south of Rampart, Alaska, the project area is within portions of Township 3 North, Ranges 12 and 13 West, and Township 4 North Ranges 11, 12, and 13 West, Fairbanks Meridian, within the Unorganized Borough. See *Attachment A: Vicinity Map* and *Attachment B: Area Data Summary Table* for additional information.

Platting Authority: The project area is within the Unorganized Borough and is subject to the State of Alaska platting authority.

Native Regional and Village Corporations: The project area is within the boundaries of the Doyon regional corporation. The villages of Minto, Manley Hot Springs, and Rampart are within 25 miles of this proposed action and notice will be sent to Seth-De-Ya-Ah Corporation, Bean Ridge Corporation, Baan-O-Yeel Kon Corporation, Native Village of Minto, Manley Hot Springs Traditional Council, and Rampart Traditional Council.

Legal Description:

Township 3 North, Range 12 West, Fairbanks Meridian,

Section 2, all;

Section 3, N $\frac{1}{2}$ and that portion of the S $\frac{1}{2}$ lying easterly of an unnamed trail; and

Sections 4 – 6, N $\frac{1}{2}$.

Township 3 North, Range 13 West, Fairbanks Meridian,

Section 1, N $\frac{1}{2}$.

Township 4 North, Range 11 West, Fairbanks Meridian,

Section 31, W $\frac{1}{2}$ and SE $\frac{1}{4}$.

Township 4 North, Range 12 West, Fairbanks Meridian,

Sections 12, 13 and 14, those portions of located south of the Elliott Highway;

Section 15, that portion located south of the Elliott Highway and excluding Material Site ADL 419657;

Sections 16, 17, 19, and 20, those portions located south of the Elliott Highway; and

Sections 21 – 36, all.

Township 4 North, Range 13 West, Fairbanks Meridian,

Section 24, that portion located south of the Elliott Highway; and

Sections 25 and 36, all.

Encompassing approximately 17,500 acres, within the Manley Hot Springs Recording District, Alaska.

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Title: Information from Title Report Numbers 11818 - 11822, current as of April 2019 indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Patents # 50-76-0100 (dated January 9, 1976), #50-99-0235 (dated May 25, 1999), #50-80-0122 (dated July 21, 1980), #50-86-0140 (dated April 2, 1986), and #50-2005-0006 (dated October 8, 2004). The applicable State case files are GS 472, GS 474, GS 1242, GS 2500, and GS 482. The parcel is subject to the reservations, easements and exceptions contained in the federal patent.

State Reservations of Title:

Retention of and Access to Mineral Estate: In accordance with *Section 6 (i) of the Alaska Statehood Act* and *AS 38.05.125 Reservation [of Rights to Alaska]*, the State retains ownership of the mineral estate that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals (such as gold, copper, silver, etc.) and leasable minerals (such as oil, gas, coal, etc.).

The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing, and producing these reserved mineral resources. Access reserved to these retained interests is superior to any and all surface uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, *AS 38.05.130 Damages and Posting of Bond* also provides that the land estate owner will be compensated for damages resulting from mineral exploration and development.

Navigable Waters: Per *AS 38.05.126 (b) Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the state, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the state." This trust is in accordance with the principles of the Public Trust Doctrine, which are included in Article VIII, Section 14 of the Constitution of the State of Alaska and protected in the United States Constitution. It is vested in the title to this land, is not transferable, and the State's title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made and access will be reserved per *AS 38.05.127 Access To and Along Public and Navigable Water*. For more information, see [Access To, Within, and Beyond Project Area](#) subsection of this document.

The Bureau of Land Management has not made a navigability determination for waters within Township 3 North, Ranges 12 and 13 West for title purposes. For waters in Township 4 North, Ranges 11-13 West, the Bureau of Land Management has determined that there are no waters determined navigable.

Where they exist within the project area, private parcels and State third-party interests will be described in land sales brochures and information included in staking packets distributed to authorized stakers.

Physical Characteristics and Hazards: *Attachment B*: Area Data Summary Table describes the project area's physical characteristics. Information about the project area is based on internal research, information received during agency review, and field inspections

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conducted by staff on foot or ATV on July 20 and September 13, 2016. This is by no means a complete description of the project area and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect the project area prior to staking to familiarize themselves with the physical characteristics of the land.

Soils: Soils within the project area on higher slopes are generally well-drained, gravelly, and without permafrost, whereas soils in the valley bottoms are generally poorly-drained with a shallow permafrost table. DNR Division of Geological and Geophysical Surveys (DGGS) noted that soils within the project area are primarily colluvial and alluvial deposits of gravel, silt, and sand with a variable thickness of surficial discontinuous silt. The potential usability of the soils for engineering applications is highly variable due to a large range of grain sizes and sorting. Soils on north-facing slope and low-lying areas are commonly frozen. Silts in the southern portion of the project area are potentially organic and ice rich.

Wetlands: Freshwater forested/shrub wetlands exist within the project area, most commonly located in low-lying areas and along numerous streams. Stakers are encouraged to avoid wetland areas in locating their parcels. Given the large size of the project area, the impact to wetland areas will be minimized by limiting the number of parcels, and through building setbacks along public waters where wetlands are common.

Geologic Hazards: According to information provided by DGGS, discontinuous permafrost with medium ice content, local thaw slumps, gullies and water tracks exist within the project area. The project area is adjacent to the Rampart Seismic Zone, which has had significant earthquake activity within the last 150 years.

Fire Information: Pursuant to observations from the two field inspections in July and September 2016, and information received from the DNR Division of Forestry, fire risk in the project area is at least moderate. Fire history indicates that a portion of the area was burned in 1967, but the vegetation has since regenerated. The 1983 Minto fire may have also burned some of the eastern portion of the project area. A 2007 fire burned only 0.5 acres. The project area is not within a Fire Service Area.

Potential for wild land fire is high in Interior Alaska. Offering materials encourage stakers to locate parcels within hardwood stands or near water sources to help mitigate fire risk. Landowners with structures are encouraged to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Offering materials include information regarding wild land fire prevention.

Fire management options and policies for the area are identified in the Alaska Interagency Wildfire Management Plan available from the DNR Division of Forestry. The current fire management option for the project area is “Modified.” The Operational Guidelines for areas with the “Modified” management option reads, “fires occurring within Modified will receive priority for allocation of initial action forces after the protection of Critical and Full areas”. However, after a conversion date later in the summer for the Modified Option, “the priority is low for the allocation of initial action forces and equal to Limited”. The plan also states that there is no guarantee of protection from wildfire in any management option, that response to a wildfire will be based on various factors, and

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that “Ultimately it is the responsibility of the [landowner] to mitigate and minimize risk to their property before it becomes threatened by a wildfire.”

Flood Hazard: There is no Flood Insurance Rate Map available for the project area. There is potential for seasonal flooding and erosion of parcels adjacent to water bodies, especially in low-lying areas.

Water Resources: All surface and subsurface waters on all lands in Alaska are a public resource, subject to appropriation in accordance with the Alaska Water Use Act (AS 46.15). No water rights have been identified within the vicinity of the project area. There is no well or water quality information within the area.

Background: The Silverbow Creek RRCS property is a unique and scenic area that would help meet public demand for a new State land offering accessible from the highway system. The project area was identified based on a recommendation in the Yukon Tanana Area Plan (YTAP) and a review of available lands in the Northern Region. The project area was designated as Settlement in the YTAP and the management intent states that it is appropriate for land disposal. Field inspections conducted by staff on July 20 and September 13, 2016 confirmed the project area as appropriate for a RRCS project area.

The land immediately surrounding the project area is State land. There have been prior State land sales near the project area. The Kentucky Creek Odd Lots and Kentucky Creek II Subdivision are located approximately three miles west of the project area. The majority of these parcels were offered in 1983 and 2006, respectively. Parcel sizes varied from approximately 6 to 80 acres, with approximately 20 acres being the average. There are five other private parcels in the vicinity: two immediately east of the project area northeast corner, one within a mile to the south of the project area southerly boundary, one approximately three miles to the southeast, and one approximately a half mile to the west of the project area northwest corner. The first four parcels were staked in the early 1980s under former DNR land sale programs, and the fifth parcel is a federal homestead patented in 1966.

There is a material site located adjacent to the project area. ADL 419657 is the applicable DNR case file for the DOT&PF designated material site MS 680-118-2. The material site consists of two pits, located to either side of the Elliott Highway, approximately between mileposts 123 and 124. There is one active material contract (ADL 418458) within this material site. The pit north of the highway was still active upon inspection in 2016, while the pit south of the highway (within the project area) was not in use. LSS proposes a 300-foot staking setback from the material site. LSS is not aware of other state third-party interests within the project area.

During field inspections conducted on July 20 and September 13, 2016, staff observed that the Elliott Highway provided good access into the project area. Along the highway there were several potential staging areas which could be used by stakers. These consist of relatively undeveloped pull-outs along the highway, inactive material sites, and parking near trailheads. DNR identified four trails within the project area during field inspection. Refer to the Access To, Within, and Beyond Project Area and *Attachment A: Vicinity Map* for more information.

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Vegetation in the area is typical of boreal forests in Interior Alaska and allows for easy travel and views of the valley when at elevation.

A preliminary decision for the Silverbow Creek RRCS land offering was released for public notice on January 30, 2017 concurrently with a preliminary decision for the Richardson Creek RRCS land offering (ADL 420302). The Richardson Creek RRCS proposal received more written comments. All of the comments on the Richardson Creek RRCS proposal, excepting State entities, were in opposition; this proposal has not been developed further. The Silverbow Creek RRCS proposal received comments both in support and opposition. The Tanana Chiefs Conference (TCC) raised concerns about subsistence resource competition, land use conflicts, and cultural resources. TCC recommended broader outreach to consider local knowledge and interests. The Seth De-Ya-Ah and Bean Ridge Corporations objected to the land offering but expressed interest in communication or collaboration with DNR on the selection of land sale areas. Two members of the public expressed interest in staking within the Silverbow RRCS project area. One commenter liked the hunting opportunities, hot springs, and trails in the area; the other reported hunting in the area for many years and recommended expanding the staking area farther to the southeast. Some of the comment letters referenced both RRCS proposals in the subject heading while only providing specific comments on the Richardson Creek or Silverbow Creek proposal. To better separate the two RRCS land offerings and to clarify comments specific to the Silverbow Creek RRCS proposal, DNR sought engagement with the communities of Manley Hot Springs, Minto, and Rampart.

DNR LSS met with representatives of the Seth De-Ya-Ah Corporation and the Minto Development Corporation in Fairbanks on December 1, 2017 to discuss their concerns and stated opposition to the proposed Silverbow Creek RRCS land offering. The discussion topics included DNR LSS programs and processes, subsistence resource conflicts in the vicinity of Minto Flats and the Elliott Highway, ideas on how to improve communication, and the next steps in the land sale process for the Silverbow Creek RRCS proposal. A representative of Seth De-Ya-Ah Corporation recommended meeting with the tribal governments of Minto and Manley Hot Springs.

DNR LSS met with representatives of Bean Ridge Corporation, Baan-O-Yeel-Kon Corporation, Minto Village Council, Minto Development Corporation, Seth De-Ya-Ah Corporation, and an individual from Rampart in Fairbanks on February 16, 2018 to follow up on the prior meeting with broader regional representation. The meeting attendees were opposed to the Silverbow Creek RRCS land offering proposal and didn't wish to discuss modifications because it wouldn't address their concerns. The meeting attendees instead wanted to engage DNR LSS about selecting land offering areas farther away from Manley Hot Springs, Minto, and Rampart to reduce land and resource conflicts.

DNR LSS reached out to the Manley Hot Springs Community Association and Minto Village Council to arrange public meetings in the communities about the proposed Silverbow Creek RRCS land offering. The Manley Hot Springs Community Association hosted a public scoping meeting on March 29, 2018. DNR Land Sales staff spoke with a few community members about:

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- local place names for geographic features near the project area;
- preserving access along the trail originating at approximately Elliott Highway milepost 123.5 that travels north-south through the project area;
- preserving access along a trail used for dog mushing that crosses the Elliott Highway west of the project area and continues through the westerly portion of the project area; and
- concern about disruption of trapping along the trails near the southern project area boundary.

DNR LSS reviewed publications from the ADF&G Division of Subsistence on wild resource harvests and land use patterns within the vicinity of Manley Hot Springs, Minto, and Rampart. This research shows that the communities have substantially different search and harvest areas for wild resources, and that the project area is largely between these search and harvest areas. More details on the ADF&G research findings are provided in the Traditional Use Finding sub-section below.

DNR Land Sales considered the information gained from additional research, public input received from the 2017 proposal, and the input from the meetings held in 2017 - 2018 to help guide modifications of this proposal. Relative to the 2017 proposal, DNR Land Sales:

- reduced the number of parcels proposed from 45 to 30,
- added the proposed trail and driveway easements,
- added staking setbacks from three trails that cross through the project area, and
- changed the south boundary of the project area to provide more separation between potential parcels and the trail network south of the project area.

Specifically, LSS removed the south half of Section 1 of Township 3N, Range 13W, the south halves of Sections 4, 5, 6 of Township 3N, Range 12W, and the south half of Section 3, of Township 3N, Range 12W west of the trail ADL 421306 from the project area (as shown in the map, *Attachment A*).

Planning and Classification: The general management intent of the area plan and management unit were reviewed for consistency with the proposed offering. The project area is within the YTAP, adopted 2014, Lower Tanana Region, Unit T-36. Lands within this unit are designated Settlement, and classified Settlement Land under Land Classification Order No. NC-10-005. The project area consists of the majority of the management unit T-36.

Unit/Region T-36 Considerations: The management intent for this unit is that land disposals are appropriate during the planning period of the area plan. Portions of this unit are affected by leasehold location order (LLO) 33. Impacts to wildlife habitat need to be evaluated. The unit contains habitat for moose wintering and rutting; consult with ADF&G. Parcels should be located a minimum of 100 feet from the Elliott Highway to avoid impacts to the scenic view from the road.

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ADF&G was consulted during agency review and did not anticipate impacts to fish or wildlife populations based on the proposed land offering. DNR Land Sales proposes a 300-foot staking setback from the Elliott Highway centerline.

Area-wide Considerations: LSS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies regarding Coordination and Public Notice, Cultural Resources, Fish and Wildlife Habitat, Forestry, Material Sites, Public Access, Settlement, Shorelands and Stream Corridors, and Subsurface Resources. These considerations will be incorporated into the design and development of the project. Lands to be retained in public ownership, conditions, and reservations will be included on the plat and in offering materials as appropriate. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

Coordination and Public Notice: Management Guidelines provide that public notice will be given for the disposal of land as required under *AS 38.05.945 Notice*. Public notice is being issued for this proposed action in accordance with *AS 38.05.945*. Refer to *Attachment C: Public notice and Section VIII. Submittal of Public Comments* for more information.

Cultural Resources: Management Guidelines provide that consultation between the State Office of History and Archaeology (OHA) and DMLW is warranted if OHA determines a cultural survey may be required during the agency review phase of a proposed land disposal. Cultural resource surveys should be considered in areas where OHA reports sites exist, or where there is a high potential for such sites to exist.

During review of this land offering proposal, OHA noted that the project area is located east of Eureka and adjacent to the partially surveyed Livengood-Eureka-Rampart transportation corridor. Many previously identified mining features in the broader area have been found not eligible for listing in the National Register of Historic Places, while some have been found to be potentially eligible. The project area was not known to have been the focus of mining activities, and the area generally has low probability for prehistoric sites. OHA considers the project area to have only moderate potential for cultural resources.

LSS will notify OHA should any such sites be discovered by LSS during the project development. LSS will make information available to the public during offerings that OHA should be notified of discoveries of cultural resources.

Fish and Wildlife Habitat: Management Guidelines regarding Fish and Wildlife Habitat are specific to areas designated Habitat. LSS has consulted with ADF&G during the development of this proposal. ADF&G does not anticipate impacts to fish and wildlife populations from the land offering proposal. Refer to **Section VII. DMLW and Agency Review** for more information.

Forestry: Management Guidelines provide that timber harvests are considered appropriate in areas designated Settlement if intended to support the cost of the subdivision, provide access to the subdivision, or provide ancillary facilities. This

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proposal is for a Remote Recreational Cabin Sites offering, and DMLW is not proposing development of the land prior to offering. LSS is not proposing timber harvest prior to offering. The DNR Division of Forestry noted that there are Forestry classified lands and Tanana Valley State Forest lands to the west of the project area, but the State Forest should not be affected by the proposed land offering.

Material Sites: Management Guidelines provide that material sites should be retained in State ownership. Material sites should be screened from residential and recreational areas where topography and vegetation allow.

Material site ADL 419657 has been excluded from the project area to retain it in State ownership. LSS intends to impose a 300-foot staking setback from the material site, which will provide screening between the material site and staked parcels.

Public Access: Management Guidelines provide that prior to disposal of state lands, public access will be reserved in accordance with the applicable regulations, and reasonable access across state land will be retained when lands are sold. DNR will reserve public access and/or utility easements as appropriate in order to maintain access through and within the project and retain utility corridors. See the Access To, Within, and Beyond Project Area sub-section for more information.

Settlement: Management Guidelines pertaining to settlement include planning and coordination with local governments, considering local plans, and ensuring access; protection of life and property; and protection of resources such as sensitive areas, habitat, scenic features, and other resources. These guidelines have been reviewed and incorporated in the development of this proposal.

Guidelines also provide that as part of the development of remote settlement areas, DNR should consider the provision of staging areas, parking areas, and/or trailheads to accommodate landowners parking vehicles and other equipment while accessing remote parcels. ADF&G should be consulted to ensure there will be no habitat associated impacts from parking areas or trailheads. There are currently areas adjacent to the Elliott Highway that will provide adequate parking areas for landowners. ADF&G has been consulted during Agency Review for this project.

Shorelands and Stream Corridors: Management Guidelines state that DNR will prioritize protecting public use values in stream corridors versus providing opportunities for private ownership and development of land. DNR recognizes the demand for private land near stream corridors and consults with other agencies and the public prior to disposal of such lands. Management Guidelines also provide for the application, conditions for, and width for buffers, setbacks, and easements. These guidelines have been reviewed and incorporated in the development of this proposal.

Hutlitakwa Creek crosses through the southeast corner of the project area. It meets the criteria for a public water body, but it is not an anadromous fish stream or identified as having a high value for fish and wildlife habitat. YTAP management

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guidelines specify a 50-foot building setback landward from ordinary high water (OHW) of public waters that aren't anadromous and high-value resident fish waters. As a public water body, access along Huttitakwa Creek will be reserved in accordance with *AS 38.05.127*. Refer to the *Access To and Along Public or Navigable Waters* subsection for more information.

Subsurface Resources: Management Guidelines state that miners have the right to stake a mining location irrespective of the surface use designation, however, Settlement designated land might not be appropriate for mineral exploration and development. Mining must be determined to be in conflict with uses of the surface estate prior to closing land to mineral entry.

The Silverbow Creek RRCS project area does not have any current mining claims or leases and is currently covered by LLO 33 to prevent "nuisance claims". LSS proposes a mineral order closing the project area to mineral entry because mining would significantly reduce the land value for remote recreation and would undermine the land offering.

The proposed offering is consistent with area-wide land management policies and general management intent of the YTAP and specific management unit. The unit is designated Settlement and State-owned lands within the unit are appropriate for disposal, including sale, during the planning period.

Mineral Activity and Order: No mineral activity has been identified on these lands. The entirety of the project area will be closed to mineral entry (approximately 17,500 acres) if the Mineral Order 1197 is approved in accordance with *AS 38.05.185 Generally* and *AS 38.05.300 Classification of Land* for a land disposal. The proposed mineral order, if approved, will close the area to new mineral entry only and will not affect current existing mining claims.

Mineral orders which close an area to mineral entry, close the applicable area to new exploration and development of locatable minerals. Such mineral orders do not apply to leasable minerals (such as oil, gas, coal, etc.), or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

Mining activity for locatable minerals would be incompatible with the past, current, and proposed land estate uses for land disposals. To allow new mineral location within the boundaries of the parcels encompassed by this decision could create serious conflicts between land estate and mineral estate users.

Local Planning: The project area is within the Unorganized Borough, and the State does not pursue zoning of private lands.

Traditional Use Finding: The project area is within the Unorganized Borough, and a traditional use finding is therefore required under *AS 38.05.830 Land Disposal in the Unorganized Borough*. Information obtained from the YTAP, research, agency review, and

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site inspection indicates that the project area appears to be currently used for recreation, hunting, and other wild resource harvesting. There are no known commercial uses within the project area.

Residents of the nearby communities report some use of the project area for subsistence harvest of wild resources according to ADF&G Division of Subsistence research (Technical Paper Numbers 400 and 426). Manley Hot Springs residents reported contemporary subsistence search areas for berries and plants within the project area. The project area vicinity appears to be at the periphery of subsistence search areas for small land mammals, furbearers, ptarmigan, and grouse by Manley Hot Springs residents. Minto residents reported the project area is within their contemporary search areas for moose, ptarmigan, and grouse. Historically, Manley Hot Springs residents reported using the northern periphery of the project area for moose hunting (circa 1976-1996), and Minto residents reported using a significant fraction of the project area for hunting moose and small land mammals (circa 1960-1984). Rampart residents did not report using the project area vicinity as a contemporary or historic subsistence search area.

There are no anticipated significant changes to traditional uses of the land and resources of this area as a result of the proposed action, other than a possible increase in the various traditional activities by new private-property owners and/or a possible decrease in the various traditional activities by others due to the presence of additional private property. Impacts on existing resource users will be reduced by limiting the staking authorizations to a maximum of 30, a reduction from 45 proposed in the 2017 Preliminary Decision. Furthermore, most of the southern project area boundary has been moved to the north by approximately one-half mile relative to the 2017 Preliminary Decision to provide a larger buffer from trails used for dog mushing and trapping, reducing the size of the project area by approximately 1,400 acres. Additional information on traditional use is welcome during the public comment period and if this proposal is approved, LSS will address the information received in a subsequent Final Finding and Decision, if one is issued. See the **Section VIII Submittal of Public Comments** at the end of this documents and *Attachment C: Public Notice* for details on how to submit comment.

Access To, Within, and Beyond Project Area: Access to the project area is primarily via the Elliott Highway between approximate mileposts (MP) 121 to 129. The project area is accessible by ATV, snow-machine, or foot. Based on the 2016 field inspections, there are four main trails identified within the project area. A trailhead at the northeast corner of the project area near MP 121 was well traveled and led to private property east of the project area boundary (ADL 421307). A trail originating between MPs 123 and 124 provides access through the central portion of the project area and extends past the project area southern boundary (ADL 421306). The trail was easy to travel via ATV, and other spur trails depart from the main trail within the project area. The trail ADL 421306 was being used as a parking area in 2016 a short distance from the highway. A trail located at the northwestern corner of the project area near Silverbow Creek (approximately MP 128) extends a short distance into the project area before ending at a rock wall. A trail beginning west of the project area near MP 129 appears to travel approximately southeast into and through the project area (ADL 421305). This trail was too wet for travel during the July and September field inspections but may be more suitable for winter travel. This might be the mushing trail referenced in the March 29, 2018 community meeting in Manley Hot Springs. See the

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section Easements, Setbacks, and Reserved Areas for discussion on staking setbacks from these trails.

There are several parking areas along the Elliott Highway that also might be suitable as staging areas:

- The material sites located at approximately MPs 123 and 124 provide parking and staging while not in use for material extraction. LSS will work with the DNR DMLW Northern Region Land Section for the potential use of these material sites by stakers;
- The trail at approximately MP 121 has a small pull-off area which appears to be currently used for access along this trail;
- The trail beginning near MP 123.5 has a small staging area a short distance from the highway, and is currently used for parking highway vehicles and trailers;
- There is a pull-off at approximately MP 127 which could accommodate multiple vehicles with trailers; and
- A smaller and relatively undeveloped pull-off is located near MP 126.

Additional legal access to, within, and through the project area is via travel across unreserved State-owned land, along section line easements, or other easements reserved in conveyances to third parties. Access across unreserved State-owned land without a permit, along with pertinent restrictions, is governed by *11 AAC 96 Provisions for General Land Use Activity*.

DMLW will, at its discretion, reserve an easement centered on existing trails that have not been assigned an ADL or RST number, or otherwise serialized, through or along any staked site. Section line easements will be reserved on each side of surveyed or protracted section lines that are within or along staked sites. Stakers will be instructed not to stake across surveyed section lines, township lines, across trail easements that have been assigned an ADL or RST number, or other trails or access routes identified within the staking area. Easements along the of interior parcel lines will also be reserved in order to ensure access between staked parcels. Additionally, a survey easement will be reserved to control monuments within parcels in order to allow for access to recover monuments of record for the purposes of surveying and establishing property boundaries in the vicinity of a parcel.

Project design will consider topography and access to lands beyond the project area and within the project area boundaries.

Access To and Along Public or Navigable Waters: In accordance with *AS 38.05.127 Access To Navigable or Public Water*, DNR will determine if a water body is navigable or public and establish easements or rights-of-way as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or rights-of-way under this statute include *11 AAC 51.035 Determination of Navigable and Public Water* and *11 AAC 51.045 Easements To and Along Navigable and Public Water*. In general, a continuous easement extending upland from the ordinary high-water mark will be reserved within parcels along waters determined to be public or navigable. An alternate upland access route may be reserved if topography or obstructions prevent or make a continuous easement difficult.

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For the purposes of AS 38.05.127:

- navigable waters are generally lakes larger than 50 acres in size or streams larger than 50 feet in average width;
- public waters are generally lakes larger than 10 acres in size or streams larger than 10 feet in average width; and
- waters may be determined public or navigable consistent with AS 38.05.965 (21) *Definitions*.

Parcels will be subject to access reservations in accordance with AS 38.05.127 *Access to Public or Navigable Water* of usually 50 feet, and a 100-foot building setback from the OHW of the water bodies described, as well as any additional water bodies identified as public or navigable prior to completion of survey.

Attachment A: Vicinity Map identifies water bodies determined to be public or navigable for the purposes of this proposal. If, at the time of survey, a water body not identified as public on *Attachment A* is determined to be public or navigable and is located within or along a staked parcel, a public access easement will be reserved upland from the ordinary high water mark, in accordance with AS 38.05.127 *Access to Navigable or Public Water* and 11 AAC 51.035 *Determination of Navigable and Public Water*. If a water body determined to be public is located entirely within a parcel, a public use access easement from the parcel boundary to and along the water body will be reserved and dedicated at the time of field survey. This is unlikely to occur given that staked parcels can only be up to 20 acres in size. However, as administrative parcels may be larger than 20 acres and water bodies smaller than 10 acres in size may be administratively determined public if they contain important public resources, it is possible that this type of public use access easement may be reserved.

If at the time of survey, a water body identified as public on *Attachment A* is determined to not be public or navigable, the public access will be extinguished. However, if public access is required, a public access easement in accordance with 11 AAC 51.015 *Standards for Public Easements* will be imposed on or adjacent to the water body. Refer to the Easements, Setbacks, and Reserved Areas subsection for additional information.

Hutlitakwa Creek has been determined to be public within the project area. The public is invited to comment on use of water resources in the project area to aid in making the public water determination.

Easements, Setbacks, and Reserved Areas: The project area may include a variety of easements, setbacks, and reserved areas, which will be identified in offering materials, staking instructions, and related informational documents. DMLW proposes to create public access easements ADL 421305, 421306, and 421307 for existing trails within the project area, and to authorize the creation of driveway easements from the Elliott Highway to parcels subsequently created within the project area, as discussed in **Section 1. Proposed Actions**. DMLW will continue to research and identify easements, setbacks, or reservations throughout the staking and survey period as necessary to protect resources, third party interests, public use, or access. Of note, staking setbacks differ from building setbacks in

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that staking setbacks leave an area of land retained in State ownership, while building setbacks and easements are on land conveyed to the staker and place development restrictions thereon. Restrictions and encumbrances will be identified in the staking instructions, depicted on staking maps, and noted in the brochure, where possible.

Building Setbacks From Public or Navigable Water: If the offering is deemed feasible, DNR DMLW proposes to place a note on the final survey plat describing a building setback upland from the OHW of public or navigable water to protect access, fish and wildlife habitat, and personal property. Structures and subsurface sewage disposal systems will not be permitted within the building setback. Utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function may be allowed within the building setback. Parcels under lease will also be subject to this building setback. The following building setback will apply to parcels created as a result of this offering:

- a 50-foot building setback from the OHW of all public or navigable water bodies, in accordance with the YTAP.

Staking Setbacks and Reserved Areas: Reserved areas and staking setbacks may be designated for public use, access, or to protect valuable resources. Staking will not be allowed within these areas. Staking setbacks and reserved areas will be described in offering information and staking instructions. DMLW may identify additional staking setbacks and reserved areas as necessary throughout the staking period. The following staking setbacks and reserved areas will apply to this offering:

- a 150-foot staking setback from the trails identified in Attachment A that provide access within and beyond the project area proposed to be serialized as ADL 421305, 421306, and 421307;
- a 300-foot staking setback from material site ADL 419657 between mileposts 123 and 124 of the Elliott Highway; and
- a 300-foot staking setback from the centerline of Elliott Highway.

Easements: Parcels may be subject to a variety of easements, both during the lease period and after sale. This may include, but is not limited to, existing trails (with or without assigned ADL numbers), rights-of-way, section line easements, and public access and utility easements. Throughout the staking period and survey process, DMLW will continue to research the status, location, and condition of access routes, and additional easements may be identified. Final width and location of easements and reservations will be determined as part of the platting process. Easements will be noted on the plat. Parcels may be subject to a variety of reservations or restrictions where appropriate, such as:

- a public access and utility easement along parcel boundaries;
- an easement centered on existing trails through or along staked parcels;
- a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with *AS 19.10.010 Dedication of Land for Public Highways* and *11 AAC 51.025 Section-line Easements*; section-

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line easements may be vacated under *AS 19.30.410 Vacation of Rights-of-Way* and *11 AAC 51.065 Vacation of Easements*;

- a 50-foot continuous easement upland from the OHW of public or navigable water bodies in accordance with *AS 38.05.127 Access To Navigable or Public Water*; and
- a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5' direct line-of-sight easement from the control station to an azimuth mark or other control monument.

These easements and reservations will apply both during the lease period and after sale. Where appropriate, reservations, and restrictions will be depicted on the plat and described in plat notes.

Hazardous Materials and Potential Contaminants: DNR staff did not observe any environmental hazards within the project area during field inspections conducted on July 20, 2016 and September 13, 2016. There are no known environmental hazards present within the project area; however, the State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances eventually be found. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land prior to staking.

DNR DMLW recognizes there are potential future environmental risks when previously vacant land is occupied. Many of the activities increasing these potential risks are regulated by other agencies, such as the regulation of septic system installation by the State of Alaska, Department of Environmental Conservation. This risk is no greater than when vacant private land undergoes development. Given that this land was specifically designated Settlement for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, the Department is of the opinion that the benefits of offering the land outweigh the potential risks.

Survey, Platting, and Appraisal: After evaluation of public comment and conditions of the land, DNR will determine if it is in the State's best interest to offer the proposed project area. Survey, platting, and appraisal of staked parcels will be completed prior to sale. DMLW proposes to issue survey contracts to conduct the survey, and the survey costs will be prorated by acreage for each parcel. DMLW may also identify and survey additional parcels in a project area to be sold under *AS 38.05.045 Generally*. The number of staked and additional surveyed parcels will not exceed the total number of parcels offered, nor total number of acres to be sold.

DNR DMLW does not propose to survey the proposed trail easements ADL 421305, 421306, and 421307 because a survey is not needed for land management purposes. However, DNR DMLW reserves the right to require a survey if needed for a subsequent

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action, such as a proposal to upgrade the trail within the easement or conveyance of the land underlying the easement.

The project area is located within the Unorganized Borough, and therefore survey and platting will be subject to State of Alaska subdivision standards.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR DMLW standards will be required within two years of the date of entry of any parcel developed under this proposed action.

In accordance with *11 AAC 67.825 Lease Application: Priority* and *11 AAC 67.835 Lease Conditions*, lessees will be required to make payments during the lease period toward the cost of survey, platting, and appraisal.

DMLW is in process of updating regulations pertaining to the Remote Recreational Cabin Sites program. If the applicable regulations change prior to the offering, staking, or lease issuance of this proposed project, the new regulations may apply.

Staking Instructions and Lease: The Remote Recreational Cabin Sites program authorizes winning applicants to stake a parcel within a project area and issues leases to successful applicants while the parcels are surveyed, platted, and appraised, in accordance with *11 AAC 67.800 - 11 AAC 67.845 Remote Recreational Cabin Sites*. Letters awarding staking authorizations to enter onto the land and staking instructions will be issued in accordance with *11 AAC 67.820 Staking Instructions*. These staking instructions will include general requirements for staking a parcel of land, specific requirements for individual staking areas, and staking maps depicting existing parcels, reserved areas, staking setbacks, and access routes, where known and practical.

To preserve their interest in the staked parcels and continue in the process to eventual ownership, stakers must apply for a lease after staking a parcel. Upon issuance, the lease authorizes the lessee to enter and enjoy exclusive, private, recreational use of the property between staking and purchase while the survey, platting, and appraisal are completed. During the term of the lease the leasehold may not be used for commercial purposes or as a permanent residence. Lessees will be allowed to construct buildings on the property, but will be warned of the risks of constructing prior to survey completion solidifying the location of the property boundaries. Noncompliance with zoning requirements (if there are any) or mislocation of the parcel or improvements does not vest any preference right to the land improperly entered.

VII. DMLW and Agency Review

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. Agency review was conducted from September 2, 2016 through September 21, 2016 concurrently with other separate, proposed projects. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision, if one is issued.

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DNR DMLW LSS received brief comments of non-objection from the following agencies: Alaska Railroad; Mental Health Trust Land Office; and DNR Division of Parks and Outdoor Recreation (Operations).

Department of Fish and Game (ADF&G) Comment: ADF&G provided general comments pertaining to all project areas submitted for agency review, as well as comments specific to the Silverbow RRCS project area.

ADF&G general comments: ADF&G concurs with all of the proposed easements and setbacks, but expressed concern that poorly planned access routes could result in widening trails, unnecessary stream and wetland crossings, and degradation of recreational values and fish and wildlife habitat. ADF&G recommended:

- identifying and reserving all access points and trails prior to staking;
- working with community groups and ADF&G to establish consistent and legal access;
- describing all easements and legal access in staking materials, conveyance documents, plats, and maps;
- notifying neighboring landowners and users of the proposed staking areas of the land offering to help avoid trespass; and
- including information on the potential of wildlife interactions in these remote areas.

ADF&G project area specific comment: Moose rutting and wintering habitat is within the project area. ADF&G does not anticipate impacts to the fish or wildlife populations from the proposed maximum of 60 staking authorizations. No water bodies within the project area are cataloged as important to anadromous fish.

DNR LSS Response: LSS appreciates your input. The map provided in *Attachment A* depicts the identified trails within the project area. The trails originating near Elliott Highway mileposts 121 and 123.5 are well established and were easy to traverse during a 2016 field inspection. The trail that travels through the western portion of the project area appears to be a winter-use trail based on input received at a 2018 public meeting in Manley Hot Springs. LSS proposes easements ADLs 421305, 421306, and 421307, respectively, to reserve access along these trails. The offering brochure and staking materials will identify these trails, as well as any other access identified prior to or throughout the staking period. Staking will not be permitted over trails identified in the staking materials. Additionally, parcels will be subject to an easement centered on any trail located within or along a parcel, even if not identified prior to staking.

Access across unreserved State-owned land without a permit, along with pertinent restrictions, is governed by *11 AAC 96 Provisions for General Land Use Activity* and is beyond the scope of this decision to restrict. However, offering materials encourage using existing trails where possible, provide information regarding permit requirements regarding wetlands, and notify potential stakers of the possibility of wildlife encounters and how to avoid a negative encounter.

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Pursuant to AS 38.05.945, DNR provides public notice to landowners within and in the vicinity of project areas, communities within 25 miles of a project area boundary, as well as other entities and venues. This is described further in *Attachment C: Public Notice* and **Section VIII. Submittal of Public Comments**. LSS is open to suggestions on how best to illustrate and describe private property nearby the project area in staking offering materials to help prevent trespass. However, it is the exclusive right of the landowner to post their property and to deter trespass on their lands.

The proposed number of staking authorizations within the Silverbow Creek project area has been reduced from 60 at the time of Agency Review to 30 in this proposal.

DNR Division of Parks and Outdoor Recreation, Office of History and Archaeology (OHA)

Comment: There are some previously recorded cultural resource sites in the area, but none that have been determined eligible for or are listed on the National Register of Historic Places. However, the possibility remains that previously unidentified archaeological resources may be located within the project area. If such resources are discovered in the course of the project, work must be interrupted until the resources have been evaluated in consultation with OHA.

DNR LSS Response: LSS appreciates your review of our proposal. OHA will be notified if any cultural or historic sites are discovered during project development. Additionally, offering materials will inform potential purchasers that OHA must be notified should any sites be discovered.

DNR Division of Oil and Gas Comment (DOG): DOG has no objections to the proposed land disposals, and notes that there are no DOG authorizations or pending applications in the immediate vicinity. DOG recommends LSS continue to make potential applicants aware that State reserves oil, gas, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it sells.

DNR LSS Response: LSS appreciates your review of our proposal. Offering materials include information describing the State's reservation of the mineral estate.

Department of Commerce, Community, and Economic Development (DCCED) Comment:

DCCED recommends considering the potential impacts of the land offering on the communities of Minto and Manley Hot Springs, including the impacts to local residents of increased traffic on the Elliott Highway.

DNR LSS Response: LSS appreciates your input. LSS has engaged both communities in several meetings about the Silverbow Creek proposal, as detailed in the *Background* section above. Public notice of this proposal will be provided to the communities of Minto and Manley Hot Springs. The project area is approximately 20 road miles from Minto and 22 road miles from Manley Hot Springs. LSS anticipates that the low-density development and recreational use within the project area will have limited impact to either community.

Division of Geological & Geophysical Surveys (DGGS) Comment: DGGS provided specific soils information and noted that there is discontinuous permafrost within the project area.

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The Rampart Seismic Zone is adjacent to the project area and has had significant earthquake activity within the last 150 years. DGGs recommends notifying stakers that there is an active placer mining district immediately north of the highway, and there is the potential for lode-mineral development in that area as well.

DNR DMLW LSS Response: LSS appreciates your review of our proposal. The soil and geologic information has been considered in the development of this proposal and will be included in offering materials where appropriate. LSS will also include information in the offering materials to inform potential stakers of the nearby placer mining district and the potential for lode-mineral development.

State Pipeline Coordinators Section (SPCS) Comment: SPCS clarified identifiers for the material sites located along the Elliott Highway next to the project area.

DNR DMLW LSS Response: LSS appreciates your input, the references to the material sites have been updated in this proposal.

DNR, Division of Forestry Comment: DOF has no objection to the proposed offering but noted the potential for increased workload from protecting additional structures. DOF recommends providing information to potential purchasers about the risk of wildland fire and that fire management does not guarantee protection for cabins. DOF noted that there is land classified Forest Land and Tanana Valley State Forest lands to the west of the project area, but these areas should not be affected by the proposed land offering.

DNR DMLW LSS Response: LSS appreciates your review of our proposal. Offering materials encourage stakers to locate parcels within hardwood stands or near water sources to help mitigate fire risk. LSS encourages landowners with structures to follow the Alaska Wildland Fire Coordinating Group *Firewise Alaska* recommendations. Offering materials also include information regarding wildland fire prevention, Fire Management Options, and note that there is no guarantee of protection from wildfire, and that it is the landowner's responsibility to reduce fire risk. LSS does not anticipate conflicts with the Forest classified lands or Tanana Valley State Forest in the vicinity.

The following agencies or groups were included in the agency review but LSS did not receive comments:

- Department of Environmental Conservation
- Department of Natural Resources;
 - Division of Agriculture;
 - Office of Project Management and Permitting;
- Department of Transportation and Public Facilities;
- Alaska Soil and Water Conservation District; and
- University of Alaska.

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VIII. Submittal of Public Comments

See Attachment C: Public Notice for specific dates and conditions.

Pursuant to *AS 38.05.945 Notice*, DNR is issuing public notice inviting comment on this Preliminary Decision and draft mineral order.

In accordance with *AS 38.05.946 (a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945 (c)* may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

LSS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision or draft mineral order, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposals are approved and no significant change is required, the Preliminary Decision and draft mineral order including any deletions, minor changes, and summary of comments and LSS responses will be issued as a subsequent Final Finding and Decision and Mineral Order 1197 without further notice. All related actions will be developed separately. However, approval of any action is dependent upon one another. One action will not proceed without approval of all actions.

Only persons from whom DNR DMLW LSS receives timely, written comment during the identified comment period will be eligible to file a request for reconsideration of the Final Finding and Decision and Mineral Order 1197. Upon approval and issuance of these actions, a copy of the decision and mineral order will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the request for reconsideration process to any party who provides timely written comment.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact the Department's Public Information Center. For more information refer to *Attachment C: Public Notice*.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS
5:00 PM, THURSDAY, JANUARY 23, 2020**

Preliminary Decision

Silverbow Creek Remote Recreational Cabin Sites – ADL 420295

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IX. Alternatives and Discussion

DNR DMLW is considering the following alternatives:

Alternative 1: (Preferred) Offer authorizations to stake up to 30 parcels ranging from 5 to 20 acres in the Silverbow Creek RRCS project area, for a maximum of 600 acres sold through this offering under *AS 38.05.600 Remote Recreational Cabin Sites*. DNR may also identify and survey additional parcels in a staking area, up to the maximum number of parcels. The development and offering of the project area may be completed in multiple stages. This proposal includes the mineral order, authorization of the public access trail easements ADLs 421305, 421306, and 421307 under *AS 38.05.850*, and authorize the public or private access driveway easements under *AS 38.05.850*.

Alternative 2: Do not offer the project area under the RRCS program. Survey parcels within the Silverbow Creek RRCS project area prior to offering to the public under *AS 38.05.045*.

Alternative 3: (Status Quo) Do not offer this project area for private ownership. Retain the land in State ownership.

Article VIII, Section 1 of the Alaska Constitution states, “It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.” Furthermore, *AS 38.05.045 Generally* and *AS 38.05.600 Remote Recreational Cabin Sites* has placed this charge with DNR, and the legislature has provided funding to administer the land sale program.

Alternative 1 provides a method for DNR to help meet the obligations laid out in the Constitution and statute and maximizes public interest. This offering provides a unique opportunity for Alaskans to obtain remote property in a desirable area. Alternative 1 provides the greatest opportunity for Alaskans to purchase land within this area which suits their needs.

Dispersed, low density staking is the best alternative for this area since it is a remote location with little or no infrastructure; the amount of contiguous high-quality acreage suitable for a large number of adjacent sites is low due to varying topography. Under designated parameters, entrants may choose individual sites within the staking area that suit their needs. Allowing additional parcels and parcels that are not converted from lease to sale to be surveyed and sold under *AS 38.05.045 Generally* will maximize the opportunities for the transfer of State-owned land into private ownership under a uniform set of conditions. Alternative 1 is preferred.

Alternative 2 is not preferred. High-quality sites suitable for individual settlement are discontinuous within the project area. There are few large areas with contiguous and high-quality acreage that could accommodate large numbers of adjacent parcels with suitable building sites and consolidated access. The area is better suited to dispersed settlement and allowing entrants to select individual locations to suit their needs.

Alternative 3 is not preferred. The Legislature and the public have indicated a desire for DNR DMLW to offer State-owned land for private ownership. Retention of this land would inhibit DNR DMLW from meeting its Constitutional, statutory, and legislative goals. Not offering the project area would deny Alaskans the opportunity to obtain land in an area that is suited to settlement.

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The related actions are necessary to allow for the offering of the project area. The primary action and related action are dependent upon one another, and if DNR DMLW does not approve the project, the related action will not be processed.

For the aforementioned reasons, Alternative 1 is the preferred alternative.

Recommendation follows.

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Silverbow Creek Remote Recreational Cabin Sites – ADL 420295
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X. Recommendation

This Preliminary Decision for the proposed disposal of state lands, creation of access easements, and Mineral Order 1197 described throughout this document and its attachments are consistent with the overall management intent for State-owned land. Alternative 1 is the preferred alternative because it provides the maximum opportunity for offering State land to the public and helps meet the mission of the land sales program. The Preliminary Decision described above, as represented by the preferred alternative, has been reviewed and considered. I find that the recommended action may be in the best interest of the State and that it is hereby approved to proceed to public notice.

This is a Preliminary Decision, and analysis of subsequent public review may result in changes to the preferred alternative of the proposed disposal of State lands and Mineral Order 1197. If the decision is approved, Mineral Order 1197 will accompany and precede any Final Finding and Decision issued.

[signature on file]

Prepared by: Colin Craven
Natural Resource Specialist
Land Sales Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

December 10, 2019

Date

[signature on file]

Approved by: Rachel Longacre
Section Manager
Land Sales Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

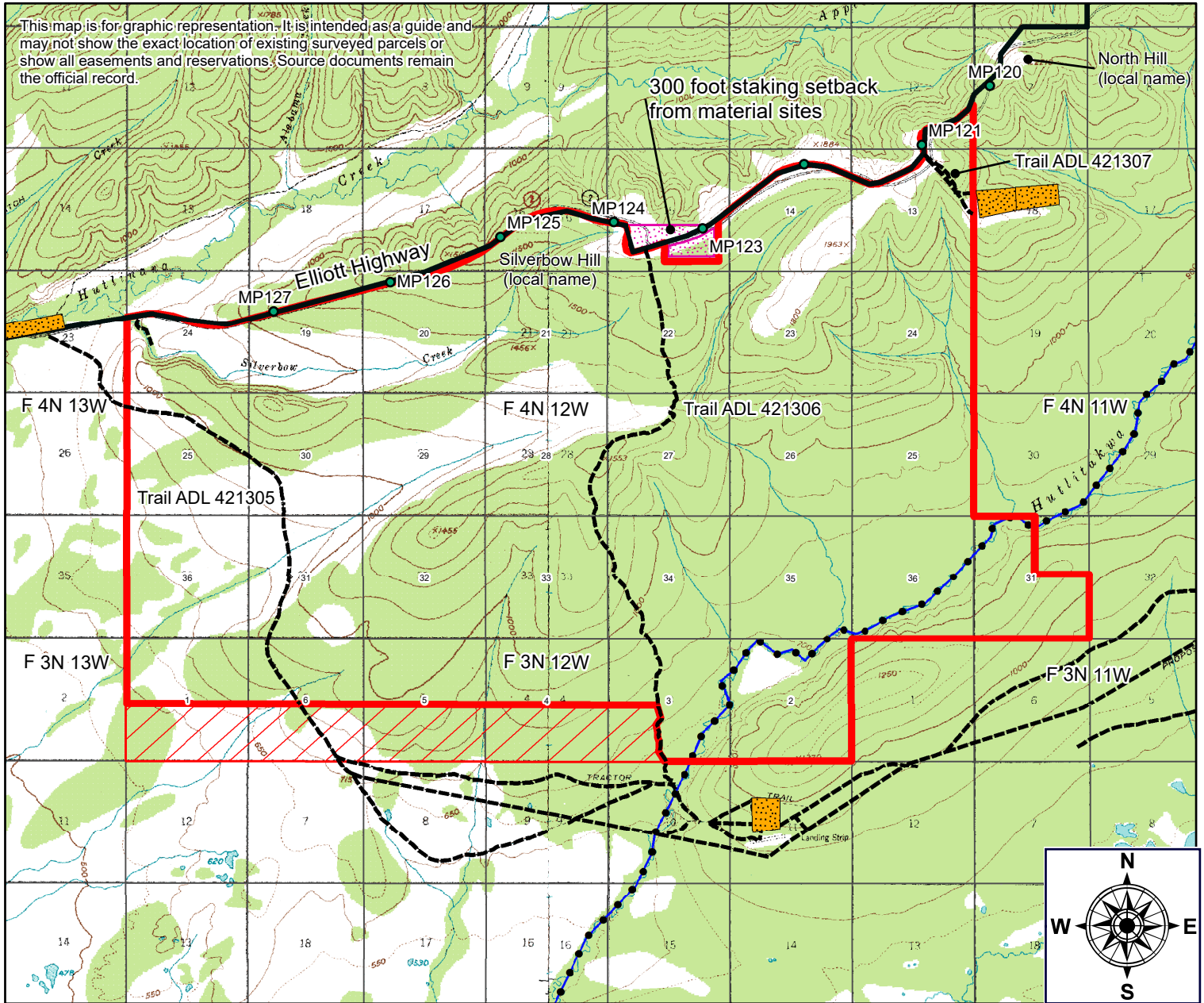
December 10, 2019

Date

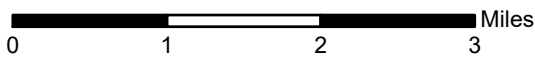


Attachment A: Vicinity Map Silverbow Creek RRCS ADL 420295

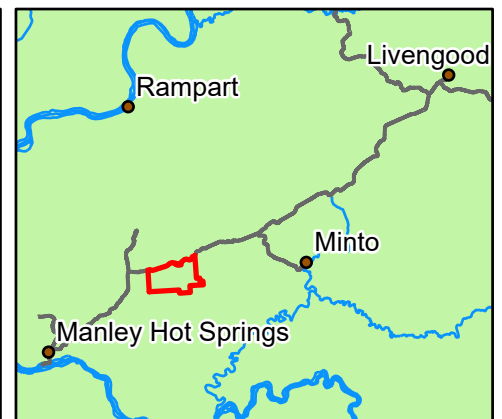
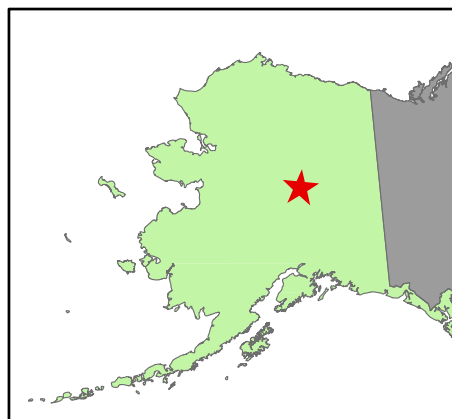
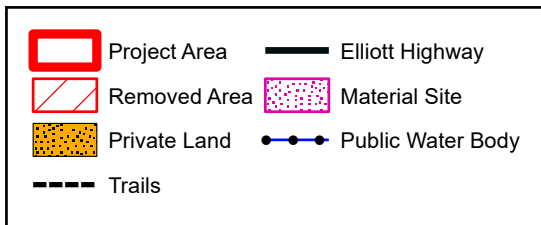
This map is for graphic representation. It is intended as a guide and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



CMC, Dec 2, 2019



T 3N, R 12W; T 3N, R 13W; T 4N, R 11W;
T 4N, R 12W; T 4N, R 13W Fairbanks Meridian
USGS QUAD 1:63,360 Tanana A-1, Livengood A-6



For more information:
Colin Craven
Department of Natural Resources
Division of Mining, Land, and Water
Land Sales Section
907.451.2730
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**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, AND WATER**

ATTACHMENT B: AREA DATA SUMMARY TABLE

to the
Preliminary Decision

for a
**Proposed Land Offering in the Unorganized Borough
Silverbow Creek Remote Recreational Cabin Sites – ADL 420295**

Offering Information	
Proposed Number of Parcels	30
Proposed Parcel Size	5 to 20 acres
Net Offering	Up to 600 acres
Proposed Related Actions	Mineral order (closing) 1197
Project Area	
Location	The project area is approximately 63 miles northwest of Fairbanks, 18 miles west of Minto, AK and 18 miles northeast of Manley Hot Springs, Alaska.
Project Area Acreage	Approximately 17,500 acres
USGS Topography Map	USGS Quad Livengood A-6, Tanana A-1
MTRS	Township 3 North, Range 12 West, entirety of Section 2, portions of Sections 3– 6; Township 3 North, Range 13 West, N½ section 1; Township 4 North, Range 11 West, portions of Section 31; Township 4 North, Range 12 West, portions of Sections 12-17, 19, 20, and the entirety of sections 21-36; Township 4 North, Range 13 West, portions of Section 24, and the entirety of Sections 25 and 36; all within the Fairbanks Meridian.
Title	The entirety of the Project Area has been patented to the State through patents 50-86-0140, 50-80-0122, 50-2005-0006, 50-99-0235, and 50-76-0100.
Area Plan and Classification	Yukon Tanana Area Plan (adopted 2014), Management Unit T-36/Lower Tanana Region. Classified Settlement Land through CL-NC-10-005.
Mineral Orders	Part of the project area is covered by LLO 33. The project area will be closed to mineral entry prior to offering via Mineral Order No. 1197.

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Unorganized Borough

Silverbow Creek RRCS – ADL 420295

Public Access Trail Easements – ADLs 421305, 421306, 421307

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Physical Characteristics	
Access	Primarily via the Elliott Highway. The project area is accessible via ATV, snow machine, or foot. There are existing trails within the project area; the full extent and location of these trails has not been verified. Access to individual parcels is anticipated to be via generally allowed use across State land.
Terrain and Major Features	Elevation varies from approximately 550 feet above sea level to 1,900 feet above sea level. The terrain is hilly with slopes ranging from 3% to 12% with isolated areas of steep topography (around 45% slope).
View	Possible views of the river valleys and taller mountains north of the Elliott Highway from higher elevations within the project area.
Soils	Higher slopes are generally well-drained, gravelly, and without permafrost, whereas soils in the valley bottoms are generally poorly-drained with a shallow permafrost table. Primarily colluvial and alluvial deposits of gravel, silt, and sand with a variable thickness of discontinuous silt covering the surface. The potential usability of the soils for engineering applications is highly variable due to a large range of grain sizes and sorting. Silts in the southern portion of the project area are potentially organic and ice rich.
Wetlands	Freshwater forested/shrub wetlands exist throughout a portion of the project area. Dredging or filling of wetlands may require a permit from the US Army Corps of Engineers.
Vegetation	The south-facing, well-drained slopes support white spruce, paper birch, and aspen. North facing slopes and low-lying areas have stands of black spruce.
Water Source	Possible water holding tank supplied by a rainwater catchment system or from various streams throughout the project area. Water quality is unknown.
Anadromous Waters	None.
Local Management Information	
Fire Protection	Modified Fire Management Option
Game Management Unit	20B
Local Authority	The project area is within the Unorganized Borough and subject to the State of Alaska platting authority.
Flood Zone	Flood Information Rate Maps are not available for the staking area.
Utilities	No known services exist within the project area.
Waste Disposal	All on-site wastewater disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation. The closest community landfills are located in Fairbanks, Manley Hot Springs, and Minto.
Setbacks, Reserved Areas, Easements, and Conditions	
Allowed Uses	No commercial use or permanent residence is allowed while under lease. Once the parcel is under purchase contract or conveyed into private ownership these restrictions no longer apply.

Attachment B: Area Data Summary Table

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Building Setbacks	Parcels will be subject to a 50-foot building setback from the ordinary high water (OHW) of water bodies determined to be public or navigable. Water-dependent structures may be allowed within the building setback.
Staking Setbacks	Staking will not be allowed within the following areas: <ul style="list-style-type: none"> • 150-foot staking setback from the trails identified in Attachment A that provide access within and beyond the project area; • 300-foot staking setback from material site ADL 419657 between mileposts 123 and 124 of the Elliott Highway; and • 300-foot staking setback from the centerline of Elliott Highway.
Reserved Areas	Staking will not be allowed within reserved areas imposed prior to or during the staking period, including reserved areas to avoid locating parcels within or near a specific resource or third-party interest, or to reserve areas for public use. Specific reserved areas have not been identified at this time but may be imposed up to or during the staking period as necessary.
Easements	Parcels may be subject to the following: <ul style="list-style-type: none"> • a public access and utility easement along parcel boundaries; • an easement centered on existing trails through or along staked parcels; • a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with <i>AS 19.10.010 Dedication of Land for Public Highways</i> and <i>11 AAC 51.025 Section-line Easements</i>; section-line easements may be vacated under <i>AS 19.30.410 Vacation of Rights-of-Way</i> and <i>11 AAC 51.065 Vacation of Easements</i>; • a 50-foot continuous easement upland from the OHW of public or navigable water bodies in accordance with <i>AS 38.05.127 Access To Navigable or Public Water</i>; and • a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5' direct line-of-sight easement from the control station to an azimuth mark or other control monument.
Public or Navigable Water Bodies	Hutlitakwa Creek is a public water body. If additional water bodies are deemed public or navigable within the project area prior to platting, DNR DMLW will comply with statutory requirements to provide access to and along said water bodies.
Additional Information	
Native Regional Corporation	Doyon Regional Corporation
Villages and Tribal Councils	Baan-O-Yeel Kon Corporation, Bean Ridge Corporation, Manley Traditional Council, Native Village of Minto, Rampart Village Council, and Seth-De-Ya-Ah Corporation.

Attachment B: Area Data Summary Table

for a Proposed Land Offering in the Unorganized Borough

Silverbow Creek RRCS – ADL 420295

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Oil and Gas Activity	None known.
Mining Activity	None known within or immediately adjacent to the project area.
Comments	Relative to the 2017 version of the Silverbow Creek RRCS proposal, DNR Land Sales: <ul style="list-style-type: none">• reduced the number of parcels proposed from 45 to 30,• added the proposed trail and driveway easements,• added staking setbacks from three trails that cross through the project area, and• changed the south boundary of the project area to provide more separation between potential parcels and the trail network south of the project area.

ATTACHMENT C: PUBLIC NOTICE

STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND, & WATER LAND SALES SECTION

Requesting Input for:

Proposed Land Offering, **Silverbow Creek RRCS, ADL 420295**
Proposed Mineral Order, **MO 1197 (Closing)**
Proposed Public Access Trail Easements, **ADL 421305, 421306, 421307**
Proposed Private or Public Driveway Easements

COMMENT PERIOD ENDS 5:00PM, THURSDAY, JANUARY 23, 2020

This proposed project includes offering for sale Remote Recreational Cabin Sites (RRCS) parcels in a future offering under the method and the related actions as described in the Preliminary Decision document. The project may be subdivided and offered in multiple offerings over time.

Located within DNR's Northern Region, approximately 65 miles northwest of Fairbanks, 15 miles west of Minto, 15 miles northeast of Manley Hot Springs, and 25 miles south of Rampart, Alaska.

Proposed Offering: up to 30 parcels sized from 5 to 20 acres.

To obtain the notice, Preliminary Decision, Mineral Order, proposed easements, or instructions on submitting comment, go to <http://landsales.alaska.gov/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907-269-8400 (TDD for the hearing impaired: 907-269-8411) or Fairbanks at 907-451-2705 (TDD for the hearing impaired: 907-451-2770), or the Southeast Land Office in Juneau at 907-465-3400 (TDD for the hearing impaired: 907-465-3888), or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, THURSDAY, JANUARY 16, 2020.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decision, Mineral Order, and/or proposed easements for which notice is being conducted concurrently. If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5:00PM, THURSDAY, JANUARY 23, 2020.** Only persons from whom DNR DMLW LSS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Written comment may be received by fax, email, or postal mail. To submit comments or for direct inquiries, contact Colin Craven, DNR Land Sales, 3700 Airport Way, Fairbanks, AK 99709, fax # 907-451-2751, land.development@alaska.gov. If you have questions, call Colin Craven at 907-451-2730.

Attachment C: Public Notice

for a Proposed Land Offering in the Unorganized Borough
Silverbow Creek RRCS – ADL 420295
Public Access Trail Easements – ADLs 421305, 421306, 421307
Private or Public Driveway Easements
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If no significant change is required, the Preliminary Decision and Mineral Order, including any minor changes and a summary of comments and responses, will be issued as the Final Finding and Decision and Mineral Order 1197. A copy of the Final Finding and Decision will be sent to any persons who commented timely on the Preliminary Decision.

DNR reserves the right to waive technical defects in this notice.