



Regional Manager's Decision

ADL 108885
AS 38.05.850

Requested Action

The Applicant has requested to install a 10-inch HDPE pipe as a wastewater force main beneath the Mendenhall River. The requested easement is 30 feet wide by 618 feet long. The pipe is to be installed via horizontal directional drilling and open trench methods. A shot rock access ramp will be built on the far east side of the easement for future maintenance purposes. Minor clearing of vegetation will be required in this area.

Recommended Action

Issue the Applicant a 30' wide public utility easement to install and maintain a wastewater force main beneath the Mendenhall River for so long as required for public utility purposes, or until the State determines that the easement is no longer being used for public utility purposes.

Scope of Decision

The scope of administrative review for this authorization is limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) the facts pertaining to the land or resources; and (4) issues that are material to the determination that issuing the authorization will best serve the interest of the State of Alaska.

Statutory Authority

AS 38.05.850

Administrative Record

The administrative record for this case is ADL 108885; incorporated by reference is ADL 107519, and the Juneau State Land Plan (December 1993).

Location Information

Geographic Location:

Approximately 2700 feet south of Brotherhood Bridge, Glacier Highway, on tide and submerged land of the Mendenhall River

Legal Description:

CRM, T 40 S, R 65 E, Sec. 36 NE 1/4

Dimensions

Width: 30 feet

Approximate Length: 618 feet

Approximate Acreage: .42

Other Land Information

Municipality: City and Borough of Juneau

Regional Corporation: Sealaska Corp

Village Corporation: Goldbelt Inc.

Federally Recognized Tribe: CCTHITA

Title

The State received title to the subject submerged lands under the Alaska Statehood Act, the Submerged Lands Act, and the Equal Footing Doctrine.

Third Party Interests

There are no known third party interests.

Planning and Classification

Under the Juneau State Land Plan the subject area is within management unit 3f41 - Mendenhall River. The river is designated habitat (Ha), shoreline use (Sh), and recreation public use (Rp). These designations convert to the following classifications: wildlife habitat land, settlement land, and public recreation land. The surrounding uplands are owned by the City of Juneau and private land owners. The proposed use is not inconsistent with management objectives of the land plan.

Access

Access to the easement area is through a right-of-way, Whiting Way, managed by the Applicant on the east side of the river.

Background

The proposed pipe is a replacement for a former sewer main (ADL 107519) that was damaged in September 2017 from repeated jökulhlaup related flooding on the river. Since then, the City has been trucking sewage from one side of the river to the other. This proposed pipe will be placed significantly deeper than previously laid pipe to avoid similar damage from jökulhlaup activity. The City plans to remove approximately 220 feet of the former pipe where it emerges from submerged land, the remainder of the pipe will remain in place. An easement for ADL 107519 was never issued because the City did not provide an as-built survey as required. Upon the issuance of this easement, ADL 107519 will be closed.

Public Notice & Agency Review**Agency Review Summary**

Agency review was conducted from May 16 to June 1, 2018. No comments were received.

Public Notice Summary

Public notice of the City's Application was conducted from May 16 to June 1, 2018. No comments were received.

Environmental Considerations

DMLW considers the environmental factors related to authorizing the use of State lands in order to determine appropriate avoidance and mitigation measures with respect to effects on the State's land and resources. The proposed drilling platform will be placed on wetlands adjacent to the river. The horizontal drilling method will reduce surface environmental impacts. The Applicant will obtain a U.S. Army Corps of Engineers permit for placement of shot rock on the east side of the river for stability and maintenance purposes, and restore the wetlands area once the drilling pad is removed, and trenches are backfilled. DMLW believes the environmental concerns of the installation and placement of the proposed pipe to be minimal.

Economic Benefit and Development of State Resources

The Region considered three criteria to determine if this project provides the greatest economic benefit to the State and development of its natural resources. These criteria include direct economic benefit to the State, indirect economic benefit to the State, and encouraging development of the State's resources to provide capital.

Here, the installation of the sewer line will eliminate the need for transporting sewage by vehicle, which is less economic and less efficient. The sewer line is expected to provide decades worth of service, and as such facilitate the economic transport of wastewater across the Mendenhall River.

In consideration of these factors, and because there are no competing projects for the use of the affected lands, the Region finds the granting of this easement will provide for the greatest economic benefit to the State.

Discussion

This public utility easement is necessary for the Applicant's proposed sewer main. The horizontal drilling technique proposed for installation of the pipe should reduce the surface-level disturbance, and ensure that the pipe is laid at a depth deep enough to avoid damage from floods. Additionally, the greater depth will also help ensure that this pipe does not interfere with a private sewer line in the vicinity (ADL 104855).

The land classification in the area includes settlement land and while the river is a primary recreation area, the surrounding uplands are privately owned by homeowners, who will either directly or indirectly benefit from the proposed sewer line installation.

To help ensure that the Applicant completes a required as-built survey, a performance guaranty will be required in an amount sufficient to allow the State to complete an as-built if the Applicant does not. The performance guaranty must be received prior to issuing the easement. Additionally, the Applicant will be required to pay the survey instruction fee of \$120 as a deliverable.

Performance Guaranty

Performance guarantees are means to assure performance and to provide ways to pay for corrective action if the applicant fails to comply with the requirements set forth in the

authorization. They are also used to protect state land from damage and to make certain that the land is returned in a usable condition upon termination of the authorization.

History of Compliance: In some instances (e.g., ADL 107519), the Applicant has not completed required as-built surveys as required by land use authorizations.

Performance Guaranty Narrative: Pursuant to 11 AAC 96.060, a performance guaranty of \$8000.00, in the form a certificate of deposit will be required. This bond amount is to ensure the timely submittal of an as-built survey to DNR (two years from the date of project completion). In the case that the Applicant does not provide a timely as-built survey, this bond amount will be used by DNR to complete the as-built survey.

Insurance

Insurance is a means to protect the state from liabilities incurred through the use of state property, or from damage to state property as a result of accidental or catastrophic events. This type of protection is necessary in the event of an accident or negligence that was consequentially connected to activities conducted on state land, and/or if the state is named in a lawsuit as a result of an accident or negligence.

Commerical General Liability: \$1,000,000.00

Survey

A professionally accomplished and DMLW approved as-built survey will be required at the applicant's expense. Additionally, the payment of the survey instruction fee will be required as a deliverable.

Fees: Under 11 AAC 05.070(d)(2)(C) and Direrctor's Fee Order Number 3, a public easement or right-of-way for a utility has a one-time fee of \$0.56 per linear foot. Here the proposed linear length of the easement is approximately 618 feet. The one-time fee will be \$346.00.

Term

Easement Term: The proposed public utility easement will be for so long as it is used for the purposes of a public sewer main.

Recommendation

Based upon the information provided by the applicant, as well as review of relevant planning documents, statutes, and regulations related to this application, it is my recommendation to issue an Easement on condition that all authorization stipulations are followed as described in the attached draft Easement. The term of this authorization should be for so long as required for the public utility purpose.


Adam Moser



Date

Section Manager's Concurrence


Steve Winker Date June 13, 2018

Regional Manager's Decision

Based on all of the information provided herein, the Southeast Regional Lands Office has determined that issuance is hereby approved.


Lee V. Cole, Jr.
Regional Manager

6/13 2018
Date

A person affected by this decision may appeal it in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to (907) 269-8918, or sent by e-mail to dnr.appeals@alaska.gov. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31st calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.