

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

FINAL FINDING AND DECISION

of a
Tideland Conveyance in the Unorganized Borough
ADL 109054 – City of Craig Downtown Harbor
AS 38.05.035(e), AS 38.05.825

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated August 5, 2020. The PD (attached) has had the required public review.

I. Recommended Action(s)

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends conveying approximately 20 acres of State-owned tide and submerged lands within the Craig Downtown Harbor project area (ADL 109054), as described in the PD, pursuant to *AS 38.05.825 Conveyance of tide and submerged land to municipalities*.

II. Authority

DNR has the authority under *AS 38.05.825 Conveyance of tide and submerged land to municipalities* to convey State-owned lands suitable for occupation and development when requested by the municipality unless it is found that public interest in retaining state ownership clearly outweighs municipal interest, and if the land is: within the boundaries of the municipality; the use does not unreasonably interfere with navigation or public access; the municipality has applied for conveyance; the land is not subject to a shore fisheries lease under *AS 38.05.082*; 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.

III. Public Participation and Input

Pursuant to *AS 38.05.945 Notice*, public notice inviting comment on the PD for the proposed primary action was published and distributed in the following manner:

- Posted under State of Alaska Online Public Notice from August 5, 2020 to September 5, 2020.
- Notices mailed to the City of Craig per *AS 38.05.945(c)(1)*.
- Mailed to postmasters in Craig, Hydaburg, and Klawock with a request to post for 30 days, per *AS 38.05.945(c)(4)*.
- Mailed to the Sealaska Regional Corporation per *AS 38.05.945(c)(2)-(3)*.
- Mailed to landowners along the shoreline adjacent to the conveyance, Federally Recognized Tribes, and Native Village Corporations.
 - Adjacent landowners
 - 300, 302, 306, 308, 402, 406, 408, 500, 505, 506, and 520 Front Street Craig, AK 99921
 - 101 and 103 Beach Road
 - USS 1429A

Final Finding and Decision

City of Craig Downtown Harbor – ADL 109054

Page 2 of 3

- Federally Recognized Tribes
 - Craig Tribal Association
 - Klawock Cooperative Association
 - Central Council of Tlingit and Haida Tribes of Alaska
- Village Corporations
 - Shaan-Seet
 - Klawock Heenya
- Emailed the U.S. Forest Service, U.S. Army Corps of Engineers, Southeast Alaska Conservation Council, Southeast Alaska Soil and Water Conservation District, and all State agencies who received the agency review notice.

The public notice stated that written comments were to be received by 5:00 PM, September 4, 2020 in order to ensure consideration and eligibility to appeal. For more information, refer to the PD.

The final survey will be completed by an Alaska licensed surveyor. The surveyor will submit a platting application including a preliminary plat to the local platting authority prior to survey. This process will be subject to ordinances within Title 18 of the City of Craig municipal code. During the process, the public will have an opportunity at the local level to provide additional comment and feedback prior to final establishment of lot corners and monuments.

IV. Summary of Comments

DNR DMLW LCS received comments from the City of Craig and the Department of the Army, U.S. Army Corps of Engineers. All comments received during the public comment period are summarized below.

Department of the Army, Alaska District, U.S. Army Corps of Engineers, Regulatory Commission (Corps): The Corps has no comment regarding the land conveyance. However, Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act prohibit the obstruction, alteration, and/or discharge of dredged or fill material into navigable waters of the U.S. without a Department of the Army (DA) permit from the Corps. The construction of two rubble mound breakwaters and a public moorage float system would be within the Corps' jurisdiction and a permit would be required. Information and applications can be downloaded at www.poa.usace.army.mil/missions/regulatory.

DNR DMLW LCS Response: DNR will provide the City of Craig with information about the DA permit requirement.

City of Craig: The City of Craig supports DNR's preliminary decision regarding ADL 109054.

DNR DMLW LCS Response: No response necessary.

V. Modifications to Decision and/or Additional Information

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

Recommendation and Approval of the Final Finding and Decision follow.

Final Finding and Decision

City of Craig Downtown Harbor – ADL 109054

Page 3 of 3

VI. Final Finding and Decision

The Land Conveyances Section recommends proceeding with the action as described in the Preliminary Decision. This action is undertaken under relevant authorities. The public interest in retaining the parcel in state ownership does not outweigh the municipal interest.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with *AS 38.05.945 Notice* and comments received were considered. The project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The action is consistent with constitutional and statutory intent for State-owned land and this action is undertaken under relevant authorities.

/s/ Rachel Longacre

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

10/6/2020

Date

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended action(s) as described and referenced herein.

/s/ Martin W. Parsons

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

10/8/2020

Date

Appeal Provision

A person affected by this decision who provided timely written comment or public hearing testimony on the preliminary decision may appeal it, in accordance with *11 AAC 02*. Any appeal must be received within 20 calendar days after the date of “issuance” of this decision, as defined in *11 AAC 02.040(c) and (d)* and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Under *11 AAC 02.030*, appeals filed under *11 AAC 02* must be accompanied by the fee established in *11 AAC 05.160(d)(1)(F)*, which has been set at \$200 under the provisions of *11 AAC 05.160 (a) and (b)*.

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