REQUEST FOR PROPOSALS
RFP DH20-034

PROFESSIONAL SURVEYING SERVICES
for
ATS 1682 / ADL 107804
&
ATS 1693 / ADL 106678
in
JUNEAU, ALASKA

Issued by: Carl Uchytil, Port Director
Date: February 3rd, 2020
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1.0 GENERAL INFORMATION

1.1 Purpose

The purpose of this document is to solicit proposals from qualified professional land surveyors to compile a single plat for two properties in accordance with survey instructions issued by the Alaska Department of Natural Resources (ADNR). ADNR has given permission to combine both ATS surveys into one plat due to their close proximity.

1.2 Background

Juneau is Alaska’s Capital City. This project is under purview of the City and Borough (CBJ) of Juneau Docks and Harbors. The CBJ Docks and Harbors is an enterprise fund directed by an Assembly appointed Board of volunteers. The Port Director sits at the pleasure of the Board and is in charge of all operations of Docks and Harbors. He is supported by an Administrative Officer; Administrative Assistant; Port Engineer and staff; and the Juneau Harbormaster and staff. The Port Director’s Office is located on the Second Floor of the Seadrome Building at 76 Egan Drive in Juneau, Alaska.

1.3 Scope of Services

The Consultant shall compile a preliminary plat in accordance with the survey instructions issued by ADNR and provide copies to ADNR and CBJ for review and comment. The Consultant shall consider review comments by ADNR and CBJ and make necessary changes to create a final plat document for recording with the State of Alaska.

The Consultant shall prepare application materials required for CBJ Community Development Department and Alaska Department of Natural Resources platting review process. CBJ Docks and Harbors will pay CBJ and ADNR platting fees.

Attachments 1 and 2 in this RFP contain the survey instructions issued by ADNR. The location of the work is along Gastineau Channel, between Downtown and Lemon Creek, on the seaward side of Channel Drive, in Juneau, Alaska. The parcels are identified as ATS 1682/ADL 107804 and ATS 1693/ADL 106678.

1.4 Minimum Qualifications

The minimum qualifications for proposers are:

1. A valid State of Alaska professional land surveyor’s license;
2. An established track record developing a final plat in accordance with ADNR requirements; and
3. The ability to submit a preliminary plat in accordance with the schedule contained in this RFP and ability to submit final plats to ADNR and CBJ
within 30 days after receipt of ADNR's comments on the preliminary plats.

1.5 **Schedule and Pay**

The surveyor shall **submit a preliminary plat** for the parcel to ADNR and CBJ in accordance with ADNR's instructions by **May 31, 2020**. After submittal of the preliminary plat and upon approval by the project manager, CBJ will pay the consultant 75% of a total fixed fee. The Consultant may submit pay requests on a periodic basis prior to the submittal of the preliminary plat provided the amount does not exceed 75% of the total fixed fee.

The consultant shall submit a final plat for the parcels to ADNR and CBJ within 30 days after receiving comments from ADNR on the preliminary plat. After approval of the final plat, CBJ will pay the consultant the remaining 25% of the total fixed fee.

1.6 **Questions**

Questions regarding this proposal will be answered by:

Teena Larson, Administrative Officer  
City and Borough of Juneau  
Docks and Harbors  
155 S. Seward Street  
Juneau, Alaska 99801  
**Telephone:** (907) 586-0292  
**Fax:** (907) 586-0295  
**Email:** teena.larson@juneau.org  
**Office Location:** 2nd floor of Seadrome Building, 76 Egan Drive, Juneau, Alaska  
Office hours are 8:00 a.m. to 4:30 p.m. local time, Monday through Friday.

1.7 **Proposal Deadline**

Proposals will be accepted until **2:00 p.m. on February 20th, 2020**. The proposals may be mailed to the City and Borough of Juneau, Docks and Harbors Port Office, 155 S. Seward Street, Juneau, Alaska 99801 or hand-delivered to the Port Director's Office, 2nd Floor of the Seadrome Building, 76 Egan Drive, Juneau, Alaska.

1.8 **Standard Professional Services Contract Language**

Attached to this RFP is a CBJ standard contract which should be carefully reviewed by proposers, as it is the basis of the agreement that the CBJ intends to contract with the selected Consultant in the event of acceptance of its proposal.

1.9 **Duty to Examine the RFP and Addenda**

Proposers should carefully examine the entire RFP and any addenda thereto,
and all related materials and data referenced in the RFP. Proposers should become fully aware of the nature of the services requested and the conditions likely to be encountered in performing the services.

1.10 Proposal Disposition

The content of proposals will be kept confidential until the selection of the surveyor is publicly announced. All materials submitted in response to this RFP will become the property of the CBJ. The proposal will be retained for the official files of the Port Director’s Office and will become public record after announcement of the successful Proposer. The CBJ will not return the proposal to the Proposer. The CBJ reserves the right to reject any or all proposals.

1.11 Exclusion

This solicitation does not commit CBJ to select any Consultant(s) for the requested services. All costs associated with the respondent’s preparations and submission shall be the responsibility of the Proposer.

2.0 PROPOSAL REQUIREMENTS

All proposals must be signed. A proposal may be signed by the Consultant or by an agent(s) only if he/she is an officer or a corporate representative authorized to sign contracts on the Consultant’s behalf, a member of a partnership, or is properly authorized by a power of attorney or equivalent document. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

Proposals must contain the information requested below.

State the subject of the RFP, the name of the firm, address, telephone and fax numbers, name of a contact person and date of submission.

Provide a copy of the surveyor’s license for the surveyor who will be in responsible charge of the work.

Provide a list of platting projects that have been performed in accordance with ADNR survey instructions and a discussion of how that work compares to the work required under this RFP.

Discuss the firm’s present workload and its capacity to perform the services in accordance with the schedule stated in the RFP. Provide a proposed time schedule outlining the sequence necessary to complete the requested services by the project deadlines. Specify how much priority will be given to the project and who will manage the project.

Provide a total fixed fee for performing the work required by this RFP. Assume that CBJ will pay applicable platting fees to ADNR for the work required by this RFP.

RFP DH20-034
Professional Surveying Services for
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Page 5
Provide a specific acknowledgement of any applicable addenda.

3.0 EVALUATION OF PROPOSALS

Evaluation of the written proposals will be performed by a committee selected by the Port Director. The Committee will be comprised of a professional architect and an engineer. Written proposals will be the primary basis for selection of the consultant, unless the selection committee determines that oral interviews are necessary.

If oral interviews are used, the selection committee will prepare a "short list" of at least two finalists, who will then be invited to attend oral interviews in Juneau. Finalists will be notified and informed of specific interview requirements and procedures prior to the oral interview. Proposers will be allowed a maximum of three team members to participate in the interview process.

Oral interviews, if used, will be scored and ranked independently of the written proposal and will determine the outcome of the RFP process. All costs associated with attendance of the interviews, if held, will be the responsibility of the Proposer. The intent of the CBJ is to make award based on written proposals if possible.

The proposals will be evaluated using the criteria listed below.

3.1 Firm's Experience with Similar Projects

Evaluation will include assessment of the proposer's experience compiling ADNR plats.

3.2 Capacity of the Firm to Meet Schedule

Evaluation will include an assessment of the proposer's ability to perform the desired services within the established schedule.

3.3 Firm's Fee

Evaluation will include an assessment of the total fixed fee for performing the work.

3.4 Local Proposer's Preference

A 5% local proposer preference will be given to Proposers meeting the criteria of CBJ's Purchasing Ordinance 53.50, section 53.50.010. CBJ Ordinance 53.50 can be viewed electronically at the following internet address: http://www.juneau.org/law/code/purchasing.pdf. A paper copy of the CBJ Purchasing Ordinance is available upon request from the Port Director's Office.

4.0 SELECTION AND AWARD PROCESS

RFP DH20-034
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ATS 1682 / ADL 107804 & ATS 1693 / ADL 106678 in Juneau, Alaska
An evaluation committee will review, evaluate, score, and rank proposals in accordance with criteria identified in Section 3.0 and the Evaluation Form located at the end of this RFP. Each member of the Selection Committee will independently score the proposals. Each member's scores, as they relate to the group of proposals, are then ranked. The proposal receiving the highest score is given a ranking value of "one", the second highest scored proposal receives a ranking of "two", and so on. The scores and rankings of each member are then forwarded to the Port Director. These rankings are checked for accuracy and combined to form a composite ranking.

The Proposer with the lowest composite numerical rank will be declared the apparent successful Proposer. In the event of a tie in the ranking totals, the raw scores of the Proposers who are tied will be totaled to determine the successful Proposer. If oral interviews are used, the successful proposer will be chosen as provided in Section 3.0 of this RFP.

After issuance of a notice of apparent successful proposer, the protest period begins. Once the protest period is over, the successful Proposer will be invited to enter into contract negotiations with the CBJ. If negotiations are unsuccessful, discussions with the lowest ranked Proposer will be terminated and the second lowest ranked Proposer may be contacted for negotiations.

Award of contract, if made, will be to the responsible Proposer selected in accordance with the process described in Section 4 of this RFP, and whose final proposal and fee is accepted by the CBJ.

The CBJ reserves the right to award the contract to the successful firm without further discussion. All offers must be complete and irrevocable for 90 days following the submission date.

5.0 INSURANCE REQUIREMENTS

The insurance requirements for this project will be as specified in a typical CBJ Professional Services Contract (see Attachment 2).

6.0 JUNEAU BUSINESS SALES TAX AND PERSONAL PROPERTY TAX

Vendors/merchants conducting business within the City are required by law to register with the City for sales and property taxes. Vendors/Merchants must be in good standing for all amounts owed to the City prior to award and prior to all contract renewals, but in any event no later than five business days following notification by the City of intent to award. Failure to meet these requirements, if so subject, shall be cause for your bid to be rejected. To determine if your business is subject to these requirements, or for further information, contact the City Finance Department, Sales Tax Division, at (907) 586-5265 concerning sales tax and the Assessor Division at (907) 586-5268 concerning business personal property and real property tax.
PROPOSER:_______
SCORED BY:_______ DATE:__________

EVALUATION/RANKING

<table>
<thead>
<tr>
<th>WEIGHT</th>
<th>RANK</th>
<th>SCORE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Previous Experience Compiling Plats for ADNR</td>
<td>40/# proposals x ____</td>
<td>= ____</td>
</tr>
<tr>
<td>2. Capacity of the firm to perform the services within the established schedule.</td>
<td>30/# proposals x ____</td>
<td>= ____</td>
</tr>
<tr>
<td>3. Fixed Fee Amount</td>
<td>30/# proposals x ____</td>
<td>= ____</td>
</tr>
</tbody>
</table>

SUBTOTAL SCORE (1+2+3) ____

4. Meets the definition of Juneau Proposer (Subtotal x 0.05) ____

TOTAL SCORE (Subtotal Score + 4) ____

INDIVIDUAL RANKING^2 ____

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^1 Determined by ranking the proposals against each other. The proposer with the best experience, capacity, or the lowest fee is assigned a rank equivalent to the # of proposals received. The proposer with the next best experience, capacity, or 2nd lowest fee is assigned a rank equivalent to the # of proposals received minus one, etc.

^2 Based on total score. The proposal with the highest total score is given the highest rank.
ATTACHMENT 1

ATS 1682 / ADL 107804 SURVEY INSTRUCTIONS
July 23, 2019

Gary Gillette, Port Engineer
City and Borough of Juneau
155 S. Seward Street
Juneau, Alaska 99801

File: ATS No. 1682
Subj: Extend Survey Instructions
ADL No. 107804

Dear Mr. Gillette:

This is in response to your phone conversations with Amy Orange-Posma earlier this month requesting extension to the Survey Instructions issued on August 9, 2010, for ATS No. 1682 / ADL No. 107804, the municipal tidelands tract of approximately 1.69 acres of tide and submerged land approved for conveyance to the City and Borough of Juneau in Gastineau Channel adjacent to DIPAC and Channel Construction.

The City and Borough of Juneau’s lack of full funding needed to fulfill the survey work has caused delay and put the project behind the originally anticipated schedule. The original Survey Instructions were extended to expire on June 30, 2020 with the issuance of Supplemental Survey Instructions on March 12, 2018. The request for extension of Survey Instructions for ATS No. 1682 until June 30, 2023 is approved. If the City and Borough of Juneau is unable to submit a survey for our review by June 30, 2023, new survey instructions must be requested; the current fee (which is subject to change) for municipal entitlement survey instructions is $2,000.00.

All other terms and conditions of the original and supplemental survey instructions are to remain in force.

If you have any questions concerning these instructions, please feel free to contact me at 269-8519.

Sincerely,

Brian Raynes, PLS, CFedS
Coastal and Riparian Boundary Supervisor

cc: Nina Brudie, RADS
Natural Resource Tech II: Ronda Wilson ADL No. 107804
Survey Tracking & Monitoring, Case Type: 316, Subtype: 0046
March 12, 2018

Teena Larson
Administrative Officer
CBJ Docks & Harbors
155 S, Seward Street
Juneau, Alaska 99801

File: ATS No. 1682
Subj: Supplemental Survey Instructions
ADL No. 107804

Dear Ms. Larson

Note the new format for issuance of survey instructions including: Special Survey Instructions, Attachment for Special Survey Instructions (Ver. 12/10/15), Plan of Survey, Plat Checklist, and Plat Submittal Requirements.

Enclosed are the Supplemental Special Survey Instructions for the survey and platting of ATS No. 1682 / ADL No. 107804, the tide and submerged land conveyance of approximately 1.69 acres to the City and Borough of Juneau. These instructions will be good until June 30, 2020 per your request. The applicant is being notified of the issuance of the instructions by a copy of this letter.

A waiver of any portion of the field survey requirements of the Supplemental Survey Instructions must be requested and approved prior to completion of the fieldwork. A waiver of any portion of the platting requirements must be requested and approved prior to the submittal of the preliminary plat.

This survey is subject to review and approval by the City and Borough of Juneau Platting Authority. It is the responsibility of the surveyor to obtain this approval. In the event any Platting Authority requirement significantly changes the scope of this survey, contact this office for additional Supplemental Instructions.

If you have any questions concerning these instructions, please feel free to contact me at 269-8519.

Sincerely,

Brian Raynes, PLS
Coastal & Riparian Boundary Unit Supervisor

"Develop, conserve and maximize the use of Alaska's natural resources consistent with the public interest."

GA-New\ATS\ATS 1682\Supplemental SI\sT\ATS 1682 City & Borough of Juneau\SI\Supplemental\1 ATS1682 SI Coverletter.doc
Enclosures:
    Special Survey Instructions
    Attachment for Special Survey Instructions (Ver. 12/10/15)
    Plan of Survey
    Plat Checklist
    Plat Submittal Requirements

cc:
    Lee Cole, Natural Resource Manager, Southeast Regional Office, DMLW
    Natural Resource Tech II: Ronda Wilson ADL No. 107804
    Survey Tracking & Monitoring, Case Type: 316, Subtype: 0046
SUPPLEMENTAL SPECIAL SURVEY INSTRUCTIONS

ALASKA TIDELAND SURVEY NO. 1682

These instructions together with the Attachment for Special Survey Instructions, Ver. December 10, 2015, provide for the survey and platting of 2 parcels encompassing approximately 1.69 acres of tide and submerged lands within Section 9, Township 41 South, Range 67 East, Copper River Meridian, at Juneau, Alaska. The purpose of this survey is to facilitate the conveyance of tide and submerged land to the City and Borough of Juneau in accordance with AS 38.05.825, pursuant to the Final Finding and Decision for ADL No. 107804, approved November 17, 2009. These Supplemental Special Survey Instructions supersede the Special Survey Instructions issued August 9, 2010.

HISTORY OF SURVEYS

Protraction Diagram CR-12-13, for T. 41 S., R. 67 E., Copper River Meridian, was approved by the State of Alaska on September 14, 1961.

The USRS for T. 41 S., R. 67 E., Copper River Meridian associated with Sections 7, 18, 19, 29-33, was completed by “Donald P. Fordney, Registered Alaska Land Surveyor, in 1985 and the plat was accepted by BLM on June 14, 1990.

U.S. Survey No. 1798 was completed by Fred Dahlquist, US Cadastral Engineer, in 1927 and the plat was accepted by BLM on March 2, 1929.

U.S. Survey No. 1924 was completed by Frank A. Metcalf, U.S. Deputy Surveyor, in 1929 and the plat was accepted by BLM on May 14, 1930.

U.S. Survey No. 2133 was completed by Frank A. Metcalf, U.S. Deputy Surveyor, in 1932 and the plat was accepted by BLM on August 28, 1933.

U.S. Survey No. 3824 was completed by Robert Q. Pickering, Cadastral Surveyor, in 1962 and the plat was accepted by BLM on September 4, 1962.
The State of Alaska Department of Highways “Right of Way Map, Alaska Project F-095-8(14), Glacier Expressway – Vanderbilt Hill to Norway Point” was drawn in 1971.

A document captioned “Interagency Land Management Transfer (Amended),” issued under ADL No. 058216 to the Department of Highways, was recorded in Book 104, Pages 234-237, Juneau Recording District, on November 30, 1972. Amendment #2, dated December 26, 2000 deleted that portion of the ILMT included in Tracts A & B of ATS No. 1356. A copy of each document is enclosed.

ATS No. 7 was completed by Toner & Nordling Registered Engineers in 1960 and approved by the State of Alaska on February 14, 1961; the plat was recorded in the Juneau Recording District as Plat No. 2001-8 on January 11, 2001.

ATS No. 13 was completed by Toner & Nordling Registered Engineers in 1961 and approved by the State of Alaska on March 16, 1961; the plat was recorded in the Juneau Recording District as Plat No. 290 on May 26, 1961.

ATS No. 217 was completed by Toner & Nordling Registered Engineers in 1962 and approved by the State of Alaska on March 15, 1963; the plat was recorded in the Juneau Recording District as Plat No. 369 on March 26, 1963.

ATS No. 370 was completed by Toner & Nordling Registered Engineers in 1964. ATS No. 370 was not approved by the State of Alaska and the survey was canceled on March 29, 1974. This plat was not recorded.

ATS No. 423 was completed by Toner & Nordling Registered Engineers in 1964 and approved by the State of Alaska on November 12, 1964; the plat was not recorded.

ATS No. 1067 was completed by R&M Consultants Inc. in 1979 and approved by the State of Alaska on September 7, 1979; the plat was recorded in the Juneau Recording District as Plat No. 79-50 on September 14, 1979.

ATS No. 1356 was completed by Toner-Nordling & Assoc. Inc. in 1991 and approved by the State of Alaska on November 22, 1991; the plat was recorded in the Juneau recording district as Plat 91-74 on December 3, 1991. The Amended Plat was recorded as Plat No. 92-40 on August 24, 1992.

A document captioned “Right of Way Permit” issued under ADL No. 104840 to Douglas Island Pink & Chum, Inc., was recorded in Book 377, Pages 328-332, Juneau Recording District, on May 5, 1993. A copy is enclosed.

ATS No. 1503 was completed by Toner-Nordling & Assoc. Inc. in 1995 and approved by the State of Alaska on September 10, 1996; the plat was recorded in the Juneau recording district as Plat 96-62 on September 16, 1996.

The following plats/documents were filed/recorded in the Juneau Recording District:
Commissioner’s Quit Claim Deed  Bk 138 Pg 334  Recorded on January 5, 1978.
Bridgchris Park Subdivision  Plat No. 83-185  Recorded on October 26, 1983.
ASLS No. 96-28  Plat No. 98-50  Recorded on October 14, 1998.
Hospital Subdivision  Plat No. 99-29  Recorded on July 19, 1999.

METHOD OF SURVEY PROCEDURE

Two tracts shall be created by this survey.

Tract A shall be the westerly parcel and Tract B shall be the easterly parcel.

ATS No. 1682 shall be contiguous with the boundaries of: Tract A, ATS No. 1356, ATS No. 1067 and Lot 2, ATS No. 7.

Tract B shall generally be defined by the proposed lease, dated December 2008, “A Site Plan of Uplands Expansion Project for Channel Construction Juneau, Alaska” in Attachment A of the Preliminary Decision. Note that the proposed lease included a fraction of ATS No. 1067. The northeasterly boundary of Tract B, ATS No. 1682 shall be contiguous with the southwesterly boundary of ATS No. 1067 and will not include the fraction as described.

The northerly boundary of Tract A, ATS No. 1682 shall be contiguous with the southerly and southeasterly boundaries of Tract A, ATS No. 1356 and the southwesterly boundary of ATS No. 1067.

The southeasterly boundary of Tract A, ATS No. 1682 shall be common to the northwesterly boundary of Tract B, ATS No. 1682.

The westerly boundary of Tract A, ATS No. 1682 shall be an extension of the line common to corner 3 and corner 12 of ATS No. 1356.
The southerly boundary of Tract A, ATS No. 1682 shall be parallel with the northerly boundary of Tract A, ATS No. 1682. Corner 3, Tract A, ATS No. 1682 shall be common to corner 4, Tract B, ATS No. 1682.

Corner 4, Tract A, ATS No. 1682 shall be established by bearing-bearing intersection of the westerly boundary and the southerly boundary.

Field ties shall be made to all monuments which control the parcel sidelines. These ties and monumentation shall be shown on the plat. Monumentation shall be recovered and tied as necessary to properly proportion record meander lines. Sufficient field measurements shall be made to show the relationship between this tidelands parcel and existing monumented boundaries of contiguous upland parcels.

Ties shall be shown on the plat from corner 5 and corner 6 of ATS No. 1067 to Corner 2 of Tract A, common with Corner 1 of Tract B, of ATS No. 1682.

A table shall be shown on the plat showing:

Ties from a minimum of two recovered primary monuments, preferably Corners 4 and 6 of Tract A of ATS No. 1356 to Corners 3, 4 and 5 of Tract A, ATS No. 1682. The ties shall be oriented to yield a strong geometric figure for the purpose of reestablishing Corners 3, 4 and 5, Tract A, ATS No. 1682.

ATS No. 1682 is not subject to:

A public access easement along and 50’ seaward of the mean high water line in accordance with AS 38.05.127.

ATS No. 1682 is subject to:

A 10’ right of way issued to DIPAC under ADL No. 104840. The easement shall be depicted and annotated on the plat.

Any additional survey or monumentation requirements of the City and Borough of Juneau Platting Authority must also be conformed to.

**TECHNICAL SURVEY REQUIREMENTS**

Except where otherwise required in these Supplemental Special Survey Instructions and the Plan of Survey, tideland survey parcels shall be monumented with a minimum of four primary monuments. Except where otherwise herein indicated, there shall be one monument required on each exterior meander corner and a witness corner monument on the upland extension of each seaward sideline, defining the sideline. If existing monuments fit these criteria they may be used instead of new ones.
PLAT REQUIREMENTS

All Certificates as shown in the Attachment for Special Survey Instructions and the following must be shown with the headings capitalized and underlined:

CERTIFICATE OF OWNERSHIP

I, the undersigned, hereby certify that I am the Director, Division of Mining, Land and Water and that the State of Alaska is the owner of ATS No. 1682, as shown hereon. I hereby approve this survey and plat for the State of Alaska.

Dated ___________ (Signature in black ink) ___________
Director, Division of Mining, Land & Water

NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn to before me this ___________ day of ________________, 20______.

By ____________________________________.

______________________________________
Notary Public for Alaska
My Commission Expires __________

PLAT APPROVAL

Appropriate Platting Authority Certificate

All Notes as shown in the Attachment for Special Survey Instructions and the following will be required on the plat:

a. This survey was accomplished in accordance with AS 38.05.825 and ATS Supplemental SI No. 1682.

The current Division of Mining, Land and Water title block shall be placed in the lower right-hand corner of each sheet of the plat, and labeled as follows:
<table>
<thead>
<tr>
<th>DATE OF SURVEY</th>
<th>SURVEYOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning: mm/dd/yyyy</td>
<td>(Name)</td>
</tr>
<tr>
<td>Ending: mm/dd/yyyy</td>
<td>(Address)</td>
</tr>
<tr>
<td></td>
<td>XXXXXX Xxxxx, AK. XXXX</td>
</tr>
<tr>
<td></td>
<td>(Phone Number)</td>
</tr>
</tbody>
</table>

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

**ALASKA TIDELAND SURVEY NO. 1682**
**CREATING TRACTS A AND B**
**LOCATED WITHIN**
**PROTRACTED SECTION 9**
**TOWNSHIP 41 SOUTH, RANGE 67 EAST,**
**COPPER RIVER MERIDIAN, ALASKA**
**CONTAINING XX.XX ACRES**

**JUNEAU RECORDING DISTRICT**

<table>
<thead>
<tr>
<th>DRAWN BY:</th>
<th>APPROVAL RECOMMENDED</th>
</tr>
</thead>
<tbody>
<tr>
<td>DATE:</td>
<td>STATEWIDE PLATTING SUPERVISOR DATE</td>
</tr>
</tbody>
</table>

**SCALE**

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<thead>
<tr>
<th>1&quot; = XX&quot;</th>
<th>CHECKED</th>
<th>FILE NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Initials)</td>
<td></td>
<td>ATS 1682</td>
</tr>
</tbody>
</table>

Compiled by: 
Amy Orange-Posma
Land Surveyor I
(originally prepared by Brett Wilmot and issued August 9, 2010)

Approved by: 
Brian Raynes, PLS
Coastal and Riparian Boundary Unit Supervisor

Date: 3/12/18

**ABR: AOP: aop**

**Enclosures:**
- Preliminary Finding and Decision
- Final Finding and Decision
- Alaska Tideland Surveys
- ILMT (Amended) for ADL No. 058216
- ILMT Amendment #2 for ADL No. 058216
- ROW Permit for ADL No. 104840

cc: Lee Cole, Natural Resource Manager, Southeast Regional Office, DMLW
Survey Tracking & Monitoring: ADL No. 107804 (Case Type 316, Subtype 0046)
PLAN OF SURVEY
ATS No. 1682
ADL No. 107804

LOCATED WITHIN PROTRACTED SECTION 9
TOWNSHIP 41 SOUTH, RANGE 67 EAST,
COPPER RIVER MERIDIAN, ALASKA

VICINITY MAP
USGS QUAD: JUNEAU (B-2)
SHEET 1966, MINOR REVISION 1966; PHOTOREVISED 1974

SCALE 1" = 1 MILE

GRAPHIC SCALE
1 METER = 3.280833 U.S. SURVEY FEET, 1 U.S. ACRE = 0.4047 HECTARE

LEGEND
⊕ PRIMARY MONUMENT TO BE RECOVERED / RESET
○ DOT&PF MONUMENT OF RECORD

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
550 WEST 7TH AVE., SUITE 650
ANCHORAGE ALASKA 99501
(907) 269-6523

DRAWN BY: BW / AOP
DATE: 01/16/2018
ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTHEAST REGIONAL OFFICE

Preliminary Decision under AS 38.05.035(e)

Land Conveyance to City and Borough of Juneau under AS 38.05.825
ADL 107804

PROPOSED ACTION: The Alaska Department of Natural Resources, Division of Mining, Land and Water, Southeast Region (DMLW), proposes to convey two parcels of State tide and submerged land in Gastineau Channel to the City and Borough of Juneau (CBJ), pursuant to AS 38.05.825, containing a total of approximately 1.9 acres to expand their existing tideland conveyance seaward. See Attachment A for maps of the parcel to be conveyed.

The public is invited to comment on this Preliminary Decision. Please see the Public Notice section, at the end of this document, for details on submission of comments, including comment deadline and conditions.

SCOPE OF DECISION: The scope of administrative review, under AS 38.05.035(e)(1)-(2), for this proposed land transfer is limited to the decision to transfer title to this land from the State of Alaska to the City and Borough of Juneau. The scope of this review does not take into account any future development, or the effects of such development, that may occur after the transfer.

AUTHORITY: The applicable authority includes Alaska Statutes AS 38.05.035(e) and AS 38.05.825. The Director, Division of Mining, Land and Water, is authorized by AS 38.05.035(a)(6) to act on behalf of the State in this matter. The director has delegated to the Regional Manager the authority to approve proposed and final decisions under AS 38.05.035(e), Department Order 3.

ADMINISTRATIVE RECORD: This DMLW tideland conveyance, case file ADL 107804, and the previous tideland conveyance to CBJ in 2002, case file ADL 106678 and State of Alaska Tidelands Patent #417. DMLW previously conveyed adjacent tidelands to CBJ (ADL 106678 and ADL 80526) that were leased to DIPAC and Channel Construction. The leases were transferred to CBJ for administration and the proposed conveyance would allow CBJ to manage the tidelands needed for the project expansions, as well.

Private ROW easement case file, ADL 104840, to DIPAC that was issued in 1987 which is 450 feet long by 10 feet wide, or .10 acres and consists of a three-inch polyethylene pipeline used for seawater intake seven months out of the year and to discharge ground fish waste five months out of the year. This conveyance shall be subject to valid existing rights of ADL 104840.

The 1993 Juneau State Land Plan is incorporated by reference.
DESCRIPTION:

Location: The parcels are located in Gastineau Channel seaward of DIPAC and Channel Construction on Channel Drive within the City and Borough of Juneau. They are more specifically described as follows, and is shown on Attachment A:

Parcel 1: A parcel of land adjacent to the Douglas Island Pink and Chum Fish Hatchery in Township 41 South, Range 67 East, Section 9. Lat/Long: 58.3255/ -134.4652.


Metes and Bounds will be provided by the City and Borough of Juneau at a later date.

Municipality: City and Borough of Juneau
Native Regional Corporation: Sealaska Corporation
Native Village Corporation: Goldbelt, Inc.
Tribal Contact: Robert Martin Junior, Vice President of Operations, Goldbelt, Inc.
Coastal District: Juneau
USGS Topographic Map: Juneau B-2 SE

Water Bodies: Located in the navigable waterbody, Gastineau Channel.

Title: Acquisition Authority: The State of Alaska received title to the affected tide and submerged lands under the Alaska Statehood Act, Public Law 85-508, the Submerged Lands Act, Public Law 31 and under the Doctrine of Equal Footing upon entry of the state into the Union. Management is subject to the Public Trust Doctrine.

Reservation of Mineral Estate: The State of Alaska, as required by AS 38.05.125, expressly saves, excepts and reserves out of the grant those resources specified by statute. These include, but are not limited to, all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every name, kind or description, including the right to explore the same.

Background: Applications for conveyance under AS 38.05.825 of two adjacent tidelands parcels were received on December 22, 2008. The parcels are needed to accommodate the expansion of the Douglas Island Pink and Chum (DIPAC) fish hatchery facility and expansion of the Channel Construction barge facility. Adjudications of the requested parcels are combined in one case file, ADL 107804.

ACMP: DIPAC: The ACMP has reviewed previous portions of this current project under identification numbers: State L.D. No. ID 2007-0321J, AK 0201-05J, and AK 850306-03J and found them consistent with ACMP. Channel Construction: The ACMP has reviewed previous portions of this current project under identification numbers: ID 2006-0418J, AK 0101-08J, AK 9706-01J, AK 9503-04J, AK 9210-14J, AK 9111-15J and AK8208-10J and found them consistent.
Easement case file, ADL 104840 will not be affected by the proposed conveyance. This conveyance would be subject to the private ROW for the pipeline.

**Planning, Classification, and Coastal Zone:** AS 38.05.825(a)(5) requires that land to be conveyed must be either “classified for waterfront development or for another use that is consistent or compatible with the use proposed by the municipality or the proposed use of the land is consistent or compatible with a land use plan adopted by the municipality, the department, or the Alaska Coastal Policy Council.”

The Juneau State Land Plan (JSLP), adopted December 1993, provides the classifications, parcel designations and management intent as follows. The parcel is contained within Unit 6a16, which is designated Fish and Wildlife Habitat, Fish and Wildlife Harvest, and Waterfront Development. The DIPAC lease area’s fish and wildlife habitat and harvest converts into a Wildlife Habitat Land.

**Waterfront Development (Wd):** Use of tidelands, submerged lands, or shorelands for water-dependent or water-related facilities, usually for industrial or commercial purposes. Waterfront development includes: piers, wharves, harbors, log storage, log or mineral transfer facilities, seafood processing facilities, commercial recreation facilities, and other resource development support facilities.

**Wildlife Habitat Land:** Mitigation measures will be designated to protect the specific type of fish and wildlife habitat that occurs in the designated area. ADF&G will clearly identify the species affected, the need for replacement or enhancement, and he suggested method for addressing the impact.

**Hatchery Source Waters:** To preserve the quality of a hatchery’s water supply, activities will not be located on state land where they would risk reducing water quality below that needed by the hatchery unless the DNR determines there is no feasible and prudent alternative, the use will meet a significant public need of greater benefit than a hatchery, and the use will be in the state’s best interest.

**Access to Fish and Wildlife Harvest Areas (Hv):** When feasible and prudent, activities adjacent to designated commercial or community fish and wildlife harvest areas will not foreclose public access during the harvest or use season unless alternative access is available.

**Public and Private Access:** Access for Recreation and Fish and Wildlife Harvest. Public access will not be precluded to designated fish and wildlife harvest (Hv) areas.

**Shoreline and Stream Corridors**

A. **Retain public access adjacent to waterbodies.** When transferring land out of state ownership: Public access adjacent to waterbodies. Public access should be reserved when the management intent is to protect the public’s right to travel along the shore of a waterbody. Public rights reserved normally will include only the right of ingress and egress, inclusive of the right to pause briefly to observe wildlife, take photographs, or rest. On an individual basis, the state may reserve specific rights as necessary to protect the public interest.

B. **Widths of Reserved Public Access, Building Setbacks, and Fish Habitat Management Zones.** Minimum width for public access and building setbacks from all waters will be 50 feet landward from ordinary high water.
This unit also overlaps with the Special Waterfront Area designated by the February 2008 Juneau Coastal Management Plan and Amendments. The existing and proposed uses (municipal facilities for marine access) are compatible with the JSLP classifications.

Coastal Zone: A land conveyance is a transfer of title and has no effect on the coastal natural resources; therefore, a review for consistency with the Alaska Coastal Management Program is not necessary. This approval is on the A-list (Categorically Consistent Approvals) for State land disposals to a municipality where the proposed use or activity is approved by the municipality. Subsequent actions by the City and Borough of Juneau to further develop the parcels received an ACMP coastal consistency review.

**Access, including access to & along public waters:** The parcel is accessible by water and by road. Regulation 11 AAC 51.035 requires that a determination of navigable and public water be made as part of the Preliminary Decision under AS 38.05.035(e). Gastineau Channel is a navigable water body.

Pursuant to AS 38.05.825, the conveyance of tidelands cannot unreasonably interfere with public access and the municipality must provide reasonable access to public waters and tidelands. Pursuant to AS 38.05.126(a) and the Public Trust Doctrine, the public has a constitutional right to free access to, and use of, navigable or public waters of the State. In addition, before a disposal of State land, AS 38.05.127 requires a determination by the Department regarding the reservation of specific public access easements to and along these waters. Moreover, 11 AAC 112.200 Coastal Access also states that Districts and state agencies shall ensure that projects maintain, and where appropriate, increase public access to, from, and along coastal water.

In the final decision on this proposed action, DMLW will determine whether this disposal of State interest will reserve a public access easement pursuant to AS 38.05.127(a)(2). In making this decision, pursuant to 11 AAC 51.045, DMLW considered comments and evidence provided by the Department of Fish and Game and the municipality during the public notice and review period. Public notice of this decision constitutes notice that DMLW intends to determine, based on comments and supporting information, whether the easement is necessary to ensure public access, or whether regulating or limiting public access is necessary for other beneficial uses or public purposes, such as public safety or security.

Comments from ADF&G requested a .127 reservation on the parcel upland of the line of Mean High Water line. DMLW proposes to retain in State ownership a 50 feet wide buffer landward seaward of the MHW line to allow public access and recreational activities such as fishing, picnicking, hunting, camping, or other similar uses.

Those interested in how this issue is decided should submit written comments regarding this issue and read the final decision that follows. DMLW will provide notice of the final decision to all persons who submit written comments during the public notice and review period.

**Hazardous Materials and Potential Contamination:** No hazardous material or contamination from hazardous material is known to exist on the land proposed for conveyance. Environmental risk associated with this proposed is minimal as the contractor will be required to implement best management practices to avoid contamination from heavy equipment during construction. In addition, local fill material and clean rock will be a requirement.
Survey and Appraisal: The parcels have not been surveyed. At CBJ’s expense, an Alaska Tidelands Survey (ATS) will be required prior to issuance of a State tideland patent. Appraisal is not required for an AS 38.05.825 conveyance as the land is conveyed without charge to the applicant.

Agency Review: State agency review for this conveyance was conducted on March 18, 2009. The agencies contacted were the Department of Fish and Game; Department of Environmental Conservation; Department of Transportation and Public Facilities; and the State Historic Preservation Office. Comments were received from ADF&G and CBJ regarding public access to and along coastal waters.

ADFG-Habitat comments:
Public access at the DIPAC facility will be increased by the tideland fill. Pursuant to AS 38.05.127, ADF&G requests a public access easement be reserve upland of the mean high water line to ensure free access to and along the Gastineau Channel. Although we would typically like to see public access along all parcels, ADF&G agrees that access along the shoreline at the Channel Construction barge facility would be unsafe due to the industrial activity. However, an upland access route should be provided to direct the public around the barge facility and connect with the DIPAC access. All public access easements should be clearly noted on conveyance documents.

CBJ response to ADF&G on April 27, 2009:
You correctly note that such an easement would not be appropriate for the Channel Construction portion because of danger to the public. I am afraid the same is true for the DIPAC side as well. You may have noted that we included a public access deck along the outboard side of the second story of the proposed building. This will provide excellent visual access for the public to see Gastineau Channel and will assure safety. DIPAC has a public education component in its overall corporate mission. To that end, there is an existing second story visitor’s center that hosts a variety of aquaria including a huge glass saltwater tank containing many of the typical sea creatures found in this area. There are other displays and a guided tour available in the summer time. A bridge will connect the visitor’s center to the new deck. The working floor of the facility, however, is in fact an industrial process area with forklifts and other equipment moving around both inside and outside of the main building. The same will be true with the new facility. Public access is blocked on the ground floor level for safety reasons and DIPAC would face a huge liability issue if that was to change. Finally, there is an extensive public access facility right next door: a drive-down float where anglers can fish directly in channel waters. There are also park and access facilities further up the channel. Please call me if you want to discuss any of this further, and please consider withdrawing your request. It puts DIPAC into an impossible situation.

DMLW response to ADF&G on June 5, 2009:
We have considered your request and it will also be considered in our Preliminary Decision for the conveyance under AS 38.05.035(e). For this proposed tideland conveyance, only submerged lands are to be conveyed; therefore, an AS 38.05.127 public access easement upland or seaward of MHW would not apply. You were concerned about public access to and along the coast in this area along Gastineau Channel. An AS 38.05.127 easement
should have been reserved and addressed during the original conveyance for the DIPAC and Channel Construction tideland fill and facilities since the MHW line is along Glacier Highway above the fill. I reviewed the original conveyance case files and see that a .127 public access easement was not reserved. However, access to the coast is provided via the public dock on the north side of DIPAC (popular fishing spot) whereby pedestrians can traverse the coast heading north. Access is also provided at the south end of Channel Drive at the end of the cul-de-sac beyond ATS 18 on State-owned tidelands to access the coast heading south. Alternate access along the coast is provided by Channel Drive to skirt around the DIPAC and Channel Construction facilities. As Murray Walsh stated on April 27, 2009, public access seaward of DIPAC and Channel Construction facilities is currently a safety and liability issue due to its industrial activity. DMLW agrees that public safety is important and believes that access to and along the coast of Gastineau Channel is provided to meet public access needs.

**Compliance with qualifications under AS 38.05.825:** AS 38.05.825 (a) requires DNR to convey to the municipality tide and submerged 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; the use does not unreasonably interfere with navigation or public access; the municipality has applied for conveyance; the land is not subject to shore fisheries lease under AS 38.05.082; 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.

- **Public Interest**- DMLW believes that there are no other overriding State interests; the municipal interest clearly rises above the public interest in retaining these lands in State ownership.
- **Location**- The land is within the boundary of the municipality.
- **Navigation**- The proposed use would not unreasonably interfere with navigation.
- **Public Access**- The proposed use would not unreasonably interfere with public access. Public access will continue to be provided to coastal waters and tidelands by the public dock north and adjacent to DIPAC and the end of Channel Drive road (see comments and responses under Agency Review).
- **Application**- The municipality has submitted an application for conveyance.
- **Shore Fisheries Leasing**- The land is not subject to shore fisheries lease.
- **Land Classification**- The land classification is consistent with the proposed action.
- **Municipal Approval of Development**- The development was approved by CBJ on December 22, 2008.

**DISCUSSION AND ALTERNATIVES:**

**Alternatives considered:**

1. Approve the proposed conveyance of the parcels. CBJ will have the ability to manage the parcels to private operators through lease agreements.
2. Deny the proposed conveyance of the parcel. The proposed projects for expansion of DIPAC and storage area as well as improved staging at Channel Construction would not occur.

**Preferred Alternative:** Alternative No. 1 is the preferred alternative. DMLW believes that the proposed conveyance complies with the requirements of AS 38.05.825, as discussed above. Unless public comment
indicates that either of the parcels do not qualify for conveyance under AS38.05.825, or that the public interest in retaining the parcels clearly outweighs the municipality’s interest in retaining the parcels, DMLW shall convey these parcels.

**RECOMMENDATION:**
DMLW recommends conveyance of tideland parcels described herein to the CBJ, subject to the following conditions:

1. Land management authority shall be granted upon the effective date of the final finding and decision.
2. The conveyance shall be subject to valid existing rights, all required easements and the following conditions: 1) Grantee may lease the land, but may not sell it; 2) Title to and management authority for the land conveyed under this authority reverts to the State upon dissolution of the municipality; 3) Grantee takes management authority and title to the tide and submerged lands subject to the rights of the public under the Public Trust Doctrine.
3. The conveyance shall be subject to valid existing rights of ADL 104840, Private ROW Easement to DIPAC.
4. State patent will not be issued for any parcel requiring survey until the required survey has been completed.
5. Survey costs shall be borne by the municipality.
6. Pursuant to AS 38.05.125 the mineral estate shall not be conveyed.

The final finding and decision will incorporate changes justified by comments during the public review process.

Prepared by:

Amy McLeod
Natural Resource Manager

The preliminary decision presented above has been reviewed and considered. I find that the recommended action may be in the State's best interest and is hereby approved to proceed to public notice.

David Kelley
Regional Manager

AS 38.05.035(e) to Commissioner DNR to
Director To Regional Manager SERO
Delegated Authority

April 15, 1981
Date
PUBLIC NOTICE, FINAL DECISION AND APPEAL PROCESS:
In accordance with the provisions of AS 38.05.945, public notice seeking comments on this preliminary decision will be published in the Juneau Empire and Anchorage Daily News. Notice will also be given to the City and Borough of Juneau under AS 38.05.945 (c) (1), Goldbelt, Inc., Sealaska Corporation, and to those parties having an interest in the adjacent land. In addition, the Juneau Post Office, and CBJ offices will be requested to post the notice and it will be available on the Internet at the Alaska Online Public Notice System website, which can be accessed at www.state.ak.us (select “Notices” at top of page).

The public is invited to comment on this Preliminary Decision. Comments must be received in writing by the DNR Division of Mining, Land and Water by mail at 400 Willoughby Avenue or P.O. Box 111020, Juneau, AK 99811-1020, by fax at 907-586-2954, or by electronic mail at Amy.McLeod@alaska.gov, by August 8, 2009 in order to ensure consideration. Please include your mailing address and telephone contact.

In order to establish appeal rights regarding this decision, you are required by law to meaningfully participate in the decision process by commenting on the decision, in writing, prior to the comment deadline. Following the deadline, all timely written comments will be considered, and DNR may modify this decision based on public comments received. Additional public notice will be given if DNR determines that public comments in response to this notice indicate the need for significant changes to the decision.

If no significant changes are required, the preliminary decision, after any necessary minor changes, will be issued as a final decision. A copy of the final decision, along with instructions on filing an appeal, will be sent to all persons who comment on the preliminary decision. Persons who do not submit written comments during the comment period will have no legal right to appeal the final decision.

Attachment A: Parcel Maps
LEGEND
- LEASE LINE
- LOT LINE
- PROPOSED LEASE LINE

EGAN EXPRESSWAY
FR. LOT 1
ATS 7
FRAC.
ATS 217
CHANNEL
FR. ATS
217
DRIVE

FR. ATS
217
REMAINDER
LOT 1
ATS 7

PROPOSED LEASE
2.5 AC.

GASTINEAU CHANNEL
LOT 2
ATS 7

ATS 13
ATS 17
ATS 1503

VICINITY MAP
SOURCE: C.B.I. BASEMAP SERIES - SCALE: 1" = 1000'

PURPOSE:
UPLANDS EXPANSION

ADJACENT PROPERTY OWNERS:
1) DIPAC HATCHERY
2) JIM TRIPLETTE

APPLICANT:
CHANNEL CONSTRUCTION, INC
PO BOX 33359
JUNEAU, AK. 99803

AGENT:
WALSH PLANNING & DEVELOPMENT SERVICES
2974 FOSTER AVENUE
JUNEAU, AK. 99801

A SITE PLAN OF
UPLANDS EXPANSION
PROJECT FOR
CHANNEL CONSTRUCTION
JUNEAU, ALASKA
DEC 2008 SHEET 1 OF 1
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
Southeast Regional Office

FINAL FINDING AND DECISION
AS 38.05.825
Proposed Tideland Conveyance to City and Borough of Juneau
Gastineau Channel, DIPAC and Channel Construction Expansion
ADL 107804

Summary of Public Comment:

☐ No public comments received.
☑ Public comments received; see Attachment 1.

Modifications to Preliminary Decision:

☐ Decision is not modified.
☑ Decision is modified as specified in Attachment 2 summary.

Approval:

The finding presented above has been reviewed and considered. The casefile has been found to be complete and the requirements of all applicable statutes have been satisfied. It is the finding of the Regional Manager that it is in the best interest of the State to proceed with this conveyance under the authority of AS 38.05.825

David L. Kelley
Southeast Regional Manager

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 by December 20, 2009 and may be mailed or delivered to Tom Irwin, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501-3561; faxed to 1-907-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. If no appeal is filed by that date, this decision goes into effect as a final order and decision on December 30, 2009. 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 is enclosed.

Attachment 1, Summary of Agency Comments
Attachment 2, Appeal references
Summary of Public and Agency Comments on Preliminary Decision

This section summarizes comments received regarding the Preliminary Finding and Decision, the Department of Natural Resources, Division of Mining, Land and Water (DMLW)'s responses to the comments, and changes made to the decision as a result of the comments.

Preliminary Decision Public and Agency Review:
Public Notice for the Preliminary Decision (PD) was posted in the Juneau Empire and Anchorage Daily News on July 6 and 13, 2009 as well as the City and Borough of Juneau (CBJ) Clerk's Office, Juneau Public Library, and the Department of Natural Resources (DNR) Commissioner's Office Public Notice site online.

The PD was finalized on June 29, 2009. The deadline for public and agency comments was August 10, 2009. Public comments were received from the applicant, CBJ, regarding public access at the site of their lessee DIPAC. Agency comments were received from ADF&G-Habitat regarding public access.

ADF&G-Habitat in Anchorage comments on PD received August 8, 2009:
After consideration of the proposed project at DIPAC, ADF&G recommends that the State not pursue a public access easement at DIPAC, but will work with CBJ to identify an alternative site that would help provide additional sport angler opportunities elsewhere along the Juneau road system.

CBJ comments on PD received August 11, 2009:
The face of the rip-rap containment will be very steep and unsafe for public access. The surface will also be unsafe because it is an operating industrial facility. Allowing such access would create an insurance burden for DIPAC as well as hamper its operations. If ADF&G wants to expand public shore fishing opportunities in this area then there are other options.
Reserving of a public access easement was considered during the adjudication of the conveyance. DMLW determined that the safety and liability concerns of DIPAC were valid.

**Background**
Gastineau Channel is a navigable water body. The Mean High Waterline (MHW) is adjacent to Channel Drive on the road side of the DIPAC facility. DMLW cannot require the upland private owner, CBJ and their lessees, DIPAC and Channel Construction, to provide a public access easement on their lands.

The *to* and *along* public access easement landward and seaward of the MHW line was addressed during the original conveyance to CBJ, case file ADL 104320 in 2001. An AS 38.05.127 easement was not reserved on Alaska Tidelands Survey (ATS) 1356. The 1992 Final Finding amended the PD and stated "the requirement for an additional public access easement was waived for Tract A while all of Tract B was designated as a public access easement", which was also noted on Plat file number 91-74. A public access easement was also not reserved in the original lease casefile in 1979, ADL 80526, in ATS 1067 or ATS 13.

**Conclusion**
DMLW determined that AS 38.05.127 is not applicable to artificial fill in submerged lands. The proposed project associated with this conveyance is an extension seaward of a previous tideland conveyance in which the public access easement was waived. The only access *to* the coast is via boat and in this case no public access easement exists on the private land on either side of the fill to allow for a continual *along* access.

DMLW is an advocate of optimizing public access. In this case, the project associated with this conveyance is not compromising public access and DMLW has no historical record of public or agency comments regarding public access issues at this site in Gastineau Channel.

**Alternatives:**
Access to marine waters is provided in Tract B (including the public dock) near but not directly adjacent to DIPAC. Access *to* the coast is provided at the south end of Channel Drive at the end of the cul-de-sac beyond ATS 18 on State-owned tidelands to access the coast heading south. Alternate access *along* the coast is provided by Channel Drive to skirt around the DIPAC and Channel Construction facilities. Channel Drive road provides a shoulder to traverse the facilities.

ADF&G and CBJ plan to work together to provide additional public access for sport anglers on separate State tidelands outside of the industrial area in Gastineau Channel. This will require a separate application and decision from DMLW and will not hold up the decision for this proposed conveyance.
For the above reasons, pursuant to AS 38.05.127, a 50-foot public access easement will not be reserved seaward of and along the proposed fill in submerged lands in Gastineau Channel.

RECOMMENDATION:
Comments received from ADF&G and CBJ are resolved through a modification of the decision. See Amendment 1 of this Final Finding and Decision.

This being the case, I recommend the subject submerged land parcels in Gastineau Channel for the expansion of DIPAC and Channel Construction facilities to be conveyed to CBJ without reservation of a public access easement.

Amy Pinney, Natural Resource Manager

11/16/09

Date
Final Finding and Decision

ADL 107804

AMENDMENT 1 to the Preliminary Decision

The Preliminary Decision, dated June 29, 2009, is amended as follows:

Access, including access to & along public waters:

The proposed project associated with this conveyance is an extension seaward of a previous tideland conveyance in which the easement per AS 38.05.127 was waived and alternate access was provided. As a result, a 50-foot public access easement will not be reserved seaward of and along the proposed fill in submerged lands in Gastineau Channel.

David L. Kelley
Southeast Regional Manager

11/17/09
Date
(i) A person who is eligible to file an administrative appeal or a request for reconsideration, as appropriate, under this subsection and who is aggrieved by the final written finding of the director entered under (e)(5) or (6) of this section may, within 20 days after the issuance of the final written finding, file an administrative appeal or request reconsideration of the decision by the commissioner. A person is eligible to file an administrative appeal or a request for reconsideration if the person

(1) meaningfully participated in the process set out in this chapter for receipt of public comment by

(A) submitting written comment during the period for receipt of public comment; or

(B) presenting oral testimony at a public hearing, if a public hearing was held; and

(2) is affected by the final written finding.

(j) An administrative appeal or a request for reconsideration submitted under (f) of this section must specify the written finding complained of and the specific basis upon which it is challenged. The commissioner shall grant or deny the administrative appeal or reconsideration request within 30 days after issuance of the final written finding. Failure of the commissioner to act on the request for reconsideration within this period is a denial of the request for reconsideration and a final administrative decision for purposes of appeal to the superior court.

11 AAC 02. Appeals

11 AAC 02.010. APPLICABILITY AND ELIGIBILITY. (a) This chapter sets out the administrative review procedure available to a person affected by a decision of the department. If a statute or a provision of this title prescribes a different procedure with respect to a particular decision, that procedure must be followed when it conflicts with this chapter.

(b) Unless a statute does not permit an appeal, an applicant is eligible to appeal or request reconsideration of the department’s decision on the application. An applicant is eligible to participate in any appeal or request for reconsideration filed by any other eligible party.

(c) If a statute restricts eligibility to appeal or request reconsideration of a decision to those who have provided timely written comment or public hearing testimony on the decision, the department will give notice of that eligibility restriction as part of its public notice announcing the opportunity to comment.

(d) If the department gives public notice and allows a public comment period of at least 30 days on a proposed action, and if no statute requires opportunity for public comment, the department may restrict eligibility to appeal or request reconsideration to those who have provided timely written comment or public hearing testimony on the proposed action by including notice of the restriction as part of its public notice announcing the opportunity to comment.

(e) An eligible person affected by a decision of the department that the commissioner did not sign or cosign may appeal the decision to the commissioner within the period set by 11 AAC 02.040.

(f) An eligible person affected by a decision of the department that the commissioner signed or cosigned may request the commissioner’s reconsideration within the period set by 11 AAC 02.040.

(g) A person may not both appeal and request reconsideration of a decision. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority: AS 03.05.010 AS 38.04.900 AS 38.08.110 AS 41.15.020 AS 44.37.011
AS 29.65.050 AS 38.05.020 AS 38.09.110 AS 41.17.055 AS 46.15.020
11 AAC 02.015. COMBINED DECISIONS. (a) When the department issues a combined decision that is both a final disposal decision under AS 38.05.035(e) and any other decision, including a disposal decision combined with a land use plan decision, or a disposal decision to grant certain applications combined with a decision to deny others, the appeal process set out for a disposal decision in AS 38.05.035(l) - (m) and this chapter applies to the combined decision.

(b) A decision of the department may include a statement that a final consistency determination under AS 46.40 (Alaska Coastal Management Program) has been rendered in conjunction with the decision. A person may not, under this chapter, appeal or request reconsideration of the final consistency determination, including a requirement necessary solely to ensure the activity is consistent with the Alaska coastal management program as approved under AS 46.40. (Eff. 9/19/2001, Register 159)

Authority: AS 29.65.050 AS 38.04.900 AS 38.05.035 AS 38.09.110
          AS 29.65.120 AS 38.05.020 AS 38.08.110 AS 38.50.160

11 AAC 02.020. FINALITY OF A DECISION FOR PURPOSES OF APPEAL TO COURT. (a) Unless otherwise provided in a statute or a provision of this title, an eligible person must first either appeal or request reconsideration of a decision in accordance with this chapter before appealing a decision to superior court.

(b) The commissioner's decision on appeal is the final administrative order and decision of the department for purposes of appeal to the superior court.

(c) The commissioner may order or deny a request for reconsideration within 30 calendar days after issuance of the decision, as determined under 11 AAC 02.040(c)–(e). If the commissioner takes no action during the 30-day period, the request for reconsideration is considered denied. Denial of a request for reconsideration is the final administrative order and decision of the department for purposes of appeal to the superior court.

(d) If the commissioner timely orders reconsideration of the decision, the commissioner may affirm the decision, issue a new or modified decision, or remand the matter to the director for further proceedings. The commissioner's decision, other than a remand decision, is the final administrative order and decision of the department for purposes of appeal to the superior court. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:
          AS 03.05.010 AS 38.04.900 AS 38.08.110 AS 41.15.020 AS 44.37.011
          AS 29.65.050 AS 38.05.020 AS 38.09.110 AS 41.17.055 AS 46.15.020
          AS 29.65.120 AS 38.05.035 AS 38.50.160 AS 41.21.020 AS 46.17.030

11 AAC 02.030. FILING AN APPEAL OR REQUEST FOR RECONSIDERATION. (a) An appeal or request for reconsideration under this chapter must

(1) be in writing;

(2) be filed by personal service, mail, fax, or electronic mail;

(3) be signed by the appellant or the appellant's attorney, unless filed by electronic mail; an appeal or request for reconsideration filed by electronic mail must state the name of the person appealing or requesting reconsideration and a single point of contact to which any notice or decision concerning the appeal or request for reconsideration is to be sent;

(4) be correctly addressed;

(5) be timely filed in accordance with 11 AAC 02.040;

(6) specify the case reference number used by the department, if any;

(7) specify the decision being appealed or for which reconsideration is being requested;

(8) specify the basis upon which the decision is challenged;

(9) specify any material facts disputed by the appellant;

(10) specify the remedy requested by the appellant;
(11) state the address to which any notice or decision concerning the appeal or request for reconsideration is to be mailed; an appellant may also provide a telephone number where the appellant can be reached during the day or an electronic mail address; an appeal or request for reconsideration filed electronically must state a single address to which any notice or decision concerning the appeal or request for reconsideration is to be mailed;

(12) identify any other affected agreement, contract, lease, permit, or application by case reference number, if any; and

(13) include a request for an oral hearing, if desired; in the appeal or request for reconsideration, the appellant may include a request for any special procedures to be used at the hearing; the appeal or request for reconsideration must describe the factual issues to be considered at the hearing.

(b) At the time an appeal is filed, and up until the deadline set out in 11 AAC 02.040(a) to file the appeal, an appellant may submit additional written material in support of the appeal, including evidence or legal argument.

(c) If public notice announcing a comment period of at least 30 days was given before the decision, an appellant may not submit additional written material after the deadline for filing the appeal, unless the appeal meets the requirement of (a) of this section and includes a request for an extension of time, and the department determines that the appellant has shown good cause for an extension. In considering whether the appellant has shown good cause, the department will consider factors including one or more of the following:

(1) comments already received from the appellant and others;
(2) whether the additional material is likely to affect the outcome of the appeal;
(3) whether the additional material could reasonably have been submitted without an extension;
(4) the length of the extension requested;
(5) the potential effect of delay if an extension is granted.

(d) If public notice announcing a comment period of at least 30 days was not given before the decision, an appellant may submit additional written material after the deadline for filing the appeal, if the appeal meets the requirements of (a) of this section and includes a notice of intent to file the additional written material. The department must receive the additional written material within 20 days after the deadline for filing the appeal, unless the appeal also includes a request for an extension of time, and the department determines that the appellant has shown good cause for an extension. In considering whether the appellant has shown good cause, the department will consider factors including one or more of the following:

(1) comments already received from the appellant and others;
(2) whether the additional material is likely to affect the outcome of the appeal;
(3) whether the additional material could reasonably have been submitted without an extension;
(4) the length of the extension requested;
(5) the potential effect of delay if an extension is granted.

(e) At the time a request for reconsideration is filed, and up until the deadline to file a request for reconsideration, an appellant may submit additional written material in support of the request for reconsideration, including evidence or legal argument. No additional written material may be submitted after the deadline for filing the request for reconsideration.

(f) If the decision is one described in 11 AAC 02.060(c), an appellant who believes a stay of the decision is justified may ask for a stay as part of the appeal or request for reconsideration. The appellant must include an argument as to why the public interest requires a stay. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010  AS 38.04.900  AS 38.08.110  AS 41.15.020  AS 44.37.011
AS 29.65.050  AS 38.05.020  AS 38.09.110  AS 41.17.055  AS 46.15.020
AS 29.65.120  AS 38.05.035  AS 38.50.160  AS 41.21.020  AS 46.17.030

Editor's note: The address for an appeal or request for reconsideration by personal service and by mail is: Department of Natural Resources, Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501-3561. The number for an appeal or request for reconsideration by fax is: 1-907-269-8918. The electronic mailing address for an appeal or request for reconsideration by electronic mail is: dnr_appeals@dnr.state.ak.us

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11 AAC 02.040. TIMELY FILING; ISSUANCE OF DECISION. (a) To be timely filed, an appeal or request for reconsideration must be received by the commissioner’s office within 20 calendar days after issuance of the decision, as determined under (c) or (d) of this section, unless another period is set by statute, regulation, or existing contract. If the 20th day falls on a day when the department is officially closed, the appeal or request for reconsideration must be filed by the next working day.

(b) An appeal or request for reconsideration will not be accepted if it is not timely filed.

(c) If the appellant is a person to whom the department delivers a decision by personal service or by certified mail, return receipt requested, issuance occurs when the addressee or the addressee’s agent signs for the decision. If the addressee or the addressee’s agent neglects or refuses to sign for the certified mail, or if the address that the addressee provided to the department is not correct, issuance by certified mail occurs when the decision is deposited in a United States general or branch post office, enclosed in a postage-paid wrapper or envelope, addressed to the person’s current address of record with the department, or to the address specified by the appellant under 11 AAC 02.030(a)(11).

(d) If the appellant is a person to whom the department did not deliver a decision by personal service or certified mail, issuance occurs

(1) when the department gives public notice of the decision; or

(2) if no public notice is given, when the decision is signed; however, the department may state in the decision a later date of issuance and the corresponding due date for any appeal or request for reconsideration.

(e) The date of issuance constitutes delivery or mailing for purposes of a reconsideration request under AS 44.37.011(d) or AS 44.62.540(a). (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010   AS 38.04.900   AS 38.08.110   AS 41.15.020   AS 44.37.011
AS 29.65.050   AS 38.05.020   AS 38.09.110   AS 41.17.055   AS 46.15.020
AS 29.65.120   AS 38.05.035   AS 38.50.160   AS 41.21.020   AS 46.17.030

11 AAC 02.050. HEARINGS. (a) The department will, in its discretion, hold a hearing when questions of fact must be resolved.

(b) The hearing procedure will be determined by the department on a case-by-case basis. As provided in 11 AAC 02.030(a)(13), any request for special procedures must be included with the request for a hearing.

(c) In a hearing held under this section

(1) formal rules of evidence need not apply; and

(2) the hearing will be recorded, and may be transcribed at the request and expense of the party requesting the transcript. (Eff. 11/7/90, Register 116)

Authority:

AS 03.05.010   AS 38.04.900   AS 38.09.110   AS 41.17.055   AS 46.17.030
AS 29.65.050   AS 38.05.020   AS 38.50.160   AS 41.21.020
AS 29.65.120   AS 38.08.110   AS 41.15.020   AS 46.15.020

11 AAC 02.060. STAYS; EXCEPTIONS. (a) Except as provided in (c) and (d) of this section, timely appealing or requesting reconsideration of a decision in accordance with this chapter stays the decision during the commissioner’s consideration of the appeal or request for reconsideration. If the commissioner determines that the public interest requires removal of the stay, the commissioner will remove the stay and allow all or part of the decision to take effect on the date set in the decision or a date set by the commissioner.

(b) Repealed 9/19/2001.
(c) Unless otherwise provided, in a statute or a provision of this title, a decision takes effect immediately if it is a decision to

(1) issue a permit, that is revocable at will;
(2) approve surface operations for a disposal that has already occurred or a property right that has already vested; or
(3) administer an issued oil and gas lease or license, or an oil and gas unit agreement.

(d) Timely appealing or requesting reconsideration of a decision described in (c) of this section does not automatically stay the decision. However, the commissioner will impose a stay, on the commissioner's own motion or at the request of an appellant, if the commissioner determines that the public interest requires it.

(e) A decision takes effect immediately if no party is eligible to appeal or request reconsideration and the commissioner waives the commissioner's right to review or reconsider the decision. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010 AS 38.04.900 AS 38.08.110 AS 41.15.020 AS 46.15.020 AS 29.65.050 AS 38.05.020 AS 38.09.110 AS 41.17.055 AS 46.17.030 AS 29.65.120 AS 38.05.035 AS 38.50.160 AS 41.21.020

11 AAC 02.070. WAIVER OF PROCEDURAL VIOLATIONS. The commissioner may, to the extent allowed by applicable law, waive a requirement of this chapter if the public interest or the interests of justice so require. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010 AS 29.65.120 AS 38.05.035 AS 38.50.160 AS 41.21.020
AS 03.10.020 AS 38.04.900 AS 38.08.110 AS 41.15.020 AS 46.15.020
AS 29.65.050 AS 38.05.020 AS 38.09.110 AS 41.17.055 AS 46.17.030

11 AAC 02.080. DEFINITIONS. Repealed. (Eff. 11/7/90, Register 116; repealed 9/19/2001, Register 159)

11 AAC 02.900. DEFINITIONS. In this chapter,

(1) "appeal" means a request to the commissioner to review a decision that the commissioner did not sign or cosign;
(2) "appellant" means a person who files an appeal or a request for reconsideration.
(3) "commissioner" means the commissioner of natural resources;
(4) "decision" means a written discretionary or factual determination by the department specifying the details of the action to be allowed or taken;
(5) "department" means, depending of the particular context in which the term is used, the Department of Natural Resources, the commissioner, the director of a division within the Department of Natural Resources, or an authorized employee of the Department of Natural Resources;
(6) "request for reconsideration" means a petition or request to the commissioner to review an original decision that the commissioner signed or cosigned. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:

AS 03.05.010 AS 38.05.020 AS 38.09.110 AS 41.17.055 AS 44.62.540
AS 29.65.050 AS 38.05.035 AS 38.50.160 AS 41.21.020 AS 46.15.020
AS 29.65.120 AS 38.08.110 AS 41.15.020 AS 44.37.011 AS 46.17.030
AS 38.04.900
Plat Submittal Requirements

All items to be submitted in PDF format except as otherwise noted.

1. This checklist with all items checked. Incomplete submittals will be returned.
2. Plat Review Fees
3. Cover letter listing the submitted documentation. i.e. – review fees, cd w/digital data.
4. Plat converted from AutoCAD to PDF at full scale in Digital Format.
5. One full scale blackline copy of plat marked PRELIMINARY SUBMITTAL.
6. If applicable, OPUS Solution Report.
7. Field Data – (PDF format preferred).
   i. Copy of field Notes
   ii. Traverse Point Plot or field Note sketch and Point List- PNEZD (Number, Northing, Easting, Elevation., Description) Digital Format- CSV
   iii. Computations and adjustments
       1. Traverse closure and adjustments
       2. Geodetic tie and computations, NADCON conversions
   iv. Description of Recovered Monumentation – (condition and accessories)
       1. Previously existing monuments and accessories found in a disturbed condition must be returned to the original position and condition as nearly as possible or replaced so as to perpetuate the position.
       2. Method used to refurbish or re-establish to perpetuate the original condition.
   v. All GNSS data; including raw data files, adjustment files, and final coordinate file shall be submitted in digital format only.
8. Digital photographs showing 1) legible cap marking, 2) general conditions at the monument, 3) all accessories from the monument and a close-up of all bearing tree tags or scribes
   i. Set Monument and accessory monument Photos
   ii. Recovered Monument Photos or Rubbings.
Plat Checklist

Complete and submit with plat for review.

(1) The final plat submittal is of archive quality bi-axially oriented polyester film that does not exceed 32 x 36 inches. Margins shall be 1½ inch on the left and ½ inch on the top, right and bottom.

(2) Use the standard DNR legend, an example of which is available on the DNR Survey Section webpage at <http://www.dnr.state.ak.us/mlw/survey/>.

(3) All sheets have the official division title block, border configuration and standard legend.

(4) The plat is prepared in black ink (no gray scale) and with mechanical lettering equipment.

(5) All line work and lettering is professional quality and all line widths and lettering sizes are of such size that information is clearly shown without overlap or confusion. All lettering is a minimum size 80 Leroy®, or equivalent, with No. 100 recommended. Size 80 lettering is uppercase.

(6) When more than one sheet is used, an index sheet shows the entire parcel. Each sheet shows the sheet number and total number. The last sheet has the approval certificates. All sheets are the same size.

(7) The plat must be in an appropriate engineering scale, preferably of one inch representing a multiple of 100 feet. If larger than 100 scale is a multiple of 10.

(8) Details are shown at an appropriate indicated scale.

(9) Vicinity map is in the upper right hand corner of the first sheet and is at least four inches on each side at a scale of 1:63,360. Sections, townships and ranges, boundaries such as national forest or municipal boundaries, and other prominent physical or natural features such as roads, lakes, or rivers are shown. The source and date/revision date of the base map is indicated.

(10) Nomenclature of the survey is in the title block.
The Basis of Bearings and Basis of Coordinates are shown. Bearings are true bearings, and
distances are in US Survey Feet reduced to horizontal. The Basis of Bearing and Basis of
Coordinates are shown on the plat in **bold lettering**. The Datum is noted, including the
conversion method.

- **Basis of Bearing**: is between two recovered monuments for which there is a record
  bearing; preferably the longest line of record. Or alternately the Basis of Bearing was
determined via high precision Global Navigation Satellite System (GNSS) between
two monumented positions

- **Basis of Coordinates**: Is on a primary monument with record coordinates or
  coordinates computed from record tie information to a rectangular monument in the
  PLSS.
  Or alternately geographic coordinates were determined via survey-grade GNSS
  observations if sufficient to process through OPUS. Observations are on a primary
  monument, set or recovered, which is shown on the plat with ties to the survey.
  Documentation accompanying the first plat submittal includes recordable copies of
  the “NGS OPUS Solution Report”. The NGS Opus Solution Report shows sufficient
  GPS data for minimum of an OPUS-RS solution.

Bearings are shown to the nearest second and distances to one hundredth of a foot.
Boundary line distances are shown from monument to monument. Witness distances are
shown.

As depicted on the sample plat, the following are shown positioned directly above the title
block:

- A foot scale identical to the drawing scale,
- a metric bar scale,
- Two equations: 1 meter = 3.280833 U.S. survey feet, and 1 U.S. acre = 0.4047
  hectare.

The date of plat preparation and date of north arrow declination are shown.

Certificates are shown as follows, with the headings capitalized and underlined:

- **CERTIFICATE OF OWNERSHIP AND/OR DEDICATION with NOTARY'S
  ACKNOWLEDGEMENT**
- **APPLICANT CERTIFICATE with NOTARY'S ACKNOWLEDGEMENT**
- **SURVEYOR'S CERTIFICATE**
- **PLAT APPROVAL (Appropriate Platting Authority Certificate)**
- **ACCEPTANCE OF DEDICATION (as appropriate in Unorganized Borough)**
- **TAX CERTIFICATE** (Appropriate Taxing Authority Certificate or “This
  subdivision lies outside of any taxing authority, at the time of filing.”)

All notes are shown as required by the Special Survey Instructions.

All notes are shown as required by the Attachment for Special Survey Instructions.
(18) Both record and found bearings and distances are shown on the plat.
   
a. In the event there are two sets of record data that of the latest plat of record is shown
   with the plat nomenclature indicated.
   b. In the event that it was not required to tie a line of record, and the record data was
   used to compute closure, record monumentation along these lines is indicated.

(19) All easements and rights-of-way are shown on the plat in lieu of a "note" whenever possible.
In unsurveyed sections, protracted section lines and easements are computed and shown,
with property line intersection dimensions, on the plat. Easements are identified by legal
creating source, i.e. statute, regulation, plat or ADL No.

(20) The names of adjacent owners or claimants, or an indication that the land is not owned or
claimed, adjacent U.S. surveys, private surveys or subdivisions, and Alaska state land
surveys are shown.

(21) A public access easement is shown contiguous with the bed of public water and 50 feet
upland of the ordinary high water mark of all public or navigable water. The easement is
depicted on the plat with a dashed line and is labeled “50’ Public Access Easement reserved
to the State per AS 38.05.127.”

(22) The current Division of Mining, Land and Water title block is in the lower right-hand corner
of each sheet of the plat, and labeled per the special survey instructions.

(23) The correct sections and townships shown based on the surveyor’s field location of parcel
boundaries with respect to protracted or surveyed sections and townships.

(24) The exact marks on all monuments recovered and set are shown on the plat with data
pertaining to bearing trees and/or monument accessories established. Recommended
format:

<table>
<thead>
<tr>
<th>MONUMENT MARKINGS</th>
<th>DESCRIPTION</th>
<th>BEARING OBJECT</th>
<th>BEARING</th>
<th>DISTANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Markings</td>
<td>SET 3.5&quot; AL CAP ON 2.5&quot; x 30&quot; AL POST w/ MAGNET FIXED TO CAP . 3' ABOVE GRADE with CARBONITE POST 1' NORTH</td>
<td>8' SPRUCE</td>
<td>N23°E</td>
<td>34.2'</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12&quot; BIRCH</td>
<td>S36°E</td>
<td>20.6'</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4&quot; BLACK SPRUCE</td>
<td>S67°W</td>
<td>17.7'</td>
</tr>
</tbody>
</table>
Alaska Tideland Surveys

"Who, What, When, Where, How, Why"

A Paper Presented at the

37th Annual Alaska Surveying and Mapping Conference

By

Gerald Jennings, P.L.S., and Joe Kemmerer, P.L.S.

February, 2002

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ABSTRACT

Alaska Tideland Surveys – the 5 w’s. Surveys of tideland parcels are unique in several ways. Typically all corners are monumented with witness corners. DNR is usually the fee owner of the parcel, and the landward boundary is usually the mean high water line. Frequently, the line is fixed and limiting, because of avulsion, or placement of fill. This paper will briefly discuss how an applicant applies for a tideland lease or conveyance and how to conduct the survey and obtain state approval. Presenter: Gerald Jennings

The Department of Natural Resources, Division of Mining, Land and Water, Technical and Data Management staff dealing with Alaska Tideland Surveys:

Gerald Jennings, P.L.S., Statewide Platting Supervisor

Joe Kemmerer, P.L.S., Coastal Boundary.

William (Bill) Brown, P.L.S., Riparian Specialist
Alaska Tideland Surveys

Introduction – who what why?

Title to most of the tide and submerged lands surrounding Alaska was vested in the State of Alaska under the Submerged Lands Act of May 22, 1953. Most of those lands remain in state ownership and in most cases, the state will lease, but retain fee title. As a surveyor, you will be contacted about Alaska Tideland Surveys (ATS) by a public or private party who desires to lease or acquire tidelands for various reasons such as construction of docks, bridges, harbors, log transfer facilities, etc.

Another situation in which you may need to conduct an ATS is to facilitate conveyance of tide and submerged lands to local communities under AS 38.05.820 or .825.

What are tidelands? The DNR Fact Sheet Titled: Tide & submerged Land Ownership (appendix A) discusses tideland ownership and what are tide and submerged lands. Tidelands are those lands between the mean high and the mean low tide lines. State owned submerged lands are located seaward of the mean low tide line and extending out three nautical miles. A definition of tidelands is also found in AS 38.05.965.

Why are tideland surveys required? For lease or patent, it is required under AS 38.04.045(b) “Before the issuance of a long-term lease under AS 38.05.070 or of a patent for state land, an official cadastral survey shall be accomplished, unless a comparable, approved survey exists that has been conducted by the federal Bureau of Land Management.”

When? The Application Process

Your client calls up and tells you that they need a survey. They want to build a dock and the state’s telling them that they need a survey. You respond, “I’ll be glad to help. At what step is your application at DNR?” Sometimes applicants go for the survey too early. If you call the survey unit, we will ask for the ADL number, and we will check for a final decision. If the decision hasn’t been done yet, it is usually too early to get survey instructions, but not always. Occasionally, we will issue instructions based on an approved preliminary decision, but rarely before any decision is issued. We will need verification from the division’s adjudicator for instructions to go out before the final decision.

How To Conduct A Tideland Survey – Field Procedures

Before beginning the field survey, obtain survey instructions from DNR – see below.

Monumentation: For the “normal” ATS survey you will set four monuments, two on the upland extension of each sideline. Typically, the upland owner is the tideland applicant, however if not, you need to obtain permission for setting monuments on the uplands.
Monuments are to meet the standards for primary monuments (11AAC53.), which includes a requirement for setting accessories. However, we will entertain requests to waive accessories in areas of dense monumentation.

**Monument Marking:** There has been some confusion on this subject over the years. The confusion is the marking of the two witness corners which are set on a sideline's upland extension. Occasionally a survey will show one of the two monuments marked as a witness corner to the nearest true corner, with the second monument as witnessing the seaward corner. This works, but is not preferred. What doesn't work, is sometimes a survey shows both WC monuments as witnessing the same corner, with no differentiation of markings on the two witness monuments. If one is lost, it is difficult to determine which is remaining.

The preferred marking is to label the witness corners as wc 1 and wc 2 to the nearest true meander corner. This way, lining up the two monuments will give the lay person an approximation of the ATS survey parcel's sideline as it crosses the water. But if the true location became critical, it would be determined by grant boundary adjustment between the true meander corners on the opposite sidelines of the survey. This is because the two witness corners are typically set too close together to be dependable as an extension seaward.

**How to determine the landward boundary:** Often, there are two lines which need to be compared, the existing line of mean high water (MHW), and the record line as per the adjacent upland survey.

The approximate location of the true mean high water line is determined by the use of National Geodetic Survey tidal bench marks (or any other bench marks that have been determined from that source), and the MHW datum for the immediate body of water. Ref: 11AAC53.120(1). If no such bench marks exist within one mile, then tidal observations may be taken and used in conjunction with official tide tables for the immediate body of water. A note shall be placed on the plat stating either:

Mean high tide was determined by time coordinated tidal observations on mth day yr as extrapolated from the NOAA Publication for the predictions of high and low waters for (year).

or

Mean high tide was determined from ____________ tidal bench mark on mth day yr from data supplied by NOAA. Bench Mark Elev.:__

So, how exactly is this done in the field? Typically, you will set a temporary bench mark near the project and run levels from NGS bench mark or if there is no bench mark within one mile, you take time coordinated tide readings. See appendices B, C and D; “DETERMINING MEAN HIGH TIDE WHERE AN NGS BENCH MARK EXISTS” and “DETERMINING MEAN HIGH TIDE IN AREAS WHERE NO NGS BENCH
MARKS EXIST”. The published MHW elevation for a particular body of water can be found on NOS Nautical Charts, NOS Tidal Bench Mark Data Sheets, or from the predicted tide tables.

To determine the meander line of record, it is necessary to tie monumentation from the record survey. You tie the nearest monument of the record survey in each direction, and using grant boundary adjustment procedures, fit the record meanders between the recovered monuments.

Once you’ve established the two lines, what do you do with them? This will ordinarily be addressed in the survey instructions. State regulations 11AAC53.120 set the guidelines for whether to set the upland boundary at the one line or the other.

In cases where it is determined that there has been an avulsive event, such as fill placed, or uplift (or subsidence), etc., the best evidence of the last location of the MHW prior to the event is used to set the line as a fixed and limiting boundary. This is usually the last survey of record, although sometimes aerial photography, surveys not of record or other evidence may be used.

A 50 foot public access easement is required by AS 38.05.127 and 11AAC51.045. Unless the easement is specifically waived in the final decision, it is required to be shown on the plat. The easement is along the existing mean high water line. There has been confusion on this in the past as the easement is to follow the existing MHW, not necessarily the landward boundary of the survey, which sometimes follows the record MHW line instead.

Note that the public access easement is applied 50 feet seaward and 50 upland of the existing MHW on uplands owned by the state. Thus, those surveys which, because of fill, extend upland of the existing MHW, will have the easement applied both directions.

Other Issues

Apportionment of tidelands: In cases of negotiated leases, the applicant’s tideland parcel is limited to tidelands adjacent to his upland parcel. Depending on the configuration of the shore, the surveyor may not be able to simply extend the upland boundary seaward, but should typically extend at the angle which bisects the shoreline meander. The surveyor must be aware of the adjacent upland owner’s rights to the tidelands.

How does accretion and erosion to the upland parcel’s affect the tidelands parcel? Where the landward boundary is ambulatory, the seaward boundary is fixed. Thus accretion to uplands, “erodes” away the tidelands parcel. Over time, a tideland parcel can disappear. On the other hand, erosion of the upland parcel, increases the size of the tideland parcel.
Where Do You Get Survey Instructions?

You have received a final decision, and you would like to get the lands surveyed, how do you get started? Send a request for survey instructions to DNR's Land Survey Unit. The request should include the ADL number, a description of the lands which you want to have surveyed at this time, and the $225 fee. It is preferable that you only request for lands that you actually plan to survey, as they have a two year expiration, after which they would have to be extended or completely reissued depending on how much things have changed.

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Technical & Data Management
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Phone: 907-269-8516
Fax: 907-269-8914

Depending on our workload, it may take a couple of months to get the instructions prepared. When the field work is complete, submit the project to DNR surveys for review. The review fee is $200 for the first tract, plus $50 per additional parcel.

If within a city or borough that exercises platting authority, you will need to go through the platting board for approval of the survey. When the survey meets DNR and local approval, the final plat will be signed by various parties and submitted for recording. The recording fee is $20 for sheet 1, plus $5 per additional sheet.

These fees are set out in 11 AAC 05.010 (a)(13) survey and platting.
(13) survey and platting
(A) issuance or amendment of survey instructions, $50 for a remote recreational cabin site lease, replat, or right-of-way vacation, and $225 for any other type of survey;
(B) plat review under AS 38.04.045 ;
(i) first review of first parcel or tract per plat, $200, and $50 for each additional parcel or tract per plat, with the second review at no change;
(ii) third and each additional review of first parcel or tract per plat, $300 each, and $100 for each additional parcel or tract per plat;
Fact Sheet

Title: Tide & Submerged Land Ownership

What are "tide and submerged" lands?

Tidelands include the land between mean (average) high and mean low tide. Submerged lands are seaward of mean low tide to three miles offshore. The tide and submerged lands include all land between the mean high tide line and three miles offshore of the mean low tideline.

Who owns tide and submerged lands in Alaska?

The State of Alaska owns most of the tide and submerged lands along its coastline. The submerged Lands Act of May 22, 1953 states that all lands permanently or periodically covered by tidal waters up to, but not above, the line of mean high tide and seaward to a line three geographical miles distant from the coast mean low tideline is owned by the state.

Can the state sell or lease its tide and submerged land?

As a general rule, the State cannot sell tide and submerged land. However, certain cities and individuals or corporations may acquire title to tide and submerged land occupied or developed on or before January 3, 1959, the date Alaska was admitted to the union. There are several programs under which a lease of state tidelands may be acquired.

Can I use state tide and submerged lands, even if the state doesn’t own the uplands?

Yes, you can use state tide and submerged land, even if the uplands are not owned by the state. However, you must remember that you only have the right to use the land from mean high water seaward. You are also expected to respect the upland owner’s rights and treat the land with care.
Does the federal government own tidelands adjacent to its conservation units, such as National Parks?

The question has been raised that the United States may own tidelands adjacent to certain federal withdrawals that exist prior to statehood. However, that question was answered on June 8, 1987 when the U.S. Supreme Court issued its decision in Utah v. United States. This decision established that federal land withdrawals made prior to statehood did not include land under navigable waters.

In that decision, the Supreme Court affirmed the longstanding policy that the federal government holds land under navigable waters for the ultimate benefit of a future state. In order for this not to be the case, Congress would have to specifically include the land and clearly state that it intended that the state would not have title to it.

Tidelands and submerged lands were not included in any pre-statehood federal withdrawals within Alaska and there is no indication that Congress intended to take away the State of Alaska's title. The state therefore received title to all the tide and submerged lands at statehood.

Additionally, in the Alaska National Interest Lands Conservation Act, Congress did not take away the state's power to regulate state-owned submerged lands within or adjacent to federal Conservation System Units in Alaska. Many provisions in ANILCA recognize and respect the state's authority over state-owned land.

Where the uplands are within federal conservation units, the state has cooperated with federal land managers wherever possible. As a result, some special use restrictions may apply. Sometimes this cooperation is formally set out in a memorandum of understanding that discusses management issues and how they will be resolved.

**For additional information contact:**

Department of Natural Resources
Division of Mining, Land & Water

Southeast Regional Office
550 West 7th Avenue, Suite 900-C
Anchorage, AK 99501
Phone: 907-269-8503

Southeast Regional Office
400 Willoughby Avenue, 4th Floor
Juneau, AK 99801
Phone: 907-465-3400

Northern Regional Office
3700 Airport Way
Fairbanks, AK 99709
Phone: 907-451-2700
TO COMPUTE MHW FROM TIDAL PREDICTIONS:
ADD 1/2 THE MEAN RANGE TO THE MEAN TIDE LEVEL OF THE CLOSEST STATION PREDICTIONS AS PUBLISHED IN THE HIGH AND LOW WATER PREDICTIONS WEST COAST OF NORTH AND SOUTH AMERICA TIDE TABLES BOOK.

MEAN RANGE = 2.4 FT

7.6 * Mean Tide Level
subtract 1/2 of mean range from MTL

6.4 MLW (Chart Datum)

0.0 MLLW

3 nautical miles
(limit of state land)

* "Mean Tide Level" is a point midway between MHW and MLW
DETERMINING MEAN HIGH TIDE WHERE AN
NGS BENCHMARK EXISTS

1. NOAA Primary Control Stations and related benchmark data can be obtained at
   http://co-ops.nos.noaa.gov/bench.html or the State of Alaska/ DNR at (907) 269-8521. Example: Juneau.

2. Using a level and rod, run differential levels from one of the Control Station
   bench marks to the project location.

3. Establish a point on each sideline of the ATS survey at the mean high water
   elevation. Measure the witness distance from these points to the witness
   monuments.

4. When the tide level reaches this elevation, field survey the meanders within the
   project.
U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Ocean Service

Station ID: 9452210
Name: JUNEAU, GASTINEAU CHANNEL, STEPHENS PASS
NOAA Chart: 17315
USGS Quad: JUNEAU B-2

Publication Date: 11/02/1999

Latitude: 58° 17.9' N
Longitude: 134° 24.9' W

To reach the tidal bench marks from the main Juneau Post Office main entrance at
9th and D Streets, proceed SW one block to Glacier Avenue, turn left onto
Glacier Avenue and proceed 0.2 km (0.1 mi), bear left at the Y intersection
onto Willoughby Avenue and follow it 0.3 km (0.2 mi) to Whittier Street, turn
right onto Whittier Street and proceed 0.4 km (0.3 mi) (across Egan Drive) to
the U.S. Coast Guard Pier. The bench marks are in the general vicinity. Turn
right (SW) from the main Coast Guard pier and proceed 73.15 m (240.0 ft) to the
tide house.

TIDAL BENCH MARKS

PRIMARY BENCH MARK STAMPING:
DESIGNATION: 945 2210 TIDAL 8
ALIAS: 8 1922

MONUMENTATION: Tidal Station disk
AGENCY: U.S. Coast & Geodetic Survey (USC&GS)
SETTING CLASSIFICATION: Building wall

The primary bench mark is an unstamped disk set vertically in the SE corner of
the Goldstein Emporium Building on the west side of Seward Street between Front
and Second Streets, 5.18 m (17.0 ft) south of the entrance to Miss Scarlett's
U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Ocean Service

Station ID: 9452210
Name: JUNEAU, GASTINEAU CHANNEL, STEPHENS PASS
      ALASKA
NOAA Chart: 17315
USGS Quad: JUNEAU B-2

PUBLICATION DATE: 11/02/1999
Latitude: 58° 17.9' N
Longitude: 134° 24.9' W

TIDAL DATUMS

Tidal datums at JUNEAU, GASTINEAU CHANNEL, STEPHENS PASS based on:

LENGTH OF SERIES: 5 YEARS
TIDAL EPOCH: 1960-1978
CONTROL TIDE STATION:

Appendix C
Elevations of tidal datums referred to Mean Lower Low Water (MLLW), in METERS:

- HIGHEST OBSERVED WATER LEVEL (11/02/1948) = 7.395
- MEAN HIGHER HIGH WATER (MHHW) = 4.962
- MEAN HIGH WATER (MHW) = 4.675
- MEAN SEA LEVEL (MSL) = 2.615
- MEAN TIDE LEVEL (MTL) = 2.580
- MEAN LOW WATER (MLW) = 0.485
- MEAN LOWER LOW WATER (MLLW) = 0.000
- LOWEST OBSERVED WATER LEVEL (01/01/1991) = -1.663

Bench Mark Elevation Information

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<td>2210 H 1997</td>
<td>9.990</td>
<td>5.315</td>
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DETERMINING MEAN HIGH TIDE IN AREAS WHERE NO NGS BENCH MARKS EXIST

1. In NOAA Tide Tables 2002, NOS High and Low Water Predictions or on the internet at: http://co-ops.nos.noaa.gov/tpred2.html/AK look up high tides and times for nearest Tide Station in Table 1. Example: Juneau - June 12, 2002.
   A. Tide predictions in the NOAA Tide Predictions book are in Alaska Standard Time.

2. Look up nearest Place in Table 2. Example: Cannery Cove, Phybus Bay.

3. Add or subtract (or multiply by ratio factor) local correction factor to time of high tide in Table 1 to find predicted time of Local High Tide. Example: 17:57-00:08 = 17:49.

4. Using a level and rod observe the rising tide from ½ hour before to ½ hour after predicted time of high tide taking a minimum of six observations on the rod. Mean the observations and using the level and rod locate the mean elevation on the beach and mark with a temporary bench. This is the approximate High Tide for this location on this day at this time (AM or PM).

5. Apply local Height difference from Table 2 to High Tide at the nearest Tide Station in Table 1. This will be the approximate elevation of the point marked in step 4. Example: 13.0' x 0.90' = 11.7'.

6. Find the Mean High Tide for this location by looking up the Local Mean Range in Table 2. Divide this number by 2. Add the result to the local mean Tide Level also found in Table 2. Example: 12.24' / 2 = 6.12' 6.12' + 7.60' = 13.72'.

7. Locate the Mean High Tide Line on the beach by subtracting or adding to the elevation of the marked point. In this case you would move the rod upland from the water line to the point of elevation 13.72 feet.
Tide Tables 2002
HIGH AND LOW WATER PREDICTIONS

WEST COAST OF
NORTH AND
SOUTH AMERICA
INCLUDING THE HAWAIIAN ISLANDS
AND THE ALASKAN SUPPLEMENT

International Marine
Formerly published by the National Ocean Service, NOS,
a division of the National Oceanic and Atmospheric Administration, NOAA.

Accepted by the U.S. Coast Guard
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**TABLE 1.—DAILY TIDE PREDICTIONS**

Juneau, Alaska, 2001

Times and Heights of High and Low Waters

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<td>0152.0 11.0 466</td>
<td>1558.0 3.9 78</td>
<td>1708.0 3.8 55</td>
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**Time meridian 135° W. 0000 is midnight, 1200 is noon.**

Heights are referred to mean lower low water which is the chart datum of soundings.

**Appendix D**
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### TABLE 2 - TIDAL DIFFERENCES AND OTHER CONSTANTS

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Endnotes can be found at the end of table 2.
ALASKA

- Dixon Entrance and Portland Canal
- Revillagigedo Channel and Tongass Narrows
- Behm Canal
- Clarence Strait
- Cordova Bay and Dall Island
- Meares Passage to Davidson Inlet
- Sumner Strait and Wrangell Narrows
- Keku Strait, Fredrick Sound, Stephens Passage
- Lynn Canal and Chatham Strait
- Baranof Island, Salisbury Sound, Chichagof Island
- Cross Sound and Icy Strait
- Gulf of Alaska
- Prince William Sound
- Kenai Peninsula and Cook Inlet
- Kodiak and Afgonak Islands
- Alaska Peninsula
- Aleutian Islands
  - Unimak and Unalaska Islands
  - Umnak, Yunaska, Atka Islands
  - Adak, Kanaga, Tanaga, Rat and Attu Islands
- Bristol Bay
- Kusokwim Bay and Bering Sea
- Norton Sound, Bering Strait, and Arctic Ocean

Pacific Islands

- Marianas Islands
- Caroline, Marcus and Wake Islands
- Marshall Islands
- Gilbert Islands and North Pacific Detached Islands
### Petersburg

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</tr>
<tr>
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### Keku Strait

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### Stephens Passage

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*Appendix D*

*Daily predictions*
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**Juneau, Alaska**

**Tide Predictions (High and Low Waters)**

**NOAA, National Ocean Service**

**Daylight Saving Time**

**Juneau, Alaska**

**Tide Predictions (High and Low Waters)**

**NOAA, National Ocean Service**

**Daylight Saving Time**

**January, 2002**

**NOAA, National Ocean Service**

**Daylight Saving Time**

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**Appendix D**
PUBLISHED BENCHMARK SHEETS

Below is a map of states and geographical areas where CO-OPS maintains Published Benchmark Sheets. Specific stations are listed within each area.

Non U.S. Bench Marks
Alaska Bench Marks

9450305 BOCA DE QUADRA, AK
9450460 KETCHIKAN, TONGASS NARROWS, AK
9450695 HUT POINT, AK
9450807 CONVENIENT COVE, HASSLER ISLAND, AK
9450811 FIN, AK
9450970 ENTRANCE TO ZIMOVIA STRAIT, AK
9451005 POINT HARRINGTON, SUMNER STRAIT, AK
9451037 VILLAGE ROCK, AK, AK
9451074 BUSHY ISLAND, SNOW PASSAGE, AK
9451124 STIKINE STRAIT, AK
9451204 WRANGELL, WRANGELL ISLAND, AK
9451218 VANK ISLAND, SUMNER STRAIT, AK

Click on station of interest.

The NOS bench mark sheets now contain links to corresponding NGS data sheets. Under the NOS vertical mark number (VM#) you may see a PID# link. Clicking on this link will bring up the corresponding NGS data sheet for that vertical mark.

For stations which do not list PID# links, the Latitude and Longitude of the station can be used to find data sheets for nearby PIDs by Clicking HERE.

 Appendix C
Fact Sheet
Title: Accretion, Relicition & Quiet Title Action

What is Accretion / Relicition?
Sometimes a land survey involving coastal or shoreline areas will show that there is now more upland area than was shown on the original survey. The extra land may be the result of fill material deposited by man or the result of natural processes. The act of fill fixes the boundary at the historical location and negates any future claim to subsequent accretion. Accretion is the gradual and imperceptible addition of land to a parcel by the natural deposition of water borne sediments. It is the slow increase in one's land occurring grain by grain. Relicition is the uncovering of submerged land by the recession of water; it is legally treated as accretion even though the process is different. In 1962, the Alaska Supreme Court ruled in Hensinger v. State of Alaska that glacio-eustatic uplift is a form of relicition and therefore subject to common-law doctrine of accretion. The court also stated "accretion and relicition, although physically different processes, are subject to the same rule regarding title, i.e., benefit shores to shoreline owner."

What is the legal significance of accretions?
Land abutting navigable water (see state policy on navigability fact sheet) has riparian rights. Riparian rights are (1) rights to the water itself or its use and (2) rights incident to the land that may include ownership of, or use of the bed, or rights to acquire additional land formed by water action (accretions). One of the most valuable of these rights is the right to have free access to the water. By common law, accretions belong to the owner of the uplands to which the accretion attached in order that a riparian owner may retain his riparian rights. Riparian boundaries are ambulatory boundaries, in that they move as the water moves, under the legal principle that a riparian owner should not be denied the right to have free access to the water. However, ownership of accretions is held under a cloud of title because the owner cannot show how clear or marketable title was acquired. The State of Alaska as the owner of the abutting submerged lands could possibly have an adverse claim. For example, the state asserts ownership of tide and submerged land that has been artificially filled below the mean high water line of tidal water or the ordinary high water mark of non-tidal water bodies.

What is a cloud on title?
A cloud on title is a claim or encumbrance on title to land that, if valid, will affect the owner's title and prevent him from fully enjoying all the rights and benefits of land ownership. Condemned title is title that is subject to an adverse claim of ownership because there is no patent, deed or other written transfer that clearly establishes ownership. Transfer of title may also be an issue.

How is the cloud on title removed?
A cloud on title is cleared up by going through a process known as a Quiet Title Action in which the claimant petitions the Alaska Superior Court to make a judicial determination to establish ownership and ascertain the boundary in accordance with AS 09.45.010 and AS 09.45.020.

What is a Quiet Title Action?
A quiet title action is a legal process that removes an adverse claim or cloud on the title of property to establish ownership in accordance with AS 09.45.010. Action to quiet title is usually a friendly lawsuit, handled by the attorney for the plaintiff and the attorney for the defendants, not requiring a jury trial. The Superior Court is the court with jurisdiction in these matters. The plaintiff is usually the owner of the bed of navigable water and the defendant is the party in the party of the plaintiff. Sometimes the original landowner is named as a defendant. Generally, the lawsuit consists of the attorneys for the parties negotiating a resolution of the claim based on historical information. Upon reaching an agreement, the judge for the Superior Court issues an order resolving the issue in favor of the plaintiff. Final resolution is when the court issues a Clerk's Deed or Deed of the Clerk to the plaintiff. The plaintiff files a Complaint for Quiet Title in Superior Court.

How does the Quiet Title process work?
Generally speaking, the process is as follows:
- Plaintiff's attorney files a Complaint for Quiet Title in Superior Court.
- Court issues a Summons to Defendant, State of Alaska, requiring that the state file an answer to the complaint within 40 days.
- The Attorney General's Office (AGO) and DNR's Survey Unit investigate the claim. The investigation includes a review of some or all of the following: Title documents, record survey plans, historical data, navigability determinations and aerial photography. An on-site field inspection may also be performed.
- Survey Unit makes recommendation recouling certain stipulations to AGO.
- AGO files an answer containing the stipulations with the court.
- Court issues a Stipulation For Entry Of Judgment that has been agreed to by the parties.
- Plaintiff's surveyor surveys and plats the claim in accordance with the stipulations and DNR's surveying and platting requirements 11 AAC 33.
- A Certificate of Plat or Litigation Report, prepared by a title company, is required to be submitted when the plat is submitted for DNR review.
- After approval by DNR and the platting authority the plat is filed in the Recorder's Office.
- Plaintiff's attorney files upon the State of Alaska, Attorney General's Office, a proposed Findings of Fact and Conclusion of Law, a proposed Findings of Fact, a proposed Final Decision, and a proposed Clerk's Deed.
- Upon the state's review and approval, plaintiff's attorney files the above documents with the action.
- The Clerk of the Court issues a Clerk's Deed, based on the recorded plat, quieting title in favor of the plaintiff.

How long does the process take?
The time frame is dependent upon the actions or lack of action by the plaintiff, plaintiff's attorney and surveyor and the local platting authority and the court system. By law, the state has 40 days to respond to a complaint. Once it has been filed with the court unless the state's attorney files for an extension, it should be expected that the entire process will take a minimum of six months even if it is pursued aggressively.
INTERAGENCY LAND MANAGEMENT TRANSFER (AMENDED)

The Division of Lands, Department of Natural Resources of the State of Alaska transfers and assigns to the State of Alaska, Department of Highways or its successors in function, hereinafter called Assignee, jurisdiction and management of the following described lands, including uplands, shorelands, tidelands, or submerged lands, located in the State of Alaska, to-wit:

That portion of Protracted Section 9, T.41S., R.67E., Copper River Meridian, within the City and Borough of Juneau in the First Judicial District of the State of Alaska, as delineated on attached plats:

Containing 1.988 Ac., more or less.

The above designated parcel of land is required to enable the Department of Highways to construct and maintain a public highway, known as Alaska Project No. F-095-B(14), as a controlled access facility, in accordance with Sec. 19.20.010 through Sec. 19.20.050, Alaska Statutes.

Entry upon and use of this land by the Alaska Department of Highways, its agents, and contractors, shall be at the discretion of the Department of Highways, with particular reference to claims of accretion by parties other than the State of Alaska.

said jurisdiction and management being limited to the surface and so much of the subsurface as may be required in order to make use of the land for public purposes within the jurisdiction of the Assignee, and for so long as required for said public purposes. The right to construct, maintain or improve and remove buildings, roads, airports and works
of any description, and to use or remove sand, gravel, timber, or other materials on or near the surface is expressly granted when such action is necessary in order to make use of the lands for any public purposes within the jurisdiction of the Assignee. The Division of Lands expressly reserves jurisdiction and management of all other minerals including oil and gas in the above described land, provided, however, that the Division of Lands will not permit surface entry for the purpose of mineral or oil and gas exploration or development without the consent of the Assignee.

Dated at Anchorage, State of Alaska, this 13th day of November, 1972.

[Signature]

Director, Division of Lands
Department of Natural Resources

UNITED STATES OF AMERICA )
STATE OF ALASKA ) ss.

This certifies that on the 13th day of November, 1972, before me a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared J. J. Keene, to me known and known to me to be the person described in and who executed and acknowledged the foregoing instrument on behalf of the State of Alaska, as Director of the Division of Lands, Department of Natural Resources. The said J. J. Keene, after being duly sworn according to law, stated to me under oath that he is the Director of the Division of Lands, Department of Natural Resources and has authority pursuant to law to execute and acknowledge the foregoing instrument as such Director on behalf of the State of Alaska, acting through the Division of Lands, Department of Natural Resources and that he executed and acknowledged the same freely and voluntarily as the free and voluntary act and deed of the said State of Alaska and for the Division of Lands, Department of Natural Resources.

WITNESS my hand and official seal the day and year in this certificate first above written.

[Signature]
Notary Public In and for the State of Alaska.
My commission expires [Date]
Alaska Department of Natural Resources  
Division of Mining, Land and Water  
400 Willoughby, Suite 400  
Juneau, Alaska 99801

Interagency Land Management Transfer, Amendment #2  
ADL 58216

The Interagency Land Management Transfer ADL 58216 is amended to delete that portion now included in Tracts A and B of Alaska Tidelands Survey 1356 as shown on amended survey plat No. 92-40 recorded in the Juneau Recording District and leased to Douglas Island Pink and Chum, Inc. This amendment reduces the area from 1.988 acres to 0.93 acres, more or less. The area that remains in the ILMT is shown as Parcel 1A on Attachment A.

All other terms and conditions of the ILMT shall remain unchanged.

[Signature]  
Frank Mielke  
Chief of Rights of Way and Utilities  
Alaska Department of Transportation and Public Facilities  
12-20-00  
Date

[Signature]  
Ron Schonenbach, Regional Manager  
Division of Mining, Land and Water  
Alaska Department of Natural Resources  
12/26/00  
Date

STATE OF ALASKA )
) ss.
First Judicial District )

THIS IS TO CERTIFY that on this 20th day of December, 2000, before me personally appeared Frank Mielke, of the Alaska Department of Transportation and Public Facilities who signed the foregoing ILMT amendment and acknowledged voluntarily signing the same.

[Signature]  
Linda R. Roguska  
Notary Public in and for the State of Alaska  
My Commission Expires: 01-30-01

Page 1 of 2
STATE OF ALASKA

First Judicial District

THIS IS TO CERTIFY that on this 26th day of December, 2000, before me personally appeared Ron Schoenbach, of the Division of Mining, Land and Water of the Department of Natural Resources of the State of Alaska, who executed the foregoing ILMT Amendment and acknowledged voluntarily signing the same.

[Signature]

Notary Public in and for the State of Alaska
My Commission Expires: 1/20/03
A.T.S. NO. 1356

PROJECT NO. F-095-8(14) PARCEL 1A
REVISED PERMIT AREA 0.933 acres
EXISTING DOT/PF CENTERLINE MONUMENT
EXISTING PRIMARY MONUMENT

NOTE: The Survey information for this plot was taken from Alaska Tideland Survey 1356, Juneau Plot 91-74.
PROJECT NO. F-095-8(14) PARCEL 1A
REVISED PERMIT AREA 0.93± acres

EXISTING DOT/PF CENTERLINE MONUMENT
EXISTING PRIMARY MONUMENT

NOTE: The Survey information for this plat was taken from Alaska Tidelands Survey 1356, Juneau Plat 91-74.
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LAND
RIGHT-OF-WAY PERMIT
ADL 104840

THIS AGREEMENT made and entered into this 17th day of July, 19__
by and between the STATE OF ALASKA, acting by and through the
Department of Natural Resources, Division of Land and, hereinafter referred
to as the grantor and Douglas Island Pink & Chun, Inc., hereinafter
referred to as the permittee.

WITNESSETH, that in accordance with the provisions of Sec. 38.05.050,
A.S. and the rules and regulations promulgated thereunder, the permittee
having filed an application for a right-of-way for installing and
maintaining two, three inch polyethylene pipelines to be used as a seawater
intake pipelines for seven months per year, and an discharge pipelines for
ground fish waste for five months per year, with the Division together with a map
showing the definite location thereon of the line of right-of-way which the
permittee has adopted and agrees to be the specific and definite location of
the aforesaid right-of-way, and

WHEREAS, it is understood and agreed by the permittee herein that, as
a condition to the granting of the right-of-way applied for, the land covered
by said right-of-way shall be used for no purpose other than the location,
construction, operation and maintenance of the said right-of-way over and
across the following described State lands, to wit:

Easement Diagram 104840, located adjacent to Alaska Tidelands Survey 356,
within the SW of Section 9, Township 41 South, Range 67 East, Copper River
Meridian. (Attachment A)

The said right-of-way shall extend 450 feet in length and 10 feet
in width, containing 10 acres, more or less.

TO HAVE AND TO HOLD the same until the above described land shall no
longer be used for the above-mentioned purpose and subject to conditions and
reservations elsewhere set forth herein and any "Special Conditions".

In the event that the right-of-way herein granted shall in any manner
conflict with or overlap a previously granted right-of-way, the permittee
herein shall use this right-of-way in such a manner as not to interfere with
the peaceful use and enjoyment of the previously issued right-of-way and no
improvements shall be constructed by the permittee herein upon the
overlapping area unless the consent therefore has first been obtained from
the permittee under the pre-existing right-of-way.

The permittee in the exercise of the rights and privileges granted by
this indenture shall comply with all regulations now in effect or as
hereafter established by the Division of Land and all other Federal, State
or Municipal laws, regulations or ordinances applicable to the area herein
granted.

10-119 (72)
Rev. 12/87 SERO
Legal Description

Easement Diagram ADL 104840, located adjacent to Alaska Tidelands Survey 1356, within the S6E of Section 9, Township 41 South, Range 67 East, Copper River Meridian, containing .10 acres more or less. (Attachment A)

* * * * * * * *

SPECIAL CONDITIONS

1. This permit shall expire on July 16, 2038.

2. The fee for this permit is $200.00 per year. This fee may be adjusted every five years based on the division's fee schedule at that time.

3. This easement is private and non-exclusive. This division reserves the right to allow other like or compatible uses of non-exclusive use private easements and the right to require such users to enter into an equitable maintenance agreement with the original applicant. The equitableness of the agreement is determined by the Director.

4. This Right-of-Way Permit is issued for a period of 45 years and will be cancelable if the state has a higher and better use for the land. The cost of relocating the improvements shall be borne by the permittee.

5. This agreement will only become effective once the signed original document has been recorded.
Upon abandonment, termination, revocation or cancellation of this indenture, the permittee shall, within 90 days, remove all structures and improvements from the area herein granted, except those owned by the grantor, and shall restore the area to the same or similar condition as the same was upon the issuance of this permit. Should the permittee fail or refuse to remove the structures or improvements, within the time allotted, they shall revert to and become the property of the grantor. However, the permittee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area. Provided further, however, that the grantor, in his/her discretion, may alter or modify the requirements contained in this provision if it is to the best interest of the State of Alaska to do so.

The permittee shall utilize the lands herein granted consistent with the purposes of the proposed use, as revealed by the application therefor, and shall maintain the premises in a neat and orderly manner and shall adopt and apply such safety measures as shall be necessary, proper and prudent with respect to the use to which the land is subjected.

The permittee shall take all reasonable precaution to prevent and suppress brush and forest fires. No material shall be disposed of by burning in open fires during the closed season unless a permit therefor has first been obtained from the agency empowered by law to issue such permits.

Prior to any construction or development that will use, divert, obstruct, or pollute or utilize any of the waters of the State, the permittee shall first obtain approval therefor from the Commissioner of the Department of Fish and Game and file an image copy thereof with the grantor.

Any lands included in this permit which are sold under a contract to purchase shall be subject to this permit. Upon issuance of title to the purchaser, this permit shall remain in effect until its date of expiration.

In the event that the necessity for the right-of-way shall no longer exist, or the permittee should abandon or fail to use the same, then this permit shall terminate.

The State of Alaska shall be forever wholly absolved from any liability for damages which might result to the permittee herein on account of this permit having been canceled, forfeited, or terminated prior to the expiration of the full term for which it was issued.

NOW THEREFORE, in accordance with the provisions of Sec. 38.05.850, A.S. and the rules and regulations promulgated thereunder and in accordance with the conditions heretofore set forth or attached hereto and made a part hereof, the permittee herein is hereby authorized to locate, construct, operate and maintain said right-of-way over and across the lands herein described.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed in duplicate and the permittee herein has hereunto affixed his signature on the day and year first above written.
This is to certify that on the 5th day of May, 1989, before me, the undersigned Notary Public, personally appeared

Donald B. Schnick, known to me and known by me to be the

Director of the Division of Lands of the Department of Natural Resources, and acknowledged to me that he executed the foregoing instrument for and on behalf of said State, freely and voluntarily for the use and purpose therein set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public in and for the State of Alaska
My Commission expires: 11/1/89

UNITED STATES OF AMERICA )
State of Alaska ) ss.
Judicial District )

shall

Notarized

UNITED STATES OF AMERICA )
State of Alaska ) ss.
Judicial District )

This is to certify that on this 4th day of May, 1993, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, as such, personally appeared

Ladd Macaulay, known to me to be the Director of

Southeast Alaska Region, the corporation which executed the foregoing instrument, and acknowledged to me that he executed the same for and on behalf of said corporation, and that he is fully authorized by said corporation so to do; he, Ladd Macaulay, acknowledged to me that he signed and executed the same freely and voluntarily, for the uses and purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Notary Public in and for the State of Alaska
My Commission expires: 8/27/92

After recording in the Juneau Recording District, this document must be returned to the Department of Natural Resources, Division of Land, S.E. Regional Office, 400 Willoughby Ave., Suite 400, Juneau, Alaska 99801.
Attachment for Special Survey Instructions


In the execution of the survey under the Special Instructions the surveyor is authorized and directed to perform the survey as set out in the Special Survey Instructions, the State of Alaska’s Survey and Platting Regulations, and such Supplemental Instructions as may be issued during the progress of work.

Limit and Character of Work

The survey is limited to the establishment and monumentation of the boundaries as shown on the Plan of Survey, the location of all improvements within the parcel, and the preparation of the survey plat. In the event that any needed BLM or GLO survey corner is missing or has been destroyed, it shall be reestablished per the appropriate BLM Manual of Surveying Instructions.

History of Surveys

See the Special Survey Instructions.

Method of Survey Procedure

The survey shall be executed by a Professional Land Surveyor registered to practice in the State of Alaska.

It is the surveyor’s responsibility to ensure research is complete.

The survey and plat shall substantially conform to 11 AAC 53, the Special Survey Instructions, this attachment to the Special Instructions, the Final Finding and Decision and any Amendments, the development plan, and the Plan of Survey.

See the Special Survey Instructions for parcel descriptions.

Field ties shall be made to all monuments which control the survey. The ties and monumentation shall be shown on the plat. Adjoining parcels shall be retraced sufficiently to ensure that they are not encroached upon. All significant improvements and encroachments within this survey shall be field located and shown on the plat.

No markings of any kind shall be added to recovered monuments.
The Basis of Bearing shall be between any two recovered monuments for which there is a record bearing; preferably the longest line of record or alternately the Basis of Bearing may be determined using high precision Global Navigation Satellite System (GNSS) between two monumented positions. The Basis of Bearing must be clearly noted on the plat in **bold lettering**. The Datum, epoch, and conversion method information (if applicable) must also be noted on the plat.

Geographic NAD 1983 coordinates (and if applicable NAD 1927) are required to be shown at a monumented Corner, or Witness Corner, of the ASLS/ATS/ASCs. The Basis of Coordinates shall be derived from a field tie to a NGS survey monument, or from a tie to a **primary** monument with record coordinates (shared OPUS Solutions are acceptable), or coordinates computed from record tie information to a rectangular monument in the PLSS. The Basis of Coordinates must be clearly noted on the plat in **bold lettering**.

Geographic coordinates may also be derived from survey-grade GNSS observations if sufficient to process through OPUS. Observations shall be on a **primary** monument, set or recovered, which shall be shown on the plat with ties to the survey. Note that if the point for the Basis of Coordinate is a random control point it MUST be monumented with a primary monument. Documentation accompanying the first plat submittal must include the “NGS OPUS Solution Report.” The NGS Opus Solution Report shall show sufficient GPS data for minimum of an OPUS-RS solution.

For additional information regarding OPUS and the NGS OPUS Solution Report, see [http://www.ngs.noaa.gov/OPUS/about.jsp](http://www.ngs.noaa.gov/OPUS/about.jsp)

Control monuments on record with the National Geodetic Survey (NGS) may be researched on-line at [http://www.ngs.noaa.gov/datasheets/](http://www.ngs.noaa.gov/datasheets/) and shared OPUS solutions are available at [http://www.ngs.noaa.gov/OPUS/view.jsp](http://www.ngs.noaa.gov/OPUS/view.jsp)

If GNSS technology is used, it shall conform to the Federal Geographic Data Committee (FGDC) publication Geospatial Positional Accuracy Standards, Part 1, Reporting Methodology, FGDC-STD-007.1-1998; Part 2, Standards for Geodetic Networks, FGDC-STD-007.2-1998; and Part 3, National Standard for Spatial Data Accuracy, FGDC-STD-007.3-1998. Copies are available at the following website:


(As applicable to Municipal Entitlement Surveys) A table shall be shown on the plat showing total acreage of approved municipal entitlement lands and the total acreage of the riparian buffer within the approved municipal entitlement lands. Two such tables shall be shown. One for lands to which the state holds patent and a separate table where the state only holds Tentative Approval.

Reservations: See the Special Survey Instructions.

Subject to’s: See the Special Survey Instructions.
The surveyor shall research the public record sufficiently to show on the plat the current legal identifiers of contiguous parcels.

**TECHNICAL SURVEY REQUIREMENTS**

All lines surveyed and retraced using terrestrial methods for the survey shall be surveyed with a minimum accuracy of 1:5000, and/or corner positions recovered or established with non-terrestrial methods (with a least square adjustment) shall have a Relative Positional Accuracy at the 95 percent confidence level of 0.13 feet plus 100 ppm (per 12 AAC 36.250). The surveyor must select the proper equipment and methods to achieve the required degree of accuracy for the survey, with the actual field closure reflected in the field notes and/or survey report. Legible, annotated copies of all field notes and computations, a sketch showing traverse point relationships, as well as good photographs or legible rubbings of monuments recovered and established, must accompany the first plat submittal. All GNSS data; including raw data files, adjustment files, final coordinate file, and OPUS solution reports shall be submitted in a digital format only, no hard copies please.

The field notes and/or survey report shall include 1) the accuracy classification to which the data was gathered, 2) the survey methods used to obtain the data, 3) the dates the survey work was performed, and 4) the datum (with epoch if applicable) used for the survey.

Previously existing monuments and accessories found in a disturbed condition must be returned to the original position and condition as nearly as possible or replaced so as to perpetuate the position.

All angle points on the exterior boundary of the survey must be monumented with a primary monument. No portion of the survey may be more than 1,320 feet from a primary monument.

A primary monument must consist of a minimum two inch diameter metal pipe, at least 30 inches long, with a minimum four-inch flange at the bottom. A minimum two-and-one-half inch diameter metal cap must be permanently attached at the top. If both the cap and the pipe are of non-ferrous metal, then additives with magnetic qualities must be permanently attached at both the top and bottom of the monument. Every primary monument cap must be permanently stamped with the survey designation across the top, the corner identification in the center, and the surveyor's registration number and the year set on the bottom. This data must be oriented so that it may be read when the reader is facing north.

If the point for a primary monument is in a place that would be impractical to monument because of natural obstacles, such as water bodies, a witness corner must be set. The witness distances must be shown on the plat of survey from the true corner position to the monument as set. Except where otherwise required in the Special Survey Instructions and the Plan of Survey, witness corners must be set on a survey property line and at a distance considered reasonable and practical from the true corner point. Witness corners must comply with the standards for primary monuments. If it is impractical to set a primary monument due to surface or shallow subsurface rock, one of the following may be substituted, with monument accessories as required: (a) a cap grouted into firm rock; or (b), a durable tablet containing a minimum of 1,000 cubic inches of concrete and a cap marking the actual corner point.
Care shall be taken to ensure that all primary monuments are firmly set and that the hole is backfilled completely with material that is dense enough to support the monument in an upright position for an extended period of time. In instances where monuments are being set in frozen ground and the excavated material is not sufficient or suitable for backfilling the hole, it will be required to import material from offsite such as bagged pea gravel or other rocky material.

All primary monuments must be referenced to three bearing trees or objects, if available, using methods that will secure a closure error no greater than 1:2000. Reference monuments must be set if no trees or other suitable objects exist within 100 feet.

(1) If bearing trees or objects are used, they must be located as nearly as possible at equal angles, and may not be farther away than 100 feet from the monument. The distance to trees or objects must be measured at waist height, and in the case of trees, measured to the center of the tree, with distances reduced to horizontal equivalent. The surveyor shall have the option of marking the bearing trees with non-ferrous metal tags of at least nine square inches in size facing the monument and clearly and permanently marked with the bearing, distance, and corner nomenclature, or of scribing the trees as per applicable Articles of the BLM Manual of Surveying Instructions, 2009. Reference monuments must be set if no trees or other suitable objects exist within 100 feet.

(2) If reference monuments are necessary, two monuments meeting the requirements for secondary monuments must be used. These monuments must be placed on a property line or at right angles to the monument within the property being surveyed, and may not be further than 100 feet from the monument being referenced. In addition, they must be marked with the nomenclature and distance to the monument being referenced.

(3) In addition to the accessories required above, witness posts of the minimum size of a nominal two-by-four, or fiberglass reinforced Carsonite witness posts, six feet in length with four feet protruding above ground, are required for all primary monuments. They shall be set at right angles to the line and no farther than one foot from the monument.

Secondary monuments must consist of at least a five-eighth inch metal rod, three feet long, with a one-and-one-half inch cap attached at the top.

If applicable all property corners must be numbered on the monuments and designated on the plat in a consecutive, preferably clockwise, direction.

Any additional survey or monumentation requirements of the local Platting Authority must also be conformed to.

**PLAT REQUIREMENTS**

The surveyor shall construct the plats in accordance with the following:
(1) The plat must be of archive quality biaxially oriented polyester film (Mylar) that does not exceed 32 x 36 inches. Margins shall be 1½ inch on the left and ½ inch on the top, right and bottom.

(2) Use the standard DNR legend, an example of which is available on the DNR Survey Section webpage at <http://www.dnr.state.ak.us/mlw/survey/>.

(3) All sheets must have the official division title block, border configuration and standard legend.

(4) All line work on the plat must be in black ink (no gray scale).

(5) All lettering on the plat must be in black ink (no gray scale) and be accomplished with mechanical lettering equipment.

(6) All line work and lettering must be of professional quality and all line widths and lettering sizes must be of such size that all information can be clearly shown without overlap or confusion. All lettering must be minimum size 80 Leroy ®, or equivalent, with No. 100 recommended. Size 80 lettering must be uppercase.

(7) When more than one sheet is required, an index sheet must be added showing the entire limits of the survey, and each sheet showing the sheet number and total number. When more than one sheet is submitted, only the last need have the approval certificates, but all sheets must be the same size.

(8) The plat must be in an appropriate engineering scale, preferably of one inch representing a multiple of 100 feet. If larger than 100 scale the plat must be in a multiple of 10 feet.

(9) Details, as necessary, must be shown at an appropriate indicated scale.

(10) The plat must have a vicinity map in the upper right hand corner. The map shall be at least four inches on each side with a scale of 1:63,360, showing sections, townships and ranges, boundaries such as national forest or municipal boundaries, and other prominent physical or natural features such as roads, lakes, or rivers. The source and date/revision date of the base map must also be indicated.

(11) Nomenclature of the survey need appear in the title block only, unless the division specifically states otherwise.

(12) The Basis of Bearing must be indicated. Bearings shown must be true bearings as orientated to the basis of bearing, and distances must be in US Survey Feet reduced to the true horizontal equivalent.
(13) The Basis of Coordinates must be indicated. NAD 1983 (and if applicable NAD 1927) coordinates must be shown at a monumented Corner, Meander Corner, or a Witness Corner to Meander Corner.

(14) Bearings must be shown to the nearest second and distances to one hundredth of a foot. Boundary line distances must be shown from monument to monument. Witness distances must be shown from monument to the true point.

(15) In compliance with PL 94-168, entitled "Metric Conversion Act 1975," a metric bar scale shall be shown on the plat, positioned directly above the title block. A corresponding foot scale shall be shown and similarly placed, and have a unit scale which is identical to that used in the drawing on the survey portion of the plat. Two equations shall be shown: 1 meter = 3.280833 U.S. survey feet, and 1 U.S. Acre = 0.4047 hectare.

(16) The date of plat preparation and standard north arrow must be shown on the plat. A recent magnetic declination must be shown below the north arrow with a date and source. The current declination may be computed utilizing the N.O.A.A. National Geophysical Data Center website (http://www.ngdc.noaa.gov/geomag-web/).

(17) The applicable Certificates must be shown with the headings capitalized and underlined unless revised by the Special Survey Instructions:

CERTIFICATE OF OWNERSHIP AND DEDICATION

I, the undersigned, hereby certify that I am the Director, Division of Mining, Land and Water and that the State of Alaska is the owner of (AS APPLICABLE) ASLS No. 20xx-xx/ASCS No. 20xx-xx/ATS XXXX, as shown hereon. I hereby approve this survey and plat for the State of Alaska, and dedicate for public or private use as noted, all easements, public utility areas, and rights-of-way as shown and described hereon.

Dated ___________ (Signature in black ink) Director, Division of Mining, Land & Water

NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn to before me this ___________ day of ______________________, 20_____.

By ___________________________.

Notary Public for Alaska
My Commission Expires ___________
APPLICANT CERTIFICATE

(Use the singular or plural as applicable.)
(I/We), the undersigned, hereby certify that (I am/we are) the applicant(s) as shown hereon,
(I/We) hereby approve this survey and plat.

ADL No. xxxxxx Tracts X, X & X

(Signature in black ink) ___________________________ ___________________________
Applicant's Name or Authorized Official and Title Date

NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn to before me this _________ day of __________________, 20____.

By Applicant's/Official's name to be handwritten in by Notary

________________________________________________________
Notary Public for Alaska
My Commission Expires __________________________

SURVEYOR'S CERTIFICATE

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, that this plat represents a survey made by me or under my direct supervision, that the monuments shown hereon actually exist as described, and that all dimensions and other details are correct.

Date _______ (date) _______ (Mechanically lettered name) __________________________
Registered Land Surveyor

(Surveyor's Seal with Original Signature)

TAX CERTIFICATE

This subdivision lies outside of any taxing authority, at the time of filing.

Or
(Appropriate Taxing Authority Certificate)

(18) Any approval or any other certificates or notes that may be required by the local Platting Authority shall be drafted on the plat.

(19) The following notes will be required on the plat:

a. All bearings shown are true bearings as oriented to the Basis of Bearings and distances shown are reduced to horizontal field distances.

b. The error of closure of this survey does not exceed 1:5000, and/or corner positions have a Relative Positional Accuracy at the 95 percent confidence level of 0.13 feet plus 100 ppm.

c. For plats based on GNSS (to be used in lieu of note 19 a):

**BEARINGS:** Are based on high precision Global Navigation Satellite System technology in the NAD 83 (CORS Epoch) datum, using (brand model) receivers, differentially corrected and processed using (name of software), Version ____ software. Local plane bearings are orientated to true geodetic North at (monumented position on the survey). Distances shown are reduced to horizontal field distances.

**COORDINATES:** The shown record coordinates are from ______, these coordinates were held and used to compute the protracted positions of the Rectangular (section, quarter & sixteenth) corners. The found NAD 83 (2011) coordinates (Lat/Long) are based on an OPUS Solution (Epoch: 2010.0000) for the (monumented position) and used for verification only of the location. The coordinates were constrained to the National Spatial Reference System using the CORS reference stations: Xxxxx-1 (PID #), Xxxxx-2 (PID #), and Xxxxx-3 (PID #).

d. (If applicable) The natural meanders of the line of ordinary/mean high water (OHW/MHW) form the true bounds of (AS APPLICABLE) ASLS No. 20xx-xx/ASC No. 20xx-xx/ATS XXXX. The approximate line of OHW, as shown, is for area computations only, with the true corners being on the extension of the side lines and their intersection with the natural meanders.

e. (If applicable) A note shall be placed on the plat stating either:

Mean high tide was determined by time coordinated tidal observations on month day year as extrapolated from the NOAA Publication for the predictions of high and low waters for (year).

or
Mean high tide was determined from __________ tidal bench mark on month day year from data supplied by NOAA.

f. (If applicable) The tidal datum information shall be shown on the plat in a manner similar to the following:

<table>
<thead>
<tr>
<th>Tidal Station Name</th>
<th>Lat/Long</th>
</tr>
</thead>
<tbody>
<tr>
<td>MHHW</td>
<td>X.XX’</td>
</tr>
<tr>
<td>MHW</td>
<td>X.XX’</td>
</tr>
<tr>
<td>MLW</td>
<td>X.XX’</td>
</tr>
<tr>
<td>MLLW</td>
<td>X.XX’</td>
</tr>
</tbody>
</table>

(20) Both record and found bearings and distances shall be shown on the plat. In the event there are two sets of record data that of the latest plat of record will be shown with the plat nomenclature indicated. If record lines are not retraced or resurveyed but are used to compute closure, record monumentation along these lines must also be indicated.

(21) The exact marks on all primary monuments recovered and set must be shown on the plat with data pertaining to bearing trees and/or monument accessories established. (If applicable) a detail showing typical markings on secondary monuments recovered or set must be shown on the plat as well.

(22) All easements and rights-of-way shall be shown graphically on the plat in lieu of a "note" whenever possible to do so. This requirement applies to all easements and rights-of-way including those to and along public water bodies and shore lands. In unsurveyed sections, protracted section lines and associated easements shall also be computed and shown, with property line intersection dimensions, on the survey plat.

(23) The plat shall show the legal parcel identifiers for all lands surrounding the survey. Indicate all water body names adjacent to the survey.

(24) A public access easement shall be provided contiguous with the bed of public water and 50 feet upland of the ordinary high water mark of all public or navigable water. The easement shall be depicted in the plat graphics with a dashed line and shall be labeled “50’ Public Access Easement reserved to the State per AS 38.05.127.”

(25) The standard DNR Title Block must be used, an example of which is available on the DNR Survey Section webpage at <http://www.dnr.state.ak.us/mlw/survey/>. The sections and townships shown in the sample title block shall be modified as necessary, according to the surveyor’s field location of parcel boundaries with respect to protracted or surveyed sections and townships.
PLAT REVIEW PROCESS

Upon completion of the field survey and prior to submittal of the plat to a borough or municipal platting authority (if applicable), a blackline copy of the plat shall be submitted, with the applicable fee, to the Department of Natural Resources for review. If applicable a copy of the final platting board conditions of approval or meeting minutes, and filing fees, will be required with submittal of the final plat.

Legible, annotated copies of all field notes and computations, a sketch showing traverse point relationships, and photographs or legible rubbings of monuments recovered and established must accompany the first plat submittal. For plats where the basis of coordinates is derived from GNSS observations and not from monuments of record the “NGS OPUS Solution Report” must accompany the plat submittal.

The Plat Submittal Requirements and Plat Checklist, which are available on the DNR Survey Section webpage at <http://www.dnr.state.ak.us/mlw/survey/> must accompany the preliminary submittal. The Checked box shall be initialed by hand, by the surveyor, prior to submittal of the preliminary plats for review.

In accordance with 11 AAC 05.010(a)(13), plat review fees are $200 for the first parcel or tract, and $50 for each additional parcel or tract, with the second review at no charge. Third review and each additional review fees are $300 each for the first parcel or tract per plat, and $100 for each additional parcel or tract per plat. Please remit a check or money order payable to the Department of Natural Resources along with the first plat submittal, and if necessary the third and each additional submittal.

FINAL MYLAR PLAT SUBMITTAL

Along with the final plat Mylar, a digital file must be submitted with the entire drawing in *.dxf (drawing exchange format) or *.dwg (AutoCAD drawing format) in standard media electronic format (CD, or DVD) shall be submitted. In lieu of a disk, the surveyor may make the drawing available through a FTP site on the internet or by e-mail attachment.

The only additional drawing requirement is that the drawing file have special layer named "DNR". The following specifications apply only to the “DNR” layer; other layers need not be altered. The “DNR” layer must be in model space and not paper space when the submitted drawing is opened in AutoCAD. The “DNR” layer shall show the surveyed lines, interior lot/tract lines as well as the exterior boundary, the tie to the basis of bearing and the tie to the basis of coordinates. The basis of coordinates shall be labeled with its name/identifier, geographic coordinate values and datum. All parcels must close with lines having clean snapped intersections, with no overshoots or undershoots; snapped lines that close are preferred over polygons. On the “DNR” layer, do not include extraneous text (area, title block, bearings or distances, details, etc) other than the labels for the basis of bearing and the basis of coordinates.

The plat filing fee is $20.00 for the first sheet and $5.00 for each additional sheet.
MODIFICATION OF INSTRUCTIONS

Should conditions arise appearing to require additional instructions or interpretation of the Special Survey Instructions or this Attachment, or which make the instructions inoperable, a report shall be submitted promptly to the Survey Section Chief describing the situation and making recommendations for its resolution.

In the event that the survey is not completed, the Special Survey Instructions will become void at 5:00 p.m., AST, two years from the date of approval. Special Survey Instructions may only be extended once after their original issuance. A written request for an extension with justification and applicable fee is required.
ATTACHMENT 2

ATS 1693 / ADL106678 SURVEY INSTRUCTIONS
July 23, 2019

Gary Gillette, Port Engineer
City and Borough of Juneau
155 S. Seward Street
Juneau, Alaska 99801

File:  ATS No. 1693
Subj:  Extend Survey Instructions
ADL No. 106678

Dear Mr. Gillette:

This is in response to your phone conversations with Amy Orange-Posma earlier this month requesting extension to the Survey Instructions issued on October 5, 2012, and extended on December 9, 2016 for ATS No. 1693 / ADL No. 106678, the municipal tidelands tract of approximately 2.28 acres of tide and submerged land approved for conveyance to the City and Borough of Juneau at the Gastineau Channel DIPAC Public Recreation Wayside Development.

The City and Borough of Juneau’s lack of full funding needed to fulfill the survey work has caused delay and put the project behind the originally anticipated schedule. The original Survey Instructions were extended to expire on June 30, 2019. The request for extension of Survey Instructions for ATS No. 1693 until June 30, 2023 is approved. If the City and Borough of Juneau is unable to submit a survey for our review by June 30, 2023, new survey instructions must be requested; the current fee (which is subject to change) for municipal entitlement survey instructions is $2,000.00.

All other terms and conditions of the original survey instructions are to remain in force.

If you have any questions concerning these instructions, please feel free to contact me at 269-8519.

Sincerely,

Brian Raynes, PLS, CFeds
Coastal and Riparian Boundary Supervisor

cc:  Nina Brudie, RADS
Natural Resource Tech II: Ronda Wilson  ADL No. 106678
Survey Tracking & Monitoring, Case Type: 316, Subtype: 0046
December 9, 2016

Gary Gillette, Port Engineer
City and Borough of Juneau
155 S. Seward Street
Juneau, Alaska 99801

File:    ATS No. 1693
Subj:   Extend Survey Instructions
        ADL No. 106678

Dear Mr. Gillette:

This is in response to your recent correspondence dated November 17, 2016 requesting extension to the Survey Instructions issued on October 5, 2012, for ATS No. 1693 / ADL No. 106678, the municipal tidelands tract of approximately 2.28 acres of tide and submerged land approved for conveyance to the City and Borough of Juneau at the Gastineau Channel DIPAC Public Recreation Wayside Development.

The City and Borough of Juneau's lack of personnel to manage this project, and the lack of full funding needed to fulfill the survey work has caused delay and put the project behind the originally anticipated schedule. The Survey Instructions were to expire on October 5, 2014. The request for extension of survey instructions for ATS No. 1693 until June 30, 2019 is approved.

All other terms and conditions of the original survey instructions are to remain in force.

If you have any questions concerning these instructions, please feel free to contact me at 451-2758.

Sincerely,

[Signature]

G. Larry King, PLS, SR/WA, CFedS
Statewide Platting Supervisor

cc:    Lee Cole, SERO, DMLW
       Natural Resource Tech II: Ronda Wilson
       Survey Tracking & Monitoring, Case Type: 316, Subtype: 0046

"Develop, conserve and maximize the use of Alaska's natural resources consistent with the public interest."
October 5, 2012

Erich Schaal
Deputy Port Engineer
City and Borough of Juneau
155 S. Seward St.
Juneau, Alaska 99801

File: ATS No. 1693
Subj: Survey Instructions
       ADL No. 106678

Dear Mr. Schaal:

Enclosed are the Special Survey Instructions for the survey and platting of approximately 2.28 acres of tide and submerged land for the Gastineau Channel DIPAC Public Recreation Wayside Development tideland conveyance, ATS No. 1693 / ADL No. 106678. These instructions will be good for two years from the date of approval.

A waiver of any portion of the field survey requirements of the Survey Instructions must be requested and approved prior to completion of the fieldwork. A waiver of any portion of the platting requirements must be requested and approved prior to the submittal of the preliminary plat.

This survey is subject to review and approval by the City and Borough of Juneau Platting Authority. It is the responsibility of the surveyor to obtain this approval.

If you have any questions concerning these instructions, please feel free to contact me at 451-2758.

Sincerely,

G. Larry King, PLS, SR/WA, CredS
Statewide Platting Supervisor

Enclosures:
   Special Survey Instructions
   Plan of Survey

cc: Steve Winker, SERO, DMLW
    Natural Resource Tech II: Ronda Wilson
    ADL No. 106678
    Survey Tracking & Monitoring, Case Type: 316, Subtype: 0046

"To responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with the public interest."

Tech on 'dmr-atws\1\New\ATS\ATS 1693\S1's

Page 1
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
CADASTRAL SURVEY UNIT
550 W 7TH AVE., SUITE No. 650
ANCHORAGE, ALASKA 99501-3576

SPECIAL SURVEY INSTRUCTIONS

ALASKA TIDELAND SURVEY NO. 1693

Authority: 11 AAC 53, Survey and Platting Requirements

These instructions provide for the survey and platting of approximately 2.28 acres of tide and submerged lands within Protracted Section 9, Township 41 South, Range 67 East, Copper River Meridian, near Juneau, Alaska. The purpose of this survey is to facilitate the conveyance of tide and submerged lands in accordance with AS 38.05.825, pursuant to the Final Finding and Decision for ADL No. 106678, approved January 18, 2001.

In the execution of the survey included under ATS No. 1693, the surveyor is authorized and directed to perform the survey of ADL No. 106678, as set out in these instructions, the State of Alaska's Survey and Platting Regulations, and such supplemental instructions as may be issued during the progress of work.

LIMIT AND CHARACTER OF WORK

The survey is limited to the establishment and monumentation of the boundaries as shown on the Plan of Survey for ATS No. 1693 / ADL No. 106678, the location of all improvements within the parcel, and the preparation of the survey plat. In the event that any needed BLM or GLO survey corner is missing or has been destroyed, it shall be reestablished per the appropriate BLM Manual of Surveying Instructions.

HISTORY OF SURVEYS

Protraction Diagram CR 12-13-A, for Township 41 South, Range 67 East, Copper River Meridian, was approved by the State of Alaska on September 14, 1961.

U.S. Survey No. 1075 was surveyed by H.P. Growther, U.S. Deputy Surveyor, in 1911, and the plat was approved by the Surveyor General’s Office on February 10, 1915.
U.S. Survey No. 1924 was surveyed by Frank A. Metcalf, U.S. Deputy Surveyor, in 1929, and the plat was accepted by the General Land Office on May 14, 1930.

U.S. Survey No. 2133 was surveyed by Frank A. Metcalf, U.S. Deputy Surveyor, in 1932, and the plat was accepted by the General Land Office on August 28, 1933.

The State of Alaska Department of Highways “Right of Way Map, Alaska Project F-095-8(14), Glacier Expressway – Vanderbilt Hill to Norway Point” was approved in 1971.

A document captioned “Interagency Land Management Transfer (Amended),” issued under ADL No. 058216 to the Department of Highways, was recorded in Book 104, Pages 234-237, Juneau Recording District, on November 30, 1972. Amendment #2, dated December 26, 2000 deleted that portion of the ILMT included in Tracts A & B of ATS No. 1356. I copy of each document is enclosed.

ATS No. 370 was surveyed by Toner & Nordling Registered Engineers in 1964. ATS No. 370 was not approved by the State of Alaska and the survey was canceled on March 29, 1974. This plat was not recorded, however, monumentation was recovered and noted in subsequent surveys.

Bridgchris Park Subdivision was surveyed by R & M Consultants Inc. and the plat was recorded in the Juneau Recording District as Plat No. 83-185 on October 26, 1983.

ATS No. 1356 was surveyed by Toner-Nordling & Assoc. Inc. in 1991 and approved by the State of Alaska on November 22, 1991; the plat was recorded in the Juneau recording district as Plat 91-74 on December 3, 1991. The Amended Plat was recorded as Plat No. 92-40 on August 24, 1992.

ATS No. 1412 was surveyed by J. W. Bean in 1992 and the plat was recorded in the Juneau Recording District as Plat No. 94-9 on April 1, 1994.

ASLS No. 96-28 was surveyed by the State of Alaska in 1996 and the plat was recorded in Juneau Recording District as Plat No. 98-50 on October 14, 1998.

**METHOD OF SURVEY PROCEDURE**

This survey shall be executed by a Professional Land Surveyor registered to practice in the State of Alaska.

It is the surveyor’s responsibility to insure research is complete.

The survey and plat of ATS No. 1693 shall substantially conform to 11 AAC 53, these Survey Instructions, the Final Finding and Decision for ADL No. 106678, approved January 18, 2001, Attachment D of the Finding and Decision, approved October 26, 2000 and the enclosed Plan of Survey.
The landward boundary of ATS No. 1693 shall be coincident with: the southerly boundary of Lot 2, ASLS No. 96-28; the record mean high water line of U.S. Survey No. 1924; and the southerly right of way of Channel Drive per Amendment 2 of the ILMT, ADL 58216.

The Department of Transportation and Public Facilities, Southeast Region, is at present creating an updated plat defining the Channel Drive right of way. Contact Richard Germiller for coordination with DOT &PF.

The westerly boundary of ATS No. 1693 shall be coincident with the easterly boundary of ATS No. 1412.

The easterly boundary of ATS No. 1693 shall be coincident with the westerly boundary of Tract B, ATS No. 1356.

The seaward boundary of ATS No. 1693 shall be based on Attachment D of the Finding and Decision, approved October 26, 2000.

ATS No. 1693 shall encompass all improvements associated with the Public Recreation Wayside facility. These improvements shall be as-built and depicted on the plat with ties to the parcel boundary.

The natural mean high water line has been altered due to fill and construction of the Public Recreation Wayside. The existing natural mean high water line shall be meandered and shown on the plat. The tidal datum used shall be shown on the plat.

Field ties shall be made to all monuments which control the parcel sidelines. These ties and monumentation shall be shown on the plat. Sufficient field measurements shall be made to show the relationship between this tidelands parcel and existing monumented boundaries of contiguous upland parcels. ASLS No. 96-28, ATS No. 1412 and Tract B of ATS No. 1356 shall be retraced sufficiently to ensure that they are not encroached upon.

A table shall be shown on the plat showing:

Ties from a minimum of two primary monuments to Corner 5 and Corner 6, ATS No. 1693. The ties shall be oriented to yield a strong geometric figure for the purpose of reestablishing Corner 5 and Corner 6, ATS No. 1693.

The Basis of Bearing shall be between any two recovered monuments for which there is a record bearing; preferably the longest line of record or alternately the Basis of Bearing may be determined using high precision GPS survey procedures. The Basis of Bearing must be clearly noted on the plat. The Datum must also be noted, including the conversion method information.

Geographic coordinates (NAD 1927 and NAD 1983) are required to be shown at a monumented corner of ATS No. 1693 or a monumented witness corner to a corner. The Basis of Coordinates shall be derived from a field tie to a NGS survey monument established by GPS or conventional
methods, or from a tie to one of the monuments of an approved survey having record values. The Basis of Coordinates must be clearly noted on the plat.

Geographic coordinates may also be derived from survey-grade GPS observations if sufficient to process through OPUS. Observations shall be on a primary monument, set or recovered, which shall be shown on the plat with ties to the survey. Documentation accompanying the first plat submittal must include recordable copies of the “NGS OPUS Solution Report,” and a completed “GPS Station Observation Log.” The NGS Opus Solution Report shall show a minimum of 120 minutes of static positioning data logged, with 240 minutes recommended.

For additional information regarding OPUS and the NGS OPUS Solution Report, see <http://www.ngs.noaa.gov/OPUS/Using_OPUS.html>. GPS Station Observation Log forms are available in pdf format at <http://www.ngs.noaa.gov/PROJECTS/NGSforms/obslog.pdf>.

Control monuments on record with the National Geodetic Survey (NGS) may be researched on-line at <http://www.ngs.noaa.gov/products_services.shtml#DataSheets>.


No marking of any kind shall be added to recovered monuments.

Reservation to ATS No. 1693:

A 50’ public access easement coincident with and 50’ seaward of the existing mean high water line shall be reserved on this plat in accordance with AS 38.05.127. The easement shall be graphically depicted and labeled on the plat.

The surveyor shall research the public record sufficiently to show on the plat the current legal identifiers of contiguous upland parcels.

It is the surveyor’s responsibility to obtain the upland owner’s permission prior to setting any monuments.

All significant improvements and encroachments within this survey shall be field located and shown on the plat.

**TECHNICAL SURVEY REQUIREMENTS**

All lines surveyed and retraced by this survey shall be surveyed with a minimum accuracy of 1:5000. The surveyor must employ closed-traverse methodology or other field survey procedures which self-check the survey and justify the claim of achieving the required degree of accuracy, with the actual field closure reflected in the field notes. Legible, annotated copies of all field notes and
computations, a sketch showing traverse point relationships, as well as and good photographs or legible rubbings of monuments recovered and established, must accompany the first plat submittal. All GPS data; including raw data files, adjustment files, final coordinate file, and OPUS solutions shall be submitted in a digital format only, no hard copies please. OPUS solution sheets must also accompany the first plat submittal.

Previously existing monuments and accessories found in a disturbed condition must be returned to the original position and condition as nearly as possible or replaced as to perpetuate the position.

A primary monument must consist of a minimum two inch diameter metal pipe, at least 30 inches long, with a minimum four-inch flange at the bottom. A minimum two-and-one-half inch diameter metal cap must be permanently attached at the top. If both the cap and the pipe are of non-ferrous metal, then additives with magnetic qualities must be permanently attached at both the top and bottom of the monument. Every primary monument cap must be permanently stamped with the survey designation across the top, the corner identification in the center, and the surveyor's registration number and the year set on the bottom. This data must be oriented so that it may be read when the reader is facing north.

Except where otherwise required in these Survey Instructions and the Plan of Survey, tideland survey parcels shall be monumented with a minimum of four primary monuments. Except where otherwise herein indicated, there shall be one monument required on each exterior meander corner and a witness corner monument on the upland extension of each seaward sideline, defining the sideline. If existing monuments fit these criteria they may be used instead of new ones.

If the point for a primary monument is in a place that would be impractical to monument because of natural obstacles such as water bodies, a witness corner must be set. The witness distances must be shown on the survey plat from the true corner position to the monument as set. Except where otherwise required in these Survey Instructions and the Plan of Survey, witness corners must be set on a survey property line and at a distance considered reasonable and practical from the true corner point. Witness corners must comply with the standards for primary monuments. If it is impractical to set a primary monument due to surface or shallow subsurface rock, one of the following may be substituted, with monument accessories as required: (a) a cap grouted into firm rock; or (b), a durable tablet containing a minimum of 1,000 cubic inches of concrete and a cap marking the actual corner point.

The requirement of Reference monuments for ATS No. 1693 is waived.

Witness posts of the minimum size of a nominal two-by-four, or fiberglass reinforced Carsonite witness posts, six feet in length with four feet protruding above ground, are required for all primary monuments. They shall be set at right angles to the line and no farther than one foot from the monument.

Secondary monuments must consist of at least a five-eighth inch metal rod, three feet long, with a one-and-one-half inch cap attached at the top.
All property corners must be numbered on the monuments and designated on the plat in a consecutive, preferably clockwise, direction.

Any additional survey or monumentation requirements of the City and Borough of Juneau Platting Authority must also be conformed to.

**PLAT REQUIREMENTS**

The surveyor shall construct the plats in accordance with the following:

1. The plat must be of archive quality biaxially oriented polyester film that does not exceed 32 x 36 inches. Margins shall be 1½ inch on the left and ½ inch on the top, right and bottom.

2. Use the standard DNR legend, an example of which is available on the DNR Survey Unit webpage at <http://www.dnr.state.ak.us/mlw/survey/>.

3. All sheets must have the official division title block, border configuration and standard legend.

4. All line work on the plat must be in the appropriate black drafting ink.

5. All lettering on the plat must be in the appropriate black drafting ink and be accomplished with mechanical lettering equipment.

6. All line work and lettering must be of professional quality and all line widths and lettering sizes must be of such size that all information can be clearly shown without overlap or confusion. In order for all plats to microfilm properly, all lettering must be minimum size 80 Leroy ®, or equivalent, with No. 100 recommended. Size 80 lettering must be uppercase.

7. When more than one sheet is required, an index sheet must be added showing the entire parcel, with the sheets in numerical order, and each sheet showing the sheet number and total number. When more than one sheet is submitted, only the last need have the approval certificates, but all sheets must be the same size.

8. The plat must be in an appropriate engineering scale of one inch representing a multiple of 100 feet.

9. Details, as necessary, must be shown at an appropriate indicated scale.

10. The plat must have a vicinity map in the upper right hand corner. The map shall be at least four inches on each side with a scale of one inch representing one mile, showing sections, townships and ranges, boundaries such as national forest or municipal boundaries, and other
prominent physical or natural features such as roads, lakes, or rivers. The source of the base
map must also be indicated.

(11) Nomenclature of the survey need appear in the title block only, unless the division
specifically states otherwise.

(12) The basis of bearings must be indicated. Bearings shown must be true bearings as orientated
to the basis of bearing, and distances must be in the foot unit reduced to the true horizontal
equivalent.

(13) Bearings and distances must be shown within the accuracy commensurate with the class of
survey being represented. Boundary line distances must be shown from monument to
monument.

(14) In compliance with PL 94-168, entitled "Metric Conversion Act 1975," a metric bar scale
shall be shown on the plat, positioned directly above the title block. A corresponding foot
scale shall be shown and similarly placed, and have a unit scale which is identical to that
used in the drawing on the survey portion of the plat. Two equations shall be shown:
1 meter = 3.280833 U.S. survey feet, and 1 U.S. Acre = 0.4047 hectare.

(15) The date of plat preparation and standard north arrow must be shown on the plat. A recent
magnetic declination must be shown below the north arrow with a date and source. The
current declination may be computed utilizing the N.O.A.A. National Geophysical Data

(16) Certificates must be shown substantially as follows, with the headings capitalized and
underlined:

CERTIFICATE OF OWNERSHIP AND DEDICATION

I, the undersigned, hereby certify that I am the Director, Division of Mining, Land and
Water and that the State of Alaska is the owner of ATS No. 1693, as shown hereon. I
hereby approve this survey and plat for the State of Alaska, and dedicate for public or
private use as noted, all easements, public utility areas, and rights-of-way as shown and
described hereon.

Dated ___________ (Signature in black ink) ___________
Director, Division of Mining, Land & Water

NOTARY’S ACKNOWLEDGEMENT

Subscribed and sworn to before me this ___________ day of ______________________,
20______.
By __________________________.

Notary Public for Alaska
My Commission Expires ____________

APPLICANT CERTIFICATE

(Use the singular or plural as applicable.)
(I/We), the undersigned, hereby certify that (I am/we are) the applicant(s) as shown hereon.
(I/We) hereby approve this survey and plat.

ADL No. 106678

____ (Signature in black ink) ____________ Date

Applicant's Name or
Authorized Official and Title

NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn to before me this ___________ day of ____________________, 20 _____.

By Applicant's/Official's name to be handwritten in by Notary

__________________________
Notary Public for Alaska
My Commission Expires ____________

SURVEYOR'S CERTIFICATE

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, that this plat represents a survey made by me or under my direct supervision, that the monuments shown hereon actually exist as described, and that all dimensions and other details are correct.

Date ___(date)___ Registration Number ___(number)___

(Surveyor's Seal) ____________________________ (Signature in black ink)
Registered Land Surveyor
PLAT APPROVAL

(Appropriate Platting Authority Certificate)

TAX CERTIFICATE

(Appropriate Taxing Authority Certificate)

(17) Any approval or any other certificates or notes that may be required by the City and Borough of Juneau Platting Authority shall be drafted on the plat.

(18) The following notes will be required on the plat:

a. This survey was accomplished in accordance with AS 38.05.825 and ATS SI No. 1693.

b. All bearings shown are true bearings as oriented to the Basis of Bearings and distances shown are reduced to horizontal field distances.

c. The error of closure of this survey does not exceed 1:5000.

d. (For plats based on GPS)

BASIS OF BEARING
The Basis of Bearing on this plat was determined by a high precision GPS survey, using (brand and model) receivers, differentially corrected and processed using (name of software), Version _______ software.

COORDINATES
The coordinates used were constrained to the National Spatial Reference System (NSRS) using CORS Station ________.

e. A note shall be placed on the plat stating either:

Mean high tide was determined by time coordinated tidal observations on month day year as extrapolated from the NOAA Publication for the predictions of high and low waters for (year).

or

Mean high tide was determined from ____________ tidal bench mark on month day year from data supplied by NOAA.
f. The tidal datum information used shall be shown on the plat in a manner similar to the following:

<table>
<thead>
<tr>
<th>Tidal Station Name</th>
<th>Lat/Long</th>
</tr>
</thead>
<tbody>
<tr>
<td>MHWW</td>
<td>X.XX'</td>
</tr>
<tr>
<td>MHW</td>
<td>X.XX'</td>
</tr>
<tr>
<td>MLW</td>
<td>X.XX'</td>
</tr>
<tr>
<td>MLLW</td>
<td>X.XX'</td>
</tr>
</tbody>
</table>

(19) Both record and found bearings and distances shall be shown on the plat. In the event there are two sets of record data that of the latest plat of record will be shown with the plat nomenclature indicated. If record lines are not retraced or resurveyed but are used to compute closure, record monumentation along these lines must also be indicated.

(20) The exact marks on all monuments recovered and set must be shown on the plat with data pertaining to bearing trees and/or monument accessories established.

(21) All easements and rights-of-way shall be shown graphically on the plat in lieu of a "note" whenever possible to do so. This requirement applies to all easements and rights-of-way including those to and along public water bodies and shore lands.

(22) The plat shall show the upland land status, record survey lines, and an indication of whether or not the adjacent tidelands are occupied or unoccupied. If adjacent tidelands are occupied, the tideland survey number(s) must be depicted. Indicate all water body names adjacent to the survey.

(23) The current Division of Mining, Land and Water title block shall be placed in the lower right-hand corner of each sheet of the plat, and labeled as follows:
PLAT REVIEW PROCESS

Upon completion of the field survey and prior to submittal of the plat to a borough or municipal platting authority (if applicable), two blue line copies of the plat shall be submitted, with the applicable fee, to the Department of Natural Resources for review. A copy of the final platting board conditions of approval or meeting minutes, and filing fees, will be required with submittal of the final plat.

Legible, annotated copies of all field notes and computations, a sketch showing traverse point relationships, and photographs or legible rubbings of monuments recovered and established must accompany the first plat submittal. For plats where the basis of coordinates is derived from GPS observations and not from monuments of record, recordable copies of the “NGS OPUS Solution Report” and “GPS Station Observation Log” must accompany plat submittal.

The Checked box shall be initialed by hand prior to submittal of the preliminary plats for review.

In accordance with 11 AAC 05.010(a)(13), plat review fees are $200 for the first parcel or tract, and $50 for each additional parcel or tract, with the second review at no charge. Third review and each additional review fees are $300 each for the first parcel or tract per plat, and $100 for each additional parcel or tract per plat. Please remit a check or money order payable to the Department
of Natural Resources along with the first plat submittal, and if necessary the third and each additional submittal.

**FINAL MYLAR PLAT SUBMITTAL**

Along with the final plat mylar, a *.dxf* (drawing exchange format) or *.dwg* (AutoCAD drawing format) file in standard media electronic format (CD, or DVD) shall be submitted. In lieu of a disk, the surveyor may make the drawing available through a FTP site on the internet or by e-mail attachment.

The submitted drawing shall contain a special layer named “DNR”. The following specifications apply only to the “DNR” layer; other layers need not be altered. The “DNR” layer must be in model space and not paper space when the submitted drawing is opened in AutoCAD. The “DNR” layer shall show the surveyed lines, interior lot/tract lines as well as the exterior boundary, the tie to the basis of bearing and the tie to the basis of coordinates. The basis of coordinates shall be labeled with its name/identifier, geographic coordinate values and datum. All parcels must close with lines having clean snapped intersections, with no overshoots or undershoots; snapped lines that close are preferred over polygons. On the “DNR” layer, do not include extraneous text (area, title block, bearings or distances, details, etc) other than the labels for the basis of bearing and the basis of coordinates.

The plat filing fee is $20.00 for the first sheet and $5.00 for each additional sheet.

**MODIFICATION OF INSTRUCTIONS**

Should conditions arise appearing to require additional instructions or interpretation of these instructions, or which make these instructions inoperable, a report shall be submitted promptly to the Survey Section Chief describing the situation and making recommendations for its resolution.

In the event that the survey is not completed, these instructions will become void at 5:00 p.m., AST, two years from the date of approval. Survey Instructions may only be extended once after their original issuance. A written request for an extension with justification and applicable fee is required.

Prepared by:  
Pat Green, PLS  
Land Surveyor I
GLK: PG: pg

Enclosures:
- Plan of Survey
- Preliminary Finding and Decision
- Final Finding and Decision
- ILMT (Amended) for ADL No. 058216
- ILMT Amendment #2 for ADL No. 058216
- Alaska Tideland Surveys

cc: Steve Winker, SERO, DML&W
Survey Tracking & Monitoring: ADL No. 106678 (Case Type 316, Subtype 0046)
CITY & BOROUGH OF JUNEAU
ADL 106678
FINAL FINDING AND DECISION
AS 38.05.035(e)

Summary of Public Comment:

☐ No public comments received.
☑ Public comments received see Attachment 1.

Modifications to Decision:

☐ Decision is not modified.
☒ Decision is modified as specified in Attachment 2 summary.

Approval:

The finding presented above has been reviewed and considered. The casefile has been found to be complete and the requirements of all applicable statutes have been satisfied. It is the finding of the director that it is in the best interest of the State to proceed with this conveyance under the authority of AS 38.05.825.

☐ AFFIRMED AS PROPOSED.
☒ MODIFIED AND AFFIRMED.

Bob Loeffler  
Director

A person who meaningfully participated in comment on this decision and who is affected by the decision may appeal it, in accordance with AS 38.05.035(l)-(j), to Pat Pourchot, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501-3561. Any appeal must be received at the above address, or received by being faxed to 1-907-269-8918, by February 7, 2001. The appeal must comply with AS 38.05.035(j) and 11 AAC 02.030(a)(1)-(2) and (a)(4)-(8). If no appeal is filed by that date, this decision then goes into effect.

Attachment 1, Summary of public comment
Attachment 2, Summary of modifications to decision
Attachment 3, Appeal references
Finding and Decision  
ADL 106878  
Attachment #1  
Summary of Comments and Responses  

Commenters: Comments were received from the following parties: 

John Girkov & and Jane Hawkins  
Richard Deems, Deharts Marina  
Ben Kirkpatrick, ADF&G  

Summary of Comments and Responses:  

Comment #1: One party expressed interest that CBJ would offer the tidelands it obtains through this conveyance for sale. 

Response: AS 38.05.825 that provides for the conveyance of tideland to municipalities (provided they meet certain criteria) allows leasing, but specifically prohibits the sale of tidelands. No future sale of tidelands is possible under current law. 

Comment #2: One commenter is interested in maintaining "status quo" of no public access to their existing lease. 

Response: The terms and conditions of existing leases will not change due to the conveyance of tidelands. Existing leases are legal contracts and cannot be changed without the express consent of the lessee and lessor. 

Comment #3: One commenter would like to obtain some type of guarantee that they would be assured of obtaining another lease for tidelands currently under lease when that lease expires. 

Response: Once the tidelands are conveyed to CBJ, all management authority including authority to lease will be their responsibility. The state cannot require CBJ to enter into a future lease agreement with a current lessee. Upon expiration of current authorizations, the lessees will need to negotiate with CBJ for another lease, consistent with CBJ terms and conditions. 

Comment #4: The Alaska Department of Fish and Game objects to the conveyance of three parcels currently under lease that are wholly or partially within the Mendenhall Wetlands State Game Refuge. These three parcels are: 

ADL 27103, Era Helicopters  
ADL 56427, Salmon Creek Development  
ADL 103860, issued to Worldwide Movers
ADF&G notes that the Mendenhall Refuge Citizens Advisory Group recommended that refuge property continue to be managed by the State to ensure habitat values area considered in future leases.

Response: DNR recognizes the unique values of the Mendenhall Refuge, and notes that these lease were issued prior to creation of the refuge. The Mendenhall Wetlands State Game Refuge Management Plan was completed in 1990 and provides management direction for the refuge. Conveyance of the tidelands could conflict with future management of the refuge. As stated in the finding and decision approved 12/26/00, the three lease parcels would be conveyed only if the commissioner of ADF&G and ADNR found the conveyance compatible with the refuge. Due to the ADF&G objections, DNR agrees to deny conveyance of these three parcels.
Finding and Decision
ADL 106678
Attachment #2
Summary of Modifications to Decision

The Finding and Decision for CBJ's proposed tideland conveyance is hereby modified:

1. Conveyance of three parcels in, or partially within the Mendenhall Wetlands State Game Refuge as described in ADL 27108, ADL 56427 and ADL 103660 is hereby denied. ADL 27108 was erroneously referenced in the proposed finding and decision as ADL 27103.

2. ATS 180 shall be surveyed to current standards and will reflect the current boundaries of this parcel. Attachment A is hereby corrected to note the acreage of ATS 180 is reduced from 27.010 to 23.86 and that a survey is required. The proposed finding overlooked five patented tideland parcels (ATS 51, 125, 237, 269 and 535) within ATS 180.

3. The patent of ATS 180 shall be subject to two additional right-of-ways issued to the Department of Transportation and Public Facilities, ADL 37823 and ADL 37824.

4. Interagency Land Management Assignment, ADL 18206 issued to the City and Borough of Juneau for ATS 180 shall be terminated upon signature of the final finding.

5. As stated in the proposed decision, this final finding does not include Tracts A&B, ATS 1560 (ADL 106350, DIPAC – Amalga). When this lease is issued, this final finding will be amended to pass management authority followed by a State patent.

All other conditions of Finding and Decision, ADL 106678 are unchanged.
Finding and Decision  
ADL 106678  
Attachment # 3  
Appeal References  

AS 38.05.035

(i) A person who is eligible to file an administrative appeal or a request for reconsideration, as appropriate, under this subsection and who is aggrieved by the final written finding of the director entered under (e)(5) or (G) of this section may, within 20 days after the issuance of the final written finding, file an administrative appeal or request reconsideration of the decision by the commissioner. A person is eligible to file an administrative appeal or a request for reconsideration if the person

(1) meaningfully participated in the process set out in this chapter for receipt of public comment by

(A) submitting written comment during the period for receipt of public comment; or

(B) presenting oral testimony at a public hearing, if a public hearing was held; and

(2) is affected by the final written finding.

(j) An administrative appeal or a request for reconsideration submitted under (I) of this section must specify the written finding complained of and the specific basis upon which it is challenged. The commissioner shall grant or deny the administrative appeal or reconsideration request within 30 days after issuance of the final written finding. Failure of the commissioner to act on the request for reconsideration within this period is a denial of the request for reconsideration and a final administrative decision for purposes of appeal to the superior court.

11 AAC 02.030. FILING AN APPEAL

(a) An appeal under this chapter must

(1) be in writing;

(2) be signed by the appellant or the appellant’s attorney;

(3) be timely filed in accordance with 11 AAC 02.040;

(4) specify the case reference number used by the department, if any;

(5) specify the decision being appealed;

(6) specify the remedy requested by the appellant and the grounds on which the request is based;

(7) state the address to which any notice or decision concerning the appeal is to be mailed;

(8) identify any other affected agreement, contract, lease, permit, or application by case reference number, if any;

(9) include a request for a hearing, if a hearing is desired, accompanied by a request for any special procedures to be used at the hearing and a description of the factual issues that need to be decided at the hearing.
ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER

City & Borough of Juneau
Proposed Tideland Conveyance
ADL 106678
Finding and Decision
AS 38.05.035(e)

I. Proposed Action:

The City and Borough of Juneau, has requested conveyance of 53 parcels of tidelands located throughout the borough pursuant to AS 38.05.825. The proposed areas are described on Attachment A and contain approximately 265 acres of tide and submerged land. The general location of the parcels is shown on Attachment B.

II. Authority:

Alaska Statutes AS 38.05.035(e), AS 38.05.825, and the Alaska Administrative Code 6 AAC 80, 11 AAC 55, 11 AAC 58 and 11 AAC 62.690-700. The Director, Division of Mining, Land & Water, is authorized by AS 38.05.035(a) (6) to act on behalf of the state in this matter.

III. Administrative Record:

Casefile ADL 106678 is the administrative record for this case. The Juneau State Land Plan, the Juneau Coastal Management Program, the Mendenhall Wetlands State Game Refuge and the following casefiles are incorporated by reference: ADL 1799, ADL 1891, ADL 2090, ADL 2193, ADL 2480, ADL 2798, ADL 2852, ADL 17380, ADL 19482, ADL 22569, ADL 27108, ADL 29281, ADL 36091, ADL 36172, ADL 37011, ADL 51488, ADL 53141, ADL 53504, ADL 56427, ADL 63677, ADL 80526, ADL 100235, ADL 100412, ADL 101598, ADL 102934, ADL 103170, ADL 103289, ADL 103832, ADL 103860, ADL 104320, ADL 104786, ADL 104789, ADL 104939, ADL 105281, ADL 105460, ADL 105997 and ADL 106233 are all issued leases. ADL 18206, ADL 36615, ADL 59182, ADL 65040, ADL 102433, ADL 105113 and ADL 106717 are issued Interagency Land Management Assignments (authorization to another state department). ADL 104588 and ADL 106356 are pending lease applications. ADL 37822, ADL 39092, ADL 60047, ADL 101722, ADL 105998, ADL 106002 and ADL 106718 are issued rights-of-way. ADL 106613 is an issued material sale contract. ADL 106670 is a pending right-of-way application.

IV. Location:

Geographic: Numerous locations in Fritz Cove, Gastineau Channel, Auke Bay, Auke Nu Cove, Echo Cove, Amalga Harbor, Tee Harbor and Lynn Canal. Township 37 South, Range 64 East, Township 38 South, Range 64 East, Township 39 South, Range 64 East, Township 40 South, Range 64 East, Township 40 South, Range 65 East, Township 41 South, Range 67 East and Township 42 South, Range 68 East, Copper River Meridian.

Borough: The City & Borough of Juneau
Native Corporation: Sealaska Corporation.

Alaska Coastal District: Juneau Coastal Management Program

V. Title:

Acquisition Authority: Statehood/Submerged Lands Act. The State of Alaska received title to the affected tide and submerged lands under the Alaska Statehood Act, Public Law 85-508, the Submerged Lands Act, Public Law 31 and under the Doctrine of Equal Footing upon entry of the state into the Union. There are no noted title restrictions or pending interests. Management is subject to the Public Trust Doctrine.

VI. Background:

Previously, the City of Juneau was granted two tideland patents. On February 7, 1962, the City of Juneau obtained 231.51 acres of tide and submerged land pursuant to AS 38.05.820 under ADL 2335, ATS 3. On January 4, 1968, the City of Juneau obtained an additional 170.3 acres of tide and submerged land pursuant to AS 38.05.820, under ADL 24369, ATS 556 Tracts A & B. When the City and Borough of Juneau was formed, the patented tidelands for the City of Douglas were placed under the management of the borough. The City of Douglas obtained 112.6 acres of tide and submerged lands pursuant to AS 38.05.820 on October 15, 1963 under ADL 02405, ATS 14. The borough was not eligible to acquire additional tide and submerged lands under AS 38.05.820. With the passage of AS 38.05.825 in 1995, the City and Borough of Juneau became eligible to obtain additional developed/conceptually approved tide and submerged lands. On December 1, 1997 CBJ adopted resolution 1909, which requested the transfer of a 30 acre parcel of tide and submerged land north of Aurora Harbor. The CBJ requested an additional conveyance of tide and submerged lands for the Channel Drive Wayside. DNR responded with a list of suitable tideland parcels that should be included in the application. CBJ adopted resolution 2022am on March 6, 2000, which requests the transfer of all applicable tide and submerged lands under AS 38.05.825.

VII. Planning and Classification:

A conveyance of tide and submerged land under AS 83.05.825 does not require the land to be classified, 11 AAC 55.040(l)(3). AS 38.05.825(a)(5) requires that for land that is classified it must be compatible with the use proposed by the municipality. The majority of the parcels that are proposed for conveyance are already developed and have active leases for the development. Most of the commercial parcels have been classified Waterfront Development and Settlement in combination with Wildlife Habitat. There are a few parcels that are public boat launch facilities and they are classified Settlement and Wildlife Habitat. The Juneau State Land Plan was adopted in 1993 and accommodated the existing uses with appropriate designations and classifications. The new uses proposed by the City and Borough of Juneau are compatible with existing classifications. The Twin Lakes expansion is classified Public Recreation and Wildlife Habitat. The marina next to the Yacht Club is classified Settlement and Wildlife Habitat. The Channel Drive wayside is classified Public Recreation and Wildlife Habitat. The proposed expansion of the barge facility in ATS 1503 is classified Waterfront Development.
VIII. Waterbodies:

The tideland parcels are located within Fritz Cove, Gastineau Channel, Auke Bay, Auke Nu Cove, Echo Cove, Amalga Harbor, Tee Harbor and Lynn Canal, which are navigable bodies of water.

IX. Access, including access to & along public waters:

All of the parcels proposed for conveyance to CBJ are within public waters. In accordance with AS 38.05.127 and 11 AAC 53.320, the following is a list of the existing Alaska Tideland Surveys and a brief discussion of existing easements:

A. Parcels that have no easement reserved.


B. Parcels that have an easement.

ATS 739 has a 25 foot pedestrian access easement.
ATS 893 has a 50 foot pedestrian access easement.
ATS 1251 has a 50 foot access easement reserved.
ATS 1401 entire parcel.
ATS 1412 has a 50 foot access easement reserved.
ATS 1493 has a public easement reserved for the entire parcel.
ATS 1533 has a 50 foot access easement on the plat.
ATS 1560 has a 50 foot access easement on the plat.
ATS 1570, Tracts B3-A & B3-B have a 50 foot access easement on the plat. Public access is also provided for in stipulations attached to the lease agreement. To date the access provided appears to be adequate.

C. 7 unsurveyed parcels.

Parcel #1, the Government dock adjacent to the rock dump. Will require a 50 foot access easement when surveyed. (Attachment C)

Parcel #2, Channel Drive recreation wayside. Will require a 50 foot access easement when surveyed. (Attachment D)

Parcel #3, Marina, north of the Yacht Club. Will require a 50 foot access easement when surveyed. (Attachment E)
Parcel #4, Tee Harbor between ATS 41 and ATS 615. No easement required. This is an extremely narrow wedge of land between two parcels that have no access easement reserved. There is no need to reserve an easement. (Attachment F)

Parcel #5, Twin Lakes parcels outside of ATS 868. (ADL 105998). There is no easement reserved on ATS 868 and therefore no reason to reserve an easement for the slivers of omitted land.

ADL 65040, North Douglas boat launch ramp. Will require a 50 foot access easement. (Attachment G)

ADL 104588, Marion Hobbs proposed lease parcel. (ATS 1347 unapproved) Will require a 50 foot access easement.

A number of leases issued years ago did not have easements since a reservation for public access was not required by regulation. Later, most new leases either have a 50’ public access easement or based on use, the easement was waived. Review of the files does not show any documented complaints, since lease issuance, regarding surveys not having an easement or public access being an issue. Additionally, imposing an easement on a contractual lease cannot be imposed until the lease has expired. Considering these issues, imposing an easement on a parcel or ATS which does not currently have one is not reasonable and waiver is recommended.

X. ACMP and Agency Review:

The conveyance is not subject to review under the Alaska Coastal Management Program. Any pending lease or right-of-way applications for project require an ACMP review will under go that review as part of the adjudication of the application. Agency review and public review will be conducted simultaneously and this decision will be subject to the results of those reviews.

XI. Environmental Risk:

There is no known environmental risk associated with this proposed conveyance. A site inspection of existing leases or right-of-ways has not been done nor is an investigation deemed necessary. CBJ should examine each site prior to accepting management authority since uses range from very little development to industrial areas.

XII. Survey

The City and Borough of Juneau will be required to complete various Alaska Tidelands Surveys, at their expense, prior to receiving a state tideland patent for any parcel not surveyed to State standards. The Cadastral Survey Unit determined that the following surveys do not meet State standards: ATS 239, ATS 741, ATS 773, ATS 857 and ATS 1347. The North Douglas boat launch parcel and Parcels 1 - 5 also need to be surveyed.

XIII. Performance Guaranties and Insurance:

Insurance and performance guarantee will not be required, because CBJ is a public political subdivision of the state. Third party leases which have insurance and bonding, will need to have
those instruments changed to CBJ as the holder.

XIV. Compliance with AS 38.05.825

AS 38.05.825 requires that the land to be conveyed is within the boundaries of the municipality; use of the land would not unreasonably interfere with navigation or public access; land is not subject to shore fisheries; land is classified for waterfront development or other use that is compatible with the use proposed by the municipality and the land is required for public or private development approved by the municipality; is subject to a lease from the State to the municipality or has be approved for lease to the municipality.

All parcels are within the boundary of the municipality. The conveyance would not interfere with navigation or public access. There are no shore fishery leases in this area. The classifications are compatible with the proposed uses. 48 of the 55 parcels are presently leased to the city, private individuals and corporations. The other 7 parcels have existing and proposed uses that are approved by the municipality. The proposed uses are a public marina, recreation wayside, government dock and commercial dock.

One area of potential conflict will be the conveyance of tidelands within the Mendenhall State Game Refuge. AS 38.05.825(b) states that “The commissioner may not convey land under this section that has been designated by statute unless the commissioner determines that the proposed use is consistent or compatible with the purpose of the statutory designation. Land designated as a state game refuge, game sanctuary or critical habitat area may not be conveyed unless the commissioner of fish and game also determines that the proposed use is consistent or compatible with the purpose of the designation.” At the present time there are three lease parcels within the game refuge that have been requested for conveyance by CBJ. They are:


ADL 56427 Salmon Creek Development – ATS 877, Lot 2-B containing 2.52 acres. Lease term 6/19/72 – 6/18/27. About 25% within the refuge. Used for barge line.


AS 16.20.034 states that leases in effect by January 1, 1976 are not affected by the provisions of this section. Renewals of leases after January 1, 1976 are subject to this section. All of these leases were in effect on January 1, 1976 and will not be up for renewal until 2022 and 2037. If the parcels are conveyed to the CBJ it will result in a loss of approximately 8.5 acres of land from the refuge. Portions of the parcels have been filled and the habitat value of the land has been significantly diminished by the fill.

XV. Recommendation:

The Southeast Regional Office of the Division of Mining, Land & Water recommends conveyance of the tideland parcels as identified in Section III, Administrative Record and Attachment A.
1. Parcels that currently have no plat, a paper plat, or a plat that does not meet current State standards must be surveyed to acceptable and current State standards. The parcels will be subject to public access easements as described in Section IX. Additional easements will not be required for any parcel described by an ATS in Section IX.

2. Land management authority and administration of the issued leases will be transferred to the City & Borough of Juneau upon approval of the final finding and decision (see Attachment A). No prorata adjustment of the annual fees already received by DNR will be made. The revenues, which will accrue to the City & Borough of Juneau, shall be for payments made after the final finding is approved, subject to any appeal. DNR will notify lessees of the preliminary decision, final finding and that the City and Borough of Juneau will be the new administrators of the leases at the signing of the final finding.

3. The patent will be subject to mineral reservations, all required easements and the following conditions: 1) Grantee may lease the land, but may not sell it. 2) Title to the land conveyed under this authority reverts to the State upon dissolution of the municipality. 3) Grantee takes title to the tidelands subject to the rights of the public under the Public Trust Doctrine.

4. The patent will be subject to the following rights-of-way: ADL 37822 – issued to DOTPF for a portion of Egan Drive that passes through ATS 180; ADL 39092 issued to DOTPF for storm drain outfall within ATS 773; ADL 60047 issued to Midnight Sun Broadcasters for an underground antenna within ATS 893; ADL 101722 issued to Bonnie Brae Homeowners Association for a sewer outfall within ATS 602; and ADL 106002 issued to DOTPF for highway slopes, culverts and bus stops in an unsurveyed area along Twin lakes, Parcel #5.

5. ADL 104588 is a pending lease application from Marion Hobbs. The final finding was signed on June 23, 1994 and survey instructions were issued on July 29, 1994. The applicant has failed to complete the survey in a timely manner and no appraisal has been started. Because the applicant has failed to complete the survey and appraisal, the lease application will be closed and the applicant will be notified to contact the City and Borough of Juneau for use of the parcel.

6. ADL 105998 is an issued right-of-way to the City and Borough of Juneau for park facilities including parking, road slopes, culverts and trails. This easement will be terminated upon signing of the final finding because the land will be conveyed to CBJ.

7. ADL 106670 is a pending right-of-way application from WCI Cable, Inc for a fiber optics cable along Twin Lakes. This file will be closed upon signing of the final finding and the applicant will be referred to the City and Borough of Juneau for authorization.

8. ADL 106356 is a pending tideland lease application from Douglas Island Pink & Chum for net pens and barrier net at Amalga Harbor. The survey has been completed and an appraisal was submitted. The appraisal was rejected by DNR on July 20, 2000 and the applicant was notified to have their appraiser make some corrections. A revised appraisal has been received and upon approval the lease will be issued. If the lease is not executed prior to the approval of the final finding then ATS 1560 will be withheld until the lease is issued. The final finding will be amended to pass management authority.
9. The three parcels within the Mendenhall State Game Refuge will be conveyed to the City
and Borough of Juneau only if the Commissioner of Fish & Game and the Commissioner of
Natural Resources determine that the conveyance is compatible with the purpose of the
designation, AS 38.05.825(b).

10. Interagency Land Management Transfers to DOT/PF and ADF&G for ADL 18206, ADL
36615, ADL 59182, ADL 65040, ADL 102433, and ADL 105113 will be listed in the state
patent as a valid right. ADL 106717, an ILMA to DOT/PF for the public recreation wayside
near the DIPAC Hatchery, will be terminated upon approval of the Final Finding as stipulated
in the ILMA.

11. Five leases are subject to insurance and/or bonding. Proof of insurance is required on an
annual basis and the performance guarantee/bond is held by the state. When land management
authority is transferred to CBJ, the region will request that the leases have these requirements
carried by CBJ.

12. ADL 106718 is an issued right of way to DOTPF for riprap and approach bridge in the
public recreation wayside within the DIPAC lease. It will be terminated upon signing of the
final finding, as stipulated in the right-of-way.

13. ADL 106613 is an issued material sale to DOTPF for dredging of the Channel Drive
Wayside, expiring 6/27/01. Since the material dredge area is partially outside Parcel #2, the
revenue will be paid to DNR.

14. The state tideland patent conveying the tideland surveys will be subject to valid leases and
rights-of-ways which protect the interest of the third party rights until expiration. Upon
expiration, or with mutual written agreement between the third party and CBJ, future use will
be authorized by CBJ.

15. The state tideland patent conveying the tideland leases which are presently leased to CBJ
will not be subject to those leases. (ADL 17380, ADL 37011, ADL 53141, ADL 104786,
ADL 105997, and ADL 104939) These leases will be transferred upon signing of the final
finding.
XVII. Preliminary Finding and Decision:

The finding presented above has been reviewed and considered. I find that the recommended action may be in the State's Best Interest and is hereby approved to proceed to public notice.

Bob Palmer  
Lands Officer

Ron Schonenbach  
Regional Manager, SERO

As 38.05.035(e) to Commissioner DNR to  
Director To Regional Manager SERO April 15, 1981  
Delegated Authority Date

ATTACHMENTS:
Attachment ‘A’, Proposed Conveyance Database  
Attachment ‘B’, Location Map  
Attachment ‘C’, Parcel 1 Diagram  
Attachment ‘D’, Parcel 2 Diagram  
Attachment ‘E’, Parcel 3 Diagram  
Attachment ‘F’, Parcel 4 Diagram  
Attachment ‘G’, North Douglas Boat Ramp Diagram
PUBLIC NOTICE, FINAL DECISION AND APPEAL PROCESS:

A Public notice seeking comments on this preliminary decision will be published in the Juneau Empire in accordance with AS 38.05.945 (b). Notice will also be given to the City & Borough of Juneau under AS 38.05.945 (c) (1), and to those parties being affected. In addition, it will be posted on the State’s internet site (www.state.ak.us).

The Public is invited to comment on this preliminary decision and any comments must be received in writing by the Division of Mining, Land & Water at 400 Willoughby Ave., Suite 400, Juneau, Alaska 99801 by December 3, 2000 in order to ensure consideration (please include mailing address and a telephone contact). All persons interested in this decision and in establishing their appeal rights, are now required by law to meaningfully participate in the decision process by commenting on the decision, in writing by the above deadline. Following the comment deadline, all written responses will be considered and this decision may be modified to incorporate public comment.

If public comment in response to this notice indicates the need for significant changes in the decision, additional public notice will be given on or about December 10, 2000. If no significant change is required, the preliminary decision, including any minor changes, will be issued as the final decision. A copy of the final decision including instructions on filing an appeal will be sent to any person who comments on the preliminary decision. Persons who do not submit written comment during the comment period will have no legal right to appeal the final decision.
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** ADL 106915 AITS 1350 Tracts A & B 2.010
** ADL 106915 AITS 1350 Tracts A & B 2.010
** ADL 106915 AITS 1350 Tracts A & B 2.010

Proposal AS 38.05.825 Conveyance of Tidelands

City and Borough of Juneau

Attachment A
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**Attachment A**

City and Borough of Juneau

Proposed AS 38.05.225 Conveyance of Tidelands
INTERAGENCY LAND MANAGEMENT TRANSFER

The Division of Lands, Department of Natural Resources of the State of Alaska transfers and assigns to the State of Alaska, Department of Highways or its successors in function, hereinafter called Assignee, jurisdiction and management of the following described lands, including uplands, shorelands, tidelands, or submerged lands, located in the State of Alaska, to-wit:

That portion of Protracted Section 9, T.41S., R.67E., Copper River Meridian, within the City and Borough of Juneau in the First Judicial District of the State of Alaska, as delineated on attached plats:

Containing 1,988 Ac., more or less.

The above designated parcel of land is required to enable the Department of Highways to construct and maintain a public highway, known as Alaska Project No. F-095-8(14), as a controlled access facility, in accordance with Sec. 19.20.010 through Sec. 19.20.050, Alaska Statutes.

Entry upon and use of this land by the Alaska Department of Highways, its agents, and contractors, shall be at the discretion of the Department of Highways, with particular reference to claims of accretion by parties other than the State of Alaska.

said jurisdiction and management being limited to the surface and so much of the subsurface as may be required in order to make use of the land for public purposes within the jurisdiction of the Assignee, and for so long as required for said public purposes. The right to construct, maintain or improve and remove buildings, roads, airports and works
of any description, and to use or remove sand, gravel, timber, or other materials on or near the surface is expressly granted when such action is necessary in order to make use of the lands for any public purposes within the jurisdiction of the Assignee. The Division of Lands expressly reserves jurisdiction and management of all other minerals including oil and gas in the above described land, provided, however, that the Division of Lands will not permit surface entry for the purpose of mineral or oil and gas exploration or development without the consent of the Assignee.

Dated at Anchorage, State of Alaska, this 19th day of September, 1972.

[Signature]
Director, Division of Lands
Department of Natural Resources

UNITED STATES OF AMERICA )
STATE OF ALASKA ) ss.

This certifies that on the 19th day of September, 1972, before me a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared [Name], to me known and known to me to be the person described in and who executed and acknowledged the foregoing instrument on behalf of the State of Alaska, as Director of the Division of Lands, Department of Natural Resources. The said [Name], after being duly sworn according to law, stated to me under oath that he is the Director of the Division of Lands, Department of Natural Resources and has authority pursuant to law to execute and acknowledge the foregoing instrument as such Director on behalf of the State of Alaska, acting through the Division of Lands, Department of Natural Resources and that he executed and acknowledged the same freely and voluntarily as the free and voluntary act and deed of the said State of Alaska and for the Division of Lands, Department of Natural Resources.

WITNESS my hand and official seal the day and year in this certificate first above written.

[Signature]
Notary Public in and for the State of Alaska.
My commission expires [Signature]

[Signature]
[Signature]
Alaska Department of Natural Resources
Division of Mining, Land and Water
400 Willoughby, Suite 400
Juneau, Alaska 99801

Interagency Land Management Transfer, Amendment #2
ADL 58216

The Interagency Land Management Transfer ADL 58216 is amended to delete that portion now included in Tracts A and B of Alaska Tideland Survey 1356 as shown on amended survey plat No. 92-40 recorded in the Juneau Recording District and leased to Douglas Island Pink and Chum, Inc. This amendment reduces the area from 1.988 acres to 0.93 acres, more or less. The area that remains in the ILMT is shown as Parcel 1A on Attachment A.

All other terms and conditions of the ILMT shall remain unchanged.

[Signature]
Frank Mielke
Chief of Rights of Way and Utilities
Alaska Department of Transportation and Public Facilities

[Signature]
Ron Schonenbach, Regional Manager
Division of Mining, Land and Water
Alaska Department of Natural Resources

STATE OF ALASKA )

 ss.
First Judicial District )

THIS IS TO CERTIFY that on this 20th day of December, 2000, before me personally appeared Frank Mielke, of the Alaska Department of Transportation and Public Facilities who signed the foregoing ILMT amendment and acknowledged voluntarily signing the same.

[Signature]
Notary Public in and for the State of Alaska
My Commission Expires: 01-30-01
STATE OF ALASKA

First Judicial District

THIS IS TO CERTIFY that on this 26th day of December, 2006, before me personally appeared Ron Schonbach, of the Division of Mining, Land and Water of the Department of Natural Resources of the State of Alaska, who executed the foregoing ILMT Amendment and acknowledged voluntarily signing the same.

STATE OF ALASKA
OFFICIAL SEAL
Douglas T. Sanvik
NOTARY PUBLIC
My Commission Expires 1/20/08.

Notary Public in and for the State of Alaska
My Commission Expires: 1/20/08.
Alaska Tideland Surveys

"Who, What, When, Where, How, Why"

A Paper Presented at the

37th Annual Alaska Surveying and Mapping Conference

By

Gerald Jennings, P.L.S., and Joe Kemmerer, P.L.S.

February, 2002

State of Alaska
Department of Natural Resources
Division of Mining, Land and Water, Technical and Data Management
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ABSTRACT

Alaska Tideland Surveys – the 5 w’s. Surveys of tideland parcels are unique in several ways. Typically all corners are monumented with witness corners. DNR is usually the fee owner of the parcel, and the landward boundary is usually the mean high water line. Frequently, the line is fixed and limiting, because of avulsion, or placement of fill. This paper will briefly discuss how an applicant applies for a tideland lease or conveyance and how to conduct the survey and obtain state approval. Presenter: Gerald Jennings

The Department of Natural Resources, Division of Mining, Land and Water, Technical and Data Management staff dealing with Alaska Tideland Surveys:

Gerald Jennings, P.L.S., Statewide Platting Supervisor
Joe Kemmerer, P.L.S., Coastal Boundary.
William (Bill) Brown, P.L.S., Riparian Specialist
Alaska Tidelands Surveys

Introduction - who what why?

Title to most of the tide and submerged lands surrounding Alaska was vested in the State of Alaska under the Submerged Lands Act of May 22, 1953. Most of those lands remain in state ownership and in most cases, the state will lease, but retain fee title. As a surveyor, you will be contacted about Alaska Tidelands Surveys (ATS) by a public or private party who desires to lease or acquire tidelands for various reasons such as construction of docks, bridges, harbors, log transfer facilities, etc.

Another situation in which you may need to conduct an ATS is to facilitate conveyance of tide and submerged lands to local communities under AS 38.05.820 or .825.

What are tidelands? The DNR Fact Sheet Titled: Tide & submerged Land Ownership (appendix A) discusses tideland ownership and what are tide and submerged lands. Tidelands are those lands between the mean high and the mean low tide lines. State owned submerged lands are located seaward of the mean low tide line and extending out three nautical miles. A definition of tidelands is also found in AS 38.05.965.

Why are tideland surveys required? For lease or patent, it is required under AS 38.04.045(b) “Before the issuance of a long-term lease under AS 38.05.070 or of a patent for state land, an official cadastral survey shall be accomplished, unless a comparable, approved survey exists that has been conducted by the federal Bureau of Land Management.”

When? The Application Process

Your client calls up and tells you that they need a survey. They want to build a dock and the state’s telling them that they need a survey. You respond, “I’ll be glad to help. At what step is your application at DNR?” Sometimes applicants go for the survey too early. If you call the survey unit, we will ask for the ADL number, and we will check for a final decision. If the decision hasn’t been done yet, it is usually too early to get survey instructions, but not always. Occasionally, we will issue instructions based on an approved preliminary decision, but rarely before any decision is issued. We will need verification from the division’s adjudicator for instructions to go out before the final decision.

How To Conduct A Tideland Survey – Field Procedures

Before beginning the field survey, obtain survey instructions from DNR –see below.

Monumentation: For the “normal” ATS survey you will set four monuments, two on the upland extension of each sideline. Typically, the upland owner is the tideland applicant, however if not, you need to obtain permission for setting monuments on the uplands.
Monuments are to meet the standards for primary monuments (11AAC53.), which includes a requirement for setting accessories. However, we will entertain requests to waive accessories in areas of dense monumentation.

**Monument Marking:** There has been some confusion on this subject over the years. The confusion is the marking of the two witness corners which are set on a sideline’s upland extension. Occasionally a survey will show one of the two monuments marked as a witness corner to the nearest true corner with the second monument as witnessing the seaward corner. This works, but is not preferred. What doesn’t work, is sometimes a survey shows both WC monuments as witnessing the same corner, with no differentiation of markings on the two witness monuments. If one is lost, it is difficult to determine which is remaining.

The preferred marking is to label the witness corners as wc 1 and wc 2 to the nearest true meander corner. This way, lining up the two monuments will give the lay person an approximation of the ATS survey parcel’s sideline as it crosses the water. But if the true location became critical, it would be determined by grant boundary adjustment between the true meander corners on the opposite sidelines of the survey. This is because the two witness corners are typically set too close together to be dependable as an extension seaward.

**How to determine the landward boundary:** Often, there are two lines which need to be compared, the existing line of mean high water (MHW), and the record line as per the adjacent upland survey.

The approximate location of the true mean high water line is determined by the use of National Geodetic Survey tidal bench marks (or any other bench marks that have been determined from that source), and the MHW datum for the immediate body of water. Ref: 11AAC53.120(1). If no such bench marks exist within one mile, then tidal observations may be taken and used in conjunction with official tide tables for the immediate body of water. A note shall be placed on the plat stating either:

Mean high tide was determined by time coordinated tidal observations on mth day yr as extrapolated from the NOAA Publication for the predictions of high and low waters for (year).

or

Mean high tide was determined from ____________ tidal bench mark on mth day yr from data supplied by NOAA. Bench Mark Elev.:

So, how exactly is this done in the field? Typically, you will set a temporary bench mark near the project and run levels from NGS bench mark or if there is no bench mark within one mile, you take time coordinated tide readings. See appendices B, C and D; “DETERMINING MEAN HIGH TIDE WHERE AN NGS BENCH MARK EXISTS” and “DETERMINING MEAN HIGH TIDE IN AREAS WHERE NO NGS BENCH
MARKS EXIST. The published MHW elevation for a particular body of water can be found on NOS Nautical Charts, NOS Tidal Bench Mark Data Sheets, or from the predicted tide tables.

To determine the meander line of record, it is necessary to tie monumentation from the record survey. You tie the nearest monument of the record survey in each direction, and using grant boundary adjustment procedures, fit the record meanders between the recovered monuments.

Once you’ve established the two lines, what do you do with them? This will ordinarily be addressed in the survey instructions. State regulations 11AAC53.120 set the guidelines for whether to set the upland boundary at the one line or the other.

In cases where it is determined that there has been an avulsive event, such as fill placed, or uplift (or subsidence), etc., the best evidence of the last location of the MHW prior to the event is used to set the line as a fixed and limiting boundary. This is usually the last survey of record, although sometimes aerial photography, surveys not of record or other evidence may be used.

A 50 foot public access easement is required by AS 38.05.127 and 11AAC51.045. Unless the easement is specifically waived in the final decision, it is required to be shown on the plat. The easement is along the existing mean high water line. There has been confusion on this in the past as the easement is to follow the existing MHW, not necessarily the landward boundary of the survey, which sometimes follows the record MHW line instead.

Note that the public access easement is applied 50 feet seaward and 50 upland of the existing MHW on uplands owned by the state. Thus, those surveys which because of fill, extend upland of the existing MHW, will have the easement applied both directions.

Other Issues

Apportionment of tidelands: In cases of negotiated leases, the applicant’s tideland parcel is limited to tidelands adjacent to his upland parcel. Depending on the configuration of the shore, the surveyor may not be able to simply extend the upland boundary seaward, but should typically extend at the angle which bisects the shoreline meander. The surveyor must be aware of the adjacent upland owner’s rights to the tidelands.

How does accretion and erosion to the upland parcel’s affect the tidelands parcel? Where the landward boundary is ambulatory, the seaward boundary is fixed. Thus accretion to uplands, “erodes” away the tidelands parcel. Over time, a tideland parcel can disappear. On the other hand, erosion of the upland parcel, increases the size of the tideland parcel.
Where Do You Get Survey Instructions?

You have received a final decision, and you would like to get the lands surveyed, how do you get started? Send a request for survey instructions to DNR's Land Survey Unit. The request should include the ADL number, a description of the lands which you want to have surveyed at this time, and the $225 fee. It is preferable that you only request for lands that you actually plan to survey, as they have a two year expiration, after which they would have to be extended or completely reissued depending on how much things have changed.

Gerald Jennings, Statewide Platting Supervisor
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Div. Of Mining, Land and Water
Technical & Data Management
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Anchorage, Alaska 99501-3576

Email: Gerald_Jennings@dnr.state.ak.us
Phone: 907-269-8516
Fax: 907-269-8914

Depending on our workload, it may take a couple of months to get the instructions prepared. When the field work is complete, submit the project to DNR surveys for review. The review fee is $200 for the first tract, plus $50 per additional parcel.

If within a city or borough that exercises platting authority, you will need to go through the platting board for approval of the survey. When the survey meets DNR and local approval, the final plat will be signed by various parties and submitted for recording. The recording fee is $20 for sheet 1, plus $5 per additional sheet.

These fees are set out in 11 AAC 05.010 (a)(13) survey and platting.

(13) survey and platting
(A) issuance or amendment of survey instructions, $50 for a remote recreational cabin site lease, replat, or right-of-way vacation, and $225 for any other type of survey;
(B) plat review under AS 38.04.045,
(i) first review of first parcel or tract per plat, $200, and $50 for each additional parcel or tract per plat, with the second review at no charge;
(ii) third and each additional review of first parcel or tract per plat, $300 each, and $100 for each additional parcel or tract per plat;
Fact Sheet

Title: Tide & Submerged Land Ownership

What are “tide and submerged” lands?

Tidelands include the land between mean (average) high and mean low tide. Submerged lands are seaward of mean low tide to three miles offshore. The tide and submerged lands include all land between the mean high tide line and three miles offshore of the mean low tideline.

Who owns tide and submerged lands in Alaska?

The State of Alaska owns most of the tide and submerged lands along its coastline. The submerged Lands Act of May 22, 1953 states that all lands permanently or periodically covered by tidal waters up to, but not above, the line of mean high tide and seaward to a line three geographical miles distant from the coast mean low tideline is owned by the state.

Can the state sell or lease its tide and submerged land?

As a general rule, the State cannot sell tide and submerged land. However, certain cities and individuals or corporations may acquire title to tide and submerged land occupied or developed on or before January 3, 1959, the date Alaska was admitted to the union. There are several programs under which a lease of state tidelands may be acquired.

Can I use state tide and submerged lands, even if the state doesn’t own the uplands?

Yes, you can use state tide and submerged land, even if the uplands are not owned by the state. However, you must remember that you only have the right to use the land from mean high water seaward. You are also expected to respect the upland owner’s rights and treat the land with care.
Does the federal government own tidelands adjacent to its conservation units, such as National Parks?

The question has been raised that the United States may own tidelands adjacent to certain federal withdrawals that exist prior to statehood. However, that question was answered on June 8, 1987 when the U.S. Supreme Court issued its decision in Utah v. United States. This decision established that federal land withdrawals made prior to statehood did not include land under navigable waters.

In that decision, the Supreme Court affirmed the longstanding policy that the federal government holds land under navigable waters for the ultimate benefit of a future state. In order for this not to be the case, congress would have to specifically include the land and clearly state that it intended that the state would not have title to it.

Tide and submerged lands were not included in any pre-statehood federal withdrawals within Alaska and there is no indication that Congress intended to take away the State of Alaska's title. The state therefore received title to all the tide and submerged lands at statehood.

Additionally, in the Alaska National Interest Lands Conservation Act, Congress did not take away the state's power to regulate state-owned submerged lands within or adjacent to federal Conservation System Units in Alaska. Many provisions in ANILCA recognize and respect the state's authority over state-owned land.

Where the uplands are within federal conservation units, the state has cooperated with federal land managers wherever possible. As a result, some special use restrictions may apply. Sometimes this cooperation is formally set out in a memorandum of understanding that discusses management issues and how they will be resolved.

For additional information contact:

Department of Natural Resources
Division of Mining, Land & Water

Southcentral Regional Office
550 West 7th Avenue, Suite 900-C
Anchorage, AK 99501
Phone: 907-269-8503

Southeast Regional Office
400 Willoughby Avenue, 4th Floor
Juneau, AK 99801
Phone: 907-465-3400

Northern Regional Office
3700 Airport Way
Fairbanks, AK 99709
Phone: 907-451-2700
TO COMPUTE MHW FROM TIDAL PREDICTIONS:
ADD 1/2 THE MEAN RANGE TO THE MEAN TIDE LEVEL OF THE CLOSEST STATION PREDICTIONS AS PUBLISHED IN: THE HIGH AND LOW WATER PREDICTIONS WEST COAST OF NORTH AND SOUTH AMERICA TIDE TABLES BOOK.

* "Mean Tide Level" is a point midway between MHW and MLW
DETERMINING MEAN HIGH TIDE WHERE AN NGS BENCHMARK EXISTS

1. NOAA Primary Control Stations and related benchmark data can be obtained at http://co-ops.nos.noaa.gov/bench.html or the State of Alaska/ DNR at (907) 269-8521. Example: Juneau.

2. Using a level and rod, run differential levels from one of the Control Station benchmarks to the project location.

3. Establish a point on each sideline of the ATS survey at the mean high water elevation. Measure the witness distance from these points to the witness monuments.

4. When the tide level reaches this elevation, field survey the meanders within the project.
Published Bench Mark Sheet for 9452210

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Ocean Service

Page 1 of 8

Station ID: 9452210
Name: JUNEAU, GASTINEAU CHANNEL, STEPHENS PASS
     ALASKA
NOAA Chart: 17315
USGS Quad: JUNEAU B-2

Latitude: 58° 17.9' N
Longitude: 134° 24.9' W

To reach the tidal bench marks from the main Juneau Post Office main entrance at 9th and D Streets, proceed SW one block to Glacier Avenue, turn left onto Glacier Avenue and proceed 0.2 km (0.1 mi), bear left at the Y intersection onto Willoughby Avenue and follow it 0.3 km (0.2 mi) to Whittier Street, turn right onto Whittier Street and proceed 0.4 km (0.3 mi) (across Egan Drive) to the U.S. Coast Guard Pier. The bench marks are in the general vicinity. Turn right (SW) from the main Coast Guard pier and proceed 73.15 m (240.0 ft) to the tide house.

TIDAL BENCHMARKS

PRIMARY BENCHMARK STAMPING:
DESIGNATION: 945 2210 TIDAL 8
ALIAS: 8 1922

MONUMENTATION: Tidal Station disk
AGENCY: U.S. Coast & Geodetic Survey (USC&GS)
SETTING CLASSIFICATION: Building wall

VM#: 1188
PID:

The primary bench mark is an un-stamped disk set vertically in the SE corner of the Goldstein Emporium Building on the west side of Seward Street between Front and Second Streets, 5.18 m (17.0 ft) south of the entrance to Miss Scarlett's
Published Benchmark Sheet for 9452210

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Ocean Service

Station ID: 9452210
Name: JUNEAU, GASTINEAU CHANNEL, STEPHENS PASS
ALASKA
NOAA Chart: 17315
USGS Quad: JUNEAU B-2

PUBLICATION DATE: 11/02/1999

LATITUDE: 58° 17.9' N
LONGITUDE: 134° 24.9' W

T I D A L  D A T U M S

Tidal datums at JUNEAU, GASTINEAU CHANNEL, STEPHENS PASS based on:

LENGTH OF SERIES: 5 YEARS
TIDAL EPOCH: 1960-1978
CONTROL TIDE STATION: 

Appendix C
Elevations of tidal datums referred to Mean Lower Low Water (MLLW), in METERS:

<table>
<thead>
<tr>
<th>Datum</th>
<th>Meters</th>
</tr>
</thead>
<tbody>
<tr>
<td>HIGHEST OBSERVED WATER LEVEL (11/02/1948)</td>
<td>7.395</td>
</tr>
<tr>
<td>MEAN HIGHER HIGH WATER (MHHW)</td>
<td>4.962</td>
</tr>
<tr>
<td>MEAN HIGH WATER (MHW)</td>
<td>4.675</td>
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<tr>
<td>MEAN SEA LEVEL (MSL)</td>
<td>2.615</td>
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<td>MEAN TIDE LEVEL (MTL)</td>
<td>2.580</td>
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<tr>
<td>MEAN LOW WATER (MLW)</td>
<td>0.485</td>
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<tr>
<td>MEAN LOWER LOW WATER (MLLW)</td>
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</tr>
<tr>
<td>LOWEST OBSERVED WATER LEVEL (01/01/1991)</td>
<td>-1.663</td>
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Bench Mark Elevation Information

<table>
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<tr>
<th>Stamping or Designation</th>
<th>In METERS above:</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>MLLW</td>
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<tr>
<td>945 2210 TIDAL 8</td>
<td>11.836</td>
</tr>
<tr>
<td>12 1945</td>
<td>18.203</td>
</tr>
<tr>
<td>2210 C 1982</td>
<td>8.960</td>
</tr>
<tr>
<td>2210 D 1984</td>
<td>10.844</td>
</tr>
<tr>
<td>2210 E 1984</td>
<td>10.343</td>
</tr>
<tr>
<td>2210 G 1984</td>
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<td>945 2210 TIDAL 9</td>
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<td>BM WG-91 1994 ELEVATION 29.26</td>
<td>9.156</td>
</tr>
<tr>
<td>2210 J 1997</td>
<td>9.737</td>
</tr>
<tr>
<td>2210 H 1997</td>
<td>9.990</td>
</tr>
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</table>
DETERMINING MEAN HIGH TIDE IN AREAS WHERE NO NGS BENCH MARKS EXIST

1. In NOAA Tide Tables 2002, NOS High and Low Water Predictions or on the internet at: http://co-ops.nos.noaa.gov/tpred2.html#AK look up high tides and times for nearest Tide Station in Table 1. Example: Juneau - June 12, 2002.
   A. Tide predictions in the NOAA Tide Predictions book are in Alaska Standard Time.

2. Look up nearest Place in Table 2. Example: Cannery Cove, Phybus Bay.

3. Add or subtract (or multiply by ratio factor) local correction factor to time of high tide in Table 1 to find predicted time of Local High Tide. Example: 17:57-00:08 = 17:49.

4. Using a level and rod observe the rising tide from ½ hour before to ½ hour after predicted time of high tide taking a minimum of six observations on the rod. Mean the observations and using the level and rod locate the mean elevation on the beach and mark with a temporary bench. This is the approximate High Tide for this location on this day at this time (AM or PM).

5. Apply local Height difference from Table 2 to High Tide at the nearest Tide Station in Table 1. This will be the approximate elevation of the point marked in step 4. Example: 13.0' x 0.90' = 11.7'.

6. Find the Mean High Tide for this location by looking up the Local Mean Range in Table 2. Divide this number by 2. Add the result to the local mean Tide Level also found in Table 2. Example: 12.24' / 2 = 6.12' 6.12' + 7.60' = 13.72'.

7. Locate the Mean High Tide Line on the beach by subtracting or adding to the elevation of the marked point. In this case you would move the rod upland from the water line to the point of elevation 13.72 feet.
Tide Tables 2002
HIGH AND LOW WATER PREDICTIONS

WEST COAST OF
NORTH AND
SOUTH AMERICA
INCLUDING THE HAWAIIAN ISLANDS
AND THE ALASKAN SUPPLEMENT

International Marine
Formerly published by the National Ocean Service, NOS,
a division of the National Oceanic and Atmospheric Administration, NOAA.

Accepted by the U.S. Coast Guard
**TABLE 1.—DAILY TIDE PREDICTIONS**

Juneau, Alaska, 2001

Times and Heights of High and Low Waters

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<thead>
<tr>
<th>April</th>
<th>May</th>
<th>June</th>
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<tbody>
<tr>
<td>Time</td>
<td>Height</td>
<td>Time</td>
</tr>
<tr>
<td>0544</td>
<td>14.4</td>
<td>1600</td>
</tr>
<tr>
<td>Su 1247</td>
<td>1.5</td>
<td>M 0704</td>
</tr>
<tr>
<td>1926</td>
<td>11.8</td>
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<td>2054</td>
<td>12.5</td>
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<tr>
<td>0338</td>
<td>5.4</td>
<td>0</td>
</tr>
<tr>
<td>Tu 0842</td>
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<td>0</td>
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<tr>
<td>W 0541</td>
<td>1.2</td>
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<tr>
<td>Th 1152</td>
<td>16.5</td>
<td>0</td>
</tr>
<tr>
<td>Sa 1800</td>
<td>2.2</td>
<td>0</td>
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<tr>
<td>0702</td>
<td>18.4</td>
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<tr>
<td>1234</td>
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<td>1020</td>
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<tr>
<td>1538</td>
<td>11.3</td>
<td>0</td>
</tr>
</tbody>
</table>

**Time:** 130° W. 0000 is midnight. 1200 is noon.

Heights are referred to mean lower low water which is the chart datum of soundings.

Appendix D
<table>
<thead>
<tr>
<th>No.</th>
<th>PLACE</th>
<th>LATITUDE</th>
<th>LONGITUDE</th>
<th>DIFFERENCES</th>
<th>RANGES</th>
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<td></td>
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<td></td>
<td></td>
<td>on Silka, p.128</td>
<td></td>
<td>on Ketchikan, p.129</td>
<td></td>
</tr>
</tbody>
</table>

### ALASKA

- **Meares Passage to Davidson Inlet-cont.**
- **Time meridian, 135° W**

<table>
<thead>
<tr>
<th>Davidson Inlet-ct.</th>
<th>Meares Passage to Davidson Inlet-ct.</th>
</tr>
</thead>
<tbody>
<tr>
<td>El Capitan Island</td>
<td>55° 56' 133° 25'</td>
</tr>
<tr>
<td>Cyrus Cove, Bag Creek Sound</td>
<td>55° 55' 133° 24'</td>
</tr>
<tr>
<td>Marble Passage</td>
<td>55° 57' 133° 29'</td>
</tr>
<tr>
<td>Matz Cove, Kake Sound</td>
<td>55° 59' 133° 29'</td>
</tr>
<tr>
<td>Hoonah Bay, Kake Sound</td>
<td>55° 59' 133° 29'</td>
</tr>
</tbody>
</table>

| Summer Strait | | |
| Coronation Island | 55° 54' 134° 07' | -0.16 -0.17 +0.8 0.0 |
| Pole Anchorage, Kuskwake Island | 55° 57' 133° 48' | -0.22 -0.22 +1.1 -0.1 |
| Port McArthur, Rialt Island | 55° 04' 134° 07' | -0.11 -0.07 +0.6 -0.1 |
| Keel Bay, Alloway Canal, Kukak Island | 55° 09' 134° 08' | -0.13 +011 +1.3 0.0 |
| Point S. Alaska | 55° 05' 134° 58' | -0.17 -0.13 +1.4 0.0 |
| Shilshole Bay Entrance | 55° 07' 134° 58' | -0.13 -0.12 +1.4 -0.1 |
| Shilshole Strait, Kuskwake Island | 55° 08' 133° 26' | -0.09 -0.10 +1.9 -0.1 |
| El Capitan Passage | 55° 04' 133° 19' | -0.05 -0.02 +0.9 -0.1 |
| Port Bentinal, Kukak Island | 55° 17' 133° 27' | -0.14 -0.12 +1.9 -0.1 |
| Port Protection, Prince of Wales Island | 55° 19' 133° 35' | -0.13 -0.11 +2.4 0.0 |
| Field Bay | 55° 21' 133° 53' | -0.11 -0.19 +2.5 0.0 |

| Wrangell Narrows | | |
| Point Lockwood, Wowsildof Island | 55° 33' 132° 56' | +0.20 +0.15 +0.2 0.1 |
| Flattop Island | 55° 41' 132° 37' | +0.20 +0.15 +0.2 0.1 |
| Anchor Point | 56° 38' 132° 59' | +0.20 +0.15 +0.2 0.1 |
| Petersburg | 56° 49' 132° 57' | +0.09 +0.26 +0.3 0.1 |

| Keku Strait | | |
| Monte Carlo | 56° 32' 133° 48' | +0.02 +0.03 -2.8 -0.1 |
| Sandhill Harbor, Kukak Island | 56° 33' 133° 53' | +0.05 +0.02 +0.3 0.0 |
| Beck Island | 56° 36' 133° 51' | +0.08 +0.10 +0.3 0.1 |
| The Summit | 56° 41' 133° 44' | +0.31 +0.20 +0.3 0.1 |
| Deception Island, Duncan Canal | 56° 49' 133° 47' | +0.20 +0.20 +0.3 0.1 |
| Port Carter, Kukak Island | 56° 44' 133° 55' | +0.03 +0.10 +0.2 0.1 |
| Kake | 56° 55' 133° 50' | +0.06 +0.11 +1.1 -0.1 |
| Kake | 56° 56' 133° 56' | +0.06 +0.11 +1.1 -0.1 |

| Frederick Sound | | |
| Dry Strait | 56° 37' 132° 34' | -0.10 -0.03 -0.2 0.0 |
| Cosme Point | 56° 39.6' 132° 37.6' | -0.05 -0.05 +0.2 0.0 |
| Ideal Cove, Minkoff Island | 56° 40' 132° 38' | +0.00 +0.03 +0.3 0.0 |
| London Bay | 56° 47.2' 132° 30.1' | +0.01 +0.03 +0.3 0.0 |
| Brown Cove | 56° 53' 132° 48' | +0.14 +0.10 +0.3 0.1 |
| Thomas Bay | 57° 00' 132° 47' | +0.07 +0.07 +0.3 0.1 |
| Passenger Cove, Kuskwake Island | 57° 00' 133° 19' | -0.19 +0.15 +0.7 0.0 |
| Clevelan Passage, Whitney Island | 57° 19' 133° 30' | -0.01 +0.03 -1.2 0.1 |
| The Brothers | 57° 17.7' 133° 47.8' | +0.03 +0.03 +0.3 0.0 |
| Pybus Bay, Admiralty Island | 57° 16' 134° 08' | +0.03 +0.02 +1.3 -0.1 |
| Savannah Cove, Pebbly Bay | 57° 18.4' 134° 09.0' | +0.08 +0.08 +0.00 +0.04 |

| Stikine Passage | | |
| Eliza Harbor, Admiralty Island | 57° 11.3' 134° 17.2' | +0.06 +0.04 +0.7 0.0 |
| Stikine Harbor, Admiralty Island | 57° 19.8' 134° 22.9' | +0.06 +0.07 +0.7 0.0 |
| Sitkagoo Bay, Kukak Island | 58° 54.2' 134° 16.2' | +0.12 +0.15 +0.04 +0.56 |

### Stephenson Passage

- **Port Houghton, Robert Islands**
- **Hobart Bay**
- **Good Island, Garnier Bay**
- **Windsor Bay**
- **Harp Ledge, Smyrnau Canal**
- **Woodall Harbor, Seymour Canal**
- **Hokkman Bay, Wood Split**
- **Sawyer Island, Tracy Arm**
- **Fleet NE, Point Sitkalidak**
- **Port Stretsilik, Chis Point**

**Endnotes can be found at the end of the table.**

**Appendix D**
• Possession Sound, Port Susan, Skagit Bay area
  • Rosario Strait

select a different state

Return to CO-OPS Home Page

ALASKA

• Dixon Entrance and Portland Canal
• Revillagigedo Channel and Tongass Narrows
• Behn Canal
• Clarence Strait
• Cordova Bay and Dall Island
• Meares Passage to Davidson Inlet
• Sumner Strait and Wrangell Narrows
• Keku Strait, Fredrick Sound, Stephens Passage
• Lynn Canal and Chatham Strait
• Baranof Island, Salisbury Sound, Chichagof Island
• Cross Sound and Icy Strait
• Gulf of Alaska
• Prince William Sound
• Kenai Peninsula and Cook Inlet
• Kodiak and Afgonak Islands
• Alaska Peninsula
• Aleutian Islands
  • Unimak and Unalaska Islands
  • Unmak, Yunaska, Atka Islands
  • Adak, Kanaga, Tanaga, Rat and Attu Islands
• Bristol Bay
• Kusokwim Bay and Bering Sea
• Norton Sound, Bering Strait, and Arctic Ocean

select a different state

Return to CO-OPS Home Page

Pacific Islands

• Marianas Islands
• Caroline, Marcus and Wake Islands
• Marshall Islands
• Gilbert Islands and North Pacific Detached Islands

Appendix D
### Petersburg

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### Appendix D

Daily predictions
## Tide Predictions for Juneau, Alaska

### Daylight Saving Time

**Juneau, Alaska**  
Tide Predictions (High and Low Waters)  
June, 2002  
NOAA, National Ocean Service

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## Daylight Saving Time

**Juneau, Alaska**  
Tide Predictions (High and Low Waters)  
July, 2002  
NOAA, National Ocean Service

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**Appendix D**

2/11/02 11:15 AM
PUBLISHED BENCHMARK SHEETS

Below is a map of states and geographical areas where CO-OPS maintains Published Benchmark Sheets. Specific stations are listed within each area.

Non U.S. Bench Marks

Appendix C
Alaska Bench Marks

9450305 BOCA DE QUADRA, AK
9450480 KETCHIKAN, TONGASS NARROWS, AK
9450695 HUT POINT, AK
9450807 CONVENIENT COVE, HASSLER ISLAND, AK
9450811 FIN, AK
9450970 ENTRANCE TO ZIMOVA STRAIT, AK
9451005 POINT HARRINGTON, SUMNER STRAIT, AK
9451037 VILLAGE ROCK, AK, AK
9451074 BUSHY ISLAND, SNOW PASSAGE, AK
9451124 STIKINE STRAIT, AK
9451204 WRANGELL, WRANGELL ISLAND, AK
9451216 VANK ISLAND, SUMNER STRAIT, AK

Click on station of interest.

The NOS bench mark sheets now contain links to corresponding NGS data sheets. Under the NOS vertical mark number (VM#) you may see a PID# link. Clicking on this link will bring up the corresponding NGS data sheet for that vertical mark.

For stations which do not list PID# links, the Latitude and Longitude of the station can be used to find data sheets for nearby PIDs by Clicking HERE.
Fact Sheet

Title: Accretion, Reclination & Quiet Title Action

What is Accretion / Reclination?

Sometimes a land survey involving coastal or shoreline areas will show that there is now more upland area than was shown on the original survey. The extra land may be the result of fill material deposited by man or the result of natural processes. The act of fill forms the boundary at the historical location and negates any future claim to subsequent accretion. Accretion is the gradual and imperceptible addition of land to a parcel by the natural deposition of water borne sediments. It is the slow increase in one's land occurring by grain by grain. Reclination, which is the uncovering of submerged land by the recession of water, is usually treated as accretion even though the process is different. In 1992, the Alaska Supreme Court ruled in Horsinger v. State of Alaska that glacio-isostatic uplift is a form of reclination and therefore subject to common-law doctrine of accretion. The court also stated "accretion and reclination are technically different processes, but are subject to the same rule regarding title, i.e., benefit inures to shoreline owner."

What is the legal significance of accretions?

Land abutting navigable water (see state policy on navigability fact sheet) has riparian rights. Riparian rights are (1) the right to use the water itself and (2) right to use of the land that may include ownership of, or use of the bed, or rights to acquire additional land formed by water action (accretions). One of the most valuable of these rights is the continuing access to the water. By common law, accretions belong to the owner of the uplands to which the accretion attached in order that a riparian owner may maintain his riparian rights. Riparian boundaries are ambulatory boundaries, in that they move as the water moves, under the legal principal that a riparian owner should be denied the right to have the water. However ownership of accretions is held under a cloud of title because the owner cannot show clear or marketable title was acquired. The State of Alaska as the owner of the abutting submerged lands could possibly have an adverse claim. For example, the state asserts ownership of tide and submerged land that has been artificially filled below the mean high water line of tidal water or the ordinary high water mark of non-tidal water bodies.

What is a cloud on title?

A cloud on title is a claim or encumbrance on title. A cloud on title does not affect the owner of title and does not prevent him from fully enjoying all the rights and benefits of land ownership. Clouded title is a title that is subject to an adverse claim of ownership because there is no patent, deed or other written transfer that clearly establishes ownership. Transfer of title may be also on issue.

How is the cloud on title removed?

A cloud on title is cleared up through a process known as a Quiet Title Action in which the claimant petitions the Alaska Superior Court to make a judicial determination to establish ownership and ascertain the boundary in accordance with AS 09.45.010 and AS 09.45.020.

What is a Quiet Title Action?

A quiet title action is a legal proceeding that removes an adverse claim or cloud on the title of property to establish ownership in accordance with AS 09.45.010. Action to quiet title. This is usually a friendly lawsuit, handled by the attorney for the plaintiff and signatures for the defendants, not requiring a jury trial. The State of Alaska as owner of the bed of navigable water is usually named as a defendant along with any party in the chain of title. Sometimes the defendants are also named as defendants. Generally, the lawsuit consists of the attorney for the parties negotiating resolution of the claim. Upon reaching an agreement, the judge for the Superior Court issues an order resolving the issue in favor of the plaintiff. The quiet title practice is when the court issues an Order re: Clerk's Deed to quiet the title. The plaintiff's attorney is required to provide a survey of the registered plat that has been approved by the local platting authority. In the unorganized borough of DNR is the platting authority.

How does the Quiet Title process work?

Generally speaking, the process is as follows:

- Plaintiff has a surveyor prepare an exhibit identifying the area being claimed.
- Plaintiff's attorney files a Complaint for Quiet Title in Superior Court.

Why go through the process?

The purpose of going through the process is to remove the cloud and acquire clear marketable title that is free from encumbrance or limitation. Frequently, the quiet title process is driven by a financial institution that will not loan money on property unless the title is clear. Title companies often will not issue a title insurance policy that insures against a cloud on title. The title policy will cite the cloud as an exception to the policy. The title policy will cite the cloud as an exception to the policy. The title policy will cite the cloud as an exception to the policy. The title policy will cite the cloud as an exception to the policy. The title policy will cite the cloud as an exception to the policy.
This article delves into the challenges of determining shoreline location. The United States uses the Mean High Water (MHW) vertical datum to define shoreline. The problem in showing the MHW line on maps is stated by Parker: “How does one measure the shoreline so that every point really does represent the horizontal position of the land-water interface when the water level is at a height equal to MHW at that point?”

Photogrammetry has traditionally been used in shoreline mapping; the key factor in accurate photos lies in the timing of the photography. But knowing when the waterline is at the MHW mark for each point over a portion of the shoreline is difficult to predict, given the dynamic nature of the tides, randomly spaced tidal gauges, and weather patterns. It’s easy to see how the shoreline delineation can change depending on when the measurements are made, who is making the measurements and final shoreline determination methodology.

Along with the MHW line, the Mean Lower Low Water (MLLW) line is also a critical datum to depict. MLLW is the reference datum used on nautical charts, and is used to determine territorial seas. Aside from having a bit of a data “void” between the two datums, combining data from a nautical chart to a USGS topographic map is a challenge. USGS data is generally referenced to the NAD27 datum, depending on the product, but NOAA data is referenced to the NAD83 datum. Local and state agencies have their own standards, so from the start of a project including shoreline data, a datum transformation is usually required.

NOAA has developed a datum transformation tool, called VDatum to assist in combining data from different sources into one datum. By having a seamless Digital Elevation Model (DEM) the various datums can be depicted using various models in a GIS. To complement and complete the shoreline data, airborne LIDAR technology has been adopted. LIDAR data is collected when the water level is at the lowest can create a high accuracy elevation model of the shoreline. Other technologies being used are SHOALS (Scanning Hydrographic Operational Airborne Laser Survey) and LADS (Laser Airborne Depth Sounder).

With the integration of data from different sources using the VDatum tool, land management and development analysis along the shoreline will be easier to monitor. Having access to the software (and hardware) and the knowledge to use the programs correctly would be a boost to a GIS technician’s or regional planner’s resume.
ATTACHMENT 3

SAMPLE STANDARD CBJ CONTRACT
This Agreement is entered into by and between the City and Borough of Juneau, Alaska ("City"), and Consultant Name ("Consultant"), whose address is Consultant Address, phone is Consultant Phone, and fax is Consultant Fax.

Whereas, the City desires to engage the Consultant for the purpose of rendering certain professional services, and

Whereas, the Consultant represents that it is in all respects licensed and qualified to perform such services,

Now, therefore, the parties agree as follows:

1. CONTRACTUAL RELATIONSHIP. The parties intend that an independent Consultant/City relationship will be created by this Contract. City is interested only in the results to be achieved, and the conduct and control of the work will lie solely with the Consultant. Consultant is not considered an agent or employee of City for any purpose, and the employees of Consultant are not entitled to any benefits that City provides for City’s employees. It is understood that the City does not agree to use the Consultant exclusively. It is further understood that the Consultant is free to contract for similar services to be performed for others while it is under contract with the City.

2. SCOPE OF SERVICE. The Consultant shall carry out in a professional and prudent manner all of the services required by the Contract. These services include all of the services described in Appendix A. Consultant will diligently proceed with the Scope of Services, and will provide such services in a timely manner.

3. PERSONNEL, EQUIPMENT, SUPPLIES, AND LICENSES.

(A) Except as noted in Appendix A, the Consultant represents that it has or will secure at its own expense all personnel, equipment, and supplies required in performing the services under this Contract.

(B) All of the services required hereunder will be performed by the Consultant or under its supervision.
(C) None of the work or services covered by this Contract shall be subcontracted without prior written approval of the City.

(D) Consultant warrants that it is fully licensed under all applicable local, state, and federal laws to perform the services to be provided hereunder.

4. TIME OF PERFORMANCE. The services of the Consultant are to commence after the execution of the Contract and issuance of Notice to Proceed and Purchase Order. All work shall be completed no later than the time specified in Appendix A. Amendment to this Contract may be made upon mutual, written agreement prior to the contract expiration date.

5. REPORTING. Except as authorized within Appendix A, the City's primary representative for this Contract shall be the Port Engineer, Gary Gillette. The City shall not be liable for Consultant's expenses incurred in reliance on directions received from any other municipal officer or employee. The Consultant's representative shall be Consultant Representative. Reliance by the City on representations by any other person shall be at the City's own risk.

6. COMPENSATION. The City agrees to pay the Consultant according to the provisions of Appendix B. The Consultant's fee schedule is attached to this contract and hereby incorporated into this contract by reference.

7. TERMINATION OF CONTRACT FOR CAUSE. If, through any cause, except causes beyond the control of the Consultant, the Consultant shall fail to fulfill in a timely and proper manner its obligations under this Contract; or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall have the right to terminate this Contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least ten days before the effective date of such termination. In that event, all finished or unfinished documents, or other data, in whatever form, prepared by the Consultant under this Contract shall, at the option of the City, become its property, and the Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and materials, not to exceed the Contract amount.

8. TERMINATION FOR CONVENIENCE OF CITY. The City may terminate this Contract at any time by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least thirty days before the effective day of such termination. In that event, all finished or unfinished documents and other materials as described in paragraph 7 above shall, at the option of the City become its property, and the Consultant will be paid an amount not to exceed the amounts set forth in Appendix B for work satisfactorily completed on or before the date of termination, less payments of compensation previously made.

9. CONTRACT AGREEMENT. All parties mutually agreed to the terms of this Contract. The Contract should not be construed in favor of or against any party. This Contract contains the entire agreement between the parties; there are no other promises, terms, conditions, or obligations other than those contained herein; and this Contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties.

10. CHANGES. The City may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes, including any increase or decrease in the amount of the Consultant's compensation, must be mutually agreed upon in writing before they will be regarded as part of this Contract.
11. EQUAL EMPLOYMENT OPPORTUNITY. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

12. CONFLICTS OF INTEREST. Consultant agrees that no employee of the City, who has exercised or will exercise any authority over the specifications, procurement, supervision or payment for this Contract, and no member of the employee’s immediate family, has had or will have any direct or indirect financial interest in this Contract. If the Consultant learns of any such interest, the Consultant shall immediately inform the Port Director.

13. ETHICS. Consultant shall discharge its duties fairly, impartially and maintain a standard of conduct that competently serves the City and the interests of the City. Consultant shall at all times exercise unbiased judgment when performing its duties under this contract.

14. PUBLIC RELATIONS. Consultant shall issue press releases, respond to press inquiries, make public speeches, appear on broadcast media or otherwise engage in public relations regarding the project only with the specific approval of the Port Director.

15. ELECTED OFFICIALS. The Consultant shall respond to project-related inquiries from elected officials by providing impartial, factual information, but shall not initiate contact or attempt to persuade an elected official to agree with any viewpoint or to take any official action. The Consultant will promptly notify the City’s primary representative of any request by an elected official for project-related information.

16. ASSIGNABILITY. The Consultant shall not assign any interest in this Contract and shall not transfer any interest in the same without the prior written consent of the City; however, claims for money due or to become due to the Consultant from the City under this Contract may be assigned to a bank, trust company, or other financial institution without approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

17. FINDINGS CONFIDENTIAL. Any information given to or prepared by the Consultant under this Contract that the City requests to be kept as confidential shall not be made available to any individual or organization by the Consultant without the prior written approval of the City.

18. IDENTIFICATION OF DOCUMENTS. All reports, maps, and other documents completed as a part of this Contract, other than documents exclusively for internal use within the City, shall carry a City notation or logo as directed by the City.

19. PUBLICATION, REPRODUCTION, AND USE OF MATERIALS. No services, information, computer program elements, reports or other deliverables that may have a potential patent or copyright value produced in whole or in part under this Contract shall be subject to copyright in the United States or any other country.

If a copyright applies by law to the work produced under this Contract, that copyright will either be signed over to the City or the City will be given unrestricted license to the copyright. The City shall have unrestricted license to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Contract. If this Contract includes architectural and/or engineering design services, any use of the design features or details produced under this Contract on other City facilities will be at the City’s risk.

20. RECORDS. During performance and after termination of this Contract, each party shall
make available to the other party for inspection and copying, all records, whether external or internal, having any relevance to this Contract.

21. INSURANCE REQUIREMENTS. Consultant has secured and agrees to keep and maintain in full force and effect, at its own expense, the insurance approved by CBJ Risk Management as outlined in Appendix C. All insurance required under this contract shall name the CBJ as an additional insured, except with respect to any required Professional Liability or Workers Compensation policies. At least 30 days prior to the cancellation, non-renewal or reduction in the amount of coverage, Contractor shall provide written notice to the CBJ’s Risk Management. The Contractor’s insurance shall be primary and any insurance maintained by the CBJ shall be non-contributory. If the Contractor maintains higher limits than shown below, the CBJ shall be entitled to coverage for the higher limits maintained by the Contractor. Failure of CBJ to demand such certificate or other evidence of full compliance with these insurance requirements or failure of CBJ to identify a deficiency from evidence that is provided shall not be construed as a waiver of the obligation of the Contractor to maintain the insurance required by this contract.

22. INDEMNIFICATION AND HOLD HARMLESS. The Consultant agrees to defend, indemnify, and hold harmless CBJ, its employees, and authorized representatives, with respect to any action, claim, or lawsuit arising out of or related to the Consultant’s negligent performance of this contract without limitation as to the amount of fees, and without limitation as to any damages, cost or expense resulting from settlement, judgment, or verdict, and includes the award of any attorney’s fees even if in excess of Alaska Civil Rule 82. This indemnification agreement applies to the fullest extent permitted by law, meaning that if there is a claim of, or liability for, a joint act, error, or omission of the consultant and the CBJ, the indemnification, defense, and hold harmless obligation of this provision shall be apportioned on a comparative fault basis. This agreement is in full force and effect whenever and wherever any action, claim, or lawsuit is initiated, filed, or otherwise brought against CBJ relating to this contract. The obligations of Consultant arise immediately upon actual or constructive notice of any action, claim, or lawsuit. CBJ shall notify Consultant in a timely manner of the need for indemnification, but such notice is not a condition precedent to Consultant’s obligations and may be waived where the Consultant has actual notice.

23. CHOICE OF LAW; JURISDICTION. This Contract shall be governed by the laws of the State of Alaska. Jurisdiction shall be in the State of Alaska, First Judicial District.

24. SUCCESSORS. This Contract shall be binding upon the successors and assigns of the parties.

25. PRECEDENCE OF DOCUMENTS. In the event of a conflict between the provisions of this document and its appendices, the order of precedence shall be this document, Appendix A, Appendix B and Appendix C.
In Witness Whereof, the parties have affixed their signatures the date first above set out:

CITY AND BOROUGH OF JUNEAU

__________________________
Carl Uchytil, P.E.
Port Director

__________________________
Representative Name
Title

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APPENDIX A: SCOPE OF SERVICES

Project Name
Contract No. Project Number

SCOPE OF SERVICES: The Scope of Services for this contract shall be (insert scope).

PERSONNEL: The Consultant's primary personnel for this work will be Name. Other qualified staff may be assigned to the project as required.

SCHEDULE: The Consultant shall perform the Work of this contract in a timely manner in accordance with the schedule as outlined below.
APPENDIX B: COMPENSATION

Project Name
Contract No. Project Number

Amount of Payment

Lump Sum

Consultant shall be compensated a lump sum amount of Amount. for satisfactory performance of professional services described in this contract and in accordance with the Consultant’s Fee Proposal dated Date (copy attached).

Time and Materials

Consultant shall be compensated based on time and materials in an amount not-to-exceed Amount for satisfactory performance of professional services described in this contract in accordance with the Consultant’s Fee Proposal dated Date (copy attached).

Hourly rates shall remain the same for the life of this contract including all amendments unless the Consultant and the City negotiate a fee increase.

Method of Payment

Monthly Payable within 30 days of receipt of an invoice approved by the City’s primary representative and progress report stating the amount of services completed.

Consultant Invoice Requirements

➢ Itemized invoices must be submitted that indicate the services performed.
➢ Invoices for this contract must be submitted separately from invoices for services performed under any other contract(s).

Compensation Based on Time and Materials

If compensation is based on time and materials, the following shall apply:

Compensation shall be computed based on the hourly billing rates, approved by the City’s Primary representative, times the actual number of hours spent in the performance of services. The hourly billing rate for each employee is the amount to be paid to the Consultant, and is full compensation for all salary, benefits, taxes, overhead and profit. There shall be no change in rates during the term of this Agreement and no additional compensation for overtime, weekend, or holiday work, unless agreed to pursuant the above section.

Compensation for sub-consultants shall be equal to the amounts actually paid to sub-consultants hereunder who have been retained after the written approval by the City’s Primary representative of: a) the sub-consultant, b) the compensation to be paid the sub-consultant, and c) the terms and conditions of the subcontract. No markup allowance is allowed.

Compensation for expenses shall be an amount equal to reimbursable expenses approved in
advance by the City’s Primary representative, necessary and reasonably incurred and actually paid by the Consultant in the performance of the services hereunder. No markup allowance is allowed. Reimbursable expenses are expenses that are unique to the performance of the services under the Contract and generally contemplate the purchase of outside ancillary services, such as mailing and delivery charges for submittal of drawings, specifications and reports, long distance telephone calls, rentals of equipment, travel and local transportation, meals and lodging on overnight trips.

Reimbursable expenses do not include expenses that are usually and customarily included as part of the Consultant's overhead. For the purposes of this Agreement reimbursable expenses do not include amounts for typing, utilization of computer systems, computer aided design and drafting (CADD), cameras, recording or measuring devices, flashlights and other small, portable equipment, safety supplies, phones, telephone calls, electronic messaging including FAX, Telex and telegrams, e-mail accounts, Internet service, or expendable office supplies. Unless otherwise indicated, required insurance is not a reimbursable expense.

The Consultant shall obtain the City’s written approval prior to making expenditures for reimbursable expenses in excess of $500 per specific expenditure and for all overnight trips, which are reimbursable expenditures as set forth above. The Consultant shall substantiate all billings for reimbursable expenses in excess of $25 with receipted bills and provide said receipts with the appropriate billing.

The Consultant shall keep, and cause any sub-consultants to keep, daily records of the time spent in the performance of services hereunder by all persons whose billing rates will be the basis for compensation as well as records and receipts of reimbursable expenditures hereunder. Failure to do so shall be a conclusive waiver of any right to compensation for such services or expenses as are otherwise compensable hereunder.

The City shall have the right to inspect all records of the Consultant, and of any sub-consultants, pertaining to this project. Records shall be maintained by the Consultant and sub-consultants for a period of three years after completion of services.

When travel is necessary as part of the professional services to be provided, the following shall be followed:

♦ Airline tickets should be purchased at the 14 day advanced purchase price whenever possible. The CBJ will not pay for First Class travel. Any deviation shall be approved in writing in advance by the City's Primary representative.
♦ Per Diem meal allowance shall be: $60.00 ($12.00 for breakfast, $16.00 for lunch and $32.00 for dinner).
♦ The Consultant shall stay at the hotel with a daily rate not to exceed $150.00, unless unavailable.
♦ Travel agent fees, tips, alcohol or bar tabs shall not be paid by the City.
♦ Car rental, parking, and taxi fees shall be reasonable and not excessive. This reimbursement is for services in Juneau only. Parking fees, etc. outside of Juneau will not be reimbursed.
APPENDIX C: INSURANCE REQUIREMENTS

Project Name
Contract No. Project Number

The Consultant must provide certification of proper insurance coverage or binder to the City and Borough of Juneau. Failure of the City to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency from evidence that is provided shall not be construed as a waiver of the obligation of the Contractor to maintain the insurance required by this contract. Should any of the below described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Proof of the following insurance is required before award:

**Commercial General Liability Insurance.** The Consultant must maintain Commercial General Liability Insurance in an amount it deems reasonably sufficient to cover any suit that may be brought against the Consultant. This amount must be at least one million dollars ($1,000,000.00) per occurrence, and two million dollars ($2,000,000.00) aggregate. The City will be named as an additional insured on this policy for work performed for the City.

**Professional Liability Insurance.** The Consultant must maintain Professional Liability Insurance in an amount not less than one million dollars ($1,000,000.00) aggregate to protect the Consultant from any claims or damages for any error, omission, or negligent act of the Consultant, the Consultant's firm and employees. This requirement applies to the Consultant's firm, the Consultant's subcontractors and assignees, and anyone directly or indirectly employed to perform work under this contract.

**Workers Compensation Insurance.** The Consultant must maintain Workers Compensation Insurance to protect the Consultant from any claims or damages for any personal injury or death, which may arise from services performed under this contract. This requirement applies to the Consultant's firm, the Consultant's subcontractors and assignees, and anyone directly or indirectly employed to perform work under this contract. The Consultant must notify the City as well as the State Division of Workers Compensation immediately when changes in the Consultant's business operation affect the Consultant's insurance status. Statutory limits apply to Workers Compensation Insurance. The policy must include employer’s liability coverage of one hundred thousand dollars ($100,000.00) per injury, and five hundred thousand dollars ($500,000.00) policy limits. If the Consultant is exempt from Alaska Statutory Requirements, the Consultant will provide written confirmation of this status in order for the City to waive this requirement. The policy shall be endorsed to waive subrogation rights against the City.

**Comprehensive Automobile Liability Insurance.** The coverage shall include all owned, hired, and non-owned vehicles to a one million dollar ($1,000,000.00) combined single limit coverage. The City will be named as an additional insured on this policy for work performed for the City.