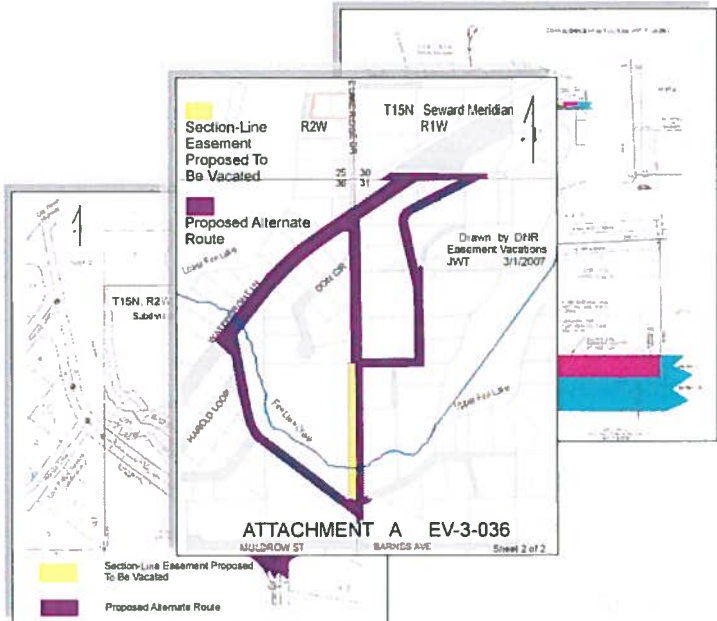




Survey Section Easement Vacation Procedure Manual

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1.0 VACATION PROCESS BACKGROUND : DNR MANAGED EASEMENTS

1.1 Alaska DNR DMLW Survey Section Easement Vacation Authority

Department of Natural Resources (DNR) managed easements exist on the lands and waters of Alaska statewide within Organized Boroughs & Municipalities and within the Unorganized Borough. The easements cross and encumber Private, Federal, and State lands & waters, and originate from a multitude of sources. Public interests in these easements are the responsibility of DNR and are managed by the Regional Land Offices (RO) of Division of Mining, Land & Water (DMLW). Other State agencies generally share responsibility in co-managing many of the easements; including the Department of Transportation & Public Facilities (DOT&PF), Mental Health Trust Land Office (MHTLO), Division of Parks and Outdoor Recreation (DPOR), Alaska Department of Fish and Game (ADFG), applicable DNR, MLW, Regional Office, and others deemed appropriate.

In 1971 DNR Division of Lands was delegated platting authority “only for the purpose of hearing and acting on petitions for the change or vacation of plats..... statewide”. This did not specifically address easement vacations.

In 1998 the Survey Section of the DNR Division of Mining, Land and Water was delegated as the Platting Authority over the Unorganized Borough of Alaska with specified standards and constraints to follow in unorganized borough plat reviews. The authority over vacation of DNR-managed easements and the associated processes have evolved subsequent to that time.

This Easement Vacation Application Process guideline refers to the applicable statutes, regulations and internal policies by which the DNR Survey Section administers the said process. The authority to manage the easements remains with the DNR Regional Land Office, (RO), who are an integral commentor during the Agency Review phase of the easement vacation application process.

DNR authority for vacation of easements is cited within, 11 AAC 51.065. Refer to Legal References: G:\- New\EV\EV_Manual\EV Manual 2023 Update\EV_Manual_2023_Legal_References for Alaska Statutes and specific Articles. The Survey Section in the Anchorage office process DNR owned and managed easement vacation applications throughout all of Alaska regardless of whether they are located within the Unorganized Borough (UB) or organized boroughs (OB) & municipalities. The Survey Section is a liaison between easement vacation petitioners and affected State agencies as well as other affected and/or interested parties.

Easement “Relocations” are in whole or in part addressed through the Survey Section vacation process, with consultation with RO, the reason being, the old alignment needs to be vacated by proper process. An exception would be an action

allowed under 11 AAC 51.065(k). Survey Section does not process administrative easement relocations under this regulation, refer to this regulation for more detail.

1.2 “Easement” and “Vacation” Definitions

- a. This manual primarily documents Easement Vacation (EV) procedures used by the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Survey Section (SS) to process applications for vacation of DNR managed easements in Alaska.
- b. In Boundary Control and Legal Principles (1986), Curtis M. Brown, et al, defined Easement as, “...one type of interest which one person has in the land of another.”
- c. In the State of Alaska, an Easement includes any interest in land that is not possessory and that, upon land owned by another person, is reserved by the department or granted to the State for use by or for the benefit of the public (per 11 AAC 51.010(b)-See Legal References).
- d. Vacation refers to an action to vacate, which means “to relinquish, release, or extinguish a right or interest in property” (per 11 AAC 51.990(19)).

1.3 Unorganized Borough and Organized Borough Platting Authority - The State of Alaska is geographically comprised of 19 Organized Boroughs and one Unorganized Borough. The Unorganized Borough (UB) is comprised of all the portions of the State not contained in an Organized Borough (OB).

- a. Organized Borough Platting Authority (OB): For the sake of this manual the 13 Boroughs, the 5 City & Boroughs (Juneau, Skagway, Yakutat, Wrangell, & Sitka) and the Municipality of Anchorage will all be referred to in this manual as “Organized Boroughs”, (OB’s).
- b. Local Platting Authority: “Local Platting Authority (LPA)” refers to all Organized Boroughs as noted above and refers to 2nd class cities within the UB (e.g., LPA islands within the UB) that are currently exercising platting authority.
- c. **UB Platting Authority:** To reiterate; In August 1998 the Department of Natural Resources was delegated as Platting Authority over the Unorganized Borough of Alaska and given specified standards and constraints to follow in regard to reviewing proposed subdivisions of land for compliance with applicable law (AS 40.15.300-.730), the DMLW Cadastral Survey Section was appointed this duty to act on DNR’s behalf.

- d. **Organized Borough & Local Platting Authorities (LPA):** All Home Rule and 1st Class Cities MUST exercise local planning, platting, and land use regulation. The single exception to this currently is the portion of the Petersburg Borough, outside the City of Petersburg city limits, which delegates its platting authority, (PA), to the Unorganized Borough. Second Class Cities within the UB are PERMITTED, NOT REQUIRED, to exercise local planning, platting, and land use regulation. If a said Second Class City chooses to accomplish their own planning, and land use regulation, and have adopted subdivision regulations or ordinances, they are said to “Exercise or Assume Platting Authority”.

- e. An important distinction in processing petitions for vacation of DNR managed easements depends on whether the subject parcel is “within” the boundaries of a LPA which is “exercising local platting authority” or not.
 - 1. If the DNR owned or managed easement proposed for vacation is NOT within the boundaries of a LPA, the UB Platting Authority residing in the DNR Survey Section IS THE AUTHORITY under which the easement vacation application will be processed under the authority of AS 40.15.070.
 - 2. If the subject DNR owned or managed easement is within the boundaries of a LPA, the proposed easement vacation must be processed through both authorities (DNR’s and the LPA’s) to be properly vacated and result in clear title.

- f. The Survey Section’s UB and OB vacation processes are both covered in this manual. The two processes follow the same steps for the most part, but the UB requires additional adjudication by the Survey Section to meet statutory and regulatory requirements. Thus, the EV application process steps are somewhat different as described.

1.4 Types of DNR Owned and/or Managed Easements, for which vacation applications are processed thru the Survey Section Easement Vacation Unit, (SSEVU):

- a. In the OB or LPA:
 - 1. Section-Line Easements
 - 2. RS 2477 Right-of-Way (Trail and Road ROW’s)
 - 3. AS 38.05.127 Easement (“To and Along” water bodies)
 - 4. Alaska Division of Lands (ADL) ROW’s, and/or easements
 - 5. Other Easements owned or managed by SOA or rights retained by/to the State.
 - 6. Cooperative Easement Agreement with Borough, SOA Departments, or etc.

- b. In the UB:
 - 1. Items (a)1-5 listed in “Organized Borough” above.
 - 2. Platted ROW’s dedicated to the *Public.
 - 3. *Public Access Easements
 - 4. *Public Utility Easements
- c. Vacation applications for vacation of public DNR owned and/or managed easements are subject to the SSEVU process. Vacation of private easements are not subject to the SSEVU vacation process.
- d. Federal Patent reservations for roadway and utility purposes listed under a “Subject to” heading may or may not be subject to the DNR vacation authority.
- e. Vacation of Easements from federal conveyance authority which fall under the Small Tracts Act are generally processed by the LPA. If not they may be the UB Survey Section EV Unit authority.
- f. If one or more types of easements are sought to be vacated, the proposed actions can be combined on one petition and processed solely or together with subdivision and/or replat¹ actions as the case may be. The replat process is referenced in the UB Platting and Replat Manuals.
- g. Easement types and their location, the petitioner’s reason for vacating, and considerations of alternate routes or dedications result in differing scenarios petition to petition. Thus, each petition yields a unique outcome as per its Preliminary Decision (PD) and its Final Finding & Decision (FFD).

2.0 OVERALL EASEMENT VACATION (EV) PROCESS

2.1 Overview

- a. The DNR Survey Section is the initial point of contact for applications to vacate easements managed by DNR. A Natural Resource Specialist and two Professional Land Surveyors meet and proceed in response to public inquiry or when a petition (application) has been received. Petitioners are usually private citizens/landowners, developers and/or surveyors acting on behalf of private citizens, agencies, or corporations, though occasionally a government agency will be the petitioner.

¹ Action of “re-delineating or eliminating a record boundary”

- b. Motivations for application to vacate an easement (or portion thereof) are wide-ranging. Petitioners may find information and obtain petition forms on the DMLW, Survey Section webpage at <https://dnr.alaska.gov/mlw/survey/ev/> or by request via mail, fax, or E-mail. It is recommended that the applicant meet with or at least talk to a Survey Section EV team member prior to petition submittal.
- c. Easement types and their location, the petitioner's reason for vacating, and considerations of alternate routes or dedications result in differing scenarios petition to petition. Thus, each petition yields a unique outcome as per its Preliminary Decision (PD) and its Final Finding & Decision (FFD).
- d. Throughout this manual, reference is made to case studies of Preliminary Decisions and Final Findings & Decisions and other pertinent files. The Appendix - References Section also refers to selected case studies of PDs and FFDs. All referenced material may be reviewed electronically (via computer) or manually (EV hardcopy folder/file).
- e. Note that all applications for vacation of DNR managed easements are applied for through, and processed by, the Survey Section EV team.
- f. If an application has any type of legal action pending or brought, related to the easement proposed for vacation and/or impacting proposed alternate access, that application will immediately be put on hold. The EV Petition will be placed on hold and/or returned to the petitioner informing them that the issue must be decided in court before the EV petition will be accepted or reactivated by the Survey Section.

2.2 Basic EV Application Process

- a. Petition Intake
- b. Initial Petition Review for completeness by Survey Section EV team.
- c. Initial research
 - 1. Does the easement proposed to be vacated exist?
 - 2. If so, what are its dimensions and extents?
 - 3. Is it owned and/or managed by DNR?
 - 4. Other research.
- d. Field Inspection

- e. Inter-Agency Review
- f. Preliminary Decision
- g. Public Notice
- h. Public written comments, and subsequent Deliberations
- i. Public hearing (UB only)
- j. Final Finding and Decision
- k. State Platting Resolution (UB Only)
- l. Appeal
- m. Plat Review and Approval
- n. EV Plat Recording

3.0 PETITION CASE FILE CREATION PROCESS – (*Information unique to the OB process is italicized, as opposed to the UB process*)

3.1 Petition Intake Procedure:

Survey Section EV team’s front desk Natural Resource Tech. 2, (NRT) accepts the petitioner’s application packet and delivers the packet and check to the Survey Section Easement Supervisor, (Supervisor). Supervisor schedules and convenes the Survey Section EV Team, for Initial Review held within 2 weeks of receipt of application. The Initial Review Meeting verifies:

- a. Application is complete. Are all fields filled out? Is it legible? Are complete legal descriptions provided? Is the proposal completely understandable? Are clear mapping exhibits provided.
- b. Appropriate fees – verify \$2,000.00 fee (see Director’s Order for fee amount verification) is paid. Note, the receipt type for the EV application fee is ‘13’.
- c. Signed by all affected petitioner(s). Original signatures are required; however, authorized digital signatures are also acceptable per DMLW policy (see legal reference folder)
- d. Stated Reason the landowner needs the public easement vacated is truthful.
- e. An alternate access route is clearly identified that exists, is proposed and/or created which might be considered equal or better than that which is proposed to

be vacated and may be in the best interest of the public. The judgement of these qualities will be made by the Agencies and the public. Hence the application may be denied in full or altered before the process has run its course. As a courtesy, one task of the initial review by the EV team is to inform the Applicant if the application appears to have little chance of being approved, before cashing the Applicant's check.

- f. Maps, directions, attachments that clearly show and explain which segment of what easement is the subject of the application and alternate access, to include an overview of the area and specific location of the easement relative to surrounding land parcels, access routes, developments, and improvements.
- g. If the petition is not complete, the EV Natural Resource Specialist contacts the Applicant and holds or returns the petition pending additional information from the petitioner.

3.2 EV Petition Casefile Creation and Completion. EV Specialist will:

- a. Processes the check/credit card payment and via e-mail issues a receipt to the petitioner. File a copy of the receipt in the physical casefile. The EV fee is nonrefundable regardless of whether the EV is approved or denied. This detail is noted on the Survey Section website and in the EV packet.
- b. Assigns the next available EV number. Number assigned sequentially from the EV Logbook (hardcopy).
- c. Create a physical hard-copy file to hold the EV working documents. The case file is comprised of all hardcopy correspondence as well as electronic scanned copies for the electronic file. This comprises the complete record from which a decision is justified. Each EV folder is organized by sections which reflect EV petition status and processing activity (see hardcopy SAMPLE file). The outer accordion file has a pre-printed sticker with space designating EV #, Application Fee Payment, and other data. Both folder and file have ID information on their covers in large, handprint. Case File to contain the following as applicable:
 - 1. Petition & supporting documentation / Record of fee payment
 - 2. Research
 - 3. Status Plat
 - 4. Associated Federal, State, & Rec. Surveys
 - 5. Related As-Builts
 - 6. Master Title Plat
 - 7. Topographic Maps

- | | |
|--|----------------------------------|
| 8. Patents | 9. Aerial Photo/Satellite/Google |
| 10. Federal/ State abstracts | 11. Attached macro, micro views |
| 12. Easement and SLED Research | 13. Decisions (PD, FFD, SPR) |
| 14. Written and electronic correspondence. | 15. Field Inspection Report |
| 16. Preliminary Plat Review Material | 17. Final EV Plat |

- d. Initiate case in LAS: Enters the EV#, MTRS, date, Surveyor, etc. into LAS (Land Administration System). Creates customer ID for applicant and loads all information into LAS tracking system and put hard copy printout into the EV file. Print off EV Label and affix to the physical casefile.
- e. After the EV number has been established in WebLAS and the physical casefile has been created, draft an EV Process Outline Letter. Sent the EV Process Outline Letter to the petitioner(s) and to their surveyor. It serves as a reference for them explaining the various phases of the EV process.

3.3 Case Research: Once 3.1 & 3.2 have been accomplished the petition is considered complete and the Specialist places the file in their que (1st in 1st out in accordance with internal policy). When applicable, the Specialist begins with research to determine the character of the easement, whether it exists, dimensions, management and ownership of the easement, and other complexities to include:

- a. Section Line Easement Determination (SLED) are done on all Section Line Easements requested to be vacated and Section Line Easements identified as alternate access. Often this SLED research extends outside the immediate area of the vacation. See the EV SLED Guideline.
- b. Public Road Rights-of-way (Fee dedicated ROWs). Note that Public Road Rights-of-way (ROW) vacations involving DOT&PF managed interests are generally processed solely through DOT&PF.
- c. Public Access Easements (including AS 38.05.127 “to & along” easements) and Public Utility Easements, sources, and history.
- d. RS 2477 ROW research.
- e. Others

3.4 Attachment A: Should be created as early in the EV process as possible to be used in the Agency Review packet, PD, and FFD. Attachment(s) will be revised as needed as the case evolves and additional information comes to light. Early editions should be labelled as “draft”. See Samples in: EV Attach A Sample

- a. General: Specialist determines the needed extent and type of Attachments.
 1. Attachment A is created and completed by Survey Section EV Specialist.
 2. Utilizing CAD, Bluebeam, or other graphics program.
 3. Generally, the format will be 8.5" x 11", 8.5" x 14", or 11"X 17" paper.
 4. The Applicant is required to provide plats or maps with their submitted petition which clearly shows the proposed action and alternate routes in a clear and concise manor, and may be used for the Exhibit A views. As noted above, color coding is beneficial for this purpose.
- b. Detail View completed by EV Specialist:
 1. Detailed view of immediate area.
 2. Clearly shows specific segment of the easement proposed for vacation.
 3. Subject and nearby property boundaries.
 4. Subject and nearby easements, and previously vacated easements.
 5. Nearby improvements such as roadways, major buildings, development.
 6. Specific alternate access identified as available and/or to be dedicated.
- c. Overview map completed by Specialist depicting an overview of the mile around the project to show how the easement and alternate interface with other access, water bodies, and infrastructure to include:
 1. The Big Picture of the area.
 2. Subject and nearby property boundaries and sections.
 3. Subject & nearby easements, and nearby previously vacated easements.
 4. Nearby improvements such as roadways, major buildings, development.
 5. Specific alternate access identified as available and/or to be dedicated.
- d. Add color coding and a legend to clearly show the easement segment(s) proposed for vacation, those remaining after proposed vacation, and the alternate access routes proposed and existing.
- e. Additional Information:
 1. North Arrow
 - b. Section, Township, Range, Meridian, and Lot, Block legal information.
 - c. Nearby US Survey and/or subdivision name.
 - d. Drawn by initials of creator of Attachment and date.
- f. The EV Land Surveyor Advisor should review the Attachment A.

3.5 Field Inspection:

- a. Field Inspection Overview: When possible, a field inspection is conducted prior to State Agency Review.
 1. Two or more DNR staff will conduct field inspections. A DNR Land Surveyor (PLS) is requested to verify the location of easements. The Specialist and/or Advisor or other DNR staff person travels to the site and observes and verifies the alternate access routes, general land use and land management factors, location of existing utilities & other public uses, and any other items that would help said agencies in their review.
 2. Regional staff and/or the petitioner's surveyor and petitioner may be invited to participate as appropriate.
 3. Inspections are most typically conducted for Section Line Easements (SLE's), (See 11 AAC 51.065 (4)), and RS 2477 ROW's (See 11 AAC 51.065 (1)).
 4. It is suggested that the Survey Section EV team develop a list of DNR State employees in various areas of Alaska who can be contacted to do site visits and field inspections in their vicinity using the check list provided, which includes observing current uses, public use patterns, past and current, practicality of use, proposed alternate access, reasonable possible uses of the easement into the future, and/or possible access enhancements that the applicant can offer the public in the vicinity to meet the equal or better condition requirements for permanent vacation of public easements.
 5. Field inspections that require travel more than 50-miles from this office (Atwood building being the radius point) **will require travel authorization.**
- b. Vehicle Procurement and Use:
 1. Contact the
 - a. Survey Section's Field Work calendar to see if the truck is available
 - b. Director's Office Administrative Staff at (907) 269-8600,
 - c. SCRO Staff at (907) 269-8503,
 - d. Mining Staff at (907) 269-8642,
 2. Request the vehicle one to two weeks in advance.

3. Afternoon prior to travel (or morning of), go to the appropriate office to obtain department vehicle log book. The book contains the keys, mileage log (recorded at beginning and end of travel), Department credit card to be used to refuel vehicle on return to Anchorage. The department vehicle should also be verified. The location of the vehicle is typically on the 9th floor of the Linny Pacillo Parking Garage.
 4. Use the Department credit card (CC), provided in the vehicle packet, for fuel. Feel free to review the process for use of gas CC with Director's Office Staff. The vehicle should be refueled and cleaned prior to returning to the Atwood building. The milage will be requested at the pump when using Department CC. An ID (PIN) will also be requested by the pump to use the Department CC. Note, a binder with instructions is given to the individual that checks out the Director's Office vehicle. Please see the binder for full instructions.
- c. Field Inspection Preparation:
1. Verify if a field inspection is justified for the petitioned action. Obtain authorization from the Chief at least a week before the Field Inspection. Each person travelling more than 50 miles from Anchorage fill out an appropriate travel request form and submit 5-10 days prior to travel.
 2. Make a courtesy call to the Petitioner and/or Surveyor a week or so before the field inspection. Inform them that DNR personnel will be on their property to conduct a Field Inspection pertaining to their EV Petition. (The Petitioner / Surveyor may arrange to be present and assist with initial location of lot corners or other local, on-site information).
 3. "What to take" Checklist: Most listed items are in the Equipment Storage Room 660. Equipment needed: Prepare for worst-case weather scenario.
 - a) EV File(s) and supporting documentation
 - b) All Weather Field Notebook & Pencil
 - c) Shovel & optional machete
 - d) Digital Camera (make sure batteries are fully charged)
 - e) Safety Vest
 - f) Metal Detector (Schonstedt magnetic locator)
 - g) Dry Erase 11x14 board / marker / stand
 - h) Handheld GPS with extra batteries
 - i) Compass (calibrated to current magnetic declination)

- j) 100' survey tape or chain
 - k) Easement Vacation Field Inspection Report check sheet
 - l) First Aid Kit
 - m) Flagging
 - n) Clinometer
 - o) Appropriate Alaska weather clothing, breakup boots or waders if needed
4. "Conduct Field Inspection" checklist"
- a) NRS II makes notes of inspection.
 - b) Take pictures using the white board in picture to label photo number and information about photo and direction of view.
 - c) Verify current & previous public use patterns within and surrounding the easement proposed to be vacated
 - d) Inspect the proposed alternate access routes. Are they improved and/or currently utilized in any way?
 - e) Note evidence of past and/or current use and potential future uses of the easement corridor to be vacated.
 - f) Note any encroaching or nearby structures or improvements and compare to stated conditions in application.
 - g) Check terrain soil conditions, vegetation, slope grade in % and length, nearby natural items such as cliffs, water bodies, parks, yards, etc., and compare to stated conditions in application.
 - h) Avoid making judgements pertaining to being too steep for development, or too treed for usage, keeping in mind that walkways down cliffs to beaches can literally be constructed vertical and a D8 Cat can make a road through nearly any obstacle given the correct amount of incentive. The job is to report the slope percentage, type of vegetation, presence of water or damp soil, but not to make a judgement as to whether access or improvement can readily be constructed, bearing in mind that a significant portion of Anchorage construction has been and is done on and over "wetlands", and through gullies, hills, valleys, and rock.
 - i) Does the proposed alternate access look to be potentially equal or better for the public than easement segment proposed for vacation?
 - j) Note the potential impact to neighboring lands of the proposed vacation.
 - k) Conceptualize potential future uses and needs of the easement.
 - l) If a utility easement, fee right-of-way, or other public easement is proposed to be vacated, go the extra mile and do thorough searches and

provide sufficient information to identify where other like easements are in the vicinity that could serve as alternate routes.

- d. Post-Inspection writing of field report: See sample trip reports (see EV_Manual_2023_Document_Reference folder).
 - 1. Scan field notes and photos for report attachments and into electronic file.
 - 2. Write text of report as per trip report format and sample and place in file.

4.0 Agency Review Process:

4.1 Prepare Agency Review Packet to Contain:

- a. Petition and all supporting documents that came with the petition and/or provided at a later time.
- b. Attachment A (Micro and Macro View Maps)
- c. Field Inspection Report from in-house staff or others, if available.
- d. Applicable Borough Meeting Notes if provided.
- e. Email Cover Letter text informing of how to respond, where property is located, property address (if provided) and legal description, and request for the recipient to share the information with their Agency and to compile their Agency's responses into one reply memo, and the deadline for reply. Note that Agencies are given 30 days to reply and the DNR Regional Office is given an additional week in order to include the points of consensus from among the other agency comments.
- f. Agency replies Examples; see EV_Manual_2023_Document_Reference' folder.

4.2 Distribute and Email Agency Review Packet:

- a. Email packet with "delivery & read receipt" options enabled:
- b. The standard Agency Review Distribution list includes:
 - 1. Applicable DNR Regional Office (RO) designated representative
 - 2. Designated representative of MHTLO-Department inbox: mhtlo@alaska.gov
 - 3. DNR Parks and Outdoor Recreation representative
 - 4. SOA Department of Fish and Game representative
 - 5. DOT&PF Designated Regional representative

6. UB, as applicable.
- c. Use the sample format for the email and process. Consistency is important.
- d. On rare occasions, extensive projects which impact larger spans of land and/or numerous landowners, the list of contacts for Agency Review may be expanded to include additional state agencies, Regional & Local Corporations, LPAs, Alaska Railroad and other interested parties.
- e. Each State Agency reviewer is responsible for:
 1. Ensuring that the public interests they are responsible for are not damaged in sum by the action being reviewed. In other words, as per 11 AAC 51.065 that the “vacation is in the best interest of the State” and that “the proposed alternate access exists that is sufficient to satisfy all present and reasonably foreseeable uses.”
 2. As per AS 19.30.410 and 11 AAC 51.065 (See Legal Reference folder), ensuring that equal or better access and/or consideration for the public good is being accomplished in the proposed action relative to the requested easement vacation, with regard to the public interests the Agency is responsible for. It is recommended that a memo is emailed to Agency representatives periodically reminding all of their responsibilities in the process.
 3. The RO representative ensures 4.2 (e)1-2 above and generally includes other State Agency comments into their comments identifying areas of consensus.

4.3 Facilitate Agency Review

- a. Any Agency’s objections or concerns should be processed as follows:
 1. Survey Section temporarily suspends action on, places a hold on, the petition until the objecting agency is contacted by the petitioner and gives feedback. Change case status in WebLAS to ‘10’ for ‘petitioner action needed’ using the ‘INITCHANGE’ transaction.
 2. Forward all agency objections to the petitioner and surveyor via e-mail and/or USPS mail. Draft and send an Agency Review Response Letter (see EV_Manual_2023_Document_Reference) advising the Petitioner and Surveyor that they must take action using one of the following options:
 - a) Address, comply with, the Agency concern and inform Survey Section in writing, and/or;

- b) Contact the objecting agency directly to work out a resolution. The objecting agency must then send DNR written confirmation (email or letter) stating the Agency concerns have been addressed or satisfied; The Survey Section will not act as middleman.
 - c) In the Agency Review Response Letter specify time limit of sixty to ninety days to take action.
 - d) An extension may be granted if the petitioner (or surveyor) requests an extension in writing.
3. Forward a copy of the Agency Review Response Letter to the objecting Agency and DNR RO & consult with RO concerning the comment.
 4. Until DNR has received written confirmation of a specific course of action, the petition in question stays "ON HOLD".
 5. If petitioner or surveyor does not respond in the specified time, DNR will offer an extension for comment reconciliation then eventually close the file if comments fail to reach a resolution (see sample: EV 90 Day Letter).
 6. During petitioner's independent interaction with an objecting agency, clarifications and communication may still occur between DNR, other agencies, and/or the petitioner and surveyor.
 7. Survey Section will resume processing the proposed action if and when the objecting agency submit to DNR, in writing, a statement that a resolution has been achieved.

4.4 If Survey Section knows that it is likely the petition will be denied:

- a. Mail petitioner a formal letter advising of the likely denial of the petitioned action. Include the following:
 1. Inform the Petitioner of the reason(s) for the denial of the action or closure of the case. Indicate they may propose an option to address the issue(s).
 2. Request a response within a given time period.
 3. Ask petitioner how they wish to proceed.
 - a) Close file
 - b) Petitioner amends petition to remedy objection.
- b. If petitioner's response contains additional information or requests, those issues are reviewed by the Specialist and discussed with the SSEVU. The EV file is "on hold" pending this process.

4.5 If no Agency Objections have been made or they have been documented as “handled” when the State Agency Review period has ended, there is not a legal mandate to contact the petitioner. However, it would be a professional courtesy to call the petitioner or surveyor and inform them that the Agency Review has successfully been completed and the EV file processing will be advanced to the Preliminary Decision draft phase detailed in Section 5.0.

4.6 Compile Results:

- a. The Specialist facilitates Applicant & Agency communication to satisfy requirements of Agencies.
- b. Compile Agency Review comments into a single report to include in the PD as per the Example (see EV_Manual_2023_Document_Reference folder).
- c. Place a hard copy of email, receipt of emails, and report in the hard copy file.

5.0 Preliminary Decision (PD)

5.1 Purpose of the PD is to ensure and document that DNR DMLW has considered all relevant aspects of the petitioned action prior to “public notice”; to include:

- a. The EV PD needs to show that relevant portions of 11 AAC 51.065 (c) – (j) have been considered. Note the Survey Section does not process EV’s under 11 AAC 51.065 (k).
- b. Alternate courses of action are identified and evaluated from a state-wide and public interest perspective in accordance with the applicable statutes and regulations cited.
- c. The Preliminary Decision will be supported by relevant information gathered during the PD process, residing in the hard copy and electronic case files and in accordance with relevant statutes and regulations.
- d. Each DMLW course of action is imparted consistently and clearly relative to applicable statutes, regulations, and policies and prior similar EV cases.
- e. The petition is authorized to proceed to the next level of processing, the Public Notice.

5.2 The PD is a legally mandated document created in the processing of EV petitions. The PD is produced by the Survey Section Natural Resource Specialist 2 (Specialist) and/or Land Surveyor Advisor (Advisor). On completion, it is signed by the Specialist and the DNR DMLW Survey Section Chief (Chief).

5.3 The PD document contains the following information:

- a. Petitioner
- b. Assigned EV Number
- c. Petitioned Action
- d. Authorities
- e. Administrative Record
- f. Borough
- g. State Easement Interest
- h. Underlying Interest
- i. Alternate Route
- j. Land Management Policies
- k. Public Use Patterns in Area
- l. Practicality of Use
- m. Agency Review
- n. Agency Comments
- o. Discussion
- p. Conditions (including a Cert to Plat)
- q. Recommendations
- r. Public Notice
- s. Attachment A (Graphics created by Specialist clearly depicting the proposed EV and proposed equal or better alternate access in immediate vicinity and overview big picture.

5.4 Examples for Reference:

- a. EV 3-026 Section Line Easement Vacation (SLEV)
- b. ASLS 99-17; EV-2-957 RS 2477 ROW Vacation (Trail Right-Of-Way Vacation)
- c. EV-3-085; EV-2-934; Public Access Easement Vacation (PAEV)
- d. EV 2-914 and EV 3-294: AS 38.05.127 (To and Along) Easement Vacation (.127 EV)
- e. EV-3-298: Public Utility Easement Vacation (PUEV)
- f. Other EV Case Samples
- g. Sample Plats
 - 1. SLEV Sample Plat
 - 2. RS 2477 Trail ROW Sample Plat

5.5 Update Attachment A (if needed)

5.6 PD Preparation Process

- a. PD, including Attachment A, is drafted by Specialist and reviewed by the Advisor. The identifier "PD" hereafter includes Attachment A (sometimes called "Exhibits").
- b. Advisor receives PD draft, the petition and all supporting documents and reviews to ensure:
 - 1. PD is supported by the information gathered and shown in the case file.
 - 2. PD legal description of proposed action is adequate.
 - 3. Alternate access routes, legal, description, easement existence, citations of

authority, field inspection report, agency comments, Attachment A depiction, and Lot and Block descriptions are acceptable.

4. After Advisor approval, the edited, PD draft, with the entire hardcopy EV file folder is forwarded to the Survey Section Easement Supervisor for final review & approval prior to Chief's approval.
- c. On extensive projects which impact large spans of land and/or involve numerous landowners there may be a need at this stage for the Specialist to submit the draft to Regional Land Office for RO review of the PD. This step is used sparingly, in that the Regional Office (RO) is always directly involved in Agency Review in the normal process of EV applications. In this type of case:
1. Send the draft PD, with Attachments, via e-mail to the appropriate DNR RO, Fairbanks, Juneau, or Anchorage or their designee for their review.
 2. Utilize DNR Region Review E-mail Request for "subject". Keep a suspension note/reminder on the calendar.
 3. If there is no timely reply; follow up with a polite reminder email or call, referencing the original request.
 4. When the RO responds (a 2-5 day timeframe should be adequate); incorporate RO comments, edits, or recommendations to the draft PD.
- d. Again, after incorporation of above edits, and the Advisor has reviewed the latest PD draft, forwarded to the Supervisor, who then reviews the draft, and then returns it to the Specialist who:
1. Incorporates the edits and creates final PD.
 2. Places all redlined / edited and other work copies in a manila envelope labeled "Drafts" in the EV accordion case file.
 3. Creates and place a cover transmittal memo and PD in a plastic sleeve in the EV file.
- e. Deliver updated PD and file to the Chief for approval or denial.
- f. If the PD is NOT approved, the Specialist complies with the Chief's instructions, addressing what is required before re-submitting it to him/her for further action.
- 5.7 Once PD is approved:** Note that the PD is "approved" on the date the Chief signs the document. It is then returned to the Specialist:
- a. Specialist immediately scans the entire signed and approved PD as a PDF (Attachment A's included) and saves a hard copy in the hard file and a digital copy on the network drive in the appropriate EV file "Document" directory.

- b. Make appropriate number of color hardcopies of approved PD and Attachment A. It's recommended that a "Copy" watermark be added.
- c. Certified copies of the approved PD will be sent to the Petitioner, and all parties involved with the forthcoming Public Notice (See Section 6.0). Electronic copies are sent by email to all Agencies that previously reviewed the petition during the Agency Review phase.
- d. File the original signed / approved PD in the EV file on top of the Petition and Submittals section of the file, with the transmittal Memo included.
- e. Prepare Public Notice (i.e., Notice of Preliminary Decision).

6.0 Public Notice (PN) is comprised of distributing and posting the Preliminary Decision (PD) for public viewing, providing notice of a 30-day written-comment period & contact information, and as applicable in UB cases providing 30-day public written comment period and notice of the day and time and place scheduled for the UB public hearing for telephonic and in-person comments. Notice of such is posted on the State Online Public Notice website, and for UB actions, published in a local newspaper and sent to and/or posted to the individuals & groups noted below.

6.1 Description

- a. PD Public Notice in a LPA should be titled; "Notice of Preliminary Decision".
- b. PD Public Notice in the UB should be titled "Notice of Preliminary Decision and Notice of Public Hearing".

6.2 Entities receiving public notice via email and/or mail:

- a. Local Post Office near the vacation action (UB only): Mailed packed containing cover letter PN, and PD with Attachments for notice.
- b. Petitioners and their Surveyor (if one has been hired): Mailed packet containing cover letter, PN and PD. For UB actions the cover letter requests reimbursement for publishing and postage costs".
- c. Landowners within 500' of the EV action: Mailed packet. (UB Only)
- d. Affected Utilities and interested parties: Mailed packet containing specific cover letter and PD. (UB Only)
- e. The PN & PD with attachments posted to DNR Online Public Notice website:
- f. Email packet containing cover letter & PD to the agencies listed in the Agency Review contact list.

- 6.3 *Note that for cases in the Organized Boroughs the only public notice required is the DNR online public notice posting. In addition, the PD is sent certified return receipt to the Applicant and Surveyor and to other interested agencies of parties. PN is the responsibility of the local platting authority.*
- 6.4 Public Notice of PD, two Legal notifications, Public Written Input & A Public Hearing Step by Step Process are applicable to the EV's in the Unorganized Borough.
- a. EV Specialist receives approval of PD from Section Chief to begin PN process.
 - b. EV Specialist makes a plan of the coordinated dates of Newspaper publication, Web posting, and certified mailings of the PN, to include the PD and associated dates and method of the public comment period, which will follow the EV Checklist. Estimate the time it will take to prepare the needed items. Most can be prepared before the approval of the PD to be ready to mail, or transmit, as per the plan dates and times.
 - c. Newspaper Legal Ad Publication Process (UB Only; *OB EV cases newspaper publication is not required*).
 1. Draft the newspaper format of the Notice of Preliminary Decision & Notice of Public Hearing. (See Sample) The notice is taken from the "Public Notice" section of the PD. To lessen newspaper publishing expense, revise wording to shorten text (e.g. "T" instead of "Township") is used.
 2. Send E-mail with Public Notice / legal ad attached to the Administrative Assistant, DNR DMLW Director's Office (DO) Administrative Assistant (see Sample) to request newspaper publication. Include the "CC number" for Survey Section requests: 10215137. He/she will contact the specified newspaper(s) and place the requested DNR legal ads.
 3. Public Notices are published as legal advertisements in a newspaper of general circulation. If no such newspaper exists, they are published in a statewide circulation newspaper (Juneau Empire, Anchorage Daily News, or Fairbanks Daily News Miner). By regulation, AS 38.05.945 (See Legal Reference Folder), public notices must be published in a newspaper "at least once a week for two consecutive weeks". *In EV application cases whose action is within an area under the OB platting authority, this step is not required.* Bear in mind, some local papers only publish once a week or

even less. You must know this information and what days they publish prior to your request.

4. Petitioners must reimburse DNR for the cost of the PN (required legal ads and postage). In your email to DO staff also request a proof to review and the total cost. Copy the 1; published ad, 2; Affidavit of Publication, and 3; legal ad cost statement. Put these in the EV file "correspondence" tab. Copies will also be enclosed in the PN sent to the petitioner and their surveyor. *In EV application cases in OB platting authority process this is not required.*
 5. Try to allow a minimum 2-weeks from the time your ad request is submitted to DO for the newspaper to publish the first legal advertisement. Local or regional-type papers, e.g. Alaska Journal of Commerce or Alaska newspaper, commonly publish once per week, so their lead-time deadlines require much earlier submission of the request to publish. Keep these factors in mind, in order to complete the steps above to meet specific publication dates.
- d. State of Alaska On-Line DNR Web Site Posting: Follow DNR Web Posting. (See Web Notice Samples).
 - e. For Certified/Return Receipt mailings to Applicant & Applicant's Surveyor, and in the UB include Landowners within 500' of the EV action interested agencies and affected utilities;
 1. Compose and make appropriate number of copies of the cover letter and Public Notice of PD for certified mailing. (See Samples). Note: The cover letter to the Petitioner and Surveyor should contain an additional sentence advising that legal ad fees and postage fees must be paid to DNR when the billing becomes available, as referenced and requested of the paper, above.
 2. To process certified mailing, follow guidelines in Certified/Return Receipt Mail Procedure.
 3. Recipients of PN Certified Mailing receive:
 - a) Appropriate Cover Letter informing of Public hearings.
 - b) Copy of the approved PD.
 - c) Public Notice of Preliminary Decision or Notice of Preliminary Decision & Notice of Public Hearing.
 4. Prepare and process mailing packets using EV Check List.

5. The Mailing List for approved PDs in the UB includes names and addresses provided in the original petition to include:
 - a) Petitioner
 - b) Petitioner's Surveyor
 - c) Other parties that made their interest known, or as directed by Chief.
 - d) Utility Providers in the area at discretion of the EV Specialist
 - e) DNR DMLW Region,
 - f) DOT&PF Region,
 - g) DNR Metal Health Trust Land Office (MHTLO)
 - h) DNR Division of Parks & Outdoor Recreation (DPOR)
 - i) Alaska Department of Fish & Game (ADFG)
 - j) Local Platting Authority / Borough or City
 - k) Region and Local Native Corporation if applicable
 - l) Landowners within 500' of the action provided by Applicant. Not applicable in cases under the OB platting authority process.

7.0 Public Written Comment Period

7.1 Scheduling:

- a. The public written comment period runs for a minimum thirty (30) days and takes place prior to the Public Hearing.
- b. The public has until midnight on the designated last day to provide comment **in writing** on the proposed action. *(For cases whose action is in in an LPA, a Public Hearing is not held or required. It is the responsibility of the local platting authority).*
- c. The actual dates must correlate to accommodate and match the dates specified in the cover letter sent to certified mail recipients, newspaper publication, and the DNR web posting.

7.2 Processing Written Comments:

- a. Incoming written comments are received via U.S. Postal Service mail, email, hand delivered, & etc. Oral comments will not be accepted. Oral Public Hearing Testimony will only be accepted during the public hearing.
- b. Make copies of all valid comments for electronic and hard copy files. Hard copies of public comments are placed in the EV file. **Public comment must be either in writing or provided as testimony during the public hearing to meet certain requirements in order for the commenter to be eligible for appeal.**

- c. Make notes as to comments which are not germane or legitimate in any way relative to the case at hand for reference later when synopsisizing public input.

8.0 Public Hearing. AS 29.40.140 and 11 AAC 53.730(d):

8.1 Requirements: for this telephonic, online, or in-person testimony session:

- a. The Conference Room should be reserved as soon as possible.
- b. It should be reserved up to 60-days or more prior to the hearing.
- c. A 1 to 2 hour period should be scheduled.
- d. Ideally the Public Hearing is held in the Survey Section Conference Room on the second business day after the end of the public notice & comment period to allow the mail room enough time to deliver any comments received that last day.
- e. A public hearing is only required for EV actions in the Unorganized Borough. In the Organized Boroughs the Borough is responsible for the public hearing.
- f. Public Hearing testimony heard during the hearing are considered official comments for the purposes of a potential appeal.

8.2 Prepare for hearing:

- a. Prepare and follow the "Public Hearing Format". Prepare a script. (See Samples)
- b. Acquire a Voice Recorder. Test prior to the hearing. Verify battery level if possible. Use during the hearing.
- c. Prepare an "Attendance Record" (See Sample).
- d. "Public Hearing Format" and "Attendance Record" documents found on "tech" drive at "New/EV/1 EV-CASE FILES/UNORGANIZED BOROUGH".

8.3 Hold the Hearing:

- a. Once prepared, simply do what the public hearing format document says and then read script to the attendees.
- b. All attendees physically present (if any) sign the "Attendance Record".
- c. Names of all attendees attending via teleconference must also be listed. All attendees must provide a mailing address in order to receive subsequent documents and/or decisions.
- d. Record the entire hearing. The recording shall be saved in the electronic file. If there are no attendees a recording is not necessary.

- e. If no one shows up or calls in on time, as a courtesy, our Office allows one half hour to provide time for late arrivals before officially ending the hearing. A majority of time there are no attendees in person or by phone.
- f. At the end of the hearing, sign and date the attendance record.
- g. Assemble, organize and compile all comments received.

8.4 After the Public Comment Period and Public Hearing:

- a. In many cases DNR receives no comments during the 30-day comment period.
- b. All comments (objections & non-objections) shall be addressed and acknowledged in the FFD draft.
- c. When significant or controversial issues are raised during the comment period, which relate to the PD, deliberations ensue.
- d. Specialist will:
 - 1. If no or only positive public comments are received, prepare the FFD draft.
 - 2. If significant or controversial are offered that impact the PD, collect all written replies and consult the Supervisor.
 - 3. Follow the Easement Manager guidance in drafting the DNR response to stated issues. Contacting higher-level DNR management will likely be part of the Advisor or Supervisor's action. The Supervisor will yield a decision to either proceed in preparing the FFD draft or issue a formal letter prior to FFD preparation. Refer to section 9.0 Protocol and adapt process to accommodate the FFD phase.
- e. The Specialist will compile all written comments from this minimum 30-day window and all testimony from the Public Hearing, summarizing similar logical comments in the final decision, and referring objections to appropriate agencies or individuals for discussion as appropriate to facilitate agreement where possible.

9.0 Final Finding & Decision:

9.1 Final Finding & Decision Overview:

- a. The Final Finding & Decision (FFD) is a legally mandated document created in the processing of EV petitions. Drafting begins after the Public Comment Period unless public comment analysis indicates the need for significant

changes to the PD. See 8.4(c) and (d) above. If significant changes to the PD are made, additional PN will be given.

- b. The FFD is drafted & signed by the Specialist and signed and approved by the Chief, Survey Section. (See samples).
- c. A Final Finding & Decision cannot be issued until:
 1. *The Local Platting Authority/ Organized Borough has given its approval and a copy of its official Minutes, including "Conditions of Approval" are in the DNR EV file (See Samples).*
 2. All legal advertisement and postage fees have been paid in full by the petitioner or Surveyor.

9.2 Pre-Preparation for Final Finding & Decision:

- a. During and after the Public Comment Period the EV Specialist can be taking the following steps to be ready for Final Finding & Decision (FFD) processing:
- b. Set up a new FFD word document by utilizing a prior approved FFD of a similar EV action (See samples), copy same and change basic items to reflect the current petitioner, location, etc. Final comments, decision, etc. can be inserted in accordance with the results of 8.4(c) and (d) above.
- c. Double check that Attachment A is in an acceptable form.
- d. Copy a FFD "Memo" transmittal form to be ready (pending appropriate date).
- e. Make the FFD Mailing List.
- f. Ensure all needed documentation is in the file. If items are still needed, then contact source parties and request that they supply the material right away.
- g. *As time for FFD processing approaches it is necessary to be sure that there is a copy of the local platting authority written conditions of approval in the EV file. "Approved minutes" of the planning commission (or an equivalent document for the borough involved) need to be obtained (See Sample). Contact the borough office directly to request a copy, or communicate with the petitioner or surveyor and ask them to provide a copy. Some applicants may have supplied this already (be sure the data is a "final" "approved" version and not just the initial, "unapproved minutes") (See Samples)*

- h. At a time between the public comment period and the FFD preparation DNR should receive the proof of publication and ad fee billing statements relating to the newspaper legal ad. Keep in communication with DMLW Director's Office on this. The Specialist must obtain and make copies of these items for the EV file and utilize same to send a letter to the petitioner / surveyor requesting reimbursement payment from them. See prior successful EV files for sample. Copies also need to be provided to the NRT2 at the front desk for payment follow-up and verification. The EV file must contain documentation of payment of all fees prior to completing the FFD draft.

9.3 Final Finding & Decision Document Content; Standard Sections:

- a. Petitioner & Assigned EV Number
- b. Petitioned Action
- c. Authority
- d. Public Notice and Comment
- e. Agency Review and Comment
- f. Finding
- g. Conditions
- h. Recommendation
- i. Final Decision
- j. Attachment A (Graphic depicting Proposed EV, Alternate Access, and any previously vacated Section Line Easements. If applicable drawing is updated from the PD version.)

9.4 Drafting the Final Finding & Decision: The Specialist drafts the FFD as follows:

- a. If there are no content changes from the PD document the first sentence of the FD should state, "The FFD complements and confirms the attached PD...with no updates or changes," or simply, "This FFD compliments & confirms the attached PD".
- b. If there are content changes from the Preliminary Decision document, the first sentence of the FFD should state that the FFD compliments, confirms & updates the attached PD (e.g. 3-026) for examples of content and for current terminology). If there are content changes from the PD document ensure the following items are incorporated:
 - 1. Correct opening statement / sentence.
 - 2. Summarize public comments
 - 3. Discuss issues

4. Make formal “findings”.
5. Make a statement about any portion of petitioned action that is denied.
6. Add “Conditions of Approval’ which must be met before vacation finalized. Conditions of Approval should be carried forward from the PD.
7. Note that Final Finding & Decisions have different EV petition scenarios. Note content and standard verbiage. Be aware of outdated terminology.

9.5 Summary of FFD staff action:

- a. Specialist submits draft FFD to Advisor for review
- b. Advisor sends edited draft FFD back to the Specialist for revisions. The FFD may go back & forth until the PLS advises the Specialist to submit the final draft FFD to the Supervisor (who may also confer with Chief – Realty Services Section); Specialist will review/edit and finalize the draft FFD.
- c. Before the Specialist prepares the edited FFD draft as the “final” FFD, the Specialist responds to review queries of the Chief. Any redlined edited copies of the Chief are saved in a “Drafts” manila envelope within the accordion EV file containing all earlier PD and FD redlined / edited drafts.

9.6 FFD approval by Surveys Section Chief DNR DMLW: Before sending the FFD to the Chief:

- a. Confirm Public Notice legal ads were published prior to PN and on the days requested. Bear in mind the statement “at least once a week for two consecutive weeks...”.
- b. Confirm hardcopies of PD Certified Mail letters with notice, newspaper legal ads and Affidavit of Publication, and DNR web posting have been placed in EV folder.
- c. Confirm that ad fees & postage fees have been paid by petitioner or surveyor. Copy of a letter, including copy of newspaper invoice & postage invoice, requesting the petitioner/surveyor to reimburse DNR for the fees, should have been placed in the EV folder and payment data marked on the file cover. Worst case scenario: these fees must be paid before the EV action final plat approval.
- d. *Confirm Local Platting Authority/Borough approval documentation (“Approved Minutes”) is in the EV file.*

- e. After the above steps have been confirmed, prepare a cover Memo of transmittal to send the FFD to the Survey Section Chief for approval.
- f. Take the FFD for Approval:
 - 1. Specialist prepares the transmittal Memo.
 - 2. Place Memo and the FFD in a plastic sleeve along with a clean approved copy of the PD.
 - 3. Deliver the entire EV file to the Chief, Suite 650.

9.7 FFD Approved and returned to the Specialist:

- a. Immediately scan the original and save as .pdf format in appropriate EV file.
- b. Make an appropriate number of color copies approved FFD for the FFD mailout packets, including Attachment A, to be to be sent to all parties on the Approval Notice FFD Mailing List (See __, below) via Certified mail to include interested parties, if any, who commented in writing during the Public Comment period or provided testimony during the Public Hearing if processing an EV in the Unorganized Borough (UB). Note that the FFD cover letters to the Petitioner and Surveyor need to have an extra sentence requesting a formal plat for review and payment of the plat review fee of \$198.00. Use prior successful EV files as samples to draft the Approval Notice FFD cover letter. Note the receipt type for the Plat Review Fee is '05'.
- c. The FFD packet contains:
 - 1. Cover Letter signed by the Specialist.
 - 2. Copy of the PD with Attachment A.
 - 3. Copy of the FFD with Attachment A
- d. Follow the Certified Mail procedures.
- e. Place approved FFD and Memo in the EV file on top of the approved PD.
- f. If the case pertains to an EV falling under UB platting authority's, Advisor or Specialist creates a State Platting Resolution (SPR) to be signed by the Chief (refer to the SPR section). The SPR is recorded along with the final EV Plat. Note that in the OB platting process no State Platting Resolution is needed or created.

10.0. FINAL EV PLAT APPROVAL AND STATE PLATTING RESOLUTION (SPR)

- 10.1. **On final FFD approval & signing by the authorized official, in the FFD approval notice cover letter;**
 - a. *In OB cases the Specialist requests a final plat and plat review fee be submitted;*
 - b. In UB cases, if EV is not combined with a subdivision plat the NRS requests a final plat and plat review fee be submitted to the Advisor. If combined with a subdivision, refer to the UB plat reviewer for advisement. Note that prior to the FFD process on a “pure” EV case, the Advisor can request a draft EV plat for review to begin the process on a case which looks to be clearly approvable.
- 10.2. **The NRS or PLS Advisor prepares the State Platting Resolution per 11 AAC 53.730 (See EV_Manual_2023_Legal_Reference folder) to be signed by an authorized official and recorded as an attachment with the final plat on all EV cases under UB platting authority process.**

11.0. Appeals Process (per Dept Order No. 139)

- 11.1. The FFD has a 20-day appeal period.
- 11.2 Appeals must be submitted directly to the DNR Commissioner Suite 1400 Atwood Building, 907-269-8431 or dnr.appeals@alaska.gov in accordance with the FFD “Appeal Provision” statement (on last page of the FFD text document).
- 11.3. In accordance with 11 AAC 02.040(a) (See EV_Manual_2023_Legal_Reference folder), to be timely filed, an appeal or request for reconsideration must be received by the commissioner’s office within 20 calendar days after issuance of the decision FFD.
- 11.4. Appeal “issuance occurs when the addressee or the addressee’s agent signs for the decision.” per 11 AAC 02.040(c). DNR SS considers that to be the date on which the last person receives their FD notice. That date is verified by checking the USPO green Return Receipt cards. (That is why it is helpful to highlight the box “C Date of Delivery” on each green card BEFORE the FD packet is mailed). If the card does not show a stamp or written date of delivery, make a note on the holding envelope in the EV file that DNR received the green return receipt card back on x/x/x date.)
- 11.5. As stated in the Final Finding & Decision “Appeal Provision” paragraph, the FFD goes into effect 31 days after issuance pursuant to 11 AAC 02.040(c).

- 11.6. If an appeal is submitted in a timely manner, the DNR Commissioner will likely request to see all items related to the entire EV file. Coordinate directly with the Chief / Statewide Platting Supervisor for directions on appropriate handling.
- 11.7. Note that the case file will not leave the Survey Section. Only DMLW staff may check it out from Survey Section through the Chief. Otherwise, only electronic scans or copies of the original documents will be delivered to parties outside the Section. If anyone in the DMLW (outside of the Survey Section) removes the casefile an out card will be filled out noting the individual's name and contact information, month/day/year of checkout. The out card will be left in the casefile's place followed up with an e-mail to document the file has been checked out.
- 11.8. If **no appeal is made**, the EV processing moves on to the Plat Review phase. See guidance in "EV Checklist detail" (last 2 pages) under FFD Approved. Essentially all steps after this point are handled by the DNR PLS in accordance with his professional duties. The Specialist, however, may be involved in assisting with coordinating WebLAS transactions.
- 11.9. **When appeal is submitted:**
- a. The Commissioner or Appeal Officer notifies the Chief and/or the EV specialist that an appeal has been received. A copy of the appeal is added to the casefile. The Specialist then delivers an electronic casefile copy per the Directors Office internal policy instructions.
 - b. The Specialist, Advisor, and Supervisor cease to answer queries pertaining to the case and forward queries pertaining to it to the Designated Contact in the Directors Office.

12.0 Post Appeal:

- 12.1 **The appeal is brought to a close by a decision by the Commissioner or a Court Order (if it goes to trial):**
- a. The Chief is notified of the appeal decision.
 - b. A copy of the appeal decision is delivered to the Specialist to put in the casefile.
 - c. The entire casefile is returned to the Section (if it was previously checked out).
 - d. Depending on the nature of the case, if and when the appeal is resolved the Directors Office directs the Specialist how to proceed.
- 12.2 **If the appeal is approved and the Specialist is directed to proceed with vacation:**

- a. The Advisor requests the final EV plat from the Surveyor or Applicant
- b. Plat is submitted to and reviewed by the Advisor until completed to satisfaction of Advisor and finally created and approved and signed.
- c. All Final Plat Requirements must be completed. To include dedicated alternate access shall be shown on the final EV plat.

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GLOSSARY

ADFG SOA Department of Fish and Game

DMLW SOA, DNR, Division of Mining, Land and Water

DNR SOA, Dept. of Natural Resources

DOT&PF SOA, Dept. of Transportation and Public Facilities

DPOR SOA, DNR, Division of Parks and Outdoor Recreation

EV Easement Vacation

FFD Final Finding & Determination

LPA Local Platting Authority

MHTLO SOA, Mental Health Trust Land Office

OB Organized Borough

PA Platting Authority

PD Preliminary Decision

SSEVU SOA, DNR, DMLW, Survey Section Easement Vacation Unit

SOA State of Alaska

UB Unorganized Borough

DOCUMENTS

Easement Relocation sample plat and/or decision

Application packet sample

Petition properly filled out

Research SLED Surveyed 2477

Research SLED Protracted 2477

Research SLED Surveyed State

Research SLED Protracted State

Master Title Plat sample

Patent sample

Status Plat sample

Topo Map sample

Federal Abstract

State Abstract

Preliminary Decision sample(s)

Final Finding and Decision sample

Field Inspection Report sample

Agency Review Response Letter sample

Letter advising of denial

Public Notice Cover Letters and Postings samples

Post Office

State Web Site

Surveyor and Applicant

Interested Parties and within 500'

Newspaper Posting

Public Hearing

Synopsis of Public Hearing

Public Hearing Sign in Sheet

Public Hearing Script

Transmittal Memo

State Platting Resolution samples

FFD approval notice and cover letter

LEGAL REFERENCES

See Files stored in:

G:\New\EV\EV_Manual\EV Manual 2023 Update\EV_Manual_2023_Legal_References

38.05.945	24
11 AAC 51.065	4, 5, 13, 17, 19
11 AAC 51.065(k)	5, 20
11 AAC 51.010(b)	5
11 AAC 51.990(19)	5
AS 40.15.300-.730	5
AS 40.15.070	6
AS 38.05.127	6, 11, 20
11 AAC 51.065(4)	13
11 AAC 51.065 (1)	13
AS 19.30.410	17
11 AAC 53.730(d)	26
11 AAC 53.730	32
11 AAC 02.040(a),(c)	33
11 AAC 02.040 (c)	32 and 33