

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

**Southeast Regional Land Office**

**Regional Manager's Decision**

**ADL 109338**

**State of Alaska, Division of Mining, Land and Water**

**Executive Summary**

On August 5, 2023, a glacial outburst flood from the Mendenhall Glacier's Suicide Basin caused massive flooding and subsequent property damage to land and properties along the Mendenhall River. On August 9, 2023, the Governor's Office issued an Emergency Declaration and ordered a suspension of all provisions of Alaska Statutes and regulations that related to the requirement to obtain a right-of-way permit prior to entry upon State land under AS 26.23.020(g)(1) and (7).<sup>1</sup>

This Regional Manager's Decision (RMD) is for the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW) to issue a public easement to the State of Alaska, DMLW on State-owned, DMLW-managed land of the Mendenhall River in Juneau, Alaska. Due to this emergency declaration, DMLW's normal easement processes and fees were waived for the 30-day term in which the declaration was in effect. The public easement would be issued to the State of Alaska, DMLW in perpetuity and allow for future development and construction within its boundaries for erosion control under future authorizations – granted at DMLW's discretion – to construct within this public easement. The State of Alaska intends to authorize this easement.

**Action**

- Type of easement: Public easement for erosion control.
- Approximate location: Easement runs along State lands of the Mendenhall River and downstream of the Mendenhall Loop Road bridge to the mouth of the river at Gastineau Channel near Juneau, AK.
- Term: In perpetuity.
- Grantee: The State of Alaska, Division of Mining, Land and Water on behalf of the public.

**Authority**

This easement is being adjudicated pursuant to the Alaska Land Act as amended, the Governor's Emergency Declaration (August 9, 2023), AS 26.23.020, and consistent with AS 38.05.850.

**Administrative Record**

The administrative record for the action consists of the Alaska Constitution, the Alaska Land Act as amended, applicable statutes and regulations referenced herein, the Juneau State Land Plan (JSLP, 1993) and other classification references described herein, and the casefile serialized by DNR as ADL 109338.

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<sup>1</sup> Governor's Emergency Declaration is attached to this decision.

## **Scope of Decision**

The scope of this decision is to determine if it is in the State's best interest to create an easement for the 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:** This easement is within the Mendenhall River located in the Mendenhall Valley, approximately eight miles northwest of Juneau, Alaska.

**Meridian Township Range Section:** This easement is within State-owned, DMLW-managed lands within;

- Sections 24, 25, and 36, Township 40 South, Range 65 East, Copper River Meridian
- Sections 18, 19, and 30, Township 40 South, Range 66 East, Copper River Meridian

## **Other Land Information**

Municipality: City and Borough of Juneau

Regional Corporation: Sealaska Corporation

Village Corporation: Goldbelt Incorporated

Federally Recognized Tribes: Central Council of the Tlingit and Haida Indian Tribes and Douglas Indian Association

## **Title**

The State of Alaska holds title to the lands subject to this decision—the lands beneath tidally influenced and navigable waterways within its jurisdiction, including lands of the Mendenhall River in the section(s) referenced above, on the basis of the Equal Footing Doctrine, and the Submerged Lands Act of 1953.

## **Public Notice and Agency Review**

Due to the emergency nature of this easement, public notice and agency review of this application was not conducted. Notice of this decision will be distributed via the Public Notice Website, as well as sent to the following parties:

- Alaska Department of Fish and Game
- Alaska Department of Transportation and Public Facilities
- US Army Corps of Engineers
- The City and Borough of Juneau
- Third Party Interest holders
- Sealaska Corporation
- Goldbelt Incorporated
- Central Council of the Tlingit and Haida Indian Tribes and Douglas Indian Association

### **Third Party Interests**

This easement may impact the following existing authorizations:

- ADL 107597 - Juneau International Airport
- ADL 107382 - USDOT FAA AK Region
- ADL 108952 - Normon Staton
- ADL 108957 - Greg Wagner
- ADL 109242 - Garrett Schoenberger
- ADL 109245 - Robert Pearson
- ADL 108956 - Rhonda Bunes
- ADL 109246 - Bjorn Wolter
- ADL 109243 - William Race
- ADL 105596 - Juneau City And Borough
- ADL 106554 - USDOT FAA AK Region
- ADL 109237 - Lisa Bryant
- ADL 109013 - Al Steininger
- ADL 108987 - Josh Hamilton
- ADL 108989 - Michael Wise
- ADL 108959 - William Hudson
- ADL 108958 - Matt Mickle
- ADL 104855 - Betty Jane Smith
- ADL 108885 - Juneau City And Borough
- ADL 80559 - Juneau City And Borough
- ADL 104592 - Juneau City And Borough
- ADL 106447 - USDOT FAA AK Region
- ADL 104854 - Betty Jane Smith
- ADL 109027 - Gold Creek Properties
- ADL 22570 - DOT&PF Southcoast Region
- ADL 103943 - Juneau City And Borough
- ADL 106607 - DOT&PF Southcoast Region
- ADL 109230 - John And Sharon Taber
- ADL 109252 - Juneau City And Borough
- ADL 109244 - Scott And Traci Heaton
- ADL 109247 - John Heueisen
- ADL 108954 - Jeffrey Rud
- ADL 108697 - Howard Jaeger
- ADL 108698 - Joseph H Flores
- ADL 105580 - Juneau City And Borough
- ADL 108128 - David & Cynthia Athearn
- ADL 109295 - Mike Stedman
- ADL 109292 - Peter Bangs
- ADL 105819 - Juneau City And Borough
- ADL 108963 - Greg Thomas
- ADL 108125 - Greg & Donica Jerue
- ADL 108214 - Kurt Tveten
- ADL 107245 - Juneau City And Borough
- LAS 33476 - Cox Environmental Services
- ADL 109327 - Jacob Olmstead
- LAS 34719 - Riverside HOA

This list is intended to capture all existing authorizations in the footprint of this easement. Any oversight of an existing authorization is to be included in this list.

### **Planning and Classification**

The proposed site is subject to the Juneau State Land Plan (JSLP, 1993) and is located within Region 3: Auke Bay/Mendenhall Peninsula, Unit 3F: Mendenhall Lake, Subunit 3f41: Mendenhall River (JSLP, 3-91).

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."

**Management Intent, Mendenhall River and Mendenhall Lake:** "The shorelands will be managed primarily for their high recreation, habitat and harvest values while providing opportunities for public improvements for utilities and roads that must cross the Mendenhall River" (JSLP, 3-88).

**Management Guidelines, Erosion Control Structures:** "Much of the uplands along the Mendenhall River are in private ownership. There has been extensive erosion control work along the riverbanks in the past. When erosion control projects are proposed, navigation, recreation, fisheries, and river hydrology will be taken into consideration. Fill will not be authorized in the river in order to create additional private uplands" (JSLP, 3-88).

**Designations and Classifications:** Subunit 3f41 is designated Fish and Wildlife Habitat ("Ha"), Shoreline Use - Personal Use ("Sh"), Recreation - Public Use Site ("Rp"), and Navigable ("N") (JSLP, 3-90). These designations convert to the land classifications of Wildlife Habitat Land, Settlement Land, and Public Recreation Land (JSLP, 4-3). The Shoreline Use - Personal Use designation provides that submerged lands will be managed to support existing or proposed settlement uses on adjacent uplands (JSLP, 3-6).

After review of the state's planning and management provisions for the subject area, the DMLW finds that the JSLP will allow for state land to be used to support future erosion control structures serving private property along the Mendenhall River.

### **Access**

This easement will not impair access along public or navigable waters. Based on previous uses and past adjudications, the DMLW does not anticipate the land use will impair navigation or recreation on the Mendenhall River as access to, along, and over the Mendenhall River would not be impaired by the public easement nor the prospective erosion control structures intended within it.

### **Development of State Resources**

The State is making this public easement available for erosion control projects. However, by making this land available for these erosion control projects, the State is not completing those erosion control projects, and thus has no interest in those projects and thus is not responsible for the success or failure of those erosion control projects. This includes not only any future effects the erosion control project may have on State lands, but also other Mendenhall River private uplands.

**Fees**

No fees will be associated with this public easement as it is being issued to State of Alaska, DMLW on behalf of the public.


Future fees associated with construction within this easement will be waived, if DMLW determines the applicant was directly impacted by the “glacial dam outburst from the Mendenhall Glacier’s Suicide Basin” that occurred on August 5, 2023, and that resulted in the Governor’s August 9, 2023, Declaration of Disaster Emergency.

**Easement Term**

The easement will be issued in perpetuity.

**Regional Manager’s Decision**

In consideration of all events and criteria listed above, DMLW has determined that the authorization to be granted under ADL 109338 is consistent with DNR’s mission. It is my determination that this decision is consistent with the overall classification and management intent for this land. DMLW will issue a public easement, pursuant to AS 26.23.020 and consistent with AS 38.05.850.



Kaitlyn Raffier, Southeast Regional Manager

September 8, 2023

Date

This decision has been issued under the Governor’s Declaration of Disaster Emergency dated August 9, 2023. The Governor’s Declaration suspended Alaska Statutes and regulations necessary for issuing a permit, lease, or right-of-way to allow landowners to address damage to their residential property due to the August 5, 2023 “glacial dam outburst from Mendenhall Glacier’s Suicide Basin.” To effectuate the purposes of the Governor’s Declaration and to allow landowners to complete the work needed to address damages to their residential property—and in recognition of the suspension of Alaska Statutes and regulations under the Declaration—this decision is not appealable.

**Attachments:**

Attachment 1. Governor’s Emergency Declaration