

**Amended Report, Final Best Interest Findings
Falls Creek Land Exchange
between the National Park Service &
State of Alaska
ADL 107326
& Determination Regarding Easements to and along Navigable Waters
& Amendment to the Northern Southeast Area Plan
& Classification Order (SE-02-002A01)
February 28, 2006**

Introduction and Scope

This Report and Final Best Interest Finding on the Falls Creek land exchange between the State of Alaska (“State”), acting through the Department of Natural Resources, Division of Mining, Land and Water of the Department of Natural Resources (“DNR”), and the United States of America, acting through the National Park Service (“NPS”) finds that it is in the best interest of the State to exchange, on an equal-value basis, the surface and subsurface estate, totaling approximately 1,040 acres of State land along the Chilkoot Trail for approximately 1,034 acres of federal surface and subsurface estate in the Falls Creek area. Affected lands are depicted in the Figures 1.1, 1.2 and 1.3 accompanying this report and finding and the detailed legal descriptions in this report. This document also finds that other related actions described below are also in the best interest of the State.

The Glacier Bay Boundary Adjustment Act of 1998 (Public Law 105-317, 112 Stat. 3002) directs the NPS to trade lands in the Falls Creek area for other State land within a unit of the National Park System in Alaska. After passage of the Act, the State initiated the land exchange process. Consistent with the purposes of AS 38.50.010, the exchange facilitates the objectives of State programs. The exchange also benefits the National Park Service purposes and programs. The exchange would allow the NPS to acquire key portions of the Chilkoot Trail and the State to acquire lands upon which the Falls Creek Hydroelectric Project can be built. This project would supply the community of Gustavus and the surrounding area with an affordable, clean, renewable source of electricity.

The State and NPS started serious negotiations on the exchange in 2004. A Preliminary Exchange Agreement was signed on April 22, 2005 consistent with 11 AAC 67.210 and 230. A public comment period and hearings in Skagway on January 18, 2006 and in Gustavus on January 17, 2006 consistent with AS 38.50-110-120 and 11 AAC 67.250.

Consistent with AS 38.50.130(b), this decision document also constitutes a revision of the Land Exchange Report first released on December 15, 2005 for public review and comment. Changes reflect comments received and other information that has come to the department’s attention since the exchange report was first issued.

Public comments received on Preliminary Decision and Report

Consistent with AS 38.50.130(b), a summary of all comments and information received is attached to this report and incorporated by reference.

Appraisals

In 2005, Horan & Company LLC of Sitka, Alaska appraised the Falls Creek and Chilkoot Trail parcels in compliance with the rules and regulations set forth by the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA). The first appraisal is titled *Federal Land Appraisal Falls Creek – Chilkoot Trail Exchange Gustavus, Alaska*. The second appraisal is titled *Non-Federal Land Appraisal of Chilkoot Trail Units at Skagway, Alaska Falls Creek - Chilkoot Trail Exchange*. The purpose of the appraisals was to identify the “as-is, fee simple market value of the subject property.” The intended use of the appraisals was to estimate the market value for the proposed two-party exchange.

A timber assessment of the proposed exchange lands was completed by Roy Josephson with the DNR Division of Forestry. Both the Falls Creek parcel and Chilkoot Trail parcels were found to contain non-merchantable timber resources in the current domestic or export markets primarily because the expense of harvesting timber and getting it to market would exceed its value at present time.

A mineral assessment of the proposed exchange lands was completed by Rick Frederickson with the DNR Division of Mining, Land and Water. There are no mining claims or reported mineral occurrences on the Falls Creek parcel or nearby. The area is considered to have low favorability for locatable minerals, and undiscovered deposits of oil and gas, coal, or industrial rocks and minerals. The parcels along the Chilkoot Trail have no reported mineral occurrences or mining claims on them or nearby. While some potential for useable deposits of sand and gravel exist in these areas, there is limited demand for materials sites at this time. Should future demand arise with development projects such as the proposed road from Skagway to Juneau, there are sites better situated to the consumptive sites to meet this need.

The appraised value of 1,034 acres of federal lands at Falls Creek was determined to be approximately \$1,100/acre (\$1,140,000 total). The appraised value of the 1,040 acres of State lands along the Chilkoot Trail was determined to be \$1,206,000. The appraised values of the individual parcels along the Chilkoot Trail are as follows:

<u>Unit</u>	<u>Unit Name</u>	<u>Acres</u>	<u>\$/Acre</u>	<u>Parcel Value (\$)</u>
A	Trailhead	69	3,000	207,000
B	Taiya River Bridge	5	20,000	100,000
C	Dyea Campground & Ranger Station	40	6,000	240,000
D	Finnegan's Point	10	4,500	45,000
E	Canyon City	200	1,200	240,000
F	Pleasant Camp	606	400	242,000
G	Sheep Camp	110	1,200	132,000
Total		1,040 acres		\$1,206,000

DNR reviewed and accepted these appraisals.

Pursuant to AS 38.50.020 this land exchange will be for land and cash that constitute an equal value exchange. The NPS has agreed to equalize the difference in value between State and federal lands by making up the difference in cash estimated to be \$66,000. This represents approximately 5% of the total value of the exchange (under 11 AAC 67.260, the State is restricted from accepting cash in the amount that is more than 25% of the appraised fair market value of the State land proposed for exchange). Because this is an equal-value exchange and the State land to be conveyed has a value of less than \$5,000,000, legislative approval is not required.

The Boundary Act (Public Law 105-317) allows for the State and the National Park Service to exchange both surface and subsurface estate through mutual agreement consistent with the Boundary Act, the Federal Power Act and other state and federal laws. In addition, for purposes of the Alaska Statehood Act, sec. 6(i), 48 U.S.C. sec. 21, the land to be conveyed by the State under this agreement was not identified at the date of selection by the State to be mineral land. Accordingly, the State is not required to reserve the mineral estate in these lands at conveyance. *Trustees for Alaska v. State, Dept. of Natural Resources*, 736 P.2d 324 (Alaska 1987).

Legal and Physical Descriptions of Lands Involved

Following are descriptions of the lands that are being exchanged. Also see Figures 1.1, 1.2 and 1.3 for maps of the exchange. DNR and NPS will correct any technical defects or errors in the legal descriptions and maps prior to exchanging conveyance documents.

Conveyance of state parcels, Units A through G does not constitute a subdivision as defined by AS 29.71.800(23), because the conveyance is not for the purpose of sale or building development. The overriding purpose for which these parcels are being acquired by the National Parks Service (NPS) is for park purposes. Completion of a DNR-approved survey prior to issuance of a conveyance document is waived, so long as the NPS agrees to complete a DNR-approved survey of each parcel within two years of issuance of the deed. This is in the public's best interest, in order to keep the hydroelectric project on schedule.

Parcels Acquired by the State

Through the exchange process, the State will receive fee title to federal land currently located within Glacier Bay National Park and Wilderness. This land is located approximately 2 miles east of the town of Gustavus and known as the "Falls Creek Area." The State will receive all of the respective rights, titles and interests in the surface and subsurface estates of the lands identified below subject to valid existing rights, including rights and other reservations as described in the Final Exchange Agreement. Following are conveyance descriptions of the land that is to be transferred from the National Park Service to the State, in accordance with a Final Exchange Agreement by patent:

Tract A and B in Township 40 South, Range 59 East, Copper River Meridian, Alaska, Dependent Resurvey, Partial Survey, and Survey of Partition Lines containing approximately 972.71 acres, according to the official plat of survey.

The State will also receive Lot 1, the SE quarter of the SW quarter, and the S one-half of the SW quarter of the SW quarter of Section 36, Township 39 South, Range 59 East, Copper River Meridian, Alaska, containing approximately 61.74 acres, according to the official plat of survey.

Consistent with AS 38.50.130(1), following are the physical characteristics of these lands. Tracts A and B form a contiguous block of land. Topography is highly varied, which is typical of coastal waterfront properties that extend a significant distance inland. From the waterfront of Icy Passage, along the south border to its north border, on its western half, it extends about one-half mile from sea level to about 300 feet in elevation (excluding US Surveys 944, 945 and 11972). The topography steadily rises along the eastern edge, which is carved out by the Kahtaheena River, going from sea level to 800 feet in a distance of nearly two miles. The balance of the upland portion of the site (85-90 percent) has gently rolling topography, gradually gaining elevation in a northerly and easterly direction. It is dissected by several drainages and gorges, especially in the central and eastern areas. These uplands are intermittently wooded, with emerging forests, where the land is well drained. Some of the level areas have boggy, open fields or cascading fens, supporting an overburden of boggy, organic material. Higher elevations

are underlain by bedrock with significant pockets of gravel, debris, and other material which has sloughed into the area over time. The property is remote in character and no public or private utility systems extend to the property.

The lands to be conveyed from the National Park Service to the State do not include the two native allotments (U.S. Surveys 944, 945 and 11972) that adjoin the exchange lands.

Parcels to be Acquired by the National Park Service

The NPS will receive fee title to seven units of land generally located along the Chilkoot Trail within the Taiya River Valley and the Klondike Gold Rush National Historic Park beginning about 2.5 miles north of Dyea, all within the City of Skagway municipal boundary. The State will convey all of its respective rights, titles and interests in the surface and subsurface estates of the lands identified below subject to valid existing rights, including rights and other reservations as described in the Final Exchange Agreement. The Service will complete a DNR-approved survey of the Chilkoot Trail parcels within two years of accepting title to these lands. Descriptions of the land, designated Units "A" through "G" that are to be transferred from the State to the National Park Service, in accordance with a Final Exchange Agreement and are described in the attached document: *Conveyance Descriptions, Falls Creek Land Exchange (February 28, 2006)*.

Consistent with AS 38.50.130(1), following are the physical characteristics of these lands:

Unit A

This parcel extends nearly a mile north along the easterly edge of the meandering bank of the Taiya River. Its topography is mostly level along the alluvial plane of the river. There are several granite outcroppings. One notable hump in the mid-section climbs several hundred feet. The Chilkoot Trail head is on this parcel at its southern end at the Taiya River and apparently meanders off and on to the site as it continues north. The site is covered with low dense brush and an over-story of small to medium, hard wood deciduous trees. The site is broken in places by draining sloughs and remnant meanderings of the Taiya River. This parcel is serviced by the Dyea Road, a gravel-surfaced, public maintained highway. The road runs along this unit's southern end, probably 600' to 700'. Underground power and telephone are in this road. The road continues to the north and west across Taiya River.

Unit B

This is a small, triangular parcel with about 600' to 700' along the Dyea Road, a graveled, public owned and maintained right-of-way. The parcel is covered with brush and grass with some Cottonwood trees and are better drained. There are low, wet spots on the subject. The soil is silty, gravel, typical of the alluvial, glacial soil along the Taiya River bottom area. Power and telephone are buried along the public highway.

Unit C

It appears this unit has about a quarter mile or more of road frontage along Dyea Road. Underground power and telephone utilities are in this road corridor. The unit has extensive river frontage that appears to be changing over time with the meanderings of the river. The unit is vegetated with underbrush, grasses and an over-story of cottonwood, alders and other hardwoods. The unit has several sloughs and low areas meandering through it and it is significantly wet and muddy in these low lying areas.

Unit D

This remote unit has Taiya River frontage and is bisected with several small drainages. The soil appears to be relatively competent and well drained as it slopes away to the northeast. It supports a large over-story of spruce and hemlock trees and underlying brush. The current access is by regulated use over the Chilkoot Trail.

Unit E

This unit is walk-in access long the Chilkoot Trail from the south of Dyea. The unit is bisected by the Taiya River. The west half of the unit is level river valley. The Nourse River joins the Taiya River just south of this unit with an intervening slough traversing the southwest corner. This area was the scene of a large staging area during the gold rush. The eastern half of the unit is characterized by steep, rising topography to nearly 1,000' in the northeast corner. The topography is indented by small canyonous drainages in its southeast area near the presently developed campsite. The Chilkoot Trail proceeds through the unit just east of the river following its meander. The vegetation is cottonwoods, brush, and low lying bushes in the more level area. As the unit ascends the hillside, there are more spruce and hemlock trees.

Unit F

This unit begins at the very narrow canyon walls of the Taiya River just northeast of Canyon City where the topography rises up to about 1,500' on the north and south boundaries of the unit. The Chilkoot Trail continues to meander with the Taiya River to the northeast. The valley broadens out at the central portion of the property just past Pleasant Camp where the trail descends and follows the river far more closely. The river seems to drop more steeply in the southern portion of the property and ranges more widely meandering in the central and northern parts as noted in the photos. The vegetation is a typical mix of cottonwood, spruce and hemlock over-story with an under-story of alder bushes and brushes of various kinds.

Unit G

This unit is about 13 miles up the Chilkoot Trail and has walk-in access only. The eastern third of the property slopes steeply, rising in elevation to over 1,000'. Two thirds of the property, however, is mostly along the river bottom which continues to rise to the north and east. This unit is roughly bisected by the Taiya River. This includes a two-acre site that will include the re-located Sheep Camp Campground, projected to be built in summer 2006. This will replace the existing Sheep Camp Campground, located south of this unit in Unit F. The Campground is being relocated because of chronic flooding from the Taiya River at the existing site. The Sheep Camp State Cabin is also located in this unit. The cabin was originally constructed as a hiker warming shelter in 1963, and is being renovated in summer 2006 to serve this same purpose. Forest types in this unit include coniferous forests of western hemlock, mountain hemlock, Sitka

spruce, sub-alpine fir. Black cottonwood, paper birch, alder and willow are common. Understory species include highbush cranberry, goat's beard, devil's club, blueberry and currant.

Hazardous Materials

The NPS completed a "NPS Level I Survey" of both the State and Federal proposed exchange lands in 2005. This survey determined that there were no indications of hazardous waste contamination at either site and no further studies are recommended.

Land Planning and Classification

The Northern Southeast Area Plan, October 2002, sets out general management intent and land classification for the Chilkoot Trail/Klondike Gold Rush area. The plan specifies that the land is to be managed consistent with the purposes of Klondike Gold Rush National Park and is considered appropriate for a land exchange with the NPS. The plan classified Units A, C, D, E and F as Public Recreation Land. Public Recreation Land under 11 AAC 55.160 is "suitable for recreation uses, waysides, parks, campsites, scenic overlooks, hunting, fishing or boating access sites, trail corridors, or greenbelts along bodies of water or roadways." Unit B is classified Reserved Use Land. Reserved Use Land under 11 AAC 55.170 is land specifically reserved for transfer to another governmental agency that is performing a public service, or for transfer through land exchanges. Unit G is classified both Public Recreation Land and Reserved Use Land.

Regulation 11 AAC 67.220 requires that a land exchange cannot be inconsistent with a land use plan adopted or amended under AS 38.04.065 and that lands be classified Agriculture, Reserved Use or Settlement. Under this decision, Units A, C, D, E, F and G are reclassified and given the single classification "Reserved Use Land." The Northern Southeast Area Plan is amended to designate the six parcels Public Facilities-Retain ("Pr"). The plan is also amended on page 3-3 to add a sentence to the, "Public Facilities-Retain" paragraph that states (consistent with 11 AAC 55.170(2)), "Units with this designation may also be transferred through a land exchange."

The Northern Southeast Area Plan also proposed that should the Falls Creek Subunit come into State ownership, it be classified Wildlife Habitat Land and Water Resources Land according to the plan and be managed to protect habitat resources and enable the development of a hydroelectric facility. Wildlife Habitat Land under 11 AAC 55.230 is land considered valuable for fish and wildlife production and its unique assemblage of species of regional, state, or national significance. Water Resources Land under 11 AAC 55.222 is "suitable for such uses as water supply, watershed protection, or hydropower sites." An area plan amendment and amended classification order is not required for the Falls Creek parcel, because these classifications automatically apply as soon as the land is conveyed to the State.

In addition to DNR's Northern Southeast Area Plan, which applies to all exchange parcels, the Federal Energy Regulatory Commission approved plans developed for the Falls Creek hydroelectric project including a "Land Management Plan" and "Public Access and Recreation Plan" developed by Gustavus Electric.

Access

In general the exchange areas being provided by the State are easily accessed. Units A-G are currently managed by the NPS through a Management Agreement from the State. Units A-C contain a campground and visitor center. These exchange lands are easily accessed at various points by the existing Chilkoot Trail, the historic trail (RST 592), the Dyea Road and the Taiya River. Units D, E, F and G are more remote and currently accessible only from the existing Chilkoot Trail. Although close to the Gustavus road system, the Falls Creek land that will be received by the State is not as easily accessed because of thick timber and the absence of roads and trails within the exchange parcel.

Easements and Rights-of-Way

Before selling, leasing, or otherwise disposing of the land, DNR reserves public easements and rights-of-way.

On or before the date of closing for the land exchange, the State will convey all of its respective rights, titles and interests in the surface and subsurface estates of the lands identified in this document and the Final Exchange Agreement, reserving, however all public rights-of-way including but not limited to 50-foot wide section line easements on each side of all surveyed and protracted section lines as dedicated right-of-way for use as public highways as required under AS 19.10.010 and 11 AAC 51.025, a public access right-of-way easement under Revised Statute 2477 100-foot wide, known as the "Chilkoot Trail" (RST 592) and a 100-foot wide right-of-way for the Dyea Road and associated utilities. The Dyea Road is a state Omnibus Road. All lands conveyed by the State are subject to all other valid existing rights, rights-of-way, easements or other interests.

Navigable and Public Waters

The Commissioner hereby determines that the State will retain ownership of the land beneath all navigable waters in accordance with AS 38.05.127 and 11 AAC 51.035.

The State usually retains easements to and along "public" and "navigable waters" under AS 38.05.127 to allow for access to and along waterbodies. In this case, these type easements will not be reserved because the land to be exchanged will remain public land and the historic Chilkoot Trail (RST 592) and current Chilkoot Trail (which varies from the historic trail) parallel the Taiya River, and in places provide access to the river. In addition, there are alternate means of access to and along the river from remaining state lands along the trail, the Taiya River Bridge, the Dyea Road and section line easements across lands to be conveyed to the National Park Service. In addition, the Service, through its management policies for the National Historic Site, allows for access for recreational purposes to and along the river similar to the types of

access allowed by Alaska State Parks under its current Interagency Land Management Assignment. The Commissioner therefore finds that there is existing adequate means of access to and along navigable and public waters within the Chilkoot Trail parcels in the land exchange and therefore reserving “to and along” easements to waterbodies is not necessary to ensure free access.

Interagency Land Management Agreement (ILMA) and Memorandum of Understanding (MOU)

A large portion of the land within the Chilkoot Trail Unit of KGNHP is owned by the State and managed by DNR. In 2002, DNR assigned management responsibility for these lands in and near the Chilkoot Trail Unit to the DNR Division of Parks and Outdoor Recreation (DPOR) through an Interagency Land Management Assignment (ILMA) (ADL 65587). In the same year, DPOR, through an MOU, agreed to let NPS, “manage, administer, improve and maintain the lands” within the ILMA.

Upon consummation of the land exchange,, the ILMA will be amended to exclude the lands along the Chilkoot Trail that will be conveyed to the Service through the exchange. The MOU between DPOR and the NPS will also be amended so that it no longer applies to lands conveyed to NPS through this exchange.

Alaska Coastal Management Program Consistency (ACMP) Determination

ACMP Final Consistency Determinations were issued for both the hydroelectric project and the land exchange. The Department of Fish and Game, the Department of Natural Resources and the affected coastal resource district have determined that this land exchange and hydroelectric project is consistent with the Standards and Guidelines for the Alaska Coastal Management Program (ACMP) and the affected Coastal Resource District’s enforceable policies. The exchange will result in the State acquiring land that will be used for a hydroelectric project and other related purposes. For the land it receives through the exchange, the NPS plans to make improvements to and restorations of recreation and historic facilities and sites along the Chilkoot Trail, including the trail itself. Future development on land acquired by both the State and NPS may be subject to the Standards and Guidelines of the ACMP and the affected Coastal Resource District’s enforceable policies.

Impacts of the Exchange

Benefits and detriments of the proposed exchange were discussed extensively in the *Federal Environmental Impact Statement, Glacier Bay National Park and Preserve, Falls Creek Hydroelectric Project (FERC No. 11659) and Land Exchange* (June 2004). Documents relating to this project and the exchange can be found at <http://www.ferc.gov/> (FERC project No. 11659) and <http://www.ferc.gov/whats-new/comm-meet/102704/H-10.pdf>

Benefits to the State

Acquisition of the Falls Creek land will provide the State the ability to process and issue any state permit needed by Gustavus Electric Company (GEC) to construct, operate, and maintain an 800-kilowatt Hydroelectric Project on Falls Creek. This would provide an economical power source to the Gustavus community. By the NPS acquiring sections of the Chilkoot Trail that support most of the facilities along it, the fiscal impacts of the State maintaining the trail and its facilities will be significantly reduced. There are few social economic and environmental detrimental impacts to State resources. Any developments that are to occur on either the Falls Creek parcel or the Chilkoot Trail parcels after the exchange would be mitigated by FERC licensing requirements, DNR authorizations and/or NEPA.

Benefits to the NPS:

Federal legislation enabling this exchange requires the Service to trade for lands within a National Park System unit in Alaska. Lands to be acquired within Klondike Gold Rush National Historical Park are desirable to the Service because they are similar to Gustavus lands, already under Service management through an agreement with the Department of Natural Resources Division of Parks and Outdoor Recreation, and contain various Service visitor use facilities. This exchange will consolidate federal holdings and provide continued resource protection and public recreation opportunities to the public under Service management. The Boundary Act requires a finding that the project will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (GBNPP) as constituted after the consummation of the land exchange. The Final Environmental Impact Statement dated June 2004 found that there would be no adverse impact on Glacier Bay National Park and Preserve's purposes and values from the preferred alternative and required stipulations and mitigation measures. While the land exchange will result in lands being removed out of federal Wilderness and partially developed for a hydroelectric project, the Boundary Act requires the Secretary, upon consummation of the land exchange, to designate certain other lands located in GBNPP as Wilderness and to administer those lands according to the laws governing national Wilderness areas in Alaska.

Alternatives

Gustavus Electric Company proposes a hydroelectric project that would provide power to local residents. The Falls Creek area near Gustavus was determined to be the most suitable area for the project. As a result of the 1998 Glacier Bay Boundary Adjustment Act, the State has an opportunity to acquire this land for the hydroelectric project within Glacier Bay National Park near Gustavus from the NPS. This land is remote and relatively difficult to access but is suitable for the project. The Act directs the NPS to exchange this land to the State for other State land within and/adjacent to a National Park System unit in Alaska. The State only has a few inholdings in National Parks to offer in an equal-value exchange. Alternatives were considered through the December 15, 2005 Land Exchange Report and Preliminary Best Interest Finding before choosing the recommended alternative, with minor modifications, that is described below.

No-Action Alternative

Under the “No-Action Alternative” that was considered, land would not have been exchanged and the hydroelectric project would not be built at Falls Creek. This alternative would have resulted in the Gustavus community’s continued reliance on diesel generation and forgoing the option to use a cleaner source of energy from the proposed project resulting in higher long-term costs for customers connected to the electric grid.

Other Alternatives Considered

Consistent with AS 38.50.100, DNR considered alternatives to achieve the objectives of the proposed exchange in an effort to determine whether the proposed exchange would best serve the public interest. In the process of making this final decision, the director considered, among other things, the advantages and disadvantages of acquiring the land or interest in land for the State by means of purchase, lease, or selection under the Alaska Statehood Act, or condemnation. In addition, DNR considered alternatives to the disposal through exchange of the State land or interest in land, including, but not limited to, lease or sale. While the Boundary Act and subsequent FERC license made the Falls Creek area available for State acquisition through an exchange, it also constrained the State in its consideration of other viable alternatives for acquiring these lands. Consistent with the Act, related FEIS and the FERC license, the Falls Creek area could only be acquired through a land exchange rather than through purchase, lease, or selection under the Alaska Statehood Act or condemnation.

The Boundary Act provided direction for the lands to be considered for exchange to the State. Under Section 2(a)(4) of the Act, “The lands to be conveyed to the State of Alaska by the United States under paragraph (1) are lands to be designated by the Secretary and the State of Alaska. Consistent with sound land management principles, based on those lands determined by FERC with the concurrence of the Secretary and the State of Alaska, in accordance with section 3(b), to be the minimum amount of land necessary for the construction and operation of the hydroelectric project.” These lands are shown in Figure 1-2 in this report and 2-8 in the Falls Creek Project and Land Exchange FEIS.

Section 2(a)(3) in the Boundary Act also provided direction on which lands could be conveyed to the Department of the Interior as part of the exchange. Four parcels of State land were specifically mentioned in the Act. They are located near Long Lake just west of McCarthy and within the boundary of Wrangell St. Elias National Park and Preserve. The Long Lake parcels were initially considered for exchange but were dismissed because the NPS currently has no facilities near the lake and the lands are dissimilar to the Falls Creek area near Gustavus. Section 2(a)(3) of the Boundary Act allows for consideration of other lands for exchange if identified in a timely manner. The National Park Service identified State inholdings within a unit of the National Park System much closer to the project area. The inholdings are located in the Klondike Gold Rush National Historic Park. When acquired by the National Park Service, they would only require minor modifications to the boundaries of the Historic Park because these State lands are almost entirely within the boundaries of the Historic Park.

Alternatives that were considered, the affected environments and the potential environmental consequences are described in more detail in Chapters 2-4 in the Final EIS for the Hydroelectric Project and land exchange in Chapters 2-4.

Selected Alternative

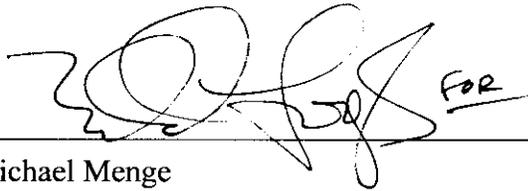
The selected alternative results in the exchange of Falls Creek land within Glacier Bay National Park and Wilderness for land within Klondike Gold Rush National Historic Park (KGNHP) along the Chilkoot Trail. This land is preferred by the State and the NPS because most of it is already managed by the NPS under a 2002 Memorandum of Understanding between the two agencies and the area receives high public use. The parcels are also located in the same geographic area of Southeast Alaska and the Chilkoot Trail parcels are more similar to the Gustavus area lands than those initially considered in the McCarthy area. The parcels subject to the exchange in KGNHP already contain existing NPS facilities including a road-accessible campground, backcountry campsites, Chilkoot Trail trailhead, significant trail segments, and important gold rush era historic sites. In addition, the 2002 Northern Southeast Area Plan identified the parcels as appropriate for exchange to facilitate KGNHP operations. The selected alternative provides benefits to both agencies and the public. The NPS receives land already in use for important visitor facilities that they currently manage, but do not own. The State receives lands that are suitable for a hydroelectric project that can provide power to the Gustavus area.

Consistent with AS 38.50.070, the conveyances made by the State under this exchange will be subject to valid existing rights, including, but not limited to, contracts, permits, leases, rights-of-way and easements. At this time, there are no contracts, permits or leases issued for the lands proposed for exchange to the NPS. There are existing rights-of-way, easements and other encumbrances that the NPS will be subject to that are described elsewhere in this report.

In addition, consistent with 11 AAC 67.220, lands that are conveyed to the United States that do not have the single classification "Reserved Use Land" will be reclassified as such by amending the Northern Southeast Area Plan and accompanying Classification Order SE-02-02. In addition, the plan will be amended so the definition of lands classified "Reserved Use Land" on Page 3-3 will be changed to allow for lands with this classification to be exchanged.

Final Finding and Decision

The finding presented above has been reviewed and considered. All applicable statutes have been reviewed and satisfied. It is the finding of the Commissioner of the Department of Natural Resources that it is in the best interest of the State to enter into a Final Exchange Agreement with the National Park Service (attached hereto). It is also the finding of the Commissioner that it is in the best interest of the State to amend the Northern Southeast Area Plan, amend the plan's Classification Order (SE-02-002AO1), and amend the Interagency Land Management Assignment for the Chilkoot Trail (ADL 65587) as described above and in corresponding decision documents. The Commissioner also finds that there is existing adequate means of access to and along navigable and public waters within the Chilkoot Trail parcels in the land subject to the exchange and therefore reserving "to and along" easements to waterbodies is not necessary to ensure free access.

A handwritten signature in black ink, appearing to read "Michael Menge", with the word "FOR" written in small capital letters to the right of the signature.

Michael Menge
Commissioner, Alaska Department of Natural Resources

2/28/06

Date

Appeal Provision

See the attached letter from Dick Mylius, Director Division of Mining, Land and Water that contains appeal provisions that apply to these decisions. This letter is also posted at the DNR website: www.dnr.state.ak.us/mlw/falls_creek/

Attachments:

- Figure 1.1 Vicinity Map, Proposed Falls Creek Land Exchange
- Figure 1.2 Land in the Falls Creek Area proposed to be exchanged from the Service to the State
- Figure 1.3 Land along the Chilkoot Trail proposed to be exchanged from the State to the Service
- Conveyance Descriptions, Falls Creek Land Exchange