

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

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

<b>PETERSBURG BOROUGH</b> <b>MUNICIPAL LAND ENTITLEMENT SELECTIONS</b> <b>ADL 108982, ADL 108983, ADL 108984</b>
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**I. SUPPLEMENT STATEMENT**

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated April 18, 2024, for the proposed actions, which are incorporated herein, except as modified or clarified by this FFD. The PD (attached) has had 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 aligning with the intent and requirements of the Municipal Entitlement Act. This decision covers approximately 1,758.17 acres and approves 1,758.17 acres, more or less, for conveyance and transfer of management authority to the Petersburg Borough (PB).

**III. AUTHORITY**

The authority for conveyance of state land for municipal entitlements 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 announcing the PD for the proposed conveyance of municipal entitlement selections along with the solicitation for public comment was published and distributed in the following manner:

- Posted under State of Alaska Online Public Notice from April 18 to May 24, 2024.
- Posted on the DNR Land Sales website from April 18 to May 24, 2023.
- Posted on the DNR Municipal Entitlement website from April 18 to May 24, 2024.
- Mailed with a request to post for 30 days to the Kupreanof and Petersburg postmasters and Petersburg 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 emailed to the Petersburg Borough.
- Emailed notice to all other State agencies who received the agency review notice.

The public notice stated that written comments must be received by 4:30 p.m., Friday, May 24, 2024, 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 comments from the DMLW Resource Assessment & Development Section (RADS), DMLW Realty Services Section (RSS), the Alaska Department of Transportation and Public Facilities (DOT&PF), and the Petersburg Borough during the public comment period. All comments received during the public comment period are addressed below.

DNR DMLW LCS received a brief comment of non-objection from the following agency:

Final Finding and Decision

Petersburg Borough – ADL 108982, 108983, 108984

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Alaska Department of Transportation & Public Facilities.

*DNR DMLW LCS Response:* LCS appreciates your review.

DNR DMLW RADS comment: “Thank you for the opportunity to review and comment on the proposed Municipal Entitlement conveyance to the Petersburg Borough. The Resource Assessment & Development Section (RADS) has reviewed the available data, satellite imagery, and the applicable regional land use plan – Central/Southern Southeast Area Plan (CSSEAP) and provides the following comments.

Background & Discussion:

Petersburg Borough has requested the conveyance of state parcels (ADL 109982, 109983, and 108984). The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) proposes to convey lands selected by Petersburg Borough (PB) in partial fulfillment of their general grant land entitlement under AS 29.65.010 Determination of Entitlement of Boroughs and Unified Municipalities. PB has selected six parcels in Region 3 of the Central/Southern Southeast Area Plan (CSSEAP). In this decision, LCS will adjudicate and proposes to convey 1,758 acres, more or less.

A breakdown of the proposed parcels is as follows:

ADL 108982

Area Name	MTRS	Acres	Unit	Designation	Converts to Classification
Summit Island	C061S082E12	10	P-23		Resource Mgmt. Land
Wilson Island	C061S082E27	20	P-23		Resource Mgmt. Land
FDR Parcel	C062S081E03	157	P-27		Resource Mgmt. Land
Blind Slough	C061S081E25 C061S081E26 C061S081E35 C061S081E36	480	P-25		Resource Mgmt. Land

ADL 108983

Area Name	MTRS	Acres	Unit	Designation	Converts to Classification
NE Mitkof	C059S080E04 C059S080E09 C059S080E10 C059S080E14 C059S080E15 C059S080E23	1011	P-28		Resource Mgmt. Land

ADL 108984

Area Name	MTRS	Acres	Unit	Designation	Converts to Classification
Blind Point	C060S079E24	80	P-16		Public Recreation Land, Resource Management Land

The selected parcels have infrastructure important to the community. Currently, the Department of Transportation & Public Facilities (DOT&PF) manages a dock on the portion of the parcel shown as ATS 251 under Interagency Land Management Agreement (ILMA) ADL 20978. The Borough has been in contact with DOT&PF about acquiring the dock. The area of the parcel covered by ATS 921 contains

a boat launch ramp. The Borough plans to maintain the dock and boat ramp to encourage public use. A comprehensive plan of development has been submitted.

**Recommendation:**

Based on our review of the subject lands and their respective classifications there are no conflicts or concerns standing in the way of completing this conveyance. Also, there are facilities and management agreements in place important to the Petersburg Borough which they plan to develop and maintain. RADS recommends moving forward with this conveyance. Thank you for the opportunity to review."

*DNR DMLW LCS Response:* LCS appreciates your review and would like to clarify that there are no selected parcels within this decision that contain a dock. ADL 20978, ATS 251, and ATS 921 are part of municipal tideland decision ADL 109287.

DNR DMLW RSS comment: "Thank you for the additional time to review the Preliminary Decision for Petersburg Borough ADLs 108982, 83, 84. After reviewing the decision, Realty Services (RSS) offers the following comments:

- The policy of RSS is that title reports expire after a 1-year period. With this policy in mind, RPT's 22874, 22093, 22873, and 22875 are now expired. RSS recommends that current title reports are requested and received prior to transferring management authority through a signed FFD. Because of the length of the title report queue and in consideration of RSS requesting additional time to review this decision, RSS will coordinate with LCS to expedite these requests.
- RSS recommends adding language in Section IX (B) - Restrictions and Reservations, that this decision is specifically excepting and reserving to the State of Alaska, DOT&PF, all DOT&PF properties, rights, highways, roads, and all other facilities. This will likely impact Section IX (B) - Restrictions and Reservations - Item (7).
- ADL 104833, Public Easement, and FERC Power Project No. 3015 are collocated in portions of the project area. Section IX(8)(B) of this decision does not address each interest individually. FERC Power Project No. 3015 was reserved to the U.S. from the State of Alaska's patent, and thus we must make future conveyances including this right-of-way subject-to FERC Power Project no. 3015. ADL 104833 is a State held Public Easement separate from but related to FERC Power Project No. 3015. RSS recommends consulting with SERO regarding if the State of Alaska wishes to retain ADL 104833 under State management. If SERO wishes to retain this easement, this decision should include language that excepts and reserves this interest to the State of Alaska."

*DNR DMLW LCS Response:* LCS appreciates your review. New title reports were requested to update the expired title reports, per the RSS request. Below are the results of the updated Title Reports and these updates will be noted in **VI. Modifications to the Decision**:

- Report 23688, covering the Summit and the Wilson Islands parcels, is current as of 8/16/2024. No new information or changes were identified for these parcels.
- Report 23689, covering the Blind Slough parcel, is current as of 8/19/2024. Information supports the agency review comments for the RSS.
- Report 23691, covering the FDR parcel, is current as of 8/26/2024. No new information or changes were identified for this parcel.

LCS agrees to this modification for additional clarification to State and DOT&PF interests, per the comments from RSS. Item (7) will be reworded as noted in **VI. Modifications to the Decision**.

LCS concurs with your assessment of using "Subject to" instead of "Reservation" for the FERC Power Project No. 3015. See **VI. Modifications to the Decision** for this correction.

Communication with SERO clarified that the State will release its interest in ADL 104833 and management authority will be transferred to Petersburg Borough.

Petersburg Borough comments: “The Petersburg Borough has completed its preliminary review of ADL 108982, 108983, and 108984 dated APRIL 18, 2024.

The Petersburg Borough supports the LCS’s decision to convey approximately 1,758.17 acres of state owned vacant, unappropriated, unreserved (VUU) general grant land on Mitkof Island.

The Petersburg Borough has the following additional comments regarding statements in the Preliminary Decision:

Section VI.

B.3. The PD establishes that the mineral estate is reserved to the state. Under Mineral Order 279, all parcels on NE Mitkof are closed to mineral entry. Thank you for clarifying that there are no other known mineral orders affecting these selections.

D.2. The borough concurs with the LCS that there are no RS-2477 rights-of-way with the selected lands.

D.4. The borough concurs with the LCS that there are no known navigable waters bordering or within the selected lands.

D.4. The borough notes that no waters navigable in fact have been identified by the state in this decision.

D.4. The borough notes that the LCS does not propose any alternative upland access routes to be reserved under 11 AAC 51.045(d)(1).

D.4. The borough concurs with the LCS that the beds of public waters are to be conveyed to the borough with the adjoining approved lands.

Section IX.

B.4 The borough concurs with the LCS that administration of public easements for the surface estate on land to be conveyed will be transferred when the FFD becomes effective.

B.5 The borough concurs with the LCS that administration of any active state leases and permits for the surface estate on land to be conveyed will be transferred when the FFD becomes effective. Accordingly, ADL 107871 and 107869 should be transferred to the borough as these represent surface estate permits. In the case of ADL 107869, the material site contract was issued to the then-City of Petersburg. Similarly, ADL 106335 is leased to the Petersburg Borough and will be transferred upon approval of the FFD.

Lastly, the borough appreciates ADNR labeling the FDRs, AWCs, and ADLs on the attachments. This addition makes review of the PD much more efficient.”

*DNR DMLW LCS General Response:* LCS appreciates your review and your concurrences.

## **VI. MODIFICATIONS TO THE DECISION**

Pursuant to comments received during the public notice period and the receipt of updated title reports, there are three modifications to be made between the PD and the FFD. These modifications do not change the amount of acreage approved for conveyance in this decision.

Under **V. Description, B. Legal Description, Land Status, and Third-Party Interest** in the PD, Table 1 is updated as follows for reflect the new title reports:

Table 1

Map Name ADL No.	MTRS	Title Report No.	State Case File	Title/ Date	Third-Party Interests
NE Mitkof (ADL 108983)	C059S080E04 C059S080E09 C059S080E10 C059S080E14 C059S080E15 C059S080E23	RPT – 22876 current as of 11/24/2023	NFCG 112	PA 50-88-0039 1/15/1988	ADL 101866 Public Access Easement, issued (FDR 6204), 66' (Secs 9, 10) ADL 105927 P&C Use Sale, conveyed to PB ADL 107871 Material Source (Sec. 4) ADL 107869 Material Source (Sec. 10) Cabin Creek Road (FDR 6206), 66' ROW (Secs 9, 10)
Blind Point (ADL 108984)	C060S079E24	RPT – 22877 current as of 11/14/2023	NFCG 294	TA 11/5/1996	ADL104833 ROW Public Utility Easement, FERC Power Project 3015, 300' ROW ADL 106335, P&C Use lease, issued to PB Mitkof Highway (FH7), 132' ROW
Summit Island (ADL 108982)	C061S082E12	RPT – 23688 Current as of 8/16/2024	NFCG 110	PA 50-2015-0074 4/14/2015	None identified
Wilson Islands (ADL 108982)	C061S082E27	RPT – 23688 Current as of 8/16/2024	NFCG 110	PA 50-2015-0074 4/14/2015	None identified
FDR Parcel (ADL 108982)	C062S081E03	RPT – 23691 Current as of 8/26/2024	NFCG 290	PA 50-2003-0454 8/14/2003	S. Sumner Mtn Road, FDR 6283, 66' ROW Muck Road, FDR 40083, 66' ROW Woodpecker Road, FDR 6245, 66' ROW
Blind Slough (ADL 108982)	C061S081E25 C061S081E26 C061S081E35 C061S081E36	RPT – 23689 Current as of 8/19/2024	NFCG 110	PA 50-2015-0074 4/14/2015	Mitkof Highway (FH 7), 132' ROW (Sec. 35) ADL 104833 ROW Public Utility Easement, FERC Power Project 3015, 300' ROW (Secs 26, 35, 36) ADL 109223 Public Easement, Fiber Optic (Sec 35)

Under **IX. Recommendation and Preliminary Decision, B. Recommended Conditions, Restriction, and Reservations, Restrictions and Reservations** in the PD, item (7) will be reworded as described below and item (8) will be modified so the words “Subject to” replace “Reservation” to read as:

7. Excepting and reserving to the State of Alaska, DOT&PF, all DOT&PF properties, rights, highways, roads, and all other facilities. This includes the Mitkof Highway (FH 7) right-of-way of 132 feet.
8. Subject to a transmission line right-of-way, pursuant to Sec. 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1063, 1075, as amended, as to the Tyee Lake Hydroelectric Project Transmission Line Right-of-Way for Power Project No. 3015, 300 feet wide.

## 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 1,758.17 acres, more or less, of state land with management authority transferred to the PB upon the effective date of this decision. There are no overriding state interests in retaining these selections, and the conveyance to PB is consistent with the requirements for conveyance under AS

29.65 General Grant Land, and the management intent requirements of the Central/Southern Southeast Area Plan.

### Lands Approved for Conveyance

Table 1 lists those lands approved for conveyance in this decision by map name/(ADL), Meridian (M), Township (T), Range (R), Section, legal description, and approximate acreage. The estimated acreages for conveyance do not account for any exclusions, and exact acreages are determined by a State approved survey. The final acreage amount will be credited towards partial fulfillment of Petersburg Borough's municipal land entitlement.

Table 1

Map Name (ADL)	MTR	Section and Legal Description	Acres
NE Mitkof (108983)	C059S080E	<b>Sec. 4:</b> Lot 1A of ASLS 91-84, located northeasterly of Cabin Creek Road ROW according to ASLS 95-66 and Lot 1A of ASLS 91-84, located southwesterly of Cabin Creek Road ROW according to ASLS 95-66 (36 ac.) Lot 2, excluding Cabin Creek Road ROW according to ASLS 95-66 (42 ac.) Lot 3A of ASLS 91-84, located northeasterly of Cabin Creek Road ROW according to ASLS 95-66 and Lot 3A of ASLS 91-84, located southwesterly of Cabin Creek Road ROW according to ASLS 95-66 (41 ac.) Lot 4 located northeasterly of Cabin Creek Road ROW according to ASLS 95-66 (21 ac.) Lot 5 located easterly of Cabin Creek Road ROW according to ASLS 95-66 (17 ac.) S1/2NW1/4, excluding Cabin Creek Road ROW according to ASLS 95-66 (80 ac.) W1/2SE1/4 located easterly of Cabin Creek Road ROW according to ASLS 95-66 (3 ac.) <b>Sec. 9:</b> E1/2 located easterly of Cabin Creek Road ROW according to ASLS 95-66 (91 ac.) <b>Sec. 10:</b> W1/2SW1/4, SE1/4SW1/4 (120 ac.) <b>Sec. 14:</b> All, excluding ASLS 83-32, Frederick Point East Subdivision, and excluding islands, islets, and rocks (136 ac.) <b>Sec. 15:</b> SE1/4NE1/4, E1/2SE1/4 (120 ac.) <b>Sec. 23:</b> Lot 2, Lot 3, Lot 4, W1/2NE1/4, E1/2NW1/4, E1/2SW1/4, W1/2SE1/4 inclusive, excluding ASLS 83-32, Frederick Point East Subdivision, and excluding islands, islets, and rocks (304 ac.)	1011
Blind Point (108984)	C060S079E	<b>Sec. 24:</b> S1/2SE1/4 (80 ac.)	80
Summit Island (108982)	C061S082E	<b>Sec. 12:</b> Tract B (Summit Island)....10.09 ac.	10.09
Wilson Islands (108982)	C061S082E	<b>Sec. 27:</b> Tracts E, F, G, H, and I (Wilson Islands)....20.06 ac.	20.06
FDR Parcel (108982)	C062S081E	<b>Sec. 03:</b> Lots 1 and 2 (77.02 ac.), NW1/4 excluding Lots 1 and 2 and excluding the southerly 80 ac. (80 ac.)	157.02
Blind Slough (108982)	C061S081E	<b>Sec. 25:</b> W1/2SW1/4 (80 ac.) <b>Sec. 26:</b> SE1/4 (160 ac.) <b>Sec. 35:</b> N1/2NE1/4, SE1/4NE1/4 (120 ac.) <b>Sec. 36:</b> NW1/4NW1/4, S1/2NW1/4 (120 ac.)	480
APPROXIMATE TOTAL APPROVED ACRES:			1758.17

## VIII. CONDITIONS, RESTRICTIONS, AND RESERVATIONS

### A. Conditions of the Decision

- As required under AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51 Public Easements, the location of the MHWM of marine waters, including any waters

determined to be navigable in fact, will be determined at the time of survey to determine the specific area to be retained by the State.

2. As required under AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51 Public Easements, the location of the OHWM of public waters will be determined at the time of survey.
3. Management authority will transfer to PB on those lands approved for conveyance once the FFD becomes effective.
4. Management authority for public access easements is transferred to PB once the FFD becomes effective. No such easements may be vacated, abandoned, or otherwise extinguished or rendered incapable of reasonable use by the public without approval of the State of Alaska, unless an alternative means for reasonable public access is provided and approved by the State.
5. Administration of state leases and permits pertinent to the surface estate will be transferred to PB once the FFD becomes effective. Administration of issued state leases and permits, in the mineral estate will remain with the State.
6. Once the FFD is effective, PB may execute conditional leases and make conditional sales on lands approved for conveyance, prior to issuance of a state patent in accordance with AS 29.65.070(b) Selection and Conveyance Procedure.
7. The net chargeable acreage approved for conveyance shall be credited towards partial fulfillment of PB municipal land entitlement pursuant to AS 29.65.010 Determination of Entitlement for Boroughs and Unified Municipalities.
8. Notification to the Alaska State Historic Preservation Office in accordance with AS 41.35.070(d) Preservation of Historic, Prehistoric, and Archeological Resources Threatened by Public Construction is required upon discovery of historic, prehistoric, or archaeological sites, locations, remains, or objects.

#### **B. Restrictions and Reservations**

Conveyance document will be issued subject to the following restrictions and reservations:

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 a 50-foot-wide easement on each side of all surveyed and unsurveyed section lines in accordance with AS 19.10.010 Dedication of Land for Public Highways and 11 AAC 51.025 Section-Line Easements.
3. Reservation of a continuous public access easement, 50 feet wide, upland of and adjacent to the MHWM of marine waters pursuant to AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51 Public Easements.
4. Reservation of a continuous public access easement, 50 feet wide, upland of and adjacent to the OHWM of all navigable waters determined to be navigable in fact, and on the bed and 50 feet upland along public waters pursuant to AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51 Public Easements.

5. Reservation of the mineral estate pursuant to Section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation; and reservation of reasonably necessary access to the mineral estate in accordance with AS 38.05.130 Damages and Posting of Bond.
6. Subject to Forest Development Roads (6204, 6206, 6245, 6283, 40083), rights-of-way, 66 feet wide.
7. Excepting and reserving to the State of Alaska, DOT&PF, all DOT&PF properties, rights, highways, roads, and all other facilities. This includes the Mitkof Highway (FH 7) right-of-way of 132 feet.
8. Subject to a transmission line right-of-way, pursuant to Sec. 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1063, 1075, as amended, as to the Tyee Lake Hydroelectric Project Transmission Line Right-of-Way for Power Project No. 3015, 300 feet wide.

Recommendation and approval of the Final Finding and Decision follow.



**Final Finding and Decision**

Petersburg Borough – ADL 108982, 108983, 108984  
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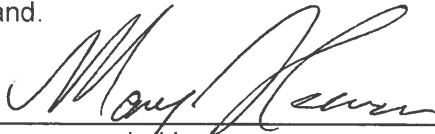
**Final Finding and Decision**

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

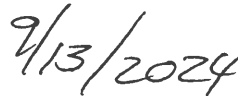
The following are the findings for this FFD:

It is appropriate to convey 1,758.17 acres, more or less, of state-owned land to Petersburg Borough. This decision determines that the State's interest in retaining this land does not outweigh Petersburg Borough's interest to obtain it.

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 case files have been found to be complete, and the requirements of all applicable statutes have been satisfied. It has been determined that it is in the best interest of the State to proceed with the conveyance identified in this FFD to Petersburg Borough under the authority of AS 29.65 General Grant Land.



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




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.



Approved by:  
Hannah Uher-Koch  
Section Chief  
Land Conveyance Section  
Division of Mining, Land and Water  
Department of Natural Resources  
State of Alaska



Date

**ATTACHMENTS**

*Attachment:* Preliminary Decision

### **APPEAL PROVISION**

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department. Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). Appeals 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)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

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

**PRELIMINARY DECISION**  
**PROPOSED CONVEYANCE OF STATE LAND UNDER AS 29.65**

<b>PETERSBURG BOROUGH</b> <b>MUNICIPAL LAND ENTITLEMENT SELECTIONS</b> <b>ADL 108982, 108983, and 108984</b>
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**PUBLIC COMMENT PERIOD ENDS 4:30 P.M., FRIDAY, MAY 24, 2024**

**I. PROPOSED ACTION**

*Preliminary Decision: Petersburg Borough Municipal Land Entitlement Selections – ADL 108982, 108983, and 108984*

*Attachment A: Vicinity Map*  
*Attachment B: NE Mitkof Map*  
*Attachment B2: ADF&G Mitkof Stream Map*  
*Attachment C: Blind Point Map*  
*Attachment D: Summit Island Map*  
*Attachment E: Wilson Islands Map*  
*Attachment F: FDR Parcel Map*  
*Attachment G: Blind Slough Map*  
*Attachment H: Public Notice*

Primary Proposed Action: The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) proposes to convey lands selected by Petersburg Borough (PB) in partial fulfillment of their general grant land entitlement under AS 29.65.010 Determination of Entitlement of Boroughs and Unified Municipalities. See *Attachment A: Vicinity Map* for a depiction of the project area.

PB selected six parcels in Region 3 - Petersburg as identified in the Central/Southern Southeast Area Plan<sup>1</sup> (CSSEAP). In this decision, LCS will adjudicate 1,758 acres, more or less.

LCS proposes to convey 1,758 acres, more or less, of state-owned vacant, unappropriated, unreserved<sup>2</sup> (VUU) general grant land. LCS has determined that no overriding state interests merit retaining these selections in state ownership.

Public Notice of Proposal: In accordance with AS 38.05.945 Notice, during a period of at least 30 consecutive days, the public is invited to submit written comment on this Preliminary Decision (PD).

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<sup>1</sup> The *Central/Southern Southeast Area Plan* (CSSEAP) adopted November 2000 determines the management intent, land-use designations, and management guidelines that apply to all state lands in the applicable planning area. This plan forms the basis for the land use classifications that constitute vacant, unappropriated, unreserved land for purposes of determining the eligibility of state land for potential conveyance to a municipality under AS 29.65 *General Grant Land*.

<sup>2</sup> *Vacant, unappropriated, unreserved* (VUU) land is general grant land patented or tentatively approved to the State from the United States, excluding minerals as required by 6(i) of the Alaska Statehood Act, and is conveyable under the Municipal Entitlement Act (AS 29.65).

See **Section VII. Submittal of Public Comments** at the end of this document and *Attachment H: Public Notice* for details on submitting comment for consideration. If LCS moves forward with the proposal after considering timely, written comments, LCS will issue a Final Finding and Decision (FFD).

## **II. AUTHORITY**

The proposed actions in this PD are authorized pursuant to Alaska Statute (AS) and Alaska Administrative Code (AAC), particularly AS 29.65 General Grant Land, AS 38.05.035(e) Power and Duties of the Director, AS 38.05.125 Reservation, AS 38.05.127 Access to Navigable or Public Water, AS 19.10.010 Dedication of Land for Public Highways, and 11 AAC 51 Public Easements.

## **III. ADMINISTRATIVE RECORD**

The administrative record for this PD consists of case files Alaska Division of Lands (ADL) ADL 108982, ADL 108983, and ADL108984. Also incorporated by reference are:

- Central/Southern Southeast Area Plan (CSSEAP) adopted in November 2000 and associated land classification files;
- Alaska Department of Fish and Game (ADF&G) Alaska Anadromous Waters Catalog & Atlas to the Catalog;
- Alaska Department of Environmental Conservation (DEC) Contaminated Sites Database; and
- DNR case files: National Forest Community Grant (NFCG) 110, 112, 290, and 294.

## **IV. SCOPE OF THE PROPOSAL**

The scope of this proposal under the statutes described in the proceeding **Section II. Authority** is limited and specific to determining whether it is appropriate to convey the subject parcels to PB. This decision includes a review of third-party interests, stipulations necessary to effectuate this decision, and an evaluation of whether the public interest in retaining state ownership of the land outweighs PB's interest in obtaining the selected lands as provided in AS 29.65.050 Fulfillment of Land Entitlement. In this decision, LCS will also determine whether PB's municipal entitlement land selections meet requirements under AS 29.65.070(b) Selection and Conveyance Procedure and whether it is appropriate to allow PB to exercise immediate management authority for conditional sales and leases on land approved for conveyance.

## **V. DESCRIPTION**

### **A. Location and Geographical Features**

Petersburg Borough was incorporated as a Non-Unified Home Rule Borough in 2013. The borough boundary encompasses the entrance to Endicott Arm, east to the Canadian border, south to Sumner Strait, west through the middle of Kupreanof Island (the east half of the island), and north along Stephens Passage up to Endicott Arm.

The area within the borough boundary is characterized by steep hillsides along the coast and relatively flat coastal plains. Spruce bog vegetation is found on coastal plains, whereas the steeper hillsides support a mixture of hemlock and spruce forests. The northern area of Mitkof Island has steep mountain terrain, while the southern part of Mitkof Island is characterized by gently sloping coastal plains backed by foothills, which often rise rapidly and produce steep valleys.

<i>Borough/Municipality:</i>	Petersburg Borough
<i>Meridian:</i>	Copper River (C)
<i>Regional Corporation:</i>	Sealaska Corporation

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**Federally Recognized Tribe:** Wrangell Cooperative Association, Petersburg Indian Association, Organized Village of Kake, and Central Council of the Tlingit and Haida Indian Tribes of Alaska

**Village Corporation:** Kake Tribal Corporation

**USGS Map Coverage:** Petersburg Quadrangle (1:250,000)  
 NE Mitkof Petersburg C-3, D-3 (1:63,360)  
 Blind Point Petersburg C-3 (1:63,360)  
 Summit Island Petersburg C-2 (1:63,360)  
 Wilson Island Petersburg C-2 (1:63,360)  
 FDR Parcel Petersburg C-3 (1:63,360)  
 Blind Slough Petersburg C-3 (1:63,360)

**B. Legal Description, Land Status, and Third-Party Interests**

*Table 1* below identifies PB land selections adjudicated in this decision by location/map name and ADL number, Meridian (M), Township (T), Range (R), Section (S), title report number and date, and includes state case file, title status, date, and any third-party interests affecting those state-owned lands. The State holds fee title to the land and mineral estates through either Patent (PA) or Tentative Approval (TA) from the U.S. Department of Interior, Bureau of Land Management (BLM). The State will only convey the land estate on approved conveyances to PB. AS 38.05.125 Reservation requires the State to retain the mineral estate. Pursuant to AS 29.65.070(b) Selection and Conveyance Procedure, the State may only issue a patent to a municipality once BLM has patented the land to the State.

*Table 1*

Map Name ADL No.	MTRS	Title Report No.	State Case File	Title/ Date	Third-Party Interests
NE Mitkof (ADL 108983)	C059S080E04 C059S080E09 C059S080E10 C059S080E14 C059S080E15 C059S080E23	RPT – 22876 current as of 11/24/2023	NFCG 112	PA 50-88-0039 1/15/1988	ADL 101866 Public Access Easement, issued (FDR 6204), 66' (Secs 9, 10) ADL 105927 P&C Use Sale, conveyed to PB ADL 107871 Material Source (Sec. 4) ADL 107869 Material Source (Sec. 10) Cabin Creek Road (FDR 6206), 66' ROW (Secs 9, 10)
Blind Point (ADL 108984)	C060S079E24	RPT – 22877 current as of 11/14/2023	NFCG 294	TA 11/5/1996	ADL104833 ROW Public Utility Easement, FERC Power Project 3015, 300' ROW ADL 106335, P&C Use lease, issued to PB Mitkof Highway (FH7), 132' ROW
Summit Island (ADL 108982)	C061S082E12	RPT – 22874 Current as of 10/17/2022	NFCG 110	PA 50-2015-0074 4/14/2015	None identified
Wilson Islands (ADL 108982)	C061S082E27	RPT – 22093 Current as of 10/17/2022	NFCG 110	PA 50-2015-0074 4/14/2015	None identified
FDR Parcel (ADL 108982)	C062S081E03	RPT – 22873 Current as of 10/14/2022	NFCG 290	PA 50-2003-0454 8/14/2003	S. Sumner Mtn Road, FDR 6283, 66' ROW Muck Road, FDR 40083, 66' ROW Woodpecker Road, FDR 6245, 66' ROW

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Map Name ADL No.	MTRS	Title Report No.	State Case File	Title/ Date	Third-Party Interests
Blind Slough (ADL 108982)	C061S081E25 C061S081E26 C061S081E35 C061S081E36	RPT – 22875 Current as of 1/17/2023	NFCG 110	PA 50-2015-0074 4/14/2015	Mitkof Highway (FH 7), 132' ROW (Sec. 35) ADL 104833 ROW Public Utility Easement, FERC Power Project 3015, 300' ROW (Secs 26, 35, 36) ADL 109223 Public Easement, Fiber Optic (Sec 35)

**VI. PRELIMINARY DECISION****A. Background**

Petersburg Borough was legislatively granted a municipal entitlement of 14,666 acres in 2017. To date, PB has received title to 1,048 acres, more or less, and has approval for approximately 4,137 acres, leaving approximately 9,481 acres remaining in its entitlement. PB submitted the selections within this PD to LCS in 2016 and 2018.

**B. Planning, Classification, and Mineral Orders****1. Planning**

The CSSEAP is the controlling land management planning authority. The land selections fall within Region 3 – Petersburg of the CSSEAP. The CSSEAP describes each management unit's management intent and area plan designation. These plan designations convert to land use classifications, establishing what land the State may convey under the Municipal Entitlement Act (AS 29.65.010 General Grant Land). Accordingly, the CSSEAP governs the management intent and classifications for the selected lands.

**2. Land Use Designation and Classification**

The land selections proposed for conveyance in this decision are designated as Public Recreation – Developed, Public Facilities – Transfer, or General Use, which convert to the classifications of Resource Management land or Public Recreation land, which are conveyable classifications for municipal entitlement general grant land under AS 29.65.130 Definitions, unless an overriding state interest exists as stated in the management intent. *Table 2* shows the land use classifications derived from the CSSEAP for the land selections adjudicated in this decision.

*Table 2*

Map Name ADL No.	MTRS	Approx. Acres	Unit	Classification
NE Mitkof (ADL 108983)	C059S080E04 C059S080E09 C059S080E10 C059S080E14 C059S080E15 C059S080E23	1011	P-28	Resource management land
Blind Point (ADL 108984)	C060S079E24	80	P-16	Public recreation land, Resource management land
Summit Island (ADL 108982)	C061S082E12	10	P-23	Resource management land

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Map Name ADL No.	MTRS	Approx. Acres	Unit	Classification
Wilson Islands (ADL 108982)	C061S082E27	20	P-23	Resource management land
FDR Parcel (ADL 108982)	C062S081E03	157	P-27	Resource management land
Blind Slough (ADL 108982)	C061S081E25 C061S081E26 C061S081E35 C061S081E36	480	P-25	Resource management land

**3. Mineral Orders**

The mineral estate is reserved to the State pursuant to AS 38.05.125 Reservation.

NE Mitkof is closed to mineral entry under MCO 279. No other known mineral orders affect PB's selections within these ADLs.

**C. Traditional Use Finding**

In an unorganized borough, disposal of state land with traditional uses is reviewed under AS 38.05.830 Land Disposal in the Unorganized Borough. PB is an organized borough under AS 29.05.031 Incorporation of a Borough or Unified Municipality and eligible for municipal entitlement. Therefore, a determination for traditional uses is not required. PB's legal boundary encompasses all municipal entitlement land selections in this decision.

**D. Access**

Public access will be reserved in accordance with AS 19.10.01 Dedication of Land for Public Highways, AS 19.30.400 Identification and Acceptance to Rights-of-Way, AS 38.05.125 Reservations, AS 38.05.127 Access to Navigable or Public Water, and 11 AAC 51 Public Easements.

Primary access to Mitkof Island is via airplane or boat. Frederick Sound and Sumner Strait are the primary travel corridors for ferries, ships, and boats. Duncan Canal and the Wrangell Narrows are contiguous with these major waterways and provide access to some of PB's municipal entitlement land selections. Petersburg James A. Johnson Airport provides for larger commercial airplanes. Floatplanes and helicopters provide access to various remote locations within PB.

The Mitkof Highway is the primary road on Mitkof Island. It is one segment of the Alaska Highway system for AK-7, which also includes the Alaska Marine Highway. There are many secondary roads, some of which were previous forest development roads (FDR). The Blind Point parcel and the Blind Slough parcel, located on the southern end of Mitkof Island, can be accessed by Mitkof Highway (Forest Highway 7). The NE Mitkof parcels can be accessed by Frederick Drive (FDR 6204) and Cabin Creek Road (FDR 6206). The Wilson Islands and Summit Island parcels can be accessed by floatplane or boat. The FDR Parcel land has three roads within its borders (FDRs 6245 Woodpecker Road, 6283 South Sumner Mountain Road, and 40083 Muck Road)

**1. Section Line Easements**

As required under AS 19.10.010 Dedication of Land for Public Highways, and in accordance with 11 AAC 51.025 Section Line Easements, public access easements will

be reserved along each section line on lands approved for conveyance. If a section line forms a boundary of a selection being conveyed, the easement will be 50 feet wide measured from the section line. If a section line runs through a selection being conveyed, the easement will be 50 feet wide, measured on each side of the section line, for a total width of 100 feet.

## **2. Trails, Rights-Of-Way, RS 2477, and Easements**

A review of state records verifies that rights-of-way (ROW), easements, reservations, and exceptions in the U.S. Patent affect some of PB land selections, as disclosed above in *Table 1*.

The FDRs, which allow access to much of Mitkof Island, are reserved to the U.S. (r/w AA45079) with a 66-foot ROW. The Mitkof Highway (FH 7) has a ROW of 132 feet in width. There are no RS 2477 rights-of-way within the selected lands.

## **3. Navigable and Public Water**

The State will retain ownership of the bed of navigable water, including all gravel bars and islands, and will convey the bed of public waters to PB. A survey will determine the Ordinary High Water Mark (OHWM) of the navigable and public waters, the Mean High Water Mark (MHW) on marine meandering shorelines, identify islands, and determine the specific areas to be retained by the State. At the time of survey, fieldwork may find that a body of water or a waterway is different than what was identified in this decision. If this occurs, DNR will review the results of the survey work. If the fieldwork is determined to be accurate, then the survey results will supersede the recommendation in this decision.

*Navigable Waters:* Pursuant to 11 AAC 51.035 Determination of Navigable or Public Water, a water body is navigable if it is at least 50 acres in size or a waterway at least 50 feet wide from OHWM to OHWM. A water body will also be considered navigable if it is found navigable for a useful public purpose in accordance with AS 38.05.965 Definitions; otherwise, it will be considered public water in accordance with 11 AAC 51.035 Determination of Navigable or Public Water. Additionally, ownership of land adjacent to navigable water does not create any right of title to land below the OHWM of the navigable water.

*All tidal waters:* Within the Tongass National Forest area, the State received title to the tidal waters through a Quiet Title Disclaimer from the U.S. Department of Justice and U.S. Forest Service as part of the Glacier Bay Decision (Original 128) in association with the Stikine River Recordable Disclaimers of Interest (RDI). The MHW for tidal waters will be established at the time of survey.

*Public Waters:* Pursuant to 11 AAC 51.035 Determination of Navigable or Public Water, a water body is considered public water if it is at least ten acres but less than 50 acres in size or at least ten feet but less than 50 feet wide from OHWM to OHWM. Ownership of the land under or adjacent to public water does not grant an exclusive right to use the water (AS 38.05.126 Navigable and Public Water).



On and along the bed of public water bodies or waterways, the State will reserve an access easement and convey title to PB. Legal public access is generally limited to easements typically 100 feet wide on section lines (SLE) and typically 50 feet wide along the OHWM and MHW of navigable and public water bodies (the 'along' easement, see below).

#### **4. Easements To and Along Navigable and Public Water**

A public access easement on the bed and 50 feet in width upland of the OHWM will be reserved on all water bodies and waterways determined to be public, and 50 feet in width upland of the MHW of navigable waters, in accordance with AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51 Public Easements. This easement is referred to as the 'along' easement. The 'to' easement is to be established approximately once each mile and is often provided on section line easements at 50 feet in width adjacent to the section line on each side (AS 19.10.010 Dedication of Land for Public Highways and 11 AAC 51.025 Section-Line Easements). The 'along' easement applies to these waterbodies, and the 'to' easement is intended to provide access to the 'along' easements.

An alternative upland access route may be reserved if DNR finds that access along an easement reserved under 11 AAC 51.045(d)(1) Easements To and Along Navigable and Public Water, is difficult because of topography or obstructions.

*Navigable Waters:* Navigable waters may or may not be anadromous. Exposed sand or gravel bars that are within, and are not above the OHWM, are part of the waterbody bed. PB will only be conveyed those lands determined to be uplands above the OHWM.

*Tidal Waters:* All are considered navigable and, in this decision, include Frederick Sound (NE Mitkof area), Dry Strait (Summit Island area), and Sumner Strait (Wilson Islands area). The upland shore will be *'subject to'* a 50-foot public access easement on those lands approved for conveyance to PB.

*Public Waters:* Waterbodies determined to be public waters under 11 AAC 51.035 Determination of Navigable or Public Water, are identified in *Table 3*. Anadromous water catalog numbers are listed below for waterbodies that have been identified as anadromous. The beds of public waters are to be conveyed with the adjoining approved lands. Those water bodies determined not to meet the minimum public water standards after a survey will not require the public access easement.

*Table 3*

Map Name ADL No.	MTRS	Waterbody Name	Anadromous Water Catalog #	Public Access Easement (to & along)
NE Mitkof (ADL 108983)	C059S080E04 C059S080E09	Unnamed stream Unnamed stream Cabin Creek	None None 108-50-10050	On the beds and 50 feet upland

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Map Name ADL No.	MTRS	Waterbody Name	Anadromous Water Catalog #	Public Access Easement (to & along)
	C059S080E10	Cabin Creek Unnamed stream Tributaries of unnamed streams	108-50-10050 108-50-10050-2009 None	
	C059S080E14 C059S080E15	Unnamed streams	108-50-10040	
	C059S080E23	Unnamed streams	None	
FDR Parcel (ADL 108982)	C062S081E03	Unnamed stream Tributary of an unnamed stream	108-40-10430  None	On the beds and 50 feet upland
Blind Slough (ADL 108982)	C061S080E25	Unnamed streams	108-40-10550	On the beds and 50 feet upland
	C061S080E26	Strange Creek Unnamed stream Unnamed streams	108-40-10500-2018 108-40-10550 None	On the beds and 50 feet upland
	C061S080E36	Unnamed streams	108-40-10550 108-40-10550-2013 108-40-10550-2014 108-40-10550-2018	On the beds and 50 feet upland

**E. Reservation of Mineral Estate**

A VUU general grant land conveyance to a municipality under AS 29.65 General Grand Land conveys no interest in the mineral estate. All mineral-related permits, licenses, claims, and leases affecting the land for conveyance, if any, will remain under the authority of the State.

In accordance with Section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation, the State, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing, and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with AS 38.05.130 Damages and Posting of Bond and other applicable statutes and regulations.

**F. Hazardous Materials and Potential Contaminants**

The State is responsible for protecting the overall public interest if there is a reasonable expectation that hazardous contamination may exist on land being proposed for disposal. Based on a review by the DNR DMLW Statewide Abatement of Impaired Lands (SAIL) Section and of the Alaska Department of Environmental Conservation's (DEC) comments received, no sites are considered a hazard. See below the details of SAIL's and DEC's comments in **Subsection M. DMLW and Agency Review**.

PB is expected to inspect these selections and familiarize itself with regard to the condition and quality of the land. The State of Alaska makes no representations and no warranties, expressed or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land proposed here for conveyance. The State assumes no liability for the removal of hazardous substances, hazardous wastes,

contaminants, or pollutants, nor any liability for the remediation of the site should such substances ever be identified.

#### **G. Survey**

Before DNR issues a conveyance document, a state-approved survey is required. If no approved survey exists, then one must be performed by an Alaska Registered Land Surveyor under the direction of the DNR DMLW Survey Section. PB is responsible for the expense of any survey. PB may request a survey determination at any time after the FFD. There is no requirement under AS 29.65.070 Selection and Conveyance Procedure to appraise the land before conveyance.

#### **H. Conditional Leases and Sales**

Once the FFD is effective, PB will receive management authority and equitable title to all land approved for conveyance in this decision. This will allow PB to approve conditional leases and make conditional sales pursuant to AS 29.65.070(b) Selection and Conveyance Procedure but not to dispose of land approved for conveyance until the land has been surveyed and ownership transferred to PB.

#### **I. Unauthorized Use**

LCS has not physically inspected all areas of the selected lands for unauthorized use but has reviewed department records and is unaware of any other existing unauthorized use within the land selections.

PB is expected to inspect all its land selections to familiarize itself with the condition and quality of the land.

#### **J. Disposition of Leases, Permits, and Applications**

Administration of any active leases, permits, and easements for the surface estate issued by the State on land to be conveyed will be transferred to PB when the FFD becomes effective unless such authorizations are expressly excluded from the conveyance (see Table 1). Any pending applications not adjudicated and issued will be closed.

#### **K. Cultural Resources**

The Alaska Office of History and Archaeology (OHA) maintains the Alaska Heritage Resources Survey (AHRS), an inventory of all reported historic, prehistoric, and archaeological sites in the State. No historic cultural resources have been found in the selected areas.

However, only a very small portion of the State has been surveyed for cultural resources. Therefore, the possibility remains that the selected lands may contain previously unidentified cultural resources. While the conveyance of these parcels will not directly affect cultural resources, future projects that PB may propose on selected lands could affect unidentified cultural resources. Should any cultural resources be encountered, the Borough will need to take those actions required by law to protect such resources in accordance with AS 41.35.070(d) Preservation of Historic, Prehistoric, and Archeological Resources Threatened by Public Construction.

#### **L. Form and Width Requirement**

Each municipal entitlement land selection is required to be compact in form with its length not exceeding approximately four times its width pursuant to AS 29.65.070(c) Selection and

Conveyance Procedure. A review of PB's land selections proposed for conveyance in this decision indicates that the selections are consistent with this statute.

#### **M. DMLW and Agency Review**

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this PD. Agency review was conducted between April 5, 2022, through April 29, 2022. The intent of an agency review is to request comments from agencies that may be affected by a municipal entitlement land conveyance decision. Agencies are given the opportunity to evaluate and comment on the municipality's land selection to determine if the State should retain all or a portion of the selected lands and, if so, provide supporting reasons for the requested action. Additionally, agencies are requested to identify any stipulations that may be appropriate if the land is to be conveyed out of state ownership.

DNR DMLW LCS received brief comments of non-objection from the following agencies:

DNR Division of Parks and Outdoor Recreation – Alaska State Parks and DNR Division of Oil and Gas.

*DNR DMLW LCS Response:* LCS appreciates your review.

*Comments from DNR Division of Forestry and Fire Prevention (DOF&FP), Southeast Area:*

“The DOF manages several legislatively designated tracts of the Southeast State Forest adjacent to the selected municipal parcels. The primary purpose for the legislatively designated Southeast State Forest (SESF) is timber management (AS 41.17.200). While the DOF respects municipal and community development intent, it may not align with the SESF purpose if State long term use and access is not considered.

Given that the SESF has not been fully developed for forest management and may not be for some time, the DOF requests that commercial and public access to the adjacent SESF be referred to as import to the State's interest and reserved in the patent to the municipality. Additionally, there is uncertainty regarding future management intent of the United States Forest Service on the Tongass National Forest. With that in mind, the State reservation of public access easements on the following federally name roads at a minimum are also requested:

1. Frederick Point. Retain public easement for Road 6204000.
2. Woodpecker. Retain public easement for Roads 6245000 and 4008300
3. South Mitkof. Retain public easement for Road 6222.”

*DNR DMLW LCS Response to DOF&FP:* LCS appreciates your review. Public access will be maintained to the SE State Forest via section line easements and established FDRs. The FDRs were reserved from state title and therefore any conveyance described in this decision will be subject to the existing easements of 66 feet in width. FDR 6222 in the Blind Slough area (*Attachment G: Blind Slough*) does not cross the selected land within this decision.

*Comments from the Alaska Department of Environmental Conservation (DEC):*

“The Contaminated Sites Program currently has an active contaminated site, FAA Frederick Point Hazard ID 1762. We are currently working on site closure and should have a final answer about closure within the next few weeks. If/when the site is closed, then we have determined the site no longer poses a threat to human health or environment.”

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*DNR DMLW LCS Response to DEC:* LCS appreciates your review. Petersburg Borough has relinquished their selection on the parcel that contains the FAA site.

*Comments from the Alaska Department of Fish and Game (ADF&G):*

"Alaska Department of Fish and Game (ADF&G) has reviewed the Municipal Entitlement Selections for Petersburg Borough (ADLs 108982, 108983, 108984). There are six different selections included.

**ADL 108982**

-Summit Island (CRM T06S R79E SEC 12): Island of approximately 10 acres.

-ADF&G has no objections.

-Wilson Islands (CRM T61S R82E SEC 27): Two islands consisting of approximately 20 acres.

-ADF&G has no objections.

-Blind Slough (CRM T61S R81E SEC 25, 26, 35, 36): Approximately 480 acres selected. This selection has an anadromous stream (AWC: 108-40-10550) which has been identified as important habitat for coho and pink salmon. An ADF&G biologist has identified additional tributaries (map attached) that are anadromous but not in the AWC. These streams will be nominated this year and included in the AWC in 2023.

- ADF&G recommends reservation of a 50-ft wide public access easement and a 100-ft building setback prior to conveyance.

-FDR 6283 [FDR Parcel Map] (CRM T62S R81E SEC 3): Approximately 157 acres selected. This selection has an anadromous unnamed stream (AWC: 108-40-10430) which has been identified to be important habitat for coho salmon and Dolly Varden. An ADF&G biologist has identified additional tributaries (map attached) that are anadromous but not in the AWC. These streams will be nominated this year and included in the AWC in 2023.

- ADF&G recommends reservation of a 50-ft wide public access easement and a 100-ft building setback prior to conveyance.

**ADL 108983**

-NE Mitkof (CRM T59S R80E SEC 4, 9, 10, 14, 15, 23): Approximately 1012 acres selected. This selection contains three anadromous streams. Cabin Creek (AWC: 108-50-10050) and an unnamed stream (AWC: 108-50-10050-2009) has been identified as important habitat for coho and pink salmon, cutthroat and steelhead trout, and Dolly Varden. An unnamed stream (AWC: 108-50-10040) has been identified as important habitat for coho and pink salmon, and Dolly Varden. An ADF&G biologist has identified additional tributaries (map attached [Attachment B2]) that are anadromous but not in the AWC. These streams will be nominated this year and included in the AWC in 2023.

- ADF&G recommends reservation of a 50-ft wide public access easement and a 100-ft building setback prior to conveyance.

**ADL 108984**

-Blind Point (CRM T60S R79E SEC24): Approximately 80 acres selected.

-ADF&G has no objections."

*DNR DMLW LCS Response to ADF&G:* LCS appreciates your review. All public and anadromous streams will have the appropriate public access easements reserved

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pursuant to AS 38.05.127 Access to Navigable or Public Water. LCS recognizes the importance of riparian protection and the recommendation of a building setback. However, DNR does not have authority to impose 100-foot riparian buffers along waterbodies, as ADFG has requested in some locations. Per AS 29.65.130(6), conveyance of state land to municipalities are made “without reservation or condition except as may be required by law.” Reservations required by law include section line easements and ‘to and along’ easements. While DNR cannot require reservation of riparian buffers on land conveyed under AS 29.65, we recommend PB work with ADFG prior to any proposed development in the areas identified by ADFG in order to protect important riparian habitat.

### Comments from the Department of Transportation & Public Facilities (DOT&PF):

DOT notes that existing DOT&PF properties, rights, highways, roads, and other facilities shall be specifically excluded from conveyance. To coordinate further discussion on these interests, please contact the Department’s Southcoast Region Right-of-Way Group in Juneau.

*DNR DMLW LCS Response to DOT&PF:* LCS appreciates your review. All DOT&PF properties, highways, roads and ROWs will be excluded from the proposed conveyance.

### Comments from DMLW Public Access Assertion and Defense (PAAD):

PAAD stated that this project does not contain any navigable waters per AS 38.04.062. All streams listed in the Anadromous Waters Catalog are Public Water per AS.05.126, .127, and .965(21).

*DNR DMLW LCS Response to PAAD:* LCS appreciates your review of the navigable and public waters. A public access easement will be imposed from the MHW upland 50 feet pursuant to AS 38.05.127 Access to Navigable or Public Water, on marine shores and on the bed and 50 feet upland on public waters.

### Comments from DMLW Statewide Abatement of Impaired Lands (SAIL):

SAIL found no items of concern during their review of the parcels and has no further comments on the proposed conveyance.

*DNR DMLW LCS Response to SAIL:* LCS appreciates your review.

The following agencies or groups were included in the agency review, but no comment was received:

- Department of Natural Resources
  - DMLW, Resource Assessment and Development Section
  - Division of Geological and Geophysical Surveys
  - Alaska Mental Health Trust Land Office
  - Division of Parks and Outdoor Recreation
    - Office of History and Archaeology

## VII. SUBMITTAL OF PUBLIC COMMENTS

### **See Attachment H: Public Notice for specific date and conditions**

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

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In accordance with AS 38.05.946(a) Hearings, a municipality or corporation entitled to receive notice under AS 38.05.945(c) Notice, 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 PD, 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, 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 comments 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 <http://dnr.alaska.gov/mlw/muni/> 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.

### **DEADLINE TO SUBMIT WRITTEN COMMENT IS 4:30 P.M., FRIDAY, MAY 24, 2024**

## **VIII. DISCUSSION AND ALTERNATIVES**

### **A. Discussion**

This Preliminary Decision for the Petersburg Borough municipal entitlement land selections covers 1,758 acres, more or less, of state land. LCS proposes to approve conveyance and transfer equitable title and management authority on 1,758 acres, more or less, of state land, identified in *Table 4* below, and the reason listed below.

This decision determines that the municipal selections adjudicated in this decision for which the State currently has title are appropriate for conveyance to PB. These lands fall within conveyable classifications, and there is no indication that the State's interest in retaining these land selections outweighs the interest of the Petersburg Borough in obtaining them.

Management authority on lands approved for conveyance will be transferred to the PB once the FFD becomes effective.

This decision further determines that certain conditions and restrictions are appropriate and necessary to protect important resources and public access for those lands to be conveyed to PB. This decision, therefore, imposes restrictions and reservations that are to be part of the conveyance document to ensure adherence to state statutes and administrative code. Restrictions and reservations are listed in **Section IX. Recommendation and Preliminary Decision**.

## **B. Alternatives**

The following alternatives exist:

1. Take no action to approve or reject PB land selections. This alternative would, in effect, preclude PB's ownership of lands considered to be important to their land base. This action would be inconsistent with the purpose of the Municipal Entitlement Act and inconsistent with the basis for the disapproval of a municipal entitlement selection. Such selections can only be rejected when the State's interests outweigh the interest of the Borough, and there is no basis for such a determination.
2. Reject PB's selections in their entirety. This alternative would have the same effect as Alternative #1 and would be inconsistent with the statutory basis for rejection of a municipal selection.
3. Approve all lands with management authority transferred, pursuant to AS 29.65 General Grant Lands. This alternative effectively meets the intent of the Municipal Entitlement Act to convey appropriately classified state general grant land to PB.

## **IX. RECOMMENDATION AND PRELIMINARY DECISION**

### **A. Recommended Alternative**

This decision determines that Alternative 3 is the preferred action and best fits the intent of the Municipal Entitlement Act. The Petersburg Borough land selections in part, are approved for conveyance, subject to the conditions, restrictions, and reservations listed below.

### **B. Recommended Conditions, Restrictions, and Reservations**

#### **Conditions**

1. As required under AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51 Public Easements, the location of the MHW of marine waters, including any waters determined to be navigable in fact, will be determined at the time of survey to determine the specific area to be retained by the State.
2. As required under AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51 Public Easements, the location of the OHWM of public waters will be determined at the time of survey.
3. Management authority will transfer to PB on those lands approved for conveyance once the FFD becomes effective.
4. Management authority for public access easements is transferred to PB once the FFD becomes effective. No such easements may be vacated, abandoned, or otherwise extinguished or rendered incapable of reasonable use by the public without approval of the State of Alaska, unless an alternative means for reasonable public access is provided and approved by the State.
5. Administration of state leases and permits pertinent to the surface estate will be transferred to PB once the FFD becomes effective. Administration of issued state leases and permits, in the mineral estate will remain with the State.
6. Once the FFD is effective, PB may execute conditional leases and make conditional sales on lands approved for conveyance, prior to issuance of a state patent in accordance with AS 29.65.070(b) Selection and Conveyance Procedure.



**Preliminary Decision**

Petersburg Borough - ADL 108982, 108983, 108984

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7. The net chargeable acreage approved for conveyance shall be credited towards partial fulfillment of PB municipal land entitlement pursuant to AS 29.65.010 Determination of Entitlement for Boroughs and Unified Municipalities.
8. Notification to the Alaska State Historic Preservation Office in accordance with AS 41.35.070(d) Preservation of Historic, Prehistoric, and Archeological Resources Threatened by Public Construction is required upon discovery of historic, prehistoric, or archaeological sites, locations, remains, or objects.

**Restrictions and Reservations**

Conveyance document will be issued subject to the following restrictions and reservations:

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 a 50-foot-wide easement on each side of all surveyed and unsurveyed section lines in accordance with AS 19.10.010 Dedication of Land for Public Highways and 11 AAC 51.025 Section-Line Easements.
3. Reservation of a continuous public access easement, 50 feet wide, upland of and adjacent to the MHW of marine waters pursuant to AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51 Public Easements.
4. Reservation of a continuous public access easement, 50 feet wide, upland of and adjacent to the OHWM of all navigable waters determined to be navigable in fact, and on the bed and 50 feet upland along public waters pursuant to AS 38.05.127 Access to Navigable or Public Water and 11 AAC 51 Public Easements.
5. Reservation of the mineral estate pursuant to Section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation; and reservation of reasonably necessary access to the mineral estate in accordance with AS 38.05.130 Damages and Posting of Bond.
6. Subject to Forest Development Roads (6204, 6206, 6245, 6283, 40083), rights-of-way, 66 feet wide.
7. Subject to Mitkof Highway (FH 7) right-of-way, 132 feet wide.
8. Reservation of a transmission line right-of-way, pursuant to Sec. 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1063, 1075, as amended, as to the Tyee Lake Hydroelectric Project Transmission Line Right-of-Way for Power Project No. 3015, 300 feet wide.

**C. Recommended Action on Municipal Selections**

This decision recommends conveying certain state-owned vacant, unappropriated, unreserved general grant land to PB, all located in the Copper River Meridian of Southeast Alaska.

**Preliminary Decision**

Petersburg Borough - ADL 108982, 108983, 108984

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**Lands Proposed for Conveyance**

*Table 4* lists those lands proposed to be approved for conveyance in this decision. The estimated acreages for conveyance do not account for any exclusions, and exact acreages will be determined by survey. The final acreage amount will be credited towards partial fulfillment of PB's municipal land entitlement.

*Table 4*

<b>Map Name ADL file #</b>	<b>MTR</b>	<b>Section and Legal Description</b>	<b>Acres</b>
NE Mitkof (ADL 108983)	C059S080E	<b>Sec. 4:</b> Lot 1A of ASLS 91-84, located northeasterly of Cabin Creek Road Right of Way according to ASLS 95-66 and Lot 1A of ASLS 91-84, located southwesterly of Cabin Creek Road Right of Way according to ASLS 95-66 (36 ac.) Lot 2, excluding Cabin Creek Road Right of Way according to ASLS 95-66 (42 ac.) Lot 3A of ASLS 91-84, located northeasterly of Cabin Creek Road Right of Way according to ASLS 95-66 and Lot 3A of ASLS 91-84, located southwesterly of Cabin Creek Road Right of Way according to ASLS 95-66 (41 ac.) Lot 4 located northeasterly of Cabin Creek Road Right of Way according to ASLS 95-66 (21 ac.) Lot 5 located easterly of Cabin Creek Road Right of Way according to ASLS 95-66 (17 ac.) S1/2NW1/4, excluding Cabin Creek Road Right of Way according to ASLS 95-66 (80 ac.) W1/2SE1/4 located easterly of Cabin Creek Road Right of Way according to ASLS 95-66 (3 ac.) <b>Sec. 9:</b> E1/2 located easterly of Cabin Creek Road Right of Way according to ASLS 95-66 (91 ac.) <b>Sec. 10:</b> W1/2SW1/4, SE1/4SW1/4 (120 ac.) <b>Sec. 14:</b> All, excluding ASLS 83-32, Frederick Point East Subdivision, and excluding islands, islets, and rocks (136 ac.) <b>Sec. 15:</b> SE1/4NE1/4, E1/2SE1/4 (120 ac.) <b>Sec. 23:</b> Lot 2, Lot 3, Lot 4, W1/2NE1/4, E1/2NW1/4, E1/2SW1/4, W1/2SE1/4 inclusive, excluding ASLS 83-32, Frederick Point East Subdivision, and excluding islands, islets, and rocks (304 ac.)	1011
Blind Point (ADL 108984)	C060S079E	<b>Sec. 24:</b> S1/2SE1/4 (80 ac.)	80
Summit Island (ADL 108982)	C061S082E	<b>Sec. 12:</b> Tract B (Summit Island)....10.09 ac.	10.09
Wilson Islands (ADL 108982)	C061S082E	<b>Sec. 27:</b> Tracts E, F, G, H, and I (Wilson Islands)....20.06 ac.	20.06
FDR Parcel (ADL 108982)	C062S081E	<b>Sec. 03:</b> Lots 1 and 2 (77.02 ac.), NW1/4 excluding Lots 1 and 2 and excluding the southerly 80 ac. (80 ac.)	157.02
Blind Slough (ADL 108982)	C061S081E	<b>Sec. 25:</b> W1/2SW1/4 (80 ac.) <b>Sec. 26:</b> SE1/4 (160 ac.) <b>Sec. 35:</b> N1/2NE1/4, SE1/4NE1/4 (120 ac.) <b>Sec. 36:</b> NW1/4NW1/4, S1/2NW1/4 (120 ac.)	480

**Preliminary Decision**

Petersburg Borough - ADL 108982, 108983, 108984

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Map Name ADL file #	MTR	Section and Legal Description	Acres
APPROXIMATE TOTAL PROPOSED APPROVED ACRES:			1758.17

**D. Preliminary Decision**

The following is the finding of this Preliminary Decision:

It is appropriate to convey 1,758.17 acres, more or less, of state-owned land to PB. This decision determines that the State's interest in retaining this land does not outweigh PB's interest in obtaining it.

This Preliminary Decision, described above, represents the preferred alternative that has been reviewed and considered. After review and consideration of materials in this PD, LCS finds that the recommended action may be in the best interest of the State and that it is hereby approved to proceed to Public Notice in accordance with AS 38.05.945 Notice.

After public notice, the subsequent review process may result in changes to the preferred alternative(s) or disapproval of the proposed action altogether. A Final Finding and Decision will address any significant issues or concerns raised during the public review process.



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

4-18-2024  
Date



Approved by: Hannah Uher-Koch  
Section Chief  
Land Conveyance Section  
Division of Land, Mining and Water  
Department of Natural Resources  
State of Alaska

4/18/2024  
Date

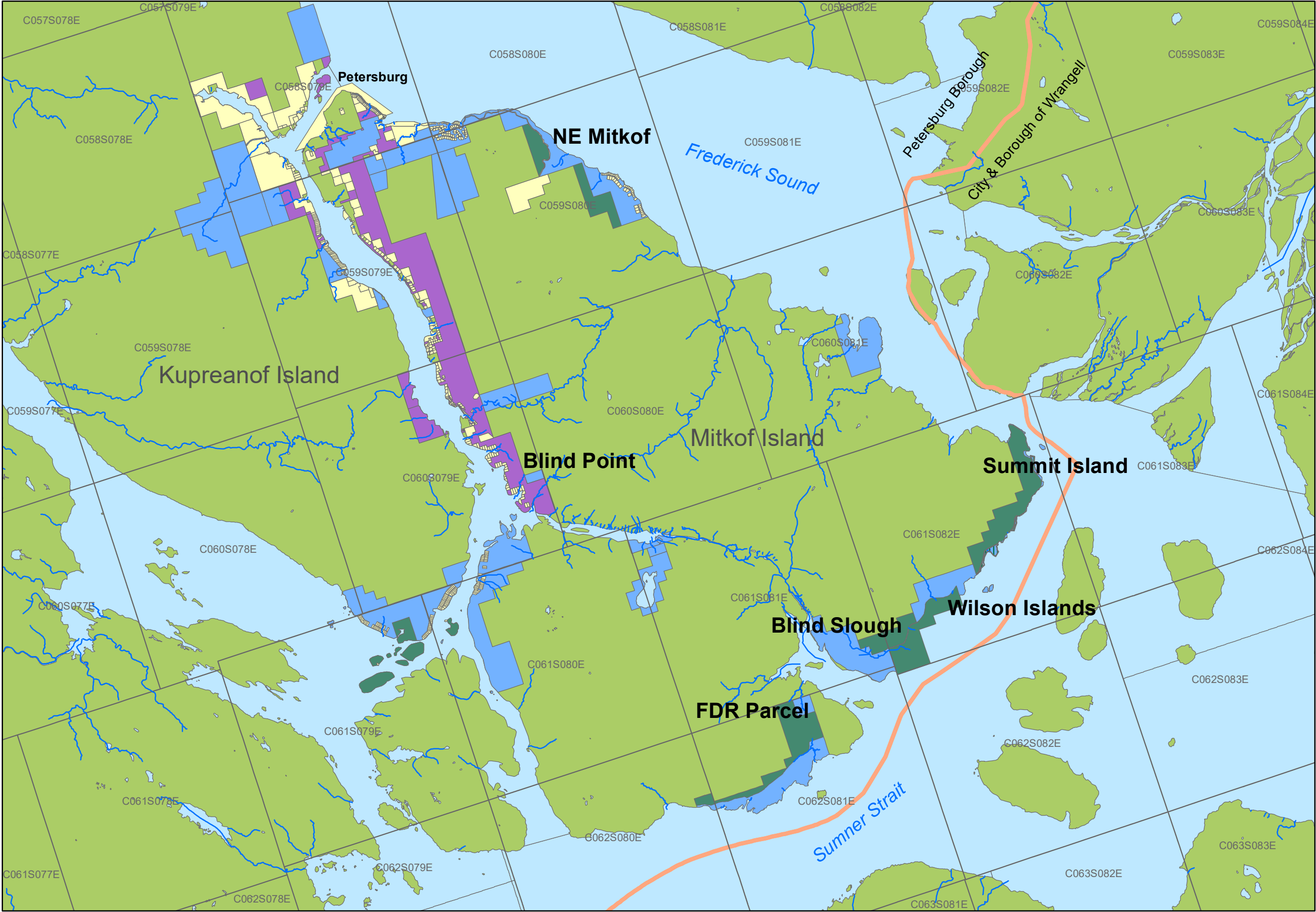
**PETERSBURG BOROUGH**

Municipal Selections

Vicinity

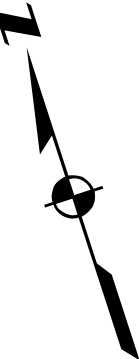
Preliminary Decision

ADLs 108982, 108983, 108984



**Legend**

- Anadromous Streams
- Borough Boundary
- LDA (State Forest, PUA, etc)
- State Land, TA or Patented
- Mental Health Trust Land
- US Forest Service Land
- Private Owned Land



April 2024

DNR-DMLW-LCS-ME



ATTACHMENT B

**Petersburg Borough**

Municipal Selections

Preliminary Decision

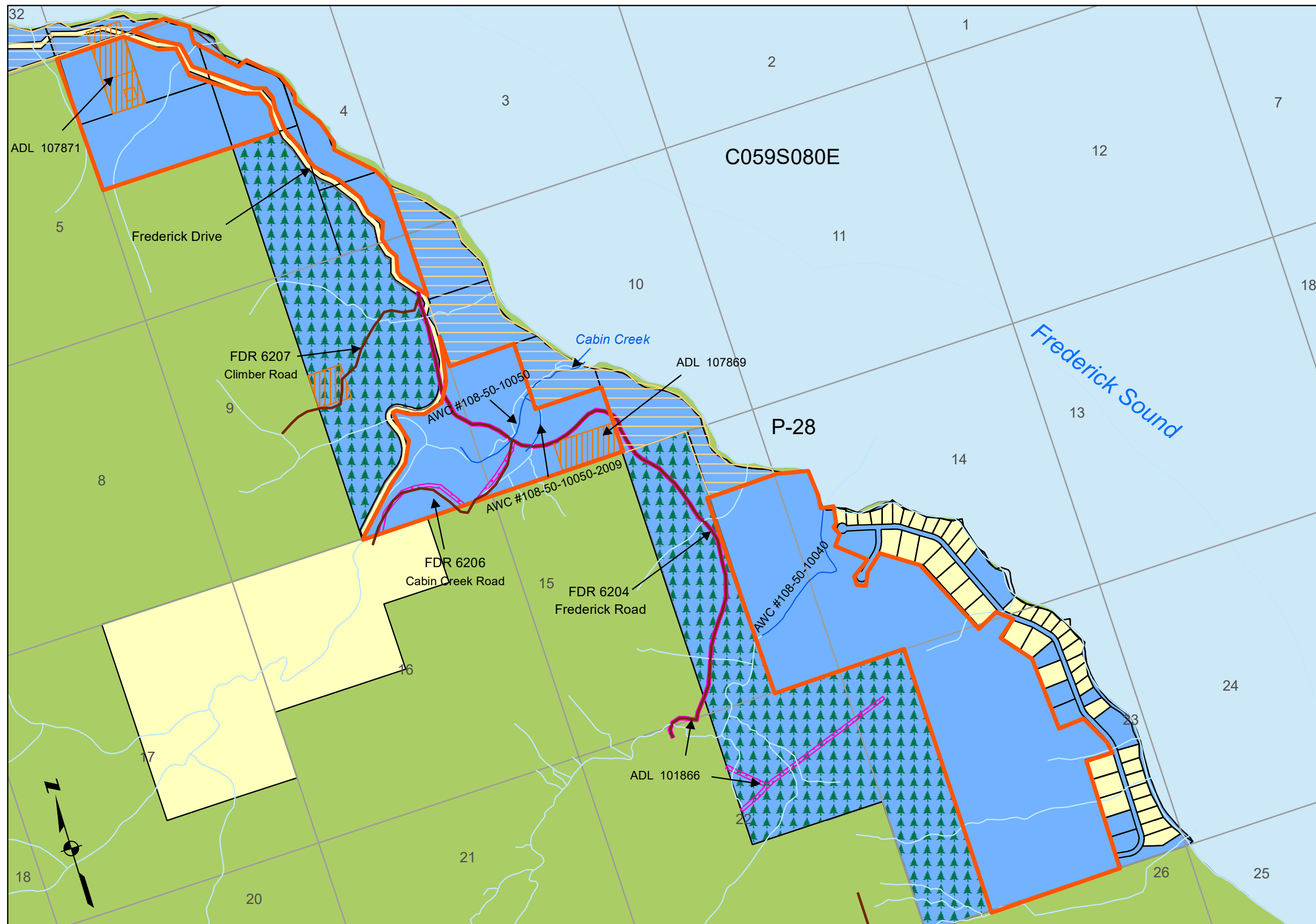
**ADL 108983**

NE Mitkof

**Legend**

- Anadromous Stream
- Forest Development Road
- Borough Selections
- Previous Borough Decision
- State Land, TA or Patented
- Surveyed Lots
- Frederick Point SE State Forest
- Easement (Public, Utility)
- Material Site
- Private Land
- US Forest Service Land

P-28 - CSSEAP unit number  
AWC # - anadromous water catalog number



0 0.35 0.7 1.05 1.4 Miles

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.



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April 2024



Updated location

Not accessible to  
anadromous fish  
above this point

- 2021 Anadromous Waters Catalog
- Correction of 2021 AWC





**Petersburg Borough**

Municipal Selections

Preliminary Decision

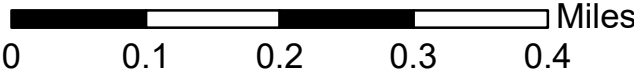
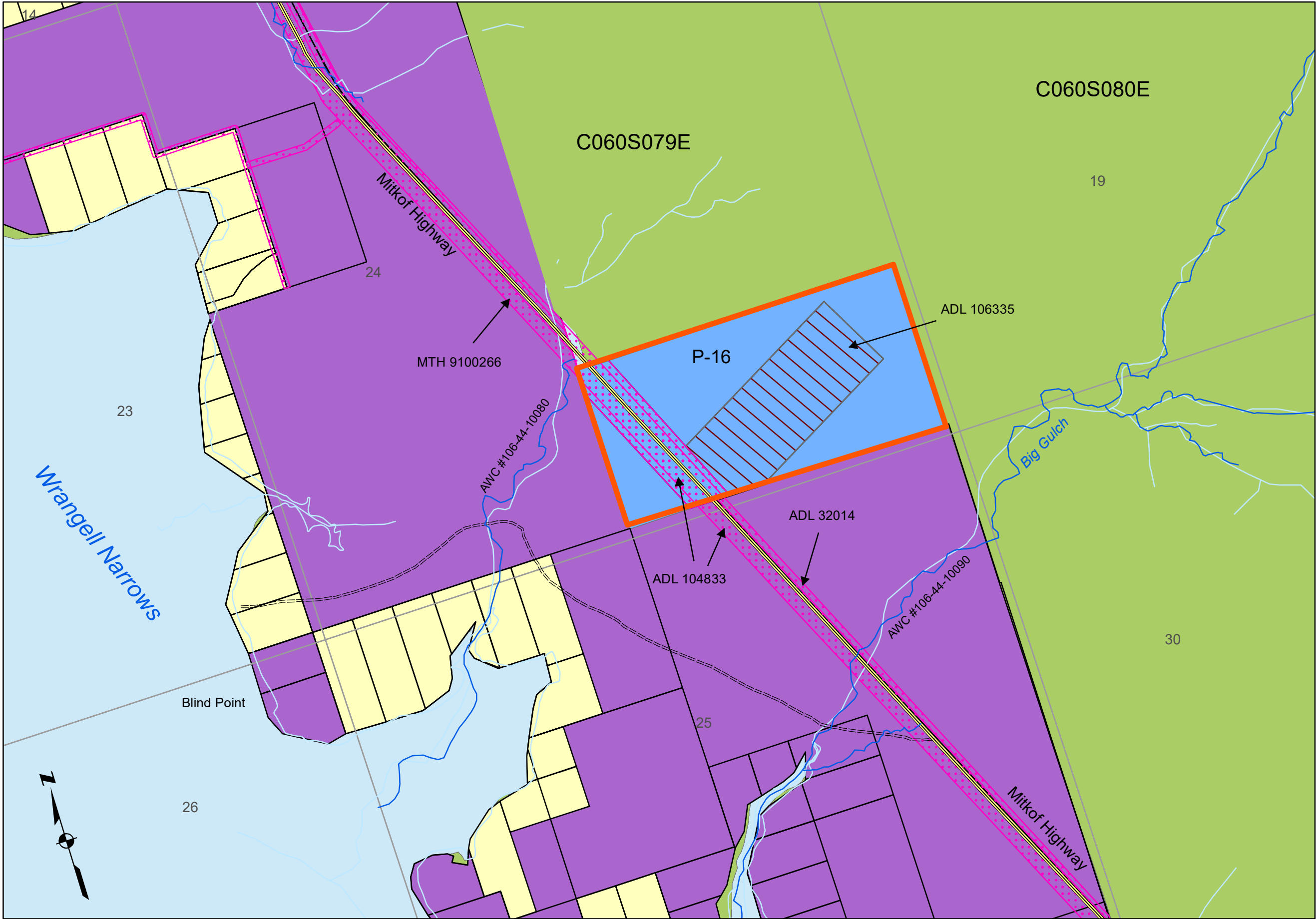
**ADL 108984**

**Blind Point**

Legend

- Anadromous Stream
- Major Road
- Trails
- Borough Selections
- State Land, TA or Patented
- Lease
- Easement (Public, Utility)
- Surveyed Lots
- Private Land
- Mental Health Trust Land
- US Forest Service Land

P-16 - CSSEAP unit number  
AWC # - anadromous water catalog number



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**Petersburg Borough**

Municipal Selections

Preliminary Decision

**ADL 108982**

Summit Island

**Legend**

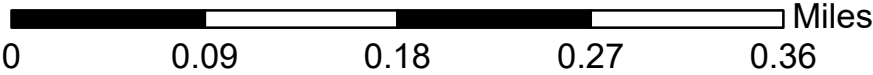
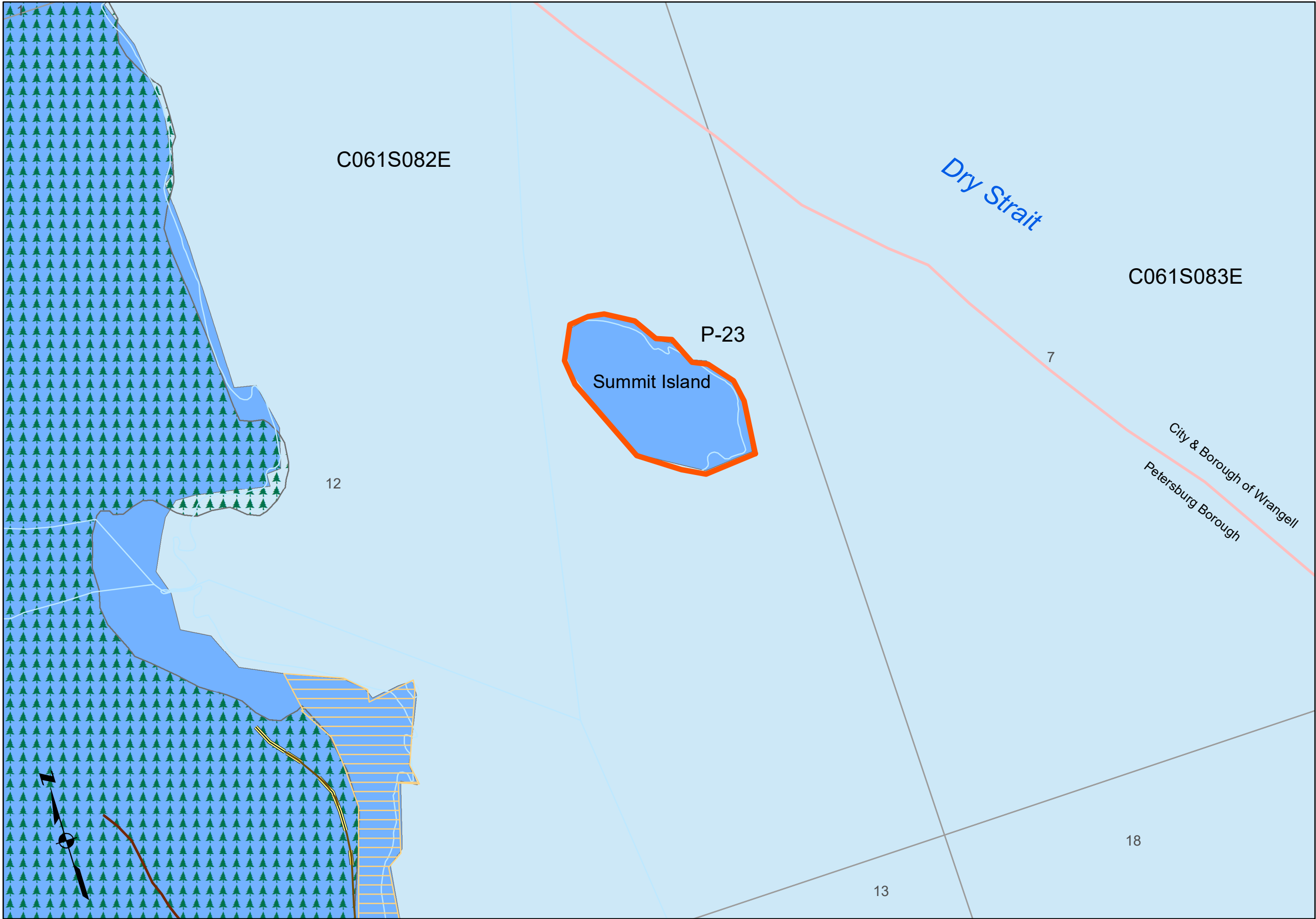
- Major Road
- Forest Development Road
- Borough Selections
- Previous Borough Decision
- Borough Boundary
- State Land, TA or Patented
- South Mitkof SE State Forest

P-23 - CSSEAP unit number



Created by DNR-DMLW-LCS-ME

April 2024



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ATTACHMENT E

**Petersburg Borough**

Municipal Selections

Preliminary Decision

**ADL 108982**

Wilson Islands

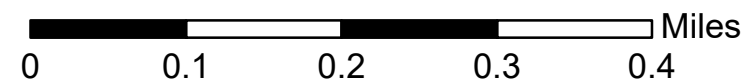
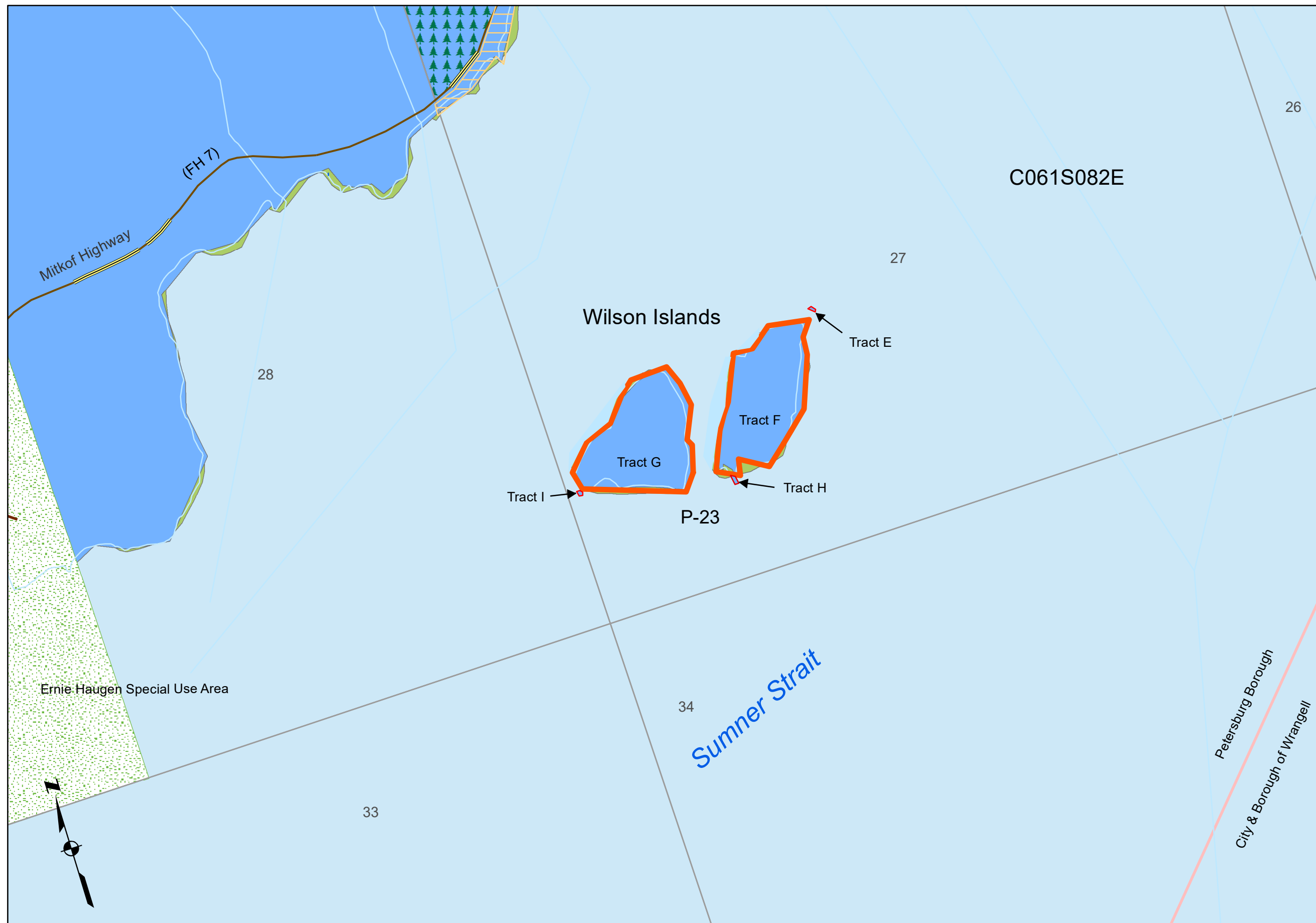
**Legend**

- Major Road
- Forest Development Road
- Borough Selections
- Previous Borough Decision
- Borough Boundary
- State Land, TA or Patented
- South Mitkof SE State Forest
- Ernie Haugen SUA
- P-23 - CSSEAP unit number



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April 2024



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ATTACHMENT F

# Petersburg Borough

Municipal Selections

Preliminary Decision

**ADL 108982**

FDR Parcel

Legend

Anadromous Stream

Forest Development Road

Borough Selections

Previous Borough Decision

State Land, TA or Patented

Surveyed Lots

SE State Forest

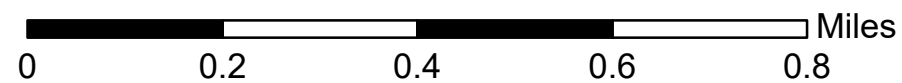
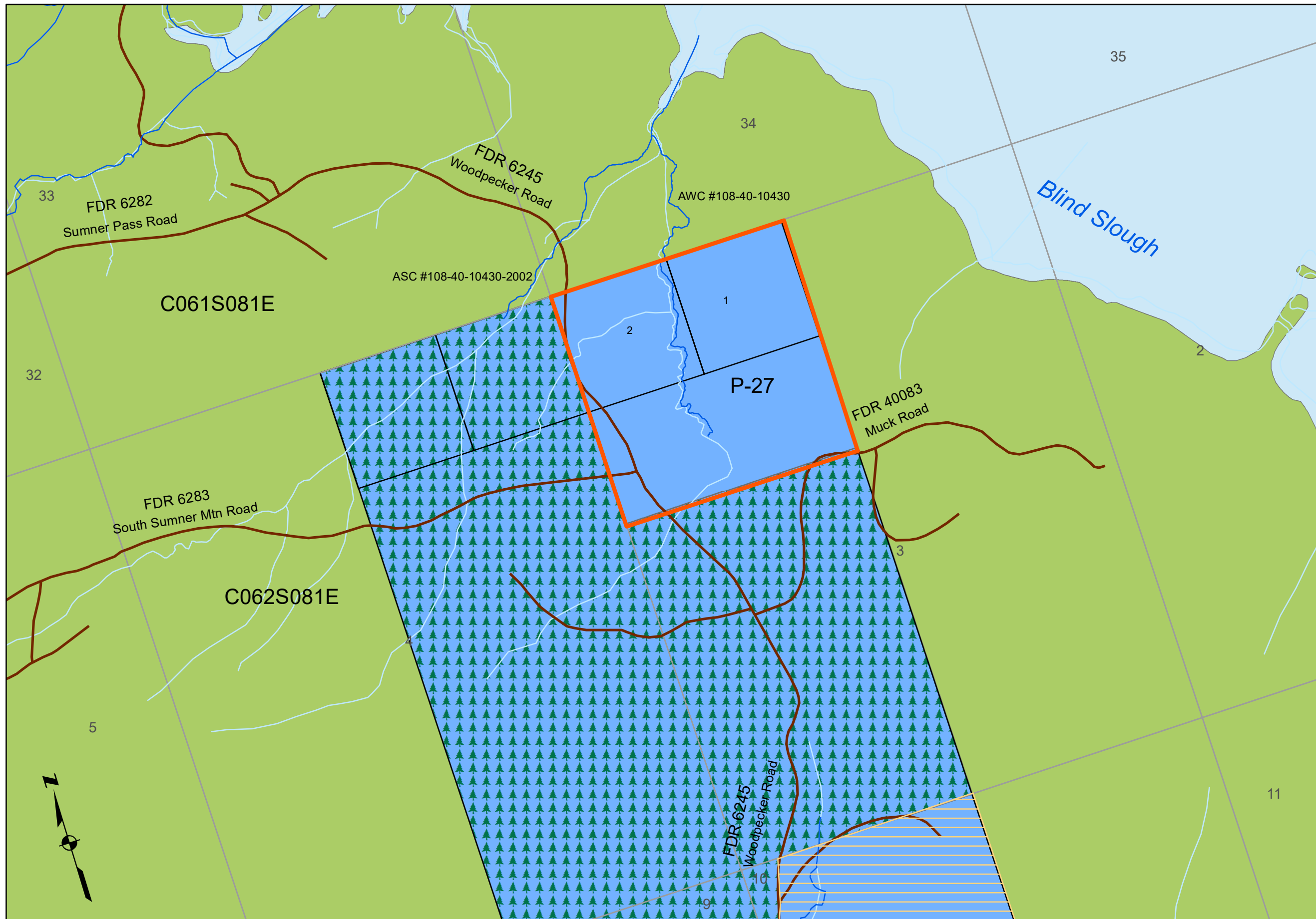
US Forest Service Land

P-27 - CSSEAP unit number  
AWC # - anadromous water catalog number



Created by DNR-DMLW-LCS-ME

April 2024



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**Petersburg Borough**

Municipal Selections

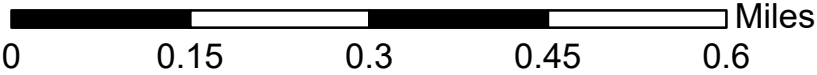
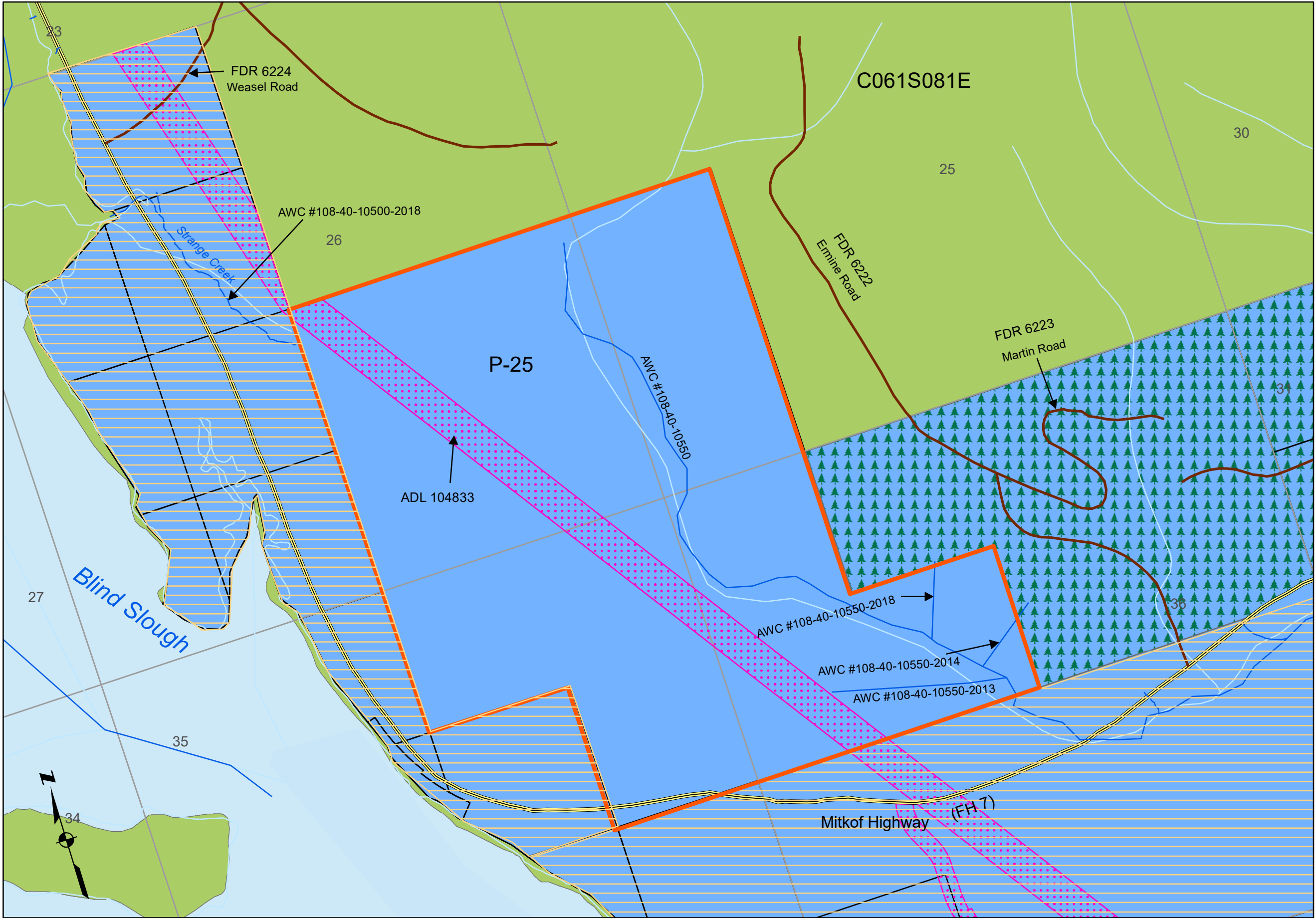
Preliminary Decision

**ADL 108982**

**Blind Slough**

**Legend**

- Anadromous Stream
  - Major Road
  - Forest Development Road
  - Borough Selections
  - Previous Borough Decision
  - State Land, TA or Patented
  - Surveyed Lots
  - Easement (Public, Utility)
  - SE State Forest
  - US Forest Service Land
- P-25 - CSSEAP unit number  
AWC # - anadromous water catalog number



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Created by DNR-DMLW-LCS-ME

April 2024



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

**Attachment H: PUBLIC NOTICE**

Requesting Input for a Proposed Conveyance Under AS 29.65

**Petersburg Borough Municipal Land Entitlement Selections – ADL 108982, 108983, and 108984**

**COMMENT PERIOD ENDS: 4:30 PM, FRIDAY, MAY 24, 2024**

The Department of Natural Resource (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) has prepared a Preliminary Decision (PD) for a proposal to convey approximately 1,758 acres of state owned vacant, unappropriated, unreserved (VUU) general grant land to Petersburg Borough (Borough), in order to partially fulfill their municipal land entitlement under AS 29.65.010. Located within DNR's Southeast Region, these land selections are in two geographical regions of the Central Southern Southeast Area Plan (Region 3. Petersburg). LCS finds that the proposed conveyance is consistent with the requirements of AS 29.65, and that the Borough's interest in obtaining these state lands outweigh the State's interest in retaining them.

Pursuant to AS 38.05.945 *Notice*, the public is invited to comment on this PD which proposes to transfer ownership of state land to the Petersburg Borough. **The deadline for submitting public comment is 4:30 PM, Friday, May 24, 2024.** 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 (FFD). Comments must be received in writing to the Division of Mining, Land and Water, Attention: Mary Hermon, at 550 West 7th Avenue, Suite 640, Anchorage, Alaska 99501, by fax at (907) 269-8916, or by email at [mary.hermon@alaska.gov](mailto:mary.hermon@alaska.gov). If you have questions, call Mary Hermon at (907) 269-6546.

The public notice is available on the Alaska Online Public Notice System at: <http://dnr.alaska.gov/commis/pic/pubnotfrm.htm>. The Preliminary Decision is available on the DMLW Municipal Entitlement web site at: <http://dnr.alaska.gov/mlw/muni/> and on the DMLW Land Sales website at: <http://landsales.alaska.gov>.

Following the comment deadline, those written responses received will be considered and the decision may be modified to incorporate public comments in a Final Finding and Decision (FFD). Only persons who comment during this public comment period will be eligible to file an administrative appeal of the FFD. A copy of the FFD will be sent to any person who comments on the PD. The FFD will include the appeal instructions. Please direct all inquiries or questions to Mary Hermon, at the above address, electronic mail, phone or by fax.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids or services when requested. Individuals with audio impairments who wish to respond to this decision by telephone may call the DNR, Public Information Center in Anchorage between the hours of operation: 10:00 AM to 5:00 PM, Monday through Friday at TTY: 711 for Alaska relay or 800-770-8973 or go to <http://dnr.alaska.gov/commis/pic/>

If no significant change is required, the PD, including any minor changes and a summary of comments and responses, will be issued as the FFD, without further notice. A copy of the FFD will be sent to any persons who commented timely on the PD.

DNR reserves the right to waive technical defects in this notice.