

**ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
MUNICIPAL ENTITLEMENT**

**FINAL FINDING AND DECISION
CONVEYANCE OF TIDE AND SUBMERGED LAND
UNDER AS 38.05.825**

CITY OF CORDOVA CORDOVA HARBOR - ORCA INLET ADL 232192

I. SUPPLEMENT STATEMENT

This Final Finding and Decision (FFD) supplements the Preliminary Decision (PD) issued on July 8th, 2015 for the proposed action which is incorporated herein. The FFD makes only one change to the PD. In the PD, under third party interests and under “Disposition of Leases, Permits and Applications,” a tideland use permit application submitted by Marine Resources, LLC for the M/V Polar Bear is included. This vessel is no longer in application status and has been placed in trespass.

The Department of Natural Resources (DNR) received one comment responding to the PD, which stated no objections to the decision.

II. RECOMMENDED ACTION

DNR has determined in this FFD that Alternative 3 described in the PD is the preferred action. The FFD finds it is in the best interest of the state to convey the tide and submerged lands of approximately 50 acres as indicated in TABLE A to the City of Cordova in accordance with AS 38.05.825 and the Public Trust Doctrine.

These state-owned tide and submerged lands approved for conveyance to the City of Cordova are subject to the following:

Subject to:

Conditions, Restrictions and Reservations

1. Administration of state leases in the surface estate will be transferred and permits, if appropriate, may be transferred to the City of Cordova once the FFD is effective.
2. Management authority for the approved state-owned tide and submerged lands will be transferred to the City of Cordova once the FFD is effective. The City may execute leases and permits prior to issuance of a state conveyance document in accordance with AS 38.05.825.

3. All mineral related permits, licenses, claims and leases affecting the tide and submerged lands proposed for conveyance, if any, will remain under the authority of the state.
4. The City is subject to the requirements of the Public Trust Doctrine as it applies to the approved lands and to the requirements of AS 38.05.825.

Conveyance document to include following:

1. Valid existing rights, including reservations, easements, and exceptions in the U.S. Patent, or other state or federal conveyance, and in acts authorizing the issue thereof; easements, rights-of-way, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any.
2. Reservation of the mineral estate pursuant to Section 6(i) of the Alaska Statehood Act and AS 38.05.125; a reservation of reasonably necessary access to the mineral estate in accordance with AS 38.05.130.
3. Notification to the Alaska State Historic Preservation Office in accordance with AS 41.35.070(d) is required upon discovery of historic, prehistoric, or archaeological sites, locations, remains or objects.
4. ADL 231896: Private Easement, Non-Exclusive ROW, Alaska Wild Seafoods, LLC.
5. ADL 231942: Private Easement, Non-Exclusive ROW, Trident Seafoods Corporation.

TABLE A

TIDE AND SUBMERGED LANDS APPROVED FOR CONVEYANCE

DNR will convey these state-owned tide and submerged lands approved for conveyance identified in TABLE A. The final acreage will be determined at the time of survey and are subject to the applicable conditions, restrictions and reservations as listed in the PD and in this FFD.

Map #	MTRS	Legal / Plat	Acres
Map 1	CRM, T015S, R003W Section 21:W1/2SE1/4SW1/4 Section 28: W1/2E1/2NW1/4, NW1/4NE1/4SW1/4	MTP Surveyed Township 15S, Range 3W, CRM, Suppl Secs 21, 22, 27, 28	50
TOTAL ACRES:			50

III. AUTHORITY

The authority for conveyance of state-owned tide and submerged land is pursuant to AS 38.05.825 and the authority for the FFD is pursuant to AS 38.05.035(e).

IV. PUBLIC NOTICE

Public Notice has been accomplished in accordance with AS 38.05.945.

V. RESPONSE TO COMMENTS

John Harville was the only entity who submitted a comment in response to the PD. The comment is as follows:

1. Comment from John Harville

It is important that a City has all available water front in the City limits for future business expansion and development, and land that is located inside the City Harbor. ADL 232192 will allow the city to have more of the water front property and all the land located in the City Harbor area. I fully support this exchange of land. Thank you for your help seeing that the City has full ownership of these lands.

DNR Response: Acknowledged.

VI. DISCUSSION AND FINAL FINDING AND DECISION

The City of Cordova's harbor currently encroaches onto State-owned tidelands. Improvements located on the tidelands encroachment include portions of the docks and approximately 1,500 linear feet of breakwater. This selection of tidelands by the City of Cordova as part of this decision not only resolves this encroachment issue, but also allows for future harbor expansion, land management, and potential waterfront development.

The City has a growing seafood industry and would like to expand its ability to accommodate this industry. Several private entities have expressed the desire to expand their current facilities or to locate in Cordova; however, there are few waterfront areas that the City owns available for development. This conveyance would prove valuable economically to not only the City of Cordova, but the State of Alaska as well.

During the Preliminary Decision comment period, there were no stipulations, concerns or objections received regarding the proposed conveyance for these tidelands.

The '*along*' easement will not be imposed since an access easement is inappropriate at this location because it is below the low water mark and is only accessible by boat. The '*to*' easement will also not be imposed since public access to the tidelands is already provided in a previous conveyance decision for the adjacent tidelands under ADL 216240.

Management authority over the subject tidelands will be transferred to the City of Cordova once the Final Finding and Decision becomes effective.

The following are specific findings in this decision:

1. That it is appropriate to convey approximately 50 acres of state-owned tide and submerged lands to the City of Cordova pursuant to AS 38.05.825.
2. That this best interest finding has determined the interests of the state in retaining these tide and submerged lands does not outweigh the interests of the City of Cordova in obtaining the tideland selections.
3. That conveyance of the proposed tidelands would resolve the encroachment issue for that portion of the Cordova small boat harbor.
4. That the proposed use of this acreage to expand the small boat harbor and create the potential for waterfront development is consistent with management unit 27A; plan designation and management intent.
5. That the imposition of an 'along' easement under AS 38.05.127 is inappropriate on the subject tidelands because the tidelands are located below the low water mark and therefore access can only be gained using a boat or similar vessel.
6. That the imposition of a 'to' easement under AS 38.05.127 is unnecessary since DNR has determined that proper public access to the water body has already been provided by the City of Cordova in the decision for ADL 216240, signed in 1995.

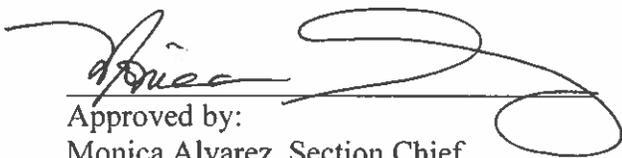
The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. I find that it is in the best interest of the state to proceed with the conveyance of the tide and submerged land as described in the PD and this FFD.



Recommended by:
Nina Brudie, Manager
Municipal Entitlements



Date



Approved by:
Monica Alvarez, Section Chief
Resource Assessment & Development



Date

APPEAL PROVISION

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received in writing within 20 calendar days after the date of issuance of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Mark Myers, Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov.

If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the department on the 31st day of issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources.

ATTACHMENTS TO FFD

MAP 1 Vicinity Map
Cordova Requested Tidelands Area