

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

FINAL FINDING AND DECISION
PROPOSED CONVEYANCE OF STATE LAND UNDER AS 29.65

CITY OF WHALE PASS
MUNICIPAL LAND ENTITLEMENT SELECTIONS
ADL 108743

I. SUPPLEMENT STATEMENT

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated May 3, 2021. The attached map to this FFD depicts the selection that is the focus of this decision. The PD (attached) has received the required public review.

II. RECOMMENDED ACTION

The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends that Alternative 3, as described in the PD, is the preferred action since it best fits the intent and requirements of the Municipal Entitlement Act. This decision covers approximately 320 acres, approving approximately 294 acres for conveyance and transfer of management authority and rejecting conveyance of approximately 26 acres.

III. AUTHORITY

The authority for conveyance of state land is pursuant to *AS 29.65 General Grant Land* and the authority for the Final Finding and Decision is pursuant to *AS 38.05.035(e) Power and Duties of the Director*.

IV. PUBLIC PARTICIPATION AND INPUT

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

- Posted under State of Alaska Online Public Notice from May 3 to June 4, 2021.
- Posted on the DNR Land Sales website from May 3 to June 4, 2021.
- Posted on the DNR Municipal Entitlement website from May 3 to June 4, 2021.
- Mailed with a request to post for 30 days to the Coffman Cove, Craig, Edna Bay, Hydaburg, Kasaan, Klawock, Point Baker, Thorne Bay, Whale Pass, and Wrangell postmasters and Whale Pass Library per *AS 38.05.945(c)(4)*.
- Mailed to the regional corporation and local tribes per *AS 38.05.945(c)(2)-(3)*.
- Mailed and/or emailed to the City of Whale Pass.

The public notice stated that written comments must be received by 4:30 PM, Friday, June 4, 2021 in order to ensure consideration and eligibility to appeal. For more information, refer to the attached PD.

V. SUMMARY OF COMMENTS

DNR DMLW LCS received five written comments during the public comment period. All comments received during the public comment period are summarized and addressed below.

DNR DMLW LCS received brief comments of non-objection from the following agencies:
DNR DMLW Statewide Abatement of Impaired Land, DNR Division of Forestry, and the City of Whale Pass

DNR DMLW LCS Response: LCS appreciates your review.

Alaska Department of Fish & Game (ADF&G) Comment:

ADF&G stated they conducted a survey of the area and found no anadromous fish streams within the parcels proposed to be conveyed to the City. They did, however, find resident fish. They also concur with the decision by DNR LCS to recommend Alternative 3 that intends to reject parcel 5, which is classified as Wildlife Habitat Land. The PD also accurately identifies the public and navigable water bodies subject to public access easements pursuant to AS 38.05.127.

DNR DMLW LCS Response: LCS appreciates ADF&G's review, and we acknowledge that there are resident fish in the local streams.

Department of Transportation & Public Facilities (DOT&PF) Comment:

Thank you for the opportunity to review the proposal. The Alaska Department of Transportation & Public Facilities (DOT&PF) has no comment but noted that there is an existing project (managed by Western Federal Lands (WFL)) to upgrade the Neck Lake Road (Road to Whale Pass). Per a Memorandum of Agreement, DOT&PF will take ownership of this route following completion of the project. WFL does have some minor acquisitions from DNR that will now need to be acquired from the City of Whale Pass for the reconstruction of Neck Lake Road.

DNR DMLW LCS Response: LCS appreciates DOT&PF's review and reiterates that on lands approved for conveyance through this decision, the City will gain management authority upon the issuance of this FFD. If WFL needs to make minor acquisitions on lands approved for conveyance to Whale Pass, please work with the City to discuss lands needing to be acquired for the Neck Lake Road reconstruction project.

VI. MODIFICATIONS TO DECISION

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

VII. DISCUSSION AND FINAL FINDING AND DECISION

Through this Final Finding and Decision, DNR determines that it is in the best interest of the State to convey 294.37 acres of state land with management authority transferred to the City upon the effective date of this decision. There are no overriding state interests in retaining these selections and the conveyance to the City of Whale Pass is consistent with the requirements for conveyance under AS 29.65, and the management intent requirements of the Prince of Wales Island Area Plan.

Lands Approved for Conveyance

Table 1 lists those lands approved for conveyance in this decision. The estimated acreages for conveyance do not account for any exclusions, and exact acreages would be determined by survey. The final acreage amount will be credited towards partial fulfillment of City of Whale Pass municipal land entitlement.

Table 1

Parcel	MTR	Section: Legal Description	Acres
1	C066S080E	Sec. 31: Remainder SE1/4 NE1/4 ASLS 81-217 (1.54 ac.), That portion of State Tract A excluding those lands located southerly of a line extending from the NW corner of Lot 1, Block 10 to the SE corner of Lot 12, Block 9 ASLS 81-217 (85.82 ac.), SW1/4 NW1/4 ASLS 81-217 (40 ac.)	127.36
	C066S079E	Sec. 36: That portion of State Tract B ASLS 81-217, located easterly of Block 9, excluding Southeast State Forest	20.21

Parcel	MTR	Section: Legal Description	Acres
2	C066S079E	Sec. 23: That portion of Gov Lot 3 located easterly of FDR 27 (8.93 ac.), That portion of the Remainder SW1/4 SE1/4 located easterly of FDR 27 and easterly of FDR 30 (2.95 ac.), That portion of Tract O located easterly of FDR 30 and located westerly of a line extending from the NW corner Tract O to the northerly corner of Lot 1, Block 6, ASLS 81-217 (3.96 ac.)	15.84
4	C066S079E	Sec. 26: That portion of the Remainder of SW1/4 SE1/4 ASLS 81-217 located with the S1/2 NE1/4 and located southerly and westerly of FDR 30	19.46
		Sec. 35: That portion of the Remainder E1/2 NE1/4 ASLS 2000-20 excluding those lands located easterly of a line from the NW corner of Lot 10 Block 13 northerly along an extension of the westerly boundary of ASLS 2000-20 (19.42 ac.), W1/2 NE1/4 ASLS 2000-20 (80 ac.)	99.42
6	C067S079E	Sec. 2: That portion of NE1/4 NE1/4 located westerly of FDR 25 and southerly of FDR 30 (1.56 ac.)	1.56
7	C066S079E	Sec. 36: State Tracts F (5.75 ac.) and G ASLS 81-217 (4.77 ac.)	10.52
Approximate Total Approved to be Conveyed			294.37

Lands to be Rejected

Table 2 below lists those lands that were selected by the City that are to be rejected from conveyance in this decision. These include lands to be retained by the State because the interest of the State outweighs that of the City, or where the land holds a non-conveyable classification.

Table 2

Parcel	MTR	Section: Legal Description	Acres
3	C066S079E	Sec. 23: All lands located southerly of FDR 30 and westerly of 108 Creek (4.28 ac.), All lands located easterly of FDR 30-520 and west of 108 Creek in the W1/2 SE1/4 (18.17 ac.)	22.47
5	C066S079E	Sec. 35: That portion of State Tract H (ASLS 81-217) located easterly of FDR 30 in SE1/4 SE1/4 SE1/4	3.49
Approximate Total to be Rejected:			25.96

The City relinquished approximately 7.5 acres of their selection so that their proposed acreage comes in closer to their entitlement of about 296 acres. The acreage relinquished is the north portion of Parcel 6, specifically that portion of State Tract H (ASLS 81-217) located northerly of FDR 30-490 and easterly of FDR 30 in the N1/2 NE1/4 NE1/4 of Section 2, Township 67 South, Range 79 East, Copper River Meridian.

Recommendation and approval of the Final Finding and Decision follow.


Final Finding and Decision

The Land Conveyance Section recommends proceeding with the action as described in the Preliminary Decision. This action is undertaken under relevant authorities.

The following are the findings for this FFD:

1. That it is appropriate to convey 294.37 acres of state-owned land to the City of Whale Pass (Parcels 1, 2, 4, 7, and a portion of 6). LCS has determined that the State's interest in retaining this land does not outweigh the City's interest in obtaining it.
2. That it is appropriate to reject 25.96 acres of city land selections where the interest of the State in retaining the land outweighs the City's interest in obtaining it (Parcel 3) and where the land classification make the land ineligible for conveyance (Parcel 5).

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945, and comments received were considered. The case files have been found to be complete and the requirements of all applicable statutes have been satisfied. LCS recommends proceeding with the proposed action as described in the Preliminary Decision and this Final Finding and Decision.




Recommended by: Mary Hermon
Natural Resource Specialist 2
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

6-7-2021

Date

Under the authority of the applicable statutes, it is in the best interest of the state to proceed with the recommended action as described in this Final Finding and Decision.

for 

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

June 7, 2021

Date

Attachments:
Attachment A: Whale Pass

APPEAL PROVISION

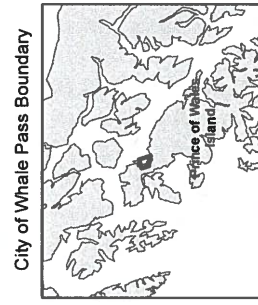
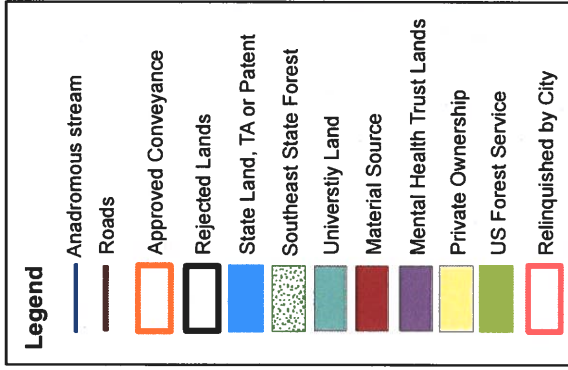
A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received in writing within 20 calendar days after the date of the issuance of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 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 \$250 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 administrative order and decision of the department on the 31st day after 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 or at: <http://www.akleg.gov/basis/aac.asp>.

ATTACHMENT A

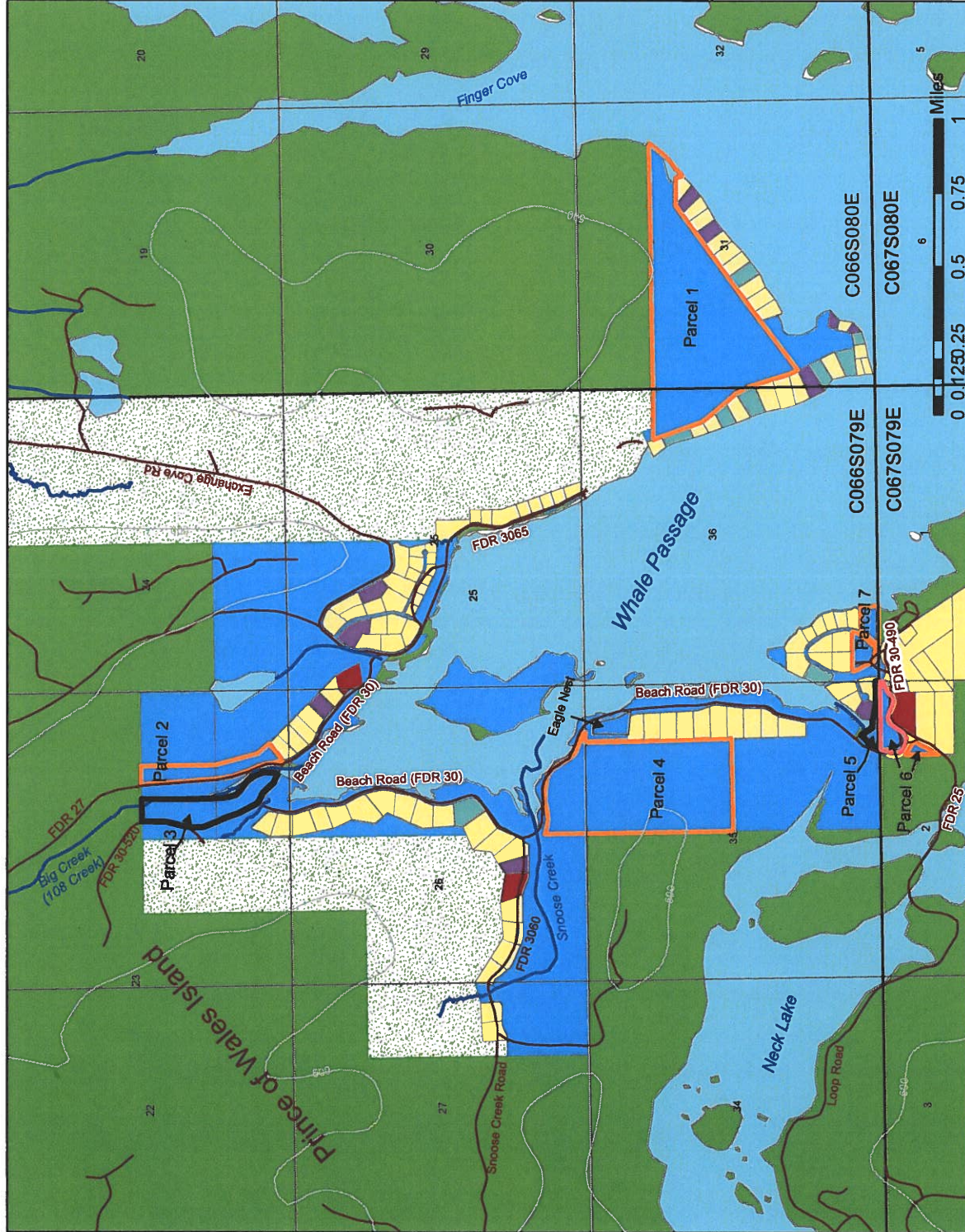
City of Whale Pass

Municipal Entitlement
 Final Finding and Decision
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Created by: SOA-DNR-DMLW-LCS-ME

June 2021



This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

