

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

**FINAL FINDING AND DECISION**

**Petitioners: Rudi & Natasha von Imhof, The Leonard Hyde Anchorage Residence Trust**  
Section-Line Easement Vacation  
EV-2-861

This Final Finding and Decision complements the Preliminary Finding and Decision for EV-2-861 issued on February 10, 2006. No updates or changes to the approved Preliminary Finding and Decision have been made.

**PETITIONED ACTION:**

The proposed action consists of vacating the 66-foot section-line easement (33-feet each side of the section line) within Tracts A1 & B1, Resolution Pointe Subdivision-Addition #1 (Plat No. 2002-146) and the 33-foot section-line easement within Lot 1, Block 1, Resolution Pointe (Plat No. 82-302). The proposed action is located in Sections 14 & 15, T. 12 N., R.4 W., S.M. Vacation of this section-line easement will allow the petitioners to utilize a preferred building site on the property. Please see Attachment A.

**LEGAL AUTHORITY:**

AS 19.30.410, AS 38.05.035(e), AS 38.05.945, and 11 AAC 51.065

The Alaska Department of Transportation and Public Facilities (DOT/PF) and the Alaska Department of Natural Resources (DNR) have concurrent authority for approving the vacation, modification or relocation of section-line easements.

**PUBLIC NOTICE AND COMMENT:**

Public Notice, pursuant to AS 38.05.945, was advertised in the Anchorage Daily News on February 16, 2006 and February 23, 2006. The notice was also posted on the State of Alaska Online Public Notice website from February 16, 2006 through March 20, 2006. One comment on the proposed action was received.

**Comments sent March 16, 2006 by David C. Mesiar are summarized as follows:**

1. Giving up public access land that may be desired at some point in the future for recreational users is not in the best interest of the State.
2. Reduction of the easement to 25 ft from 66 ft removes a buffer zone to the private properties on both sides and removes development possibility for limited vehicle parking and snow removal.
3. The public should not give up designated access in order to accommodate the property owner's desire for a slightly better homesite.
4. Posting notices for the public to maintain awareness of flight operations would prepare recreational users for arriving and departing aircraft and aircraft owners would operate to accommodate those recreational users.
5. The boundary of the proposed easement should be properly identified, and vegetation cleared, so the public desiring access to Campbell Lake may do so confidently, without trespassing on private property.

**Response to comments sent March 16, 2006 by David C. Mesiar:**

1. This decision does not deny the public access to Campbell Lake for recreational purposes. This decision ensures that an easement will remain for foreseeable access. The easement provides the public with an easement that is functionally comparable and is a reasonably equivalent alternative to the section-line easement.

2. The purpose of the easement is for a transportation corridor. The DNR has ensured access to public waters by reserving the 25 ft easement.
3. The easement has been relocated to a topographically comparable location. Public access is guaranteed by having an equally accessible route to the water.
4. Campbell Lake is recognized by the State of Alaska as public water. Both pilot and pedestrian should be aware of the dangers in accessing Campbell Lake.
5. The petitioner is required to remove the fence and any other man made obstructions that deny access to the easement. The petitioner is also required to remove any sign that would deter use of the easement.

**AGENCY REVIEW AND COMMENT:**

Agency review of the proposed action was conducted prior to issuance of the Preliminary Finding and Decision and concurrently with Public Notice. Agencies notified during both agency review periods included DOTPF, Department of Fish and Game, DNR Division of Mining, Land and Water—Southcentral Region Land Office, DNR Division of Parks and Outdoor Recreation, and Alaska Mental Health Trust Land Office. No comments or adverse objections from state agencies were received during the public comment period following issuance of the Preliminary Finding and Decision.


**FINDING:**

1. The proposed alternate access meets the requirements for vacating a portion of the subject section-line easements pursuant to AS 19.30.410 and 11 AAC 51.065.
2. No overriding public values have been identified that would require retention of the subject section-line easement proposed for vacation.

**Approval of the proposed section-line easement vacation is subject to the following conditions:**

1. The applicant must comply with Municipality of Anchorage conditions of approval.
2. Dedication of the 25-foot wide public pedestrian easement noted above in the Alternate Route section of this preliminary finding and as shown on Attachment A.
3. The Petitioner removes the fence and other man made obstructions that deny access to the proposed pedestrian easement. The petitioner also permanently removes any sign that would deter use of the newly dedicated pedestrian easement to ensure future access.
4. A final plat must be submitted within two years from the date of approval of the Final Finding and Decision.

Adjudicator,



Andrew A. Gorn  
Natural Resource Specialist II

04/03/2006  
Date

**FINAL FINDING AND DECISION:**

The finding presented above has been reviewed and considered. The requirements of all applicable statutes and regulations have been satisfied. It is the finding of the Director, Division of Mining, Land and Water, that it is in the best interest of the State of Alaska and the public, and that I hereby approve the recommended action.



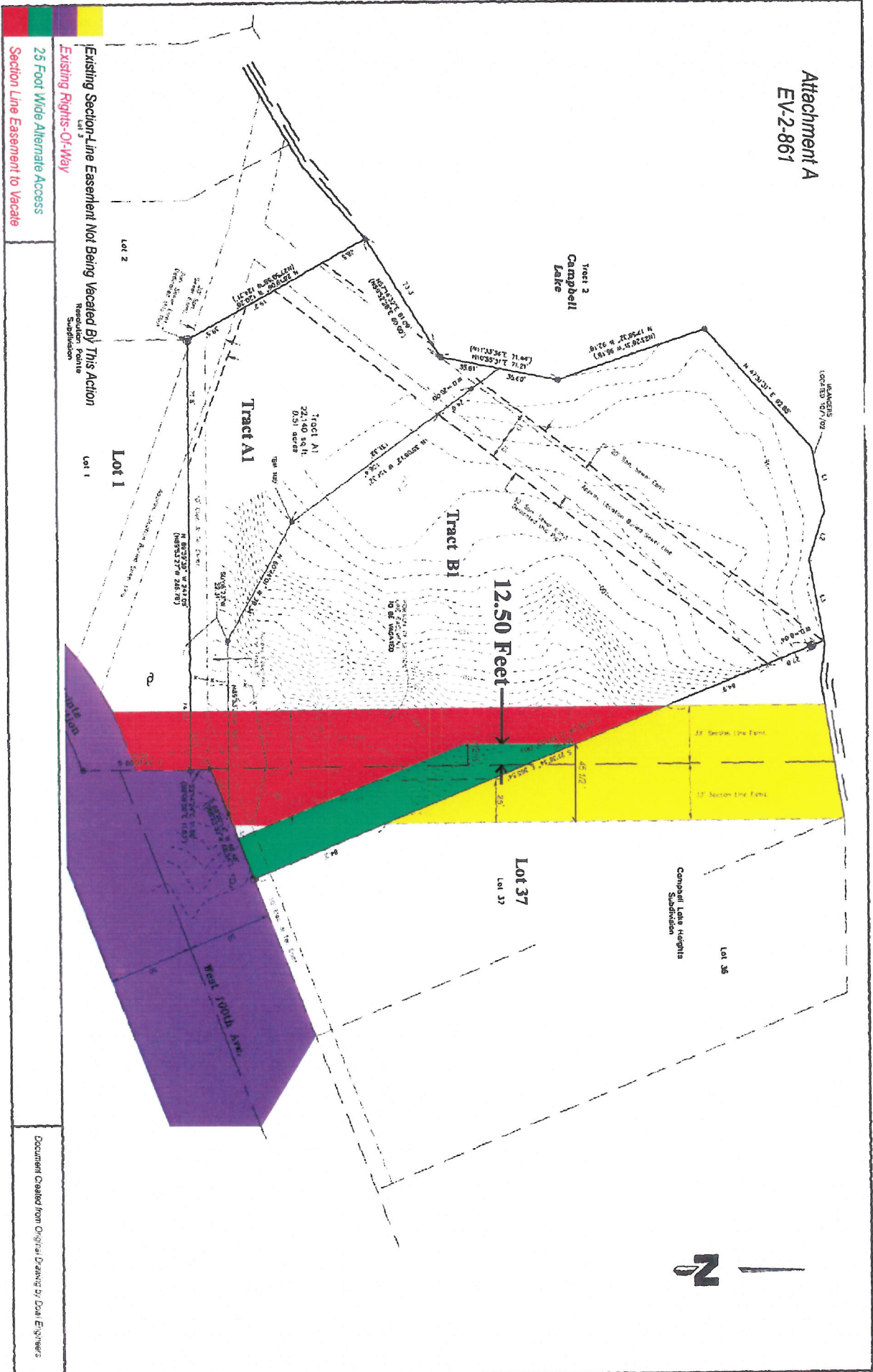
Richard H. Mylius, Acting Director  
Division of Mining, Land & Water

4/3/06  
Date

**APPEAL PROVISION:**

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of issuance of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to Mike Menge, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to [dnr\\_appeals@dnr.state.ak.us](mailto:dnr_appeals@dnr.state.ak.us). If no appeal is filed by that date, this decision goes into effect as a final order and decision 31 days after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

Attachment A  
EV-2-861



Existing Section-Line Easement Not Being Vacated By This Action  
 Existing Rights-Of-Way  
 25 Foot Wide Alternate Access  
 Section Line Easement to Vacate