

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

AMENDMENT TO THE
PRELIMINARY DECISION
ADL 109021

Proposed Tideland Conveyance to City and Borough of Sitka
AS 38.05.035(e), AS 38.05.825

Summary of the Decision:

This Amended Preliminary Decision is based on a Preliminary Decision issued April 7, 2020, proposing conveyance of one 23-acre parcel of state-owned tide and submerged lands to the City and Borough of Sitka (CBS) for the purpose of construction and operation of a new seaplane base. The 23-acre parcel was associated with the application and development diagram submitted by CBS on July 25, 2019.

Discussion:

On May 22, 2020, CBS informed the Alaska Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW) of potential changes to the seaplane base development diagram that had been submitted with the application for conveyance. CBS provided multiple development concepts that would be analyzed in subsequent wind and wave studies, meetings with the Federal Aviation Administration (FAA), and an Environmental Assessment (EA) completed under the National Environmental Policy Act (NEPA). On October 7, 2020, CBS informed the DNR DMLW Land Conveyance Section (LCS) that development concept 7E would be analyzed in the EA. On June 15, 2021, CBS distributed a notice of final EA and Finding of No Significant Impact (FONSI) approving the project to move forward with development concept 7E, a 31.8-acre parcel. On June 25, 2021, CBS distributed a revised concept 7 as depicted on *Attachment A: Vicinity Map*. Slight development modifications on concept 7 decrease the parcel from 31.8 acres to 29.97 acres.

The updated development plan modifies the parcel recommended for conveyance in the Preliminary Decision by including 31,000 cubic yards of fill that will be placed seaward of the mean high water (MHW) line, as well as increasing the parcel to approximately 29.97 acres, more or less. Final acreage will be determined by completing survey requirements. Site development will result in fill of .06 acres of terrestrial wetlands, 0.17 acres of intertidal waters, and 1.47 acres of marine waters, for a total fill of 1.7 acres.

Submittal of Public Comments:

See *Attachment B: Public Notice* for specific dates and conditions.

Amended Preliminary Decision

AS 38.05.825 Proposed Tideland Conveyance – ADL 109021

Page 2 of 3

Pursuant to AS 38.05.945 *Notice*, LCS is issuing public notice inviting comment on this Amended Preliminary Decision.

In accordance with AS 38.05.946(a) *Hearings*, a municipality or corporation entitled to receive notice under AS 38.05.945(c) may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

LCS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Amended Preliminary Decision, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the Preliminary Decision and Amended Preliminary Decision including any deletions, minor changes, and summary of comments and LCS responses will be issued as a subsequent Final Finding and Decision without further notice.

Only persons from whom LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Upon approval and issuance of a Final Finding and Decision, a copy of the decision will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the appeal process to any party who provides timely written comment.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact DNR's Public Information Center. For more information refer to the attached Public Notice.

Recommendation:

This Amended Preliminary Decision for the proposed disposal of State lands described throughout this document and its attachments is consistent with the overall management intent for State-owned land. The addition of fill requires that a Record of Survey approved by the DMLW Survey Section show the pre-construction MHW boundary. The Record of Survey must be completed and approved by the DMLW Survey Section before fill is placed.

DMLW recommends conveyance of the 29.97-acre tideland parcel described in this amendment to CBS, subject to the following conditions:

1. Pursuant to AS 38.05.127 *Access To and Along Public and Navigable Waters*, the parcel shall be subject to a public access easement, fifty feet in width, from the upland boundary to

Amended Preliminary Decision

AS 38.05.825 Proposed Tideland Conveyance – ADL 109021

Page 3 of 3

the existing MHW line, as well as along the project's fill area, both seaward and landward of the MHW line. The easements shall be graphically depicted and labeled on the plat.

2. The terms and conditions of *AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities*, including the condition that the Grantee may lease the land, but may not sell it. The land conveyed is subject to the public trust doctrine that may be enforced by the State in a court of competent jurisdiction. The municipality shall be required to ensure that reasonable access to public waters and tidelands is provided. The municipality may not lease land conveyed under this section for shore fisheries, but after conveyance, the land may be leased by the State for shore fisheries under *AS 38.05.082 Leases for Shore Fisheries Development* if the Commissioner determines that the lease is compatible with the municipality's use of the land. Title to land conveyed under this section that is retained by the municipality reverts to the State upon the dissolution of the municipality.

Other than the changes noted herein, all of the terms and conditions of the Preliminary Decision (ADL 109021) remain as written and approved. Public notice will be issued for this Amended Preliminary Decision.

 \ s \ John King

Prepared by: John King
Natural Resource Specialist 3
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

 8/3/2021

Date

 \ s \ Rachel Longacre

Approved by: Rachel Longacre
Section Chief
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

 8/3/2021

Date