

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

**FINAL FINDING AND DECISION**

of a  
Tideland Conveyance in the City and Borough of Juneau  
**ADL 109052 – City and Borough of Juneau**  
*AS 38.05.035(e), AS 38.05.825*

And its  
**RELATED ACTIONS:**  
**Amendment to the Juneau State Land Plan SE-93-004A10**  
*AS 38.04.065*  
**Land Classification Order CL SE-93-004A10**  
*AS 38.04.065 and AS 38.05.300*

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated January 15, 2021. The PD (attached) has received 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 conveying approximately 4.73 acres of State-owned tide and submerged lands within Gastineau Channel in the downtown Juneau harbor, as described in the ADL 109052 PD, pursuant to *AS 38.05.825 Conveyance of tide and submerged land to municipalities*.

There are two related actions with this proposal:

Area Plan Amendment: DNR proposes to amend the Juneau State Land Plan (JSLP, adopted 1993). The amendment will amend the designation of Subunit 6a8 to add Waterfront development (Wd) to the existing designations of Wildlife Habitat (Hb) and Fish and Wildlife Harvest (Hv). No changes to the management intent are proposed.

Land Classification Order: In relation to the Area Plan Amendment, DNR proposes to reclassify the project area in a Land Classification Order from Wildlife Habitat Land to Waterfront Development Land and Wildlife Habitat Land.

Public notice for these related actions was conducted concurrently with the notice for the primary action's PD.

**II. Authority**

DNR has the authority under *AS 38.05.825 Conveyance of tide and submerged land to municipalities* to convey State-owned lands suitable for occupation and development when requested by the municipality unless it is found that public interest in retaining state ownership clearly outweighs municipal interest, and if the land is: within the boundaries of the municipality;

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the use does not unreasonably interfere with navigation or public access; the municipality has applied for conveyance; the land is not subject to a shore fisheries lease under *AS 38.05.082 Leases for shore fisheries development; account*; the land classification is consistent with or compatible with the proposed use; and the land is required for a public or private development approved by the municipality.

For related actions, *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

### **III. Public Participation and Input**

Pursuant to *AS 38.05.945 Notice*, public notice inviting 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 January 15, 2021 to February 18, 2021.
- Notice mailed to the City and Borough of Juneau per *AS 38.05.945(c)(1)*.
- Mailed to the Juneau, Douglas, and Mendenhall Valley public library branches, and postmasters at Federal Station, Mendenhall, Auke Bay, and Douglas post offices with a request to post for 30 days, per *AS 38.05.945(c)(4)*.
- Mailed to the Sealaska Regional Corporation per *AS 38.05.945(c)(2)-(3)*.
- Mailed to 45 landowners within 0.5 miles of the conveyance along with Federally Recognized Tribes and Native Village Corporations.
  - Federally Recognized Tribes
    - Douglas Indian Association
    - Central Council of Tlingit and Haida Tribes of Alaska
  - Village Corporations
    - Goldbelt Incorporated
- Emailed notice to the Southeast Alaska Soil and Water Conservation District, Trustees for Alaska, and all State agencies who received the agency review notice.

The public notice stated that written comments were to be received by 5:00 PM, February 18, 2021 in order to ensure consideration and eligibility to appeal. For more information, refer to the PD.

The final survey will be completed by an Alaska licensed surveyor. The surveyor will submit a platting application including a preliminary plat to the local platting authority prior to survey. This process will be subject to ordinances within Title 49 of the City of Juneau code. During the process, the public will have an opportunity at the local level to provide additional comment and feedback prior to final establishment of lot corners and monuments.

### **IV. Summary of Comments**

DNR DMLW LCS received comments from the public comment period as summarized below.

DNR DMLW LCS received brief comments of non-objection from the following agencies: DNR Division of Oil and Gas, Alaska Department of Transportation & Public Facilities.

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

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Member of the public: As a representative for a landowner near the project area, the commenter supported the proposed tideland conveyance. The commenter stated that the Seawalk extension project will decrease traffic and promote better pedestrian safety in the area.

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

Alaska Department of Environmental Conservation (DEC): The commenter offered updated language to state that the program referred to as the “Cruise Ship Monitoring Program” in *Section VIII. Background and Discussion* of the PD, is called the “Division of Air Quality, Compliance Program”. In addition, the commenter stated that the program issues notice of violation and penalties for violations of the State’s air quality standard for marine vessels under *18 AAC 50.070 Marine vessel visible emission standards*, and not solely for cruise ships.

DNR DMLW LCS Response: LCS appreciates your review of the preliminary decision and will update the language in future references to the Division of Air Quality Compliance Program.

City and Borough of Juneau (CBJ): CBJ requested the rationale behind the choice of Alternative 1 over Alternative 2. Specifically, CBJ requested an explanation to how the public interest is served by retaining the additional acreage in State ownership. CBJ requests the decision of be reconsidered.

DNR DMLW LCS Response: LCS appreciates your review of the preliminary decision. Pursuant to *AS 38.05.825(a)*, “the commissioner shall convey to a municipality tide or submerged land requested by the municipality that is occupied or suitable for occupation and development if the” criteria listed in sections 1 through 6 are met.

Pursuant to *AS 38.05.825(a)(6)*, the land selected for conveyance must be “required for the accomplishment of a public or private development approved by the municipality”. CBJ’s application for conveyance included Resolution No. 2878 supporting the application to acquire tide and submerged land from DNR. The resolution approves extending the Seawalk as depicted on the supplied “Concept Plan No. 1” diagram. The land required for the Seawalk extension is privately-owned except for a small portion in the southeast corner that extends onto state-owned tide and submerged lands. This portion was included in the proposed parcel for conveyance.

The application and Concept Plan No. 1 also included a proposed mooring dolphin catwalk to allow additional cruise ship moorage area. This catwalk would extend onto state-owned submerged land. The submerged land required for this catwalk and associated mooring area for a cruise ship was included in the parcel for conveyance.

Alternative 1 continues to be the preferred alternative because the proposed parcel encompasses the area required for the mooring dolphin catwalk and Seawalk extension public development projects that were referenced in the application. CBJ’s application for conveyance did not include any additional public or private development projects that warrant the conveyance of the requested 10.2-acre parcel of state-owned tide and submerged lands. The additional requested area does not meet the requirements for conveyance promulgated in *AS 38.05.825* and retaining the lands in State ownership is in the best interest of the public and the State. CBJ may apply for a conveyance of additional

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tide and submerged lands when required for a public development approved by the municipality.

**V. Modifications to Decision and/or Additional Information**

The recommended action has not been modified from the original proposed action described in the PD.

Recommendation and Approval of the Final Finding and Decision follow.

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**VI. 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 public interest in retaining the proposed parcel in state ownership does not outweigh the municipal interest.

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 project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The actions are consistent with constitutional and statutory intent for State-owned land and this action is undertaken under relevant authorities.

signature on file

May 18, 2021

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

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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(s) as described and referenced herein.

signature on file

May 18, 2021

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Approved by: Martin W. Parsons  
Director  
Division of Mining, Land and Water  
Department of Natural Resources  
State of Alaska

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Date

signature on file

May 18, 2021

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Approved by: Corri A. Feige  
Commissioner  
Department of Natural Resources  
State of Alaska

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Date

### **Reconsideration Provision**

A person affected by this decision who provided timely written comment or public hearing testimony on the preliminary decision may request reconsideration, in accordance with *11 AAC 02*. Any reconsideration request 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 the Commissioner, Department of Natural Resources, 550 W. 7<sup>th</sup> Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). Under *11 AAC 02.030*, appeals and requests for reconsideration filed under *11 AAC 02* must be accompanied by the fee established in *11 AAC 05.160(d)(1)(F)*, which has been set at \$200 under the provisions of *11 AAC 05.160 (a) and (b)*.

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on their own motion, this decision goes into effect as a final order and decision on the 31st calendar day after the date of issuance. Failure of the commissioner to act on a request for reconsideration within 30 calendar days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of 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.