

**STATE OF ALASKA**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Division of Mining, Land and Water**  
Southeast Regional Land Office

**Administrative Decision**  
**ADL 105452**

**State of Alaska – Department of Transportation and Public Facilities**  
Application for Amendment No. 2 to Interagency Land Management Assignment  
AS 38.05.020(b)(2)

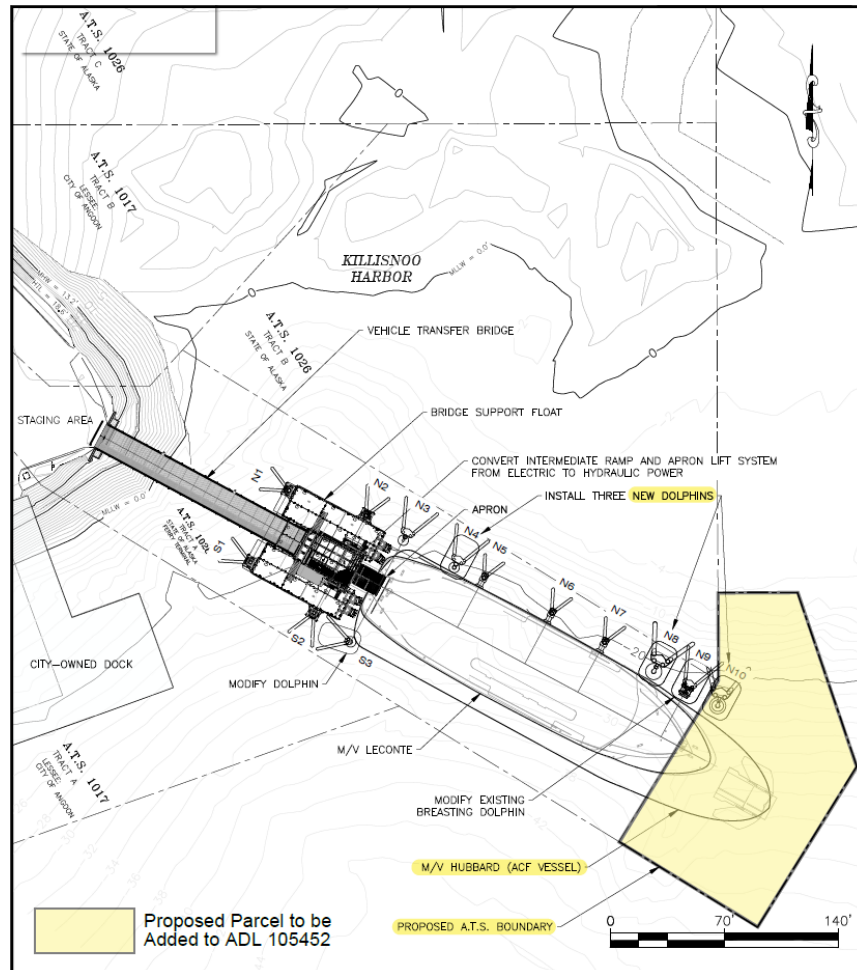


Figure 1. Development diagram showing the modifications to be made at DOTPF's Angoon Ferry Terminal, serialized as ADL 105452. The proposed parcel to be added to ADL 105452 is highlighted in yellow.

**Requested Action**

On November 8, 2023, the Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), received an application from the Department of Transportation and Public Facilities (DOTPF), to amend the Interagency Land Management Assignment (ILMA), ADL 105452, to include an additional parcel of state-owned, DMLW-managed lands in Killisnoo Harbor, a navigable body of water, two miles south of Angoon, Alaska. The purpose of the proposed amendment to the ILMA is to enable the moorage of an Alaska Class Ferry (ACF) at the

Angoon Ferry Terminal. In order to moor an ACF at the Angoon Ferry Terminal, DOTPF plans to install a new berthing dolphin within the proposed additional parcel. The area of the proposed additional parcel is approximately 0.4 acres, more or less.

### **Recommended Action**

Pursuant to AS 38.05.020(b)(2), DMLW recommends amending the ILMA, ADL 105452, to include approximately 0.4 acres, more or less, of additional state-owned, DMLW-managed lands in Killisnoo Harbor, a navigable body of water, two miles south of Angoon, Alaska, so DOTPF can accommodate an Alaska Class Ferry at the Angoon Ferry Terminal.

### **Scope of Decision**

The scope of this decision is to determine if it is in the State's interest to amend the ILMA, ADL 105452, 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. All other aspects of the applicant's project are outside the scope of this decision.

### **Statutory Authority**

This ILMA amendment application is being adjudicated pursuant to AS 38.05.020(b)(2).

### **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 here-in; the Northern Southeast Area Plan, 2002 (NSEAP) and other classification references described herein; and the casefile for the application serialized by DNR as ADL 105452.

### **Location Information**

#### **Geographic Location**

The proposed additional parcel to an existing ILMA, ADL 105452, is on state-owned, DMLW-managed submerged land in Killisnoo Harbor, a navigable body of water, two miles south of Angoon, Alaska, on Admiralty Island; USGS Quad Sitka B-2.

#### **Property Description**

The proposed additional parcel to an existing ILMA, ADL 105452, is on state-owned, DMLW-managed submerged land within Section 7, Township 51 South, Range 68 East, Copper River Meridian, more particularly described as coincident with a portion of the east boundary of Tract B, Alaska Tideland Survey (ATS) 1026; and coincident with the southeast boundary of Tract A, ATS 1026, and extending approximately 100 feet southeasterly of said boundary of Tract A, ATS 1026, filed as Plat 92-17, Document No. 1992-001823-0, Juneau Recording District, containing approximately 0.4 acres, more or less, and depicted on Attachment A.

### **Other Land Information**

Municipality: City of Angoon

Regional Corporation: Sealaska Corporation

Village Corporation: Kootznoowoo, Inc.

Federally Recognized Tribes: Angoon Community Association (ACA); Central Council of the Tlingit and Haida Indian Tribes of Alaska (CCTHITA)

## Title

The State of Alaska holds title to lands beneath tidally influenced and navigable waterways within its jurisdiction, including lands underlying Killisnoo Harbor in the section(s) referenced above, on the basis of the Equal Footing Doctrine, the Submerged Lands Act of 1953, and AS 38.04.062.

## Third Party Interests

The applicant has requested an amendment to the ILMA that may intersect with the following interests:

- ADL 106925 – Thompson Management Services, Inc. dba Angoon Oil & Gas Co.
- ADL 107228 – Killisnoo Harbor, Inc. dba Whaler's Cove Lodge
- ADL 107315 – Inside Passage Electric Cooperative (IPEC)

## Planning & Classification

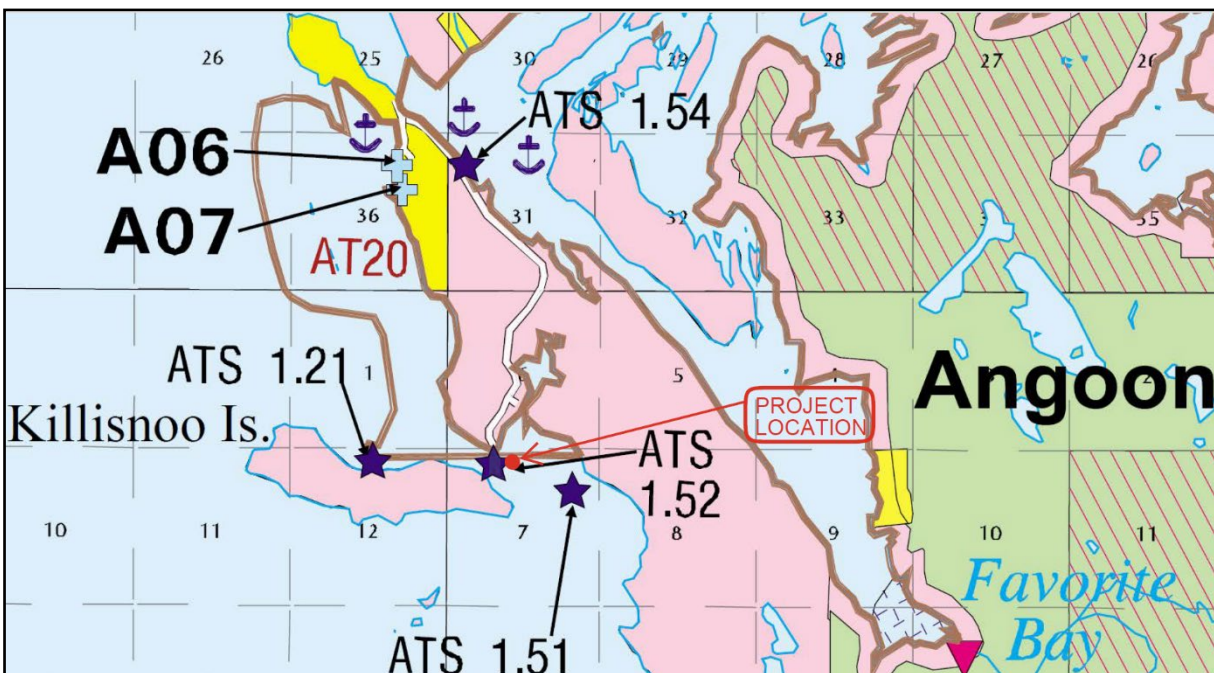


Figure 2. Plan map for Admiralty Island Area, Angoon (NSEAP 3-145). The red dot, arrow, and label indicate the approximate location of the proposed activity. The location is adjacent to both Management Unit AT-20 and Management Unit ATS 1.52 but does not coincide with either management unit.

The proposed activity is subject to the Northern Southeast Area Plan (NSEAP, 2002). It is not located within any area plan management unit. The designated land use is Gu – General Use (NSEAP 3-2-3, 130) which converts to 11 AAC 55.200. Resource Management Land as the land classification (NSEAP 4-3). The applicable Chapter 2 guidelines for the proposed activity are Coordination and Public Notice (NSEAP 2-7); Fish and Wildlife Habitat and Harvest Areas (NSEAP 2-10-18); Recreation, Tourism, and Scenic Resources (NSEAP 2-33-37); Settlement (NSEAP 2-38-42); and Trail and Public Access Management (NSEAP 2-51-54).

DMLW finds the proposed activity is consistent with the designation, classification, and management guidelines of the NSEAP. The proposed activity is consistent with the General Use designation and Resource Management Land classification because the proposed activity meets

the appropriate design, siting, and operation criteria to make it compatible with the variety of resources and uses in the area.

The proposed activity is consistent with the Coordination and Public Notice guidelines because DMLW and DOTPF have provided notice to adjacent landowners, third party interests, local government, state and federal agencies, tribal organizations, and the general public, giving them the opportunity to comment on the proposed activity. The proposed activity is consistent with the Settlement guidelines because the expansion of the Angoon Ferry Terminal provides public access and transportation for the community of Angoon, connecting the community with other locations throughout Southeast Alaska. The proposed activity is consistent with the Trail and Public Access Management guidelines because the proposed parcel to be added to the ILMA will remain in state ownership and public access will continue to be maintained to and along Killisnoo Harbor, a navigable waterbody.

The proposed activity is consistent with the Fish and Wildlife Habitat and Harvest Areas guidelines because DOTPF has taken appropriate mitigation measures to limit the proposed activity's effect on fish, wildlife, and their habitats. In July 2024, DOTPF hired Solstice Alaska Consulting, Inc., to conduct an intertidal and dive survey of the project area. The consultants observed and documented the fish, wildlife, and habitats within the project's area of potential effect.<sup>1</sup> Based on this survey and other environmental considerations, DOTPF is completing the project's Environmental Document that outlines the environmental consultations and authorizations this project will obtain.<sup>2</sup>

The proposed activity is also consistent with the Fish and Wildlife Habitat and Harvest Areas guidelines because DOTPF is consulting with the National Marine Fisheries Service (NMFS) to ensure the proposed activity is compliant with Section 7 of the Endangered Species Act. DOTPF and NMFS are also conducting an Essential Fish Habitat (EFH) Assessment for two species of Pacific Salmon and Gulf of Alaska Groundfish present in Killisnoo Harbor. DOTPF is also consulting with NMFS and the U.S. Fish and Wildlife Service (USFWS) regarding the need for an Incidental Harassment Authorization (IHA) to mitigate any adverse impacts the proposed activity will have on sea otter populations in the area. In addition to these consultations and authorizations, DOTPF is obtaining an USFWS Eagle Permit and U.S. Army Corps of Engineers (USACE) Nationwide Permit for this proposed activity.<sup>3</sup> These consultations and authorizations ensure that the project is consistent with the Fish and Wildlife Habitat and Harvest Areas guidelines by mitigating the proposed activity's effect on fish, wildlife, and their habitat in the area.

The proposed activity is consistent with the Recreation, Tourism, and Scenic Resources guidelines because the proposed activity meets the appropriate design, siting, and operation criteria to make it compatible with the recreation uses (i.e., sport fishing, boating, kayaking, wildlife viewing) and private recreational facilities (i.e., Whaler's Cove Lodge) in the area. Furthermore, DMLW notified organizations that support recreational activities in the area (U.S. Forest Service; Alaska Department of Fish and Game; City of Angoon; Whaler's Cove Lodge) and the general public of the proposed activity and DMLW did not receive any comments from these organizations or the general public opposing or having concerns about the proposed activity.

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<sup>1</sup> Appendix A

<sup>2</sup> Appendix B

<sup>3</sup> Appendix A

## **Access**

The applicant may access the proposed additional parcel over state-owned, DMLW-managed lands within Killisnoo Harbor, a navigable body of water within Chatham Strait. The applicant may also access the proposed additional parcel from the adjacent uplands to the north, primarily using the Killisnoo/Kootznahoo Road, Angoon Ferry Terminal Access Road, and Angoon Ferry Terminal Transfer Bridge.

## **Background**

On March 25, 1982, the Department of Natural Resources entered into a lease agreement, ADL 72797, with the City of Angoon for the construction and use thereafter of the Angoon City Dock. At the time, ADL 72797 consisted of Tracts A and B, ATS 1017, containing approximately of 2.34 acres, more or less.

On September 2, 1992, an Interagency Land Management Assignment (ILMA), ADL 105452, was assigned to DOTPF to make use of state-owned land in Killisnoo Harbor for the Angoon Ferry Terminal. The original ILMA consisted of Tracts A, B, and C, ATS 1026, containing approximately 4.34 acres, more or less.

On May 8, 2015, ADL 72797's leasehold was amended, thereby removing Tract B, ATS 1017, from the leasehold. Amendment No. 1 to ADL 72797 also incorporated a "permanent easement," identified as Parcel E-1B, consisting of 601 sq. ft., within Tract A, ATS 1017, that DNR (the lessor) and the City of Angoon (the lessee) granted to DOTPF.

On June 25, 2015, ADL 105452 was amended, thereby adding two parcels to the ILMA; Tract B, ATS 1017, and "permanent easement" Parcel E-1B within Tract A, ATS 1017. The total acreage of the two parcels added to the ILMA was approximately 0.78 acres, more or less, and therefore the total acreage of the amended ILMA was 5.2 acres. Tract B, ATS 1017, was added to the ILMA so improvements at the Angoon Ferry Terminal could be constructed such as additional parking, a new sidewalk, and a new riprap wall. Parcel E-1B within Tract A, ATS 1017, was added to the ILMA so the Angoon Ferry Terminal's overhead lighting (i.e., "luminaries"), and its associated electrical and utility cabinet could continue to be maintained by DOTPF.

## **Agency Review & Public Notice**

### **Agency Review Summary**

Agency Review of the application was conducted from November 14, 2024, to December 5, 2024. Information and comments received from sections within DMLW during Agency Review have been considered and included in the preparation of this Administrative Decision.

### **Agency Review Comment & Response**

#### **Department of Fish and Game (DFG) – Division of Wildlife Conservation (DWC) – Threatened, Endangered, and Diversity (TED) Program:**

An ESA review needs to come from the federal agencies that implement the federal ESA (i.e., National Marine Fisheries Service and US Fish and Wildlife Service. There is no project review provision in the State ESA. In addition, the Section 7 process in the federal ESA is designed to review the impacts of projects that are funded or permitted by the federal government. I don't know the source of funding for this project, although I suspect there could be federal funding

involved, but just the fact that it requires a Corps of Engineers Clean Water Act permit means that it likely requires a Section 7 consultation by NMFS or FWS. At a minimum, an informal consultation with them could resolve that question. NMFS is responsible for anadromous fish and most marine mammals – except polar bear, Pacific walrus, and N. sea otter, which are under USFWS jurisdiction. None of the USFWS species would occur in the project area (sea otters may, but the Southeast population is not listed). I suggest contacting the NMFS Protected Resources Division to start: [fisheries.noaa.gov/region/alaska/protected-marine-life](https://www.fisheries.noaa.gov/region/alaska/protected-marine-life). It's possible that the Habitat Conservation Division would also be involved in the review.

**DNR-DMLW-SERO Response:**

In addition to the Agency Review Notice that was sent out to other State agencies regarding this project, a Public Notice was sent to federal, municipal, tribal, and non-profit organizations, as well as the general public. Several of the recipients of the Public Notice are staff with NMFS' Protected Resources Division and Habitat Conservation Division. DMLW did not receive any comments from NMFS regarding this project. In addition, DOTPF are aware that they will need the following environmental consultations and permits from federal agencies: Consultations – Section 7 of the Endangered Species Act (NMFS), Incidental Harassment Authorization (NMFS and USFWS), Essential Fish Habitat Assessment (NMFS); Permits – Eagle Permit (USFWS), Nationwide Permit (USACE), Incidental Harassment Authorization (NMFS and USFWS).

**DFG-DWC-Marine Mammal Program (MMP):**

There is no marine mammal critical habitat designated within the project area. There are, however, several marine mammals with ranges overlapping with the project area, including humpback whale, gray whale, killer whale, minke whale, Dall's porpoise, harbor porpoise, Pacific white-sided dolphin, Steller sea lion (Eastern and Western distinct population segments), harbor seal, and Northern sea otter. We suggest consulting with the National Marine Fisheries Service and US Fish and Wildlife Service about marine mammal presence in the area, and how to mitigate for potential disturbances. For inquiries regarding the NMFS consultation process email [AKR.PRD.Section7@noaa.gov](mailto:AKR.PRD.Section7@noaa.gov). For information about sea otters in the project area, email [FW7\\_AK\\_Marine\\_Mammals@fws.gov](mailto:FW7_AK_Marine_Mammals@fws.gov) or call 800-362-5148. We also suggest reporting any marine mammal interactions to the Alaska Marine Mammal Stranding Network at (877) 925-7773.

**DNR-DMLW-SERO Response:**

In addition to the Agency Review Notice that was sent out to other State agencies regarding this project, a Public Notice was sent to federal, municipal, tribal, and non-profit organizations, as well as the general public. Several of the recipients of the Public Notice are staff with NMFS' Protected Resources Division, Habitat Conservation Division, and Sustainable Fisheries Division. The USFWS' Ecological Services Branch, Fisheries Branch, Habitat Branch, and the Alaska Marine Mammals Management Office were also included in the Public Notice. DMLW did not receive any comments from NMFS regarding this project. In addition, DOTPF are aware that they will need the following environmental consultations and permits from federal agencies: Consultations – Section 7 of the Endangered Species Act (NMFS), Incidental Harassment Authorization (NMFS and USFWS), Essential Fish Habitat Assessment (NMFS); Permits – Eagle Permit (USFWS), Nationwide Permit (USACE), Incidental Harassment Authorization (NMFS and USFWS).

**DFG – Division of Commercial Fisheries (DCF) – Finfish Management – Juneau Area:**  
DCF Juneau has no concerns about this amendment. Although herring have been observed along this shoreline, consistent spawning events have not been observed and no timing windows need to be adhered to.

**DNR-DMLW-SERO Response:**

DMLW thanks DFG-DCF for their comment confirming that they have no concerns regarding this amendment since herring spawning events have not been consistently observed in this area and therefore no timing windows need to be adhered to.

**DFG – Division of Sport Fish (DSF) – Juneau / Glacier Bay Management Area:**

DSF Juneau does not have any concerns or issues with the proposed land use permit. The plan appears to be straightforward, primarily involving reinforcement of existing infrastructure with the addition of three new dolphins to accommodate larger vessels, such as the M/V Hubbard. Two of the new dolphins will be placed within the area already used for docking, and only one dolphin will be located on a new parcel of land at the end of the dock. This seems like a logical and minimal expansion of the current facilities, and DSF does foresee any major impacts since the area is already in use for docking and mooring.

**DNR-DMLW-SERO Response:**

DMLW thanks DFG-DSF for their comment confirming that they have no concerns regarding this proposed activity since the expansion of the current facilities will be minimal.

No other comments were received.

**Public Notice Summary**

Public Notice of the application was conducted from November 14, 2024, to December 5, 2024. The notice was sent via mail and email to federal, municipal, tribal, and non-profit organizations; third party interests; and posted at Angoon Post Office and the State of Alaska Online Public Notice System.

**Public Notice Comment & Response**

**United States Department of the Interior (DOI) – Bureau of Land Management (BLM) – Glennallen Field Office:**

Our interdisciplinary resource staff has reviewed the proposed ADL 105452 project, on State submerged land in Killisnoo Harbor project, within Section 7, Township 51 South, Range 68 East, Copper River Meridian and more particularly located seaward and adjacent to Tract A and Tract B, Alaska Tideland Survey 1026, located within Section 6 and Section 7, Township 51 South, Range 68 East, Copper River Meridian, filed as Plat 92-17, Document No. 1992-001823-0, Juneau Recording District.

REQUESTED ACTIVITY: DOTPF – Southcoast Region, has submitted an application to SERO for an amendment to the ILMA, ADL 105452, requesting an additional parcel for the Angoon Ferry Terminal be added to the assignment. The proposed additional parcel is on State submerged lands within Killisnoo Harbor and will allow the Angoon Ferry Terminal to accommodate an Alaska class ferry. In order to accommodate an Alaska class ferry at the Angoon Ferry Terminal, DOTPF plans to install a new berthing dolphin within the proposed additional parcel. The area of the proposed additional parcel is 0.391 acres more or less.

The BLM has no comment on the State submerged land in Killisnoo Harbor project.

Thank you for the opportunity to comment on these types of projects.

**DNR-DMLW-SERO Response:**

DMLW thanks BLM for their response to this Public Notice, confirming that they have no comment regarding this proposed activity.

No other comments were received.

**Environmental Consideration**

This decision considers the environmental factors directly related to the authorization for use of state lands, specifically whether the approval of 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 or not to approve the authorization.

Environmental contamination risk associated with this proposed ILMA is minimal. Fuel, lubricants, and other hazardous materials will be restricted to those necessary and will be contained within vehicles and vegetation clearing equipment when such equipment is necessary for right-of-way maintenance. No fuel or other hazardous materials will be stored on site. There are no other known environmental considerations or constraints in this location. The applicant is ultimately responsible for determination of site suitability.

**Discussion**

DMLW is proposing to amend the ILMA, ADL 105452, to include approximately 0.4 acres, more or less, of additional state-owned, DMLW-managed lands in Killisnoo Harbor, so DOTPF can accommodate an Alaska Class Ferry at the Angoon Ferry Terminal.

In accordance with stipulation No. 8 of Amendment No. 1 to the ILMA, ADL 105452, DMLW is proposing the term of this ILMA to be for so long as required for said public purposes. This ILMA will be subject to cancellation if a review shows that there is either (1) abandonment of the site; (2) significant non-use relative to the approved development plan; (3) violation of the terms and conditions of the ILMA; or (4) a new use not authorized in the approved development plan.

**Survey**

A DMLW-approved as-built survey is required to determine the proper location and acreage of installed improvements and the associated ILMA on state-owned, DMLW-managed lands. The survey must be produced in accordance with survey instructions provided by the DMLW Survey Section and stamped by a Professional Land Surveyor registered in the State of Alaska.

**Fees**

Per 11 AAC 05.020(b), staff recommend that interim and one-time issuance fee(s) for this authorization are waived as the request is in the public interest. Staff further recommend that the ILMA document be sent to the Recorder “State Business - No Charge” as the applicant is a state agency.



**Term**

Following termination, whether by abandonment, revocation, or any other means, the applicant shall rehabilitate the site(s) to a condition that is acceptable to DMLW.

**Recommendation**

Based upon the information provided by the applicant, agency and public review, and review of relevant planning documents, statutes, and regulations related to this application, it is the recommendation of staff to amend the ILMA as described above, on the condition that all stipulations are followed as described in the attached authorization.

John Henry Driscoll III  
John Henry Driscoll III, Natural Resource Specialist 2  
DNR, DMLW, SERO

01/10/2025  
Date

**Manager’s Decision**

Based on information provided by the applicant, agency and public review, and review of relevant planning documents, statutes, and regulations related to this application, it is the decision of the DMLW to amend the ILMA to DOTPF as recommended above. During the term of the ILMA, periodic inspections may be conducted, at the discretion of DMLW, to ensure compliance. DMLW reserves the right to issue other compatible uses within this same area.

This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 21st calendar day after issuance.

Mason Auger  
Mason J. Auger, Natural Resource Manager 2  
DNR, DMLW, SERO

1/13/2025  
Date

**Attachments**

- Attachment A: ADL 105452, DOTPF, ILMA, Amendment No. 2, Development Plan
- Attachment B: ADL 105452, DOTPF, ILMA, Amendment No. 2, Amendment Draft

**Appeal**

An eligible person affected by this decision may appeal 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 [dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf](http://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf).

# APPENDIX A



## Angoon Ferry Terminal Modifications Environmental Information

### Environmental Background

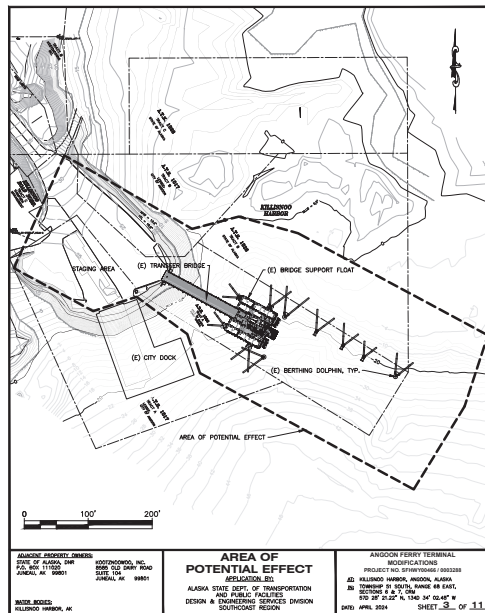
The Angoon Ferry Terminal is located in the Killisnoo Habor. The project would involve work in the marine environment temporarily impacting the intertidal and subtidal zone. Killisnoo Habor is designated as an Essential Fish Habitat (EFH) under the Magnuson-Stevens Fisheries and Conservation Management Act for two species of Pacific Salmon and Gulf of Alaska Groundfish. An intertidal and dive survey was performed during extreme low tide in July of 2024.

### Planned Consultations

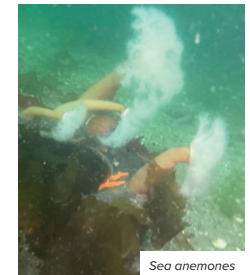
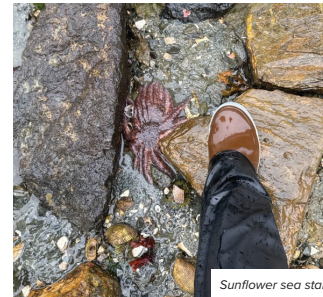
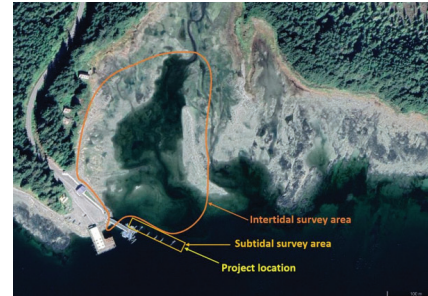
- » Section 7 of the Endangered Species Act with National Marine Fisheries Service (NMFS)
- » Incidental Harassment Authorization (IHA) with NMFS and U.S. Fish and Wildlife Service (USFWS) for sea otters
- » Essential Fish Habitat (EFH) Assessment with NMFS
- » Section 106 of the National Historic Preservation Act (NHPA)

### Anticipated Permits

- » USFWS Eagle Permit
- » U.S. Army Corps of Engineers (USACE) Nationwide Permit
- » IHA from NMFS & USFWS



### July 2024 Intertidal and Dive Survey Performed by Solstice Alaska Consulting, Inc.





# Angoon Ferry Terminal Modifications Project

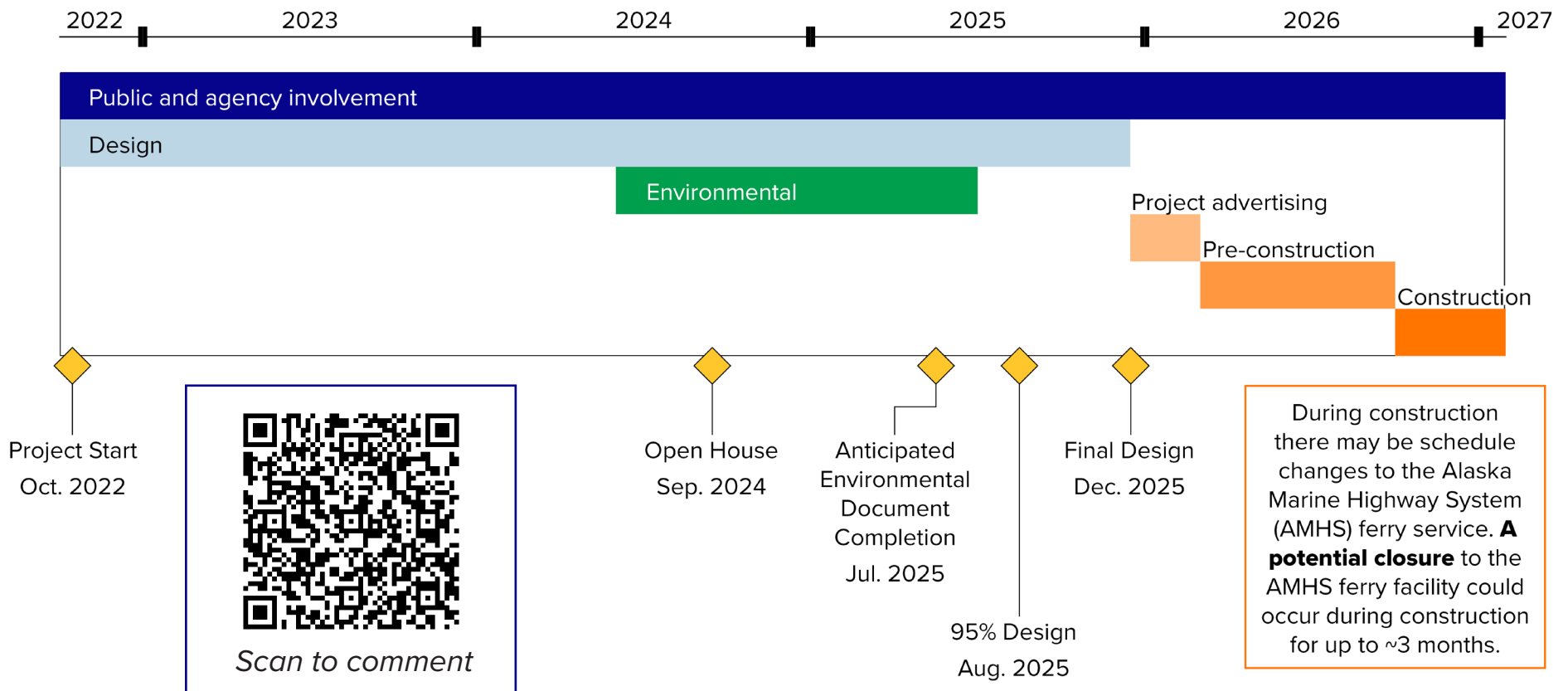


State #SFHWY00466 | Federal #0003288

## Project Description

DOT&PF, in coordination with the Federal Transit Administration (FTA), is proposing to make modifications to the existing ferry terminal in Angoon, Alaska. The purpose of this project is to update the Angoon Ferry Terminal to be able to accommodate the newly built Alaska Class Ferry (ACF) vessels that are operational in Southeast Alaska.

## Project Timeline *Dates subject to change at any time.*

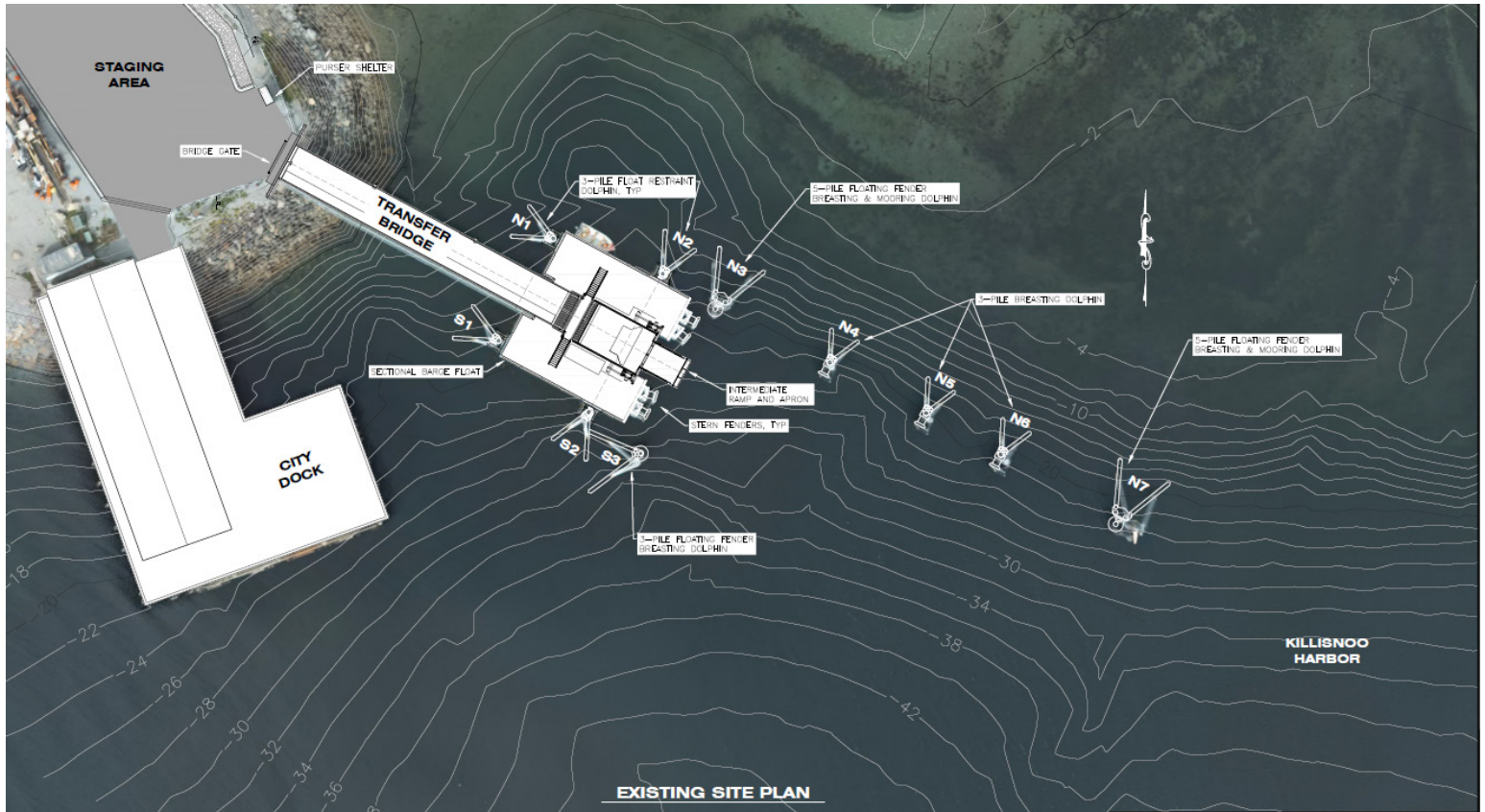


## APPENDIX B

# Angoon Ferry Terminal Site Plan

### Proposed Activities

- » Relocate one (1) existing dolphin.
- » Install three (3) new dolphins along the existing fender line to accommodate the Alaska Class Ferry vessel.
- » Modify the fender on one (1) existing dolphin from a floating donut fender to a fixed panel fender.
- » Convert the existing electrical lift system for the intermediate ramp and apron to a hydraulic lift system.
- » Make other improvements, as needed to the transfer bridge and uplands.



### Planned Environmental Consultations

- » Section 7 of the Endangered Species Act (National Marine Fisheries Service (NMFS))
- » Incidental Harassment Authorization (NMFS and U.S. Fish and Wildlife Service)
- » Essential Fish Habitat Assessment (NMFS)
- » Section 106 of the National Historic Preservation Act