

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

PRELIMINARY DECISION
ADL 109272

Grants of Land After Natural Disaster
AS 38.05.870

RELATED ACTIONS
None

PUBLIC COMMENT PERIOD ENDS 5:00 PM, THURSDAY, OCTOBER 13, 2022

I. Proposed Actions

Preliminary Decision: Identification of Natural Disaster, Identification of Lands Rendered Unusable, and Approval of Noncompetitive Conveyance Grant of Land
Attachment A: Lands Rendered Unusable
Attachment B: Available Grant Land
Attachment C: Public Notice

Primary Proposed Action, Noncompetitive Grants of Land: Grants of land under *Alaska Statute (AS) 38.05.870 Grants of Land After Natural Disaster* may be issued to persons and municipal corporations after the governor has formally declared a natural disaster severe enough to warrant state assistance to persons or municipal corporations. The grant land is used to replace land rendered unusable by the natural disaster for the purposes for which it was used before the natural disaster. The proposed decision will allow grants of land to owners of private lands located within Blocks 1 and 3, Chilkoot Inlet Alaska Subdivision, Plat 85-4, Haines Recording District, Haines, Alaska that were rendered unusable by the landslide occurring on December 2, 2020 and within the area covered by the disaster declaration issued by the Governor on December 5, 2020. The land rendered unusable is identified in *Attachment A: Lands Rendered Unusable* and replacement land is identified in *Attachment B: Available Grant Land*.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of 30 consecutive days, the public will have the opportunity to submit a written comment on this proposal and eligible landowners will have the opportunity to submit an application for a grant of land.

See **Section X. Submittal of Public Comments and Applications for Grant Land** at the end of this document and *Attachment C: Public Notice* for details on how to submit a comment for consideration as well as how to submit an application for a grant of land. Within 30 days of receipt of the application, LCS will approve or disapprove the application. Following application approval, a Final Finding and Decision (FFD) will be issued identifying approved applications, land to be granted, lottery procedures if appropriate, and any requirements remaining.

II. Authority

DNR has the authority under *AS 38.05.870 Grants of Land After Natural Disaster* to grant state-owned land to eligible persons and municipal corporations to replace land rendered unusable by a

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natural disaster for the purposes for which it was used before the natural disaster 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*. Pursuant to AS 38.05.945 *Notice*, LCS will issue public notice inviting comment on this Preliminary Decision (PD).

III. Administrative Record

The project file for Alaska Division of Lands (ADL) 109272 constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Alaska Division of Geological & Geophysical Survey. (2020, December). *Beach Road Geologic Mass Wasting Event and Landslide Modeling*.
- Landslide Technology, a Division of Cornforth Consultants, Inc. (2022, March). *Updated Findings Report, Beach Road Landslide, Haines, Alaska*.
- R&M Consultants, Inc. (2021, March). *Haines Beach Road Landslide Winter Survey Reconnaissance*.
- State of Alaska, Governor Mike Dunleavy. (2020, December). *Declaration of Disaster Emergency*.

IV. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section II. Authority**, is limited and specific to determining the following: (1) the natural disaster determined by the governor to be of sufficient severity to warrant state assistance, (2) which lots located within Blocks 1 and 3, Chilkoot Inlet Alaska Subdivision, Plat 85-4, Haines Recording District, Haines, Alaska were rendered unusable by the landslide occurring on December 2, 2020, and (3) which state-owned land is available to be granted to an eligible applicant, considering the value, size, and use of the land rendered unusable as a result of the natural disaster. The scope of this decision does not include the control of post-patent use on granted land, and LCS does not intend to impose deed restrictions for this purpose. Restrictions regarding land use will be handled by the local zoning authority, if any.

V. Background

Beginning November 30, 2020, a very strong atmospheric river system producing strong and moist weather fronts moved across Southeast Alaska. The weather system produced historic extreme precipitation over the northern inner channels including Haines, Alaska through December 8, 2020, and caused community evacuations, sheltering of residents and at-risk persons, severe damage to local roads and highways, and severe impacts on community water, power, and communication utilities. On December 2, 2020, the weather system triggered a landslide along Beach Road within Blocks 1 and 3, Chilkoot Inlet Alaska Subdivision. The landslide destroyed two homes, severely damaged a third, and left two residents unaccounted for and presumed to have perished. On December 5, 2020, Governor Mike Dunleavy declared a Disaster Emergency under AS 26.23.020(c) for the entire Southeast region of Alaska including the Haines Borough.

On December 18, 2020, Alaska Department of Natural Resources, Division of Geological & Geophysical Surveys (DGGS) geoscientists conducted a series of landslide simulations analyzing the potential failure of a fractured rock mass associated with the large crack at the head of the Beach Road slide in order to help refine the Beach Road area of concern. To accomplish this analysis, DGGS ran multiple simulations with two U.S. Geological Survey

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(USGS) Landslide Hazards Program models using variations of parameters to capture the range of geologically plausible outcomes.

Following data received from DGGs, the Alaska Department of Transportation & Public Facilities (DOT&PF) contracted Landslide Technology along with prime consultant R&M Consultants, Inc. to conduct a geotechnical investigation and analysis of slopes within the Beach Road area of concern. Three phases of investigations were performed, and several reports were prepared. On March 18, 2021, R&M Consultants, Inc. distributed the “*Winter Survey Reconnaissance*” report for DOT&PF to document three monitoring options for the Beach Road slide area and surrounding areas. Monitoring commenced, and on March 18, 2022, Landslide Technology and R&M Consultants, Inc. issued “*Updated Findings Report, Beach Road Landslide, Haines, Alaska*” to detail geologic evaluations, summarize interpretations and analyses, describe conclusions and opinions regarding geologic hazards, and provide recommendations for monitoring, management, and possible mitigation of the geologic hazards.

The State of Alaska has previously assisted residents after natural disasters. During a special session in 1967, the legislature provided a land grant program to individuals who lost their homes and businesses to a major flood in Fairbanks and the Nenana Valley. The land grant program created by this special session was enacted that year as AS 38.05.870. Grants of state land under AS 38.05.870 have formerly been completed following the Matanuska River natural disaster in 1991 when the river altered its course and caused severe erosion to properties along its banks.

VI. Discussion

Pursuant to AS 38.05.870, the director of DMLW may make grants of state land to persons and municipal corporations to replace land which is rendered unusable by a natural disaster for the purposes for which it was used before the natural disaster. The land grant is approved through a written finding prepared under AS 38.05.035(e) and distributed for public comment under AS 38.05.945.

AS 38.05.870 states the following:

“(a) The director may make grants of state land to persons and municipal corporations to replace land which is rendered unusable by a natural disaster for the purposes for which it was used before the natural disaster. The director shall designate state land which is available to replace land rendered unusable.

(b) Only a person who is the owner of land rendered unusable that was used or leased before the natural disaster for private residential, business, or commercial purposes is eligible for a grant of state land. A person who incurred a binding obligation to purchase land before the natural disaster shall be considered the owner of the land for the purposes of this section.

(c) An application for a grant of state land shall be filed with the director, and shall contain

(1) the name and address of the applicant;

(2) a legal description of the land rendered unusable;

(3) proof of ownership of the land; and

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(4) a statement of the purpose for which the land was used before the natural disaster rendered it unusable.

(d) The director shall, within 30 days of receipt of the application, approve or disapprove the application. The director's determination of eligibility for a grant of state land is final. Upon approval of the application or as soon thereafter as possible, the director shall specify the land which shall be granted to an eligible applicant. In making the designation the director shall consider the value, size and use of the land rendered unusable as a result of the natural disaster, and shall as nearly as possible grant land of equal size, or value or of equal utility.

(e) The applicant shall pay costs, not to exceed the administrative cost of transferring the property and the cost of surveying the land. In addition, the state may require a quitclaim deed to the unusable land in exchange for the grant of state land.

(f) In this section "natural disaster" means a flood, drought, fire, storm, earthquake, or other catastrophe which, in the determination of the governor, is or threatens to be of sufficient severity to warrant state assistance to persons and municipal corporations to alleviate damage, suffering, and hardship caused by the catastrophe."

Land may be granted upon satisfaction of the criteria in the statute listed above. Governor Mike Dunleavy's December 5, 2020, disaster emergency declaration constitutes a determination that land within the City of Haines has been affected by a natural disaster. The December 2, 2020, landslide destroyed or severely damaged three properties that were utilized for private residential, business, or commercial purposes before the disaster. After the disaster, these properties can no longer be used for the same private residential, business, or commercial purpose, which renders them unusable.

Per AS 38.05.870(c)(4), the application for grant of state land will require a statement detailing the purpose for which the land was used before the natural disaster rendered it unusable. Only lots containing structures assigned a value by the Haines Borough before the natural disaster, that can no longer be used for the same purpose after the disaster, will be considered eligible for replacement. Lots within the slide area that were vacant, unused, and/or contained structures not valued by the Haines Borough prior to the landslide will not be rendered unusable. See **Section VII. Lands Rendered Unusable** for the specific parcels that have been determined to be unusable.

Pursuant to AS 38.05.870(d), within 30 days of receipt of the application, the director shall approve or disapprove the application. The director's determination of eligibility for a grant of state land is final. Upon approval of the application or as soon thereafter as possible, the director shall specify the land which shall be granted to an eligible applicant. The available grant land shall consider the value, size, and use of the land rendered unusable as a result of the natural disaster, and shall as nearly as possible grant land of equal size, value, or of equal utility. See **Section VIII. Available Grant Land** for the available state land to be granted.

Pursuant to AS 38.05.870(e), the state may grant replacement land, but the applicant shall pay costs, not to exceed the administrative cost of transferring the property and the costs reimbursed to the state of surveying the land. All grant land lots have been surveyed and

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appraised. The costs reimbursed to the state vary by subdivision and are detailed in *Attachment B: Available Grant Land*. If the total amount due to the state is \$2,000 or more, the grantee may enter into a payment contract, if desired. DMLW may require a quitclaim deed to unusable land in exchange for the grant of state land.

VII. Lands Rendered Unusable

The intent of AS 38.05.870 is to render aid to persons affected by a natural disaster whose land has been rendered unusable for the purposes for which it was used before the natural disaster. The following lots affected by the December 2, 2020 landslide have been determined to be unusable. Landowners of these lots are eligible to apply for state replacement land through AS 38.05.870. See *Attachment A: Lands Rendered Unusable* showing lots within the Chilkoot Inlet Alaska Subdivision, Plat 85-4.

Block	Lot	Acreage	2020 Assessed Building Value	2022 Assessed Building Value	2020 Assessed Land Value	2022 Assessed Land Value
1	6	1	\$37,700	\$0	\$94,200	\$4,700
1	7	1.16	\$226,300	\$0	\$95,900	\$4,700
3	3	2.6	\$209,700	\$10,500	\$52,900	\$2,600

The findings from Landslide Technology and R&M Consultants, Inc. along with data from the Haines Borough Assessor's office assisted DMLW with determining which lots along Beach Road were rendered unusable on December 2, 2020. All three lots listed above are within the identified slide area and contained residences that were destroyed during the December 2, 2020 landslide. The lots are now unusable for the residential purposes for which they were used before the disaster. The building values used in the determination came from the Haines Borough Assessor's office. The 2020 values were determined prior to the landslide, and the 2022 assessed values for all lots along Beach Road were identical to the 2021 values. The building value changes for other lots along Beach Road were de minimis and reflected that the structures were usable for the purpose for which they were used before the disaster.

VIII. Available Grant Land

See *Attachment B: Available Grant Land* detailing state-owned land that is available to replace the land rendered unusable by the natural disaster. These surveyed lots consist of the only currently available state lands, classified Settlement, that have been approved by the DMLW Director and/or DNR Commissioner for conveyance out of state ownership. Pursuant to AS 38.05.870(d), grant land must be of equal size, or value, or of equal utility to the land that is rendered unusable. The pool of state replacement grant lands has been selected to be of equal size or value based on the 2020 Haines borough assessed value of the land rendered unusable. In order to be considered equal, the appraised value of available grant land must be within 10% of the 2020 Haines Borough assessed land value, and the acreage of available grant land must be within 0.10 acres of the land rendered unusable.

DNR does not currently have any available land within the Haines Borough to be granted. Some of the available grant land choices may be within an organized borough or platting authority and may be subject to borough taxes, and/or reservations or restrictions of the local platting authority.

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X. Submittal of Public Comments and Applications for Grant Land

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

Pursuant to *AS 38.05.945 Notice*, LCS is issuing public notice inviting written comments on this Preliminary Decision. LCS is also accepting applications for grants of land from eligible landowners. Applications for grants of land must be made on the form provided by DMLW and will be available at <http://landsales.alaska.gov/>, <http://aws.state.ak.us/OnlinePublicNotices/>, or at the regional offices. Within 30 days of receipt of the complete application and \$280 application filing fee, DMLW shall approve or disapprove the request. Following application approval, a FFD will be issued identifying approved applications, land to be granted, lottery procedures if appropriate, and any requirements remaining.

In accordance with *AS 38.05.946(a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945(c) Notice* 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.

LCS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the PD, additional public notice will be given. Making minor changes to the proposal will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the PD, including any deletions, minor changes, and summary of comments and LCS responses will be issued as a subsequent FFD without further notice.

Only persons from whom LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the FFD. Upon approval and issuance of a FFD, a copy of the decision will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the appeal process to any party who provides timely written comment.

LCS 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 DNR's Public Information Center. For more information refer to *Attachment C: Public Notice*.

**DEADLINE TO SUBMIT WRITTEN COMMENT OR AN APPLICATION FOR GRANT LAND IS
5:00 PM, THURSDAY, OCTOBER 13, 2022**

IX. Decision and Stipulations

The December 2, 2020 landslide affecting lots on Beach Road was declared a Disaster Emergency by Governor Mike Dunleavy under *AS 26.23.020(c)*. Following the disaster, the Haines Borough drastically decreased the assessed value of the buildings on three lots within the slide area. Individuals who owned, or incurred a binding obligation to purchase, subdivision lots listed in **Section VII. Lands Rendered Unusable** that contained homes used for private residential purposes, businesses, or commercial enterprises before the natural disaster, are eligible to apply for the grant. Owners of vacant or unused lots prior to the landslide are not eligible for a grant of state land. It is not in the state's best interest to provide grants of state land to replace lots that were never used for the purposes listed above.

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The intent of AS 38.05.870 is to allow the release of State lands to be used to compensate eligible individuals who occupied land rendered unusable in a natural disaster. Granting land to eligible applicants is in the best interest of the state under the requirements of AS 38.05.870 and the following stipulations:

1. Each owner of a lot that is rendered unusable is eligible for a grant of one state subdivision lot to replace the lot that was used for residential, business, or commercial settlement use prior to the disaster. This is a one-time offer for the disaster declaration described above.
2. During a period of 30 consecutive days, eligible landowners of lots listed in *Attachment A: Lands Rendered Unusable* will have the opportunity to submit an application for a grant of land from the pool of replacement grant lands set out in *Attachment B: Available Grant Land*. Application forms may be mailed to P.O. Box 111020 Juneau, AK 99811, or emailed to landsales@alaska.gov. Within 30 days of receipt of the application, DMLW shall approve or disapprove the application.
3. If only one eligible applicant selects one parcel of state land from the land grant pool, the selection will be approved. If more than one eligible applicant selects the same land grant parcel, the applicants will be noticed, and the parcel will be awarded by lottery pursuant to AS 38.05.057 *Disposal of Land by Lottery*. The unsuccessful applicant will be allowed to choose another state parcel.
4. DMLW may require a quitclaim deed to unusable land in exchange for the grant of state land.
5. Eligible applicants will be required to pay the administrative cost of transferring the property in addition to the cost of surveying the land. If the total amount due to the state is \$2,000 or more, the grantee may enter into a payment contract, if desired

signature on file

Recommended by: Rachel Longacre
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

September 13, 2022

Date of Signature

signature on file

Approved by: Christy Colles
Acting Division Director
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

September 13, 2022

Date of Signature

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

ATTACHMENT A: LANDS RENDERED UNUSABLE

Grants of Land After Natural Disaster
Haines Beach Road Landslide
ADL 109272

Lot 6, Block 1, Chilkoot Inlet Alaska Subdivision, containing 1.0 acres more or less, according to the survey plat filed in the Haines Recording District as Plat No. 20 and amended by Plat No. 83-3, and by Plat No. 85-4, Haines Recording District, First Judicial District, State of Alaska.

Lot 7, Block 1, Chilkoot Inlet Alaska Subdivision, containing 1.16 acres more or less, according to the survey plat filed in the Haines Recording District as Plat No. 20 and amended by Plat No. 83-3, and by Plat No. 85-4, Haines Recording District, First Judicial District, State of Alaska.

Lot 3, Block 3, Chilkoot Inlet Alaska Subdivision, containing 2.60 acres more or less, according to the survey plat filed in the Haines Recording District as Plat No. 20 and amended by Plat No. 83-3, and by Plat No. 85-4, Haines Recording District, First Judicial District, State of Alaska.

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

ATTACHMENT B: AVAILABLE GRANT LAND

Grants of Land After Natural Disaster
 Haines Beach Road Landslide
ADL 109272

Lot 6, Block 1, Chilkoot Inlet Alaska Subdivision, containing 1.0 acres. 2020 borough assessed value \$94,200.							
ADL	Subdivision	Location	Acres	Appraised Value	Total Costs Reimbursed to the State	Admin Cost for Patent	Admin Cost for Contract
108718	Nakwasina Sound	Near Sitka, AK	9.42	\$92,000	\$4,569	\$265	\$405
108721	Nakwasina Sound	Near Sitka, AK	7.37	\$90,500	\$3,574	\$265	\$405
108723	Nakwasina Sound	Near Sitka, AK	9.48	\$92,100	\$4,598	\$265	\$405
108725	Nakwasina Sound	Near Sitka, AK	8.02	\$91,000	\$3,890	\$265	\$405
109003	Clark Bay View, Phase I	Hollis, AK	1	\$49,000	\$2,575	\$265	\$405
109004	Clark Bay View, Phase I	Hollis, AK	1.09	\$49,000	\$2,807	\$265	\$405
109005	Clark Bay View, Phase I	Hollis, AK	1.08	\$49,000	\$2,781	\$265	\$405
109007	Clark Bay View, Phase I	Hollis, AK	1.09	\$49,000	\$2,807	\$265	\$405
109084	Coffman Loop, Phase II	Coffman Cove, AK	1	\$23,900	\$847	\$265	N/A
109087	Coffman Loop, Phase II	Coffman Cove, AK	1.1	\$53,000	\$932	\$265	N/A
109088	Coffman Loop, Phase II	Coffman Cove, AK	1.08	53000	\$915	\$265	N/A
229897	Chignaki Pond Phase 1	Wasilla, AK	1.06	\$33,000	\$15,992	\$265	\$405
230336	Chignaki Pond Phase 2	Wasilla, AK	1.06	\$33,000	\$6,807	\$265	\$405
421793	Delta Dozen	Delta Junction, AK	1.03	\$16,200	\$0	\$265	N/A
421795	Delta Dozen	Delta Junction, AK	1.08	\$17,000	\$0	\$265	N/A

Attachment B: Available Grant Land

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Lot 7, Block 1, Chilkoot Inlet Alaska Subdivision, containing 1.16 acres. 2020 borough assessed value \$95,900.							
ADL	Subdivision	Location	Acres	Appraised Value	Total Costs Reimbursed to the State	Admin Cost for Patent	Admin Cost for Contract
108718	Nakwasina Sound	Near Sitka, AK	9.42	\$92,000	\$4,569	\$265	\$405
108721	Nakwasina Sound	Near Sitka, AK	7.37	\$90,500	\$3,574	\$265	\$405
108723	Nakwasina Sound	Near Sitka, AK	9.48	\$92,100	\$4,598	\$265	\$405
108725	Nakwasina Sound	Near Sitka, AK	8.02	\$91,000	\$3,890	\$265	\$405
109003	Clark Bay View, Phase I	Hollis, AK	1	\$49,000	\$2,575	\$265	\$405
109004	Clark Bay View, Phase I	Hollis, AK	1.09	\$49,000	\$2,807	\$265	\$405
109005	Clark Bay View, Phase I	Hollis, AK	1.08	\$49,000	\$2,781	\$265	\$405
109006	Clark Bay View, Phase I	Hollis, AK	1.11	\$49,000	\$2,858	\$265	\$405
109007	Clark Bay View, Phase I	Hollis, AK	1.09	\$49,000	\$2,807	\$265	\$405
109084	Coffman Loop, Phase II	Coffman Cove, AK	1	\$23,900	\$847	\$265	N/A
109087	Coffman Loop, Phase II	Coffman Cove, AK	1.1	\$53,000	\$932	\$265	N/A
109088	Coffman Loop, Phase II	Coffman Cove, AK	1.08	\$53,000	\$915	\$265	N/A
109111	Coffman Loop, Phase II	Coffman Cove, AK	1.17	\$24,000	\$991	\$265	N/A
229897	Chignaki Pond Phase 1	Wasilla, AK	1.06	\$33,000	\$15,992	\$265	\$405
230336	Chignaki Pond Phase 2	Wasilla, AK	1.06	\$33,000	\$6,807	\$265	\$405
229635	Mystery, Phase II	Wasilla, AK	1.27	\$28,000	\$6,424	\$265	\$405
421793	Delta Dozen	Delta Junction, AK	1.03	\$16,200	\$0	\$265	N/A
421795	Delta Dozen	Delta Junction, AK	1.08	\$17,000	\$0	\$265	N/A

Attachment B: Available Grant Land

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Lot 3, Block 3, Chilkoot Inlet Alaska Subdivision, containing 2.60 acres. 2020 borough assessed value \$52,900.							
ADL	Subdivision	Location	Acres	Appraised Value	Total Costs Reimbursed to the State	Admin Cost for Patent	Admin Cost for Contract
109003	Clark Bay View, Phase I	Hollis, AK	1	\$49,000	\$2,575	\$265	\$405
109004	Clark Bay View, Phase I	Hollis, AK	1.09	\$49,000	\$2,807	\$265	\$405
109005	Clark Bay View, Phase I	Hollis, AK	1.08	\$49,000	\$2,781	\$265	\$405
109006	Clark Bay View, Phase I	Hollis, AK	1.11	\$49,000	\$2,858	\$265	\$405
109007	Clark Bay View, Phase I	Hollis, AK	1.09	\$49,000	\$2,807	\$265	\$405
109087	Coffman Loop, Phase II	Coffman Cove, AK	1.1	\$53,000	\$932	\$265	N/A
109088	Coffman Loop, Phase II	Coffman Cove, AK	1.08	\$53,000	\$915	\$265	N/A
421589	Steele Hollow	Fairbanks, AK	13.282	\$52,200	\$13,282	\$265	\$405
421591	Steele Hollow	Fairbanks, AK	13.574	\$47,200	\$13,574	\$265	\$405
421592	Steele Hollow	Fairbanks, AK	12.116	\$47,600	\$12,116	\$265	\$405
109074	Coffman Loop, Phase II	Coffman Cove, AK	2.6	\$65,000	\$2,202	\$265	\$405
109093	Coffman Loop, Phase II	Coffman Cove, AK	2.59	\$27,500	\$2,194	\$265	\$405
204775	Glennallen Area II	Glennallen, AK	2.6	\$5,500	\$317	\$265	N/A
109169	West El Capitan	Near Whale Pass, AK	2.6	\$19,300	\$2,150	\$265	\$405
109175	West El Capitan	Near Whale Pass, AK	2.63	\$45,000	\$2,175	\$265	\$405
109176	West El Capitan	Near Whale Pass, AK	2.59	\$35,900	\$2,142	\$265	\$405
109177	West El Capitan	Near Whale Pass, AK	2.6	\$40,400	\$2,150	\$265	\$405

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

ATTACHMENT C: PUBLIC NOTICE

Requesting Input for
Grants of Land After Natural Disaster:
ADL 109272

COMMENT AND APPLICATION PERIOD ENDS 5:00PM, THURSDAY, OCTOBER 13, 2022

The Alaska Department of Natural Resources, Division of Mining, Land and Water (DNR DMLW) is conducting a public notice for the granting of state-owned land pursuant to AS 38.05.870 *Grants of Land After Natural Disaster*. Land grants may be issued to persons and municipal corporations after the Governor has formally declared a natural disaster severe enough to warrant state assistance to persons or municipal corporations. The grant land is used to replace land rendered unusable by the natural disaster for the purposes for which it was used before the natural disaster, as described in the Preliminary Decision document.

To obtain a copy of the Preliminary Decision, instructions on submitting comment, or an application for grant of state land, 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, Fairbanks at 907-451-2705, or the Southeast Land Office in Juneau at 907-465-3400 (TTY for the hearing impaired for all locations: 711 for Alaska relay or 800-770-8973), 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, October 6, 2022.

Owners of the unusable lots described in the Preliminary Decision are eligible to submit an application for a grant of state land. **The deadline for application submission is 5:00PM, THURSDAY, OCTOBER 13, 2022.** Applications may be received by email, fax, or postal mail. To submit an application or for direct inquiries, contact John King: landsales@alaska.gov, fax # 907-500-9011, or P.O. Box 111020 Juneau, AK 99811. Within 30 days of receipt of the complete application and \$280 application filing fee, DMLW shall approve or disapprove the request. Within 30 days of the end of the public notice comment period, a Final Finding and Decision will be issued identifying approved applications, land to be granted, lottery procedures if appropriate, and any requirements remaining.

Pursuant to AS 38.05.945 *Notice*, the public is invited to submit comment on the Preliminary Decision. **The deadline for public comment is 5:00PM, THURSDAY, OCTOBER 13, 2022.** Only persons from whom DNR DMLW LCS 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 email, fax, or postal mail. To submit comments or for direct inquiries, contact John King: john.king@alaska.gov, fax # 907-465-3511, or P.O. Box 111020 Juneau, AK 99811.

Attachment C: Public Notice

AS 38.05.870 Grants of Land After Natural Disaster – ADL 109272

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If no significant change is required, the Preliminary Decision including any minor changes and a summary of comments and responses, will be issued as the Final Finding and Decision, without further notice. 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.

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

FINAL FINDING AND DECISION
ADL 109272

Grants of Land After Natural Disaster
AS 38.05.870

RELATED ACTIONS:
None

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated September 13, 2022. The PD (attached) has had the required public review.

I. Recommended Actions

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends issuing grants of land to owners of private lands located within Blocks 1 and 3, Chilkoot Inlet Alaska Subdivision, Plat 85-4, Haines Recording District, Haines, Alaska that were rendered unusable by the landslide occurring on December 2, 2020, and within the area covered by the disaster declaration issued by the Governor on December 5, 2020, as described in the PD. This FFD also approves the application and grant of land identified herein.

II. Authority

DNR has the authority under *AS 38.05.870 Grants of Land After Natural Disaster* to grant state-owned land to eligible persons and municipal corporations to replace land rendered unusable by a natural disaster for the purposes for which it was used before the natural disaster 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*.

III. Public Participation and Input

Pursuant to *AS 38.05.945 Notice*, public notice inviting applications for grants of land and comment on the PD for the proposed primary action was published and distributed in the following manner:

- Posted under State of Alaska Online Public Notice from September 13, 2022, to October 13, 2022.
- Posted on DNR Land Sales website from September 13, 2022, to October 13, 2022.
- Notices mailed to the Haines Borough per *AS 38.05.945(c)(1)*.
- Mailed to postmaster in Haines with a request to post for 30 days, per *AS 38.05.945(c)(4)*.
- Mailed to the library in Haines with a request to post for 30 days.
- Mailed to the Sealaska regional corporation per *AS 38.05.945(c)(2)-(3)*.
- Mailed to Central Council of Tlingit and Haida Tribes of Alaska, Chilkoot Indian Association, and landowners within one-mile of the landslide area.

Final Finding and Decision

AS 38.05.870 Grants of Land After Natural Disaster – ADL 109272

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- Sent notification to area state legislators and multiple state agencies.

The public notice stated that written comments and applications for grants of land from eligible landowners were to be received by 5:00 PM, October 13, 2022, in order to ensure consideration and eligibility to appeal. For more information, refer to the PD.

IV. Summary of Comments

DNR DMLW LCS received comments from the Alaska Mental Health Trust Land Office and one private individual. All comments received during the public comment period are summarized below.

Mental Health Trust Land Office comment: Issuance of grants of land after natural disaster does not impact Alaska Mental Health Trust lands.

DNR DMLW LCS Response: LCS appreciates your review of the decision.

Individual comment: Commenter owns a vacant lot that was not utilized for residential, business, or commercial purposes prior to the landslide, but is now affected by the landslide. Commenter expressed a desire for assistance in identifying future actions to take with their land in order to avoid paying property taxes in perpetuity.

DNR DMLW LCS Response: DNR's authority for assistance after a natural disaster is limited to AS 38.05.870. Regarding property taxes and/or additional options for their land, LCS recommends that the commenter contact the Haines Borough.

V. Land to be Granted

LCS received two applications during the application period. The landowners of Lot 6, Block 1, Chilkoot Inlet Alaska Subdivision, a lot identified as unusable in the PD, submitted a complete application for a grant of land. LCS has determined the lot eligible to be replaced, and the application is approved. This applicant, hereinafter referred to as grantee, selected the grant land parcel identified as "ADL 109004", a 1.09-acre lot located in the Clark Bay View, Phase I subdivision in Hollis. Grant of this parcel is approved. Pursuant to AS 38.05.870(e), the grantee will be required to pay the administrative cost of transferring the property in addition to the cost of surveying the land.

<u>Land Rendered Unusable</u>	<u>Grant Land to be Conveyed</u>
Lot 6, Block 1, Chilkoot Inlet Alaska Subdivision, according to Plat 20 as amended by Plats 83-3 and 85-4, Haines Recording District, First Judicial District, State of Alaska.	Lot 7, Block 2, Alaska State Land Survey No. 2017-27, Clark Bay View Subdivision, Phase I, according to the plat recorded in the Ketchikan Recording District on May 28, 2019, as Plat 2019-24, containing 1.09 acres, more or less.

In addition, LCS received one application for a grant of land from the landowner of Lot 4, Block 1, Chilkoot Inlet Alaska Subdivision. This lot was not rendered unusable in the PD. As stated in the PD, "[o]nly lots containing structures assigned a value by the Haines Borough before the natural disaster that can no longer be used for the same purpose after the disaster will be considered eligible for replacement. Lots within the slide area that were vacant, unused, and/or

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contained structures not valued by the Haines Borough prior to the landslide will not be rendered unusable.” The owner of this lot is not eligible to receive a grant of land, and the application is denied.

VI. Modifications to Decision and/or Additional Information

The recommended action has not been modified from the original proposed action described in the PD. Pursuant to AS 38.05.870(e), the PD stated that DMLW may require a quitclaim deed to unusable land in exchange for the grant of state land. DMLW will not require a quitclaim deed for the unusable land identified above.

VII. Stipulations

The eligible grantee will be required to comply with the following stipulations to complete the proposed grant of land:

1. By December 24, 2022, the grantee must submit to DMLW the following:
 - a. A completed and signed Declaration of Intent Form;
 - b. Finance the costs reimbursable to the state through a contract, or pay all costs in full:
 - i. If the grantee wishes to enter into a land sale contract, DMLW requires a minimum 5% deposit of the costs (\$2,807) and \$405 in fees (\$360 for a contract application fee and \$45 for a contract recording fee).
 - ii. If the grantee wishes to pay off the parcel and receive a patent, DMLW requires the full payoff amount (\$2,807) and \$265 in fees (\$240 for a patent application fee and \$25 for a patent recording fee).

If extenuating circumstances delay any of the stipulations listed above, the applicant is responsible for notifying DMLW of the delay, obtaining approval for the delay from DMLW, and providing new timeframes for completion. The subject parcel cannot be purchased until all the above stipulations have been satisfied. Failure to satisfy stipulations could result in a termination of the grant.

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VIII. Final Finding and Decision

The Land Conveyance Section recommends proceeding with the action as described in the Preliminary Decision. This action is undertaken under relevant authorities. The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with *AS 38.05.945 Notice*, and comments received were considered. The actions are consistent with constitutional and statutory intent for State-owned land, and this action is undertaken under relevant authorities.

Recommendation and Approval of the Final Finding and Decision follow.

Signature on file

October 24, 2022

Recommended by: Rachel Longacre
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

Date

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended action as described and referenced herein.

Signature on file

October 25, 2022

Approved by: Christy Colles
Acting Division Director
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

Date

Appeal Provision

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska State Courts establish its own rules for timely appealing final administrative orders and decisions of the department.

Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(6), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A .pdf or print copy of 11 AAC 02 may be obtained by contacting Erik Fossum via phone at (907) 269-8429, via email at Erik.Fossum@alaska.gov, and is also available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>