



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

**Southeast Regional Land Office**

**Regional Manager's Decision**

**ADL 109339**

**AP&T Wireless, Inc.**

Application for Easement

AS 38.05.850

**Requested Action**

On September 29, 2023, the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW) received an application for a public utility easement from Alaska Power and Telephone Company, doing business as AP&T Wireless, Inc. (applicant). The applicant proposes placement of a fiber optic submarine cable on State-owned, DMLW-managed tide and submerged land from Coffman Cove on Prince of Wales Island, Alaska to Hollis and Ketchikan, Alaska. The fiber optic cable (FOC) system will bring high-speed broadband to rural and underserved communities throughout Southeast Alaska as part of the applicant's SEALink communications project. An easement width of 30-feet is required per 11 AAC 51.015 to provide adequate space for FOC infrastructure and activity. The applicant requests an indefinite public utility easement approximately 513,744 feet-long (97.3 miles) and 30 feet-wide.

The cable will be 2 inches in diameter or less; will be entirely surface laid in marine waters using a cable lay vessel or barge; and will take a duration of up to 20 days to install. As stated in the noticed application: "The cable would be floated from the installation vessel to each shore-end landing where it would be pulled to shore and secured at each beach manhole BMH. The installation vessel will then proceed to install the cable offshore to the next landing point." The cable will cross several existing cables on the seabed. The applicant has provided DMLW with location information of all expected cable crossings and has been in communication with all entities that hold existing submarine cables expected to be crossed.

The project consists of three submarine FOC segments:

- **Marine Segment 1** From Coffman Cove through Clarence Strait to Branching Unit 1 (BU1).
- **Marine Segment 2** From BU1 through Twelvemile Arm to Hollis.
- **Marine Segment 3** From BU1 through the Tongass Narrows to Ketchikan.

**Marine Segment 1:**

**Coffman Cove to Branching Unit 1 (BU1):** The FOC begins in Coffman Cove on Prince of Wales Island, Alaska. The landing site (where the cable transitions from uplands to submerged lands) is located on a private parcel in a residential subdivision. The applicant retains a utility easement agreement with the upland owners of this parcel under document 2021-002391-0 of the Ketchikan Recording District. The submarine cable will be pulled through existing buried conduit to a BMH that is part of an existing public utility easement from DMLW held by the applicant, serialized as ADL 109223. The submarine cable will then be surface laid for approximately 51 miles south through Clarence Strait, following the eastern edge of Prince of Wales Island. Marine segment 1

terminates at BU1 where the cable then transitions into two separate segments, one continuing to Hollis and one continuing to Ketchikan.

### **Marine Segment 2:**

**BU1 to Hollis:** From BU1, a second surface laid submarine cable segment will travel approximately 31 miles southwest around Grindall Island; run roughly parallel to the Ketchikan-Hollis ferry route; travel west into Kasaan Bay; and then terminate at a new BMH in Hollis on Prince of Wales Island. The Hollis landing site will be located on an active Interagency Land Management Assignment (ILMA) to Alaska Department of Transportation and Public Facilities (DOTPF), serialized as ADL 59717. DOTPF issued the applicant a utility permit for this use on November 6, 2023, under permit number 3-292050-23-32. From the new Hollis landing BMH, a terrestrial FOC network will connect to the remote communities of Craig, Klawock, and Hollis on Prince of Wales Island. The terrestrial route does not require authorization from DMLW.

### **Marine Segment 3:**

**BU1 to Ketchikan:** From BU1, the third surface laid cable segment will travel southeast through the Tongass Narrows approximately 15 miles to land at Ketchikan on Revillagigedo Island. The cable will terminate at a new BMH on Peninsula Point in Ketchikan. This landing site will be located on an active ILMA to DOTPF, serialized as ADL 871. DOTPF issued the applicant a utility permit for this use on November 27, 2023, under permit number 3-291500-24-23.

### **Proposed Action**

DMLW intends to authorize this easement and will issue an entry authorization (EA) for a term of 2 years to allow for construction and completion of a DMLW-approved survey, which is a prerequisite for issuance of the final easement. A draft EA is included as Attachment 2. A draft public utility easement is included as Attachment 3.

### **Statutory Authority**

This easement application is being adjudicated pursuant to AS 38.05.850, the Alaska Land Act as amended, and AS 38.05.127.

### **Administrative Record**

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced herein, the Prince of Wales Island Area Plan (POWIAP, 1998), the Central Southeast/Southern Area Plan (CSSEAP, 2000) and other classification references described herein, and the casefile for the application serialized by DNR as ADL 109339.

### **Scope of Decision**

The scope of this decision is to determine if it is in the State's interest to create an easement for the proposed use. 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) facts pertaining to the land or resources; and (4) issues that are material to the determination that issuing the authorization is in the interest of the State of Alaska.

## **Location Information**

**Geographic Location:** The project will include a submarine cable route from Coffman Cove (Prince of Wales Island) to a branching unit in Clarence Strait, a route from the branching unit to Hollis (Prince of Wales Island), and a route from the branching unit to Ketchikan (Revillagiedo Island). The entire route will be on state tide and submerged lands, no federal waters will be crossed.

### **Meridian Township Range Section (MTRS)**

The applicant has applied to use State-owned, DMLW-managed tide and submerged lands within multiple Sections, Townships, and Ranges within the Copper River Meridian. See all MTRS location information included in the development plan as Attachment 1.

### **Other Land Information**

Municipalities: Coffman Cove, Kasaan, Ketchikan, and Thorne Bay

Community Council: Hollis

Regional Corporation: Sealaska

Village Corporation: Kavilco Incorporated, Organized Village of Kasaan

Federally Recognized Tribe: Central Council Tlingit and Haida Indian Tribes of Alaska, Ketchikan Indian Community, Metlakatla Indian Community

## **Title**

The State of Alaska holds title to lands beneath tidally influenced and navigable waterways within its jurisdiction, including lands underlying Clarence Strait, Twelvemile Arm, and Tongass Narrows in the section(s) referenced in Attachment 1, on the basis of the Equal Footing Doctrine, and the Submerged Lands Act of 1953.

## **Planning and Classification**

The proposed site is subject to the Central Southeast/Southern Area Plan (CSSEAP, 2000) and the Prince of Wales Island Area Plan (POWIAP, 1998), crossing multiple regions and units of each plan.

Within the CCSEAP (2000), the project would cross through the following regions:

- Region 4 – Wrangell
  - Designation: (Gu) – General Use
  - Classification: Resource Management Land
  - “The General Use (Gu) designation applies to all state-owned areas not otherwise designated on the plan maps.” (CSSEAP, 3-176)
  
- Region 5 – Ketchikan
  - Designation: (Gu) – General Use
  - Classification: Resource Management Land
  - “The remainder of the tideland area is designated General Use (Gu). In these tidelands, it is intended that the standard state permitting process will determine,

on a site by site basis, whether tideland development is appropriate at a given tideland site.” (CSSEAP, 3-238)

Within the POWIAP (1998), the project would cross through the following units:

- Unit 6 – Coffman Cove
  - Subunit 6a - Coffman Cove
    - Management Intent: “State lands in this subunit will be managed for multiple use, with an emphasis on meeting the needs of the developing community of Coffman Cove for community expansion and to support the economic base of this community.” (POWIAP, 3-82)
    - Designation: (Ha) – Crucial Habitat
    - Classification: Wildlife Habitat Land
    - “Lands designated for fish and wildlife habitat and harvest will be managed to avoid significant impacts to habitats and traditional harvest activities. Impacts on non-designated community harvest areas should be considered when authorizing activities.” (POWIAP, 3-84)
  - Subunit 6b - Sweetwater Lake
    - Management Intent: “State tidelands and submerged lands will be managed for multiple use. Management will emphasize retaining or improving the important scenic, recreation, and fish and wildlife habitat and harvest values in the subunit.” (POWIAP, 3-87)
    - Designation: (Gu) – General Use
    - Classification: Resource Management Land
    - “Land will be managed for existing and planned public use and development consistent with the management intent and areawide planning guidelines of the plan.” (POWIAP, 3-2)
- Unit 11 - Thorne Bay
  - Subunit 11a - Control Lake
    - Management Intent: “State tidelands and submerged lands along Clarence Strait will be managed for multiple use, with emphasis on protecting important recreation and fish and wildlife habitat and harvest areas.” (POWIAP, 3, 165)
    - Designation: (Gu) – General Use
    - Classification: Resource Management Land
    - Land will be managed for existing and planned public use and development consistent with the management intent and areawide planning guidelines of the plan.” (POWIAP, 3-2)
  - Subunit 11b – Karta Bay
    - Management Intent: “State tideland and submerged lands will be managed for multiple use. In Karta Bay, management will emphasize protection of important cultural, recreation, and fish and wildlife habitat and harvest values.” (POWIAP, 3-169)
    - Designation: (Gu) – General Use
    - Classification: Resource Management Land

- “Land will be managed for existing and planned public use and development consistent with the management intent and areawide planning guidelines of the plan.” (POWIAP, 3-2)
- Subunit 11c - Thorne Bay
  - Management Intent: “State lands will be managed for multiple use, with an emphasis on meeting the expansion needs of the Thorne Bay community.” (POWIAP, 3-174)
  - Designation: (Gu) – General Use
  - Classification: Resource Management Land
  - “Land will be managed for existing and planned public use and development consistent with the management intent and areawide planning guidelines of the plan.” (POWIAP, 3-2)
- Unit 12 - Kasaan Bay
  - Subunit 12b – Hollis
    - Management Intent: “State tidelands and submerged lands will also be managed for multiple use. Tidelands in the subunit will be managed to protect the most important recreation and fish and wildlife habitat and harvest areas.” (POWIAP, 3-195)
    - Designations: (Ha Cy) - Crucial Habitat and Important Community Harvest, (r) – Public Recreation – Dispersed, (D) – Shoreline Development – Commercial/Industrial, and (P) – Public Facilities
    - Classifications: Wildlife Habitat Land, Public Recreation Land, Settlement Land, Reserved Use Land
    - “Lands designated for fish and wildlife habitat and harvest will be managed to avoid significant impacts to habitats and traditional harvest activities. Impacts on non-designated community harvest areas should be considered when authorizing activities.” (POWIAP, 3-197)
    - “State uplands, tidelands, and submerged lands designated recreation will be managed to preserve or improve the recreational activities and values.” (POWIAP, 3-200)
  - Subunit 12c – Kasaan Bay
    - Management Intent: “State tidelands and submerged lands will be managed for multiple use with an emphasis on protecting the most important recreation and fish and wildlife habitat and harvest areas.” (POWIAP, 3-202)
    - Designation: (Gu) – General Use
    - Classification: Resource Management Land
    - “Land will be managed for existing and planned public use and development consistent with the management intent and areawide planning guidelines of the plan.” (POWIAP, 3-2)

- Subunit 12f – Skowl Arm
  - Management Intent: “State tidelands and submerged lands will be managed for multiple use with an emphasis on the most important recreation and fish and wildlife habitat and harvest areas.” (POWIAP, 3-213)
  - Designation: (Gu) – General Use
  - Classification: Resource Management Land
  - “Land will be managed for existing and planned public use and development consistent with the management intent and areawide planning guidelines of the plan.” (POWIAP, 3-2)

According to 11 AAC 55.040(c), “A classification identifies the primary use for which the land will be managed, subject to valid existing rights and to multiple use.”

11 AAC 55.200 states that land classified as Resource Management Land is either “(1) land that might have a number of important resources but for which a specific resource allocation decision is not possible because of a lack of adequate resource, economic, or other relevant information, or is not necessary because the land is presently inaccessible and remote and development is not likely to occur within the next 10 years; or (2) land that contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use.”

After reviewing the state’s management and planning provisions for the subject area, DMLW finds that the POWIAP and the CSSEAP allow for state land to be used for the placement of a submerged FOC on tide and submerged lands. The proposed project is consistent and compatible with the designations, classifications, and management intent as indicated above.

### **Third Party Information**

Notice of the application was sent to adjacent or impacted landowners of the easement landing sites.

- Marjean Efta and Perry Olson as landowners at the existing landing site in Coffman Cove.
- DOTPF as land managers via ILMA of the landing sites in Hollis (ADL 59717) and Ketchikan (ADL 871).

### **Public Notice & Agency Review**

#### **Agency Review Summary**

An Agency Review was conducted from November 14, 2023, to December 15, 2023. The following organizations were included in this review:

- Alaska Association of Conservation Districts
- Alaska Department of Fish and Game (ADF&G)
- Alaska Department of Environmental Conservation (DEC)
- Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation, Office of History and Archaeology (OHA)
- DNR DMLW Forestry
- DNR Mental Health Trust
- Department of Transportation & Public Facilities (DOT&PF).

## **Agency Review Comment and Response**

### Alaska Department of Fish and Game (ADF&G)

ADF&G had no objections but provided the following comments and recommendations:

“1. Many marine mammal species that are listed under the Endangered Species Act (ESA) and protected under the Marine Mammal Protection Act (MMPA) have ranges that overlap with the proposed project activity area (see link). These marine mammals include Steller sea lions [SSL, western distinct population segment (DPS)], humpback whales [Mexico DPS] and fin whales. There is a SSL haulout at Grindall (55.440000, -132.108000) and the proposed project is within a Biologically Important Area for humpback whale feeding from March –November. In addition, several other non-ESA listed species, yet similarly protected under the MMPA, can be found in the area of the proposed project. We recommend consultation with the National Marine Fisheries Service (NMFS) on listed species to ensure there is a no impact determination on activities. For inquiries regarding the NMFS consultation process (all Alaska marine mammal species except sea otters, polar bears, and walrus) email [AKR.PRD.Section7@noaa.gov](mailto:AKR.PRD.Section7@noaa.gov). For questions related to species managed by the US Fish and Wildlife Service (USFWS), contact the USFWS Alaska Marine Mammals Management Office via email [FW7\\_AK\\_Marine\\_Mammals@fws.gov](mailto:FW7_AK_Marine_Mammals@fws.gov) or call 800-362-5148. USFWS species in the project area include the Northern sea otter.

2. To reduce disturbances to harbor seals that are hauled-out onshore of any recognized harbor seal haulout, cable laying vessels should remain a minimum of 500 meters (1640 feet) offshore in these areas without compromising safe navigation. This is especially important during pupping season (between May and mid-July, covers lactation period). See haulout location map: [https://services2.arcgis.com/C8EMgrsFcRFL6LrL/arcgis/rest/services/pv\\_cst\\_haulout/FeatureServer](https://services2.arcgis.com/C8EMgrsFcRFL6LrL/arcgis/rest/services/pv_cst_haulout/FeatureServer).

3. Project activities may affect ESA-listed species and other sensitive resources, such as migratory birds, managed by the U.S. Fish and Wildlife Service (USFWS). We recommend utilizing the Information for Planning and Consultation (IPaC)c tool (IPaC: Home ([fws.gov](http://fws.gov))) to determine what USFWS trust resources may be present in the project boundary, including determining the probability of presence during project activities. For further details, contact the Anchorage Fish & Wildlife Field Office at 907-271-2888 (phone) or 907-271-2786 (fax).”

DMLW Response:

DMLW shared ADF&G’s comment with the applicant. The applicant received letters of concurrence and/or no effects determinations from the federal agencies listed.

## **Public Notice Summary**

A Public Notice was conducted from November 14, 2023, to December 15, 2023. Notice of this application was posted on the Alaska Online Public Notice System website and sent to the following known interested parties:

- Post Offices of Ketchikan, Thorne Bay, Coffman Cove, and Kassan
- Municipalities of Ketchikan, Thorne Bay, Coffman Cove, and Kassan
- Perry Olson & Marjean Efta (adjacent upland owners to landing site)
- Organized Village of Kasaan
- Kavalco, Inc.
- Ketchikan Indian Community
- Central Council Tlingit and Haida Indian Tribes of Alaska, Native Lands and Resource Division
- Metlakatla Indian Community
- Army Corps of Engineers
- National Marine Fisheries Service (NMFS)
- US Fish and Wildlife
- U.S. Forest Service
- Sealaska
- Southeast AK Conservation Council
- Alaska association of Conservation Districts
- Central Council Tlingit and Haida Indian Tribes of Alaska (CCTHITA)

### **Public Notice Comment and Response**

#### Della Coburn

Summary: Ms. Coburn expressed her support for the project and stated she believes the project will provide economic development through quality service.

DMLW Response: No comment needed.

### **Access**

The applicant will have physical and legal access to the site over state tide and submerged lands underlying Clarence Strait, Twelvemile Arm, Tongass Narrows, and other navigable water bodies.

Pursuant to AS 38.05.126(a), the public has a constitutional right to free access to, and use of, navigable or public waters of the State of Alaska. Public access across this easement shall not be restricted in any manner.

### **Environmental Considerations**

DMLW considers environmental factors directly related to authorizing the use of State lands as part of its determination of whether approving the authorization is in the State's interest. The purpose of this consideration is to identify any associated mitigation measures or other requirements necessary to protect the public interest, while informing the overall decision of whether to approve the authorization. The applicant is responsible for determining site suitability.

Environmental contamination risk associated with this proposed easement is minimal. Petroleum-based fuel, lubricant, and hydraulic oils are the only reported potentially hazardous materials to be associated with this project. These will be used by the two vessels supporting cable laying activities. The vessels will be equipped with spill response kits and have all



instruments and equipment checked before use. There are no other known environmental constraints in this location.

### **Economic Benefit and Development of State Resources**

In accordance with AS 38.05.850, DMLW considers three criteria to determine if this project provides the greatest economic benefit to the State and the development of its natural resources: direct economic benefit to the State, indirect economic benefit to the State, and encouraging development of the State's resources. The proposed project provides both direct and indirect economic benefits to the state and will substantially contribute to community sustainability and an enhanced quality of life for Alaskans.

### **Discussion**

On July 1, 2022, DMLW entered into an entry authorization agreement with AP&T Wireless, Inc. to authorize the "SEALink North" project, consisting of a public utility easement for a submerged fiber optic cable, spanning from Lena Point in Juneau, Alaska to Mitkof Island in Petersburg, Alaska and continuing to Coffman Cove on Prince of Wales Island, Alaska. That project was serialized as ADL 109223 and will be finalized with the provision of a completed survey to DMLW.

On September 29, 2024, DMLW received an application from AP&T Wireless, Inc. for construction of "SEALink South." An additional submerged fiber optic cable will begin where ADL 109223 originally terminated in Coffman Cove and will continue to Hollis and Ketchikan, Alaska. The purpose of SEALink South is to provide high-speed broadband to rural and underserved communities and to enhance the value of the previously constructed SEALink North.

Broadband technologies play a foundational role in enhancing Alaska's economy through the delivery of advanced telecommunication services to residents and businesses. It is incumbent upon the State to foster and promote development of FOC systems so that the people of Alaska can reap the benefits and conveniences these technologies provide. Furthermore, Administrative Order 310 directs DNR to take all necessary steps to streamline, consistent with Alaska Statutes, the authorization and environmental permitting and review processes required for the construction of broadband facilities that utilize state land<sup>1</sup>.

To remain consistent with the authorization and stipulations of ADL 109223, staff recommend that the character of the easement be defined by the inclusion of provisions that:

- Allow for termination when Grantor determines that the easement is abandoned, no longer in use for the purpose(s) authorized, or the easement is revoked as a result of violation of the terms, conditions and stipulations.
- Following termination, whether by abandonment, revocation, or any other means, requires that the grantee maintain responsibility for the rehabilitation of the site(s) to a condition that is acceptable to DMLW.
- Withhold the right to transfer or assign the easement unless written approval from DMLW is obtained.

---

<sup>1</sup> Administrative Order No. 310, May 29, 2019.

- Reserve the right to amend the terms, conditions and/or stipulations of the easement prior to assignment, or to withhold assignment entirely.

### **Performance Guaranty**

Performance guarantees are means to assure performance and to provide ways to pay for corrective action if the permittee fails to comply with the requirements set forth in the permit document. They are also used to protect state land from damage and to make certain that improvements are removed and that the land is returned in a usable condition upon termination of the permit.

**History of Compliance:** DNR Land Administration System records indicate that the applicant is in a state of compliance with the terms of other DMLW-issued authorizations.

**Performance Guaranty Narrative:** In consideration of the low risk associated with the proposed authorization and the applicant's history of compliance with DMLW-issued authorizations, the requirements of performance guaranty are waived for ADL 109339. As stated in the proposed easement, DMLW reserves the right to require a performance guaranty in the event the grantee's compliance is less than satisfactory or as a condition of authorizing significant changes in the land use. If required, such performance guaranty shall remain in effect until released, in writing, by DMLW and shall secure performance of the grantee's obligation. The amount of the performance guaranty may be adjusted in the event of approved amendments to the proposed easement, changes in the development plan, or any change in the activities or operations conducted on the premises.

### **Insurance**

Consistent with AS 38.05.850, to protect the State from liability associated with the use of the site, the applicant shall provide and maintain a comprehensive general liability insurance policy with the State of Alaska named as an additional insured party per the stipulations of the easement agreement. The applicant shall secure or purchase at its own expense and maintain in force at all times during the term of this easement, liability coverage and limits consistent with what is professionally recommended as adequate to protect the applicant and the State, its officers, agents and employees from the liability exposures of all the insured's operations on state land. The insurance requirement may be adjusted periodically.

### **Survey**

A DMLW-approved survey is required to determine the proper location and acreage of installed improvements and the associated easement on State-owned, DMLW-managed lands. The area shown on Attachment 1 is the basis for the survey. The applicant must acquire survey instructions and coordinate with the DMLW Survey Section during the survey process. A survey instruction fee may be applicable. A draft must be submitted to the Survey Section prior to the expiration of the EA and a final survey must be approved by DMLW before issuance of the final easement.

## Fees

The following fees are applicable to this request. These fees may be adjusted if regulations or department fee schedules pertaining to the fees change during the term of the entry authorization and/or easement and will be subject to non-sufficient fund and late payment penalty fees. All fees shall accrue from the effective date of the decision.

Entry Authorization: In accordance with 11 AAC 05.070(d)(2)(I) and the Directors Fee Order (June 2018), the fee for an Entry Authorization for an approved easement or right-of-way for site development is \$240 annually for up to two acres, and \$120 annually for each acre above two. The proposed easement, rounded to the nearest whole number, occupies 354 acres. The annual fee for this Entry Authorization will be a total of \$42,720 annually (2 acres @ \$240 + 352 acres @ \$120 = \$42,720).

After submission of the DMLW approved survey and any other required EA deliverables, the annual entry authorization fee will be terminated.

Easement: Per the Directors Policy File 2020-03, Issued on June 1, 2020, DMLW will issue public utility easements for all fiber optic cables. In accordance with 11 AAC 05.070(d)(2)(C) and the Directors Fee Order (June 2018), a one-time fee of \$0.56 per centerline linear foot applies to the entire easement. **The total easement length is estimated to be (513,744 feet x \$0.56) = \$287,696.64; however, the precise length of the easement and easement fee amount will be determined by the provided survey. The final, one-time easement fee will be due during the Entry Authorization period before the final easement is granted.**

Survey: Fees for survey instruction, review, and recording will be required and administered through the Survey Section.

Recording: The applicant shall pay any appropriate recording fees as determined based on current regulation to have the easement document recorded by DMLW. Recording fees shall be paid prior to the execution of the easement document.

## Entry Authorization

The entry authorization is an interim authorization issued when a survey is necessary prior to easement issuance. Staff recommend that an entry authorization be issued for a term ending 2 years from the effective date of this decision for the purpose of constructing, surveying, operating, and maintaining the infrastructure considered herein prior to DMLW's issuance of a public utility easement. The entry authorization may be revoked if the applicant has not supplied DMLW with a draft survey within 2 years of receiving survey instructions. An extension of the entry authorization may be granted at the written request of the applicant if granting the extension is deemed appropriate by DMLW and may be subject to applicable fees. If an extension is required, the applicant must contact DMLW no later than 30 days prior to the expiration of the entry authorization and certify there have been no changes to the approved development plan. Staff recommend that entry authorization not be granted until the following deliverables have been provided to DMLW, as described or recommended above:

- Payment of the first annual Entry Authorization Fee, \$42,720
- Certificate of Insurance
- Corporate Resolution or other form of proof that the signer of the Entry Authorization, Easement, and other documents related to this authorization is authorized to do so on behalf of AP&T Wireless, Inc.

### **Easement Term**

The authorization requested under ADL 109339 will be issued for an indefinite term. Easements issued under AS 38.05.850 may be revoked for cause if the area described is no longer used for the purpose intended or if a higher and better use of the land is established as determined by DMLW. Following termination of an easement, whether by abandonment, revocation, or other means, a grantee shall restore the site to a condition that is acceptable to DMLW. A grantee's planned site restoration activities, including either removal or abandonment of installed improvements, must be described in writing and present to DMLW prior to termination of the easement. DMLW may require compliance with additional conditions specific to the site restoration effort that were not required for the construction, maintenance, or operation of described improvements. Should a grantee refuse to perform approved site-restoration activities within the time allotted by DMLW, the improvements may become property of DNR. However, a grantee shall not be relieved of the cost of restoring the area to a condition that is acceptable to DMLW.

### **Recommendation**

In consideration of all events and criteria described above, it is my determination that this project is consistent with the overall classification and management intent for this land and will be a benefit to the State of Alaska. Therefore, I recommend issuance of a public utility easement to AP&T Wireless, Inc. pursuant to AS 38.05.850, upon satisfactory completion of the project in conformance with all the terms and conditions of this decision and the EA. The easement will be issued for an indefinite term that may be terminated if a higher and better economic use for the project area is established as determined by DMLW Director, if the land is no longer used for the above stated purpose or is revoked for cause.

*Laurel Smith*

Laurel Smith, Natural Resource Specialist 3

08/05/2024

Date

### **Regional Manager's Decision**

When adjudicating an easement authorization pursuant to AS 38.05.850, DNR seeks to responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with the public interest. In consideration of all events and criteria listed above, DMLW has determined that the authorizations to be granted under ADL 109339 are consistent with DNR's mission. It is my decision that this project is consistent with the overall classification and management intent for this land. DMLW will issue a public utility easement, pursuant to AS 38.05.850, once the applicant has conformed to all terms and conditions of this decision and the EA.

Mason Auger  
Mason Auger, Natural Resource Manager 2

Date 8/5/2024

Attachments:

- Attachment 1. Development Plan
- Attachment 2. Draft Entry Authorization
- Attachment 3. Draft Public Utility Easement

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>.