

ALASKA DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND AND WATER  
MUNICIPAL ENTITLEMENT

**PRELIMINARY DECISION**  
**ADL 109287**

**Proposed Tideland Conveyance to Petersburg Borough**  
AS 38.05.035(e), AS 38.05.825

**RELATED ACTIONS**  
**None**

**PUBLIC COMMENT PERIOD ENDS 4:30 PM, FRIDAY, APRIL 25, 2025**

**I. Proposed Action**

*Preliminary Decision: Petersburg Borough Selection – ADL 109287*

*Attachment A: Vicinity Map*

*Attachment B: Public Notice*

Primary Proposed Action: The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) proposes to convey approximately 8.8 acres of state-owned tide and submerged lands (herein 'tideland') to Petersburg Borough (Borough) pursuant to Alaska Statute (AS) 38.05.825 Conveyance of Tide and Submerged Land to Municipalities. The subject parcel, which includes a dock, encompasses Alaska Tideland Surveys (ATS) 251 and 921, on the east shore of Wrangell Narrows at Papke's Landing. See *Attachment A: Vicinity Map* for the depiction of the project area.

This decision determines whether the Borough's request for tide and submerged land meets the requirements for conveyance in accordance with AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities, the Submerged Lands Act of 1953, and the Equal Footing Doctrine.

Proposed Related Actions: No related actions proposed.

Public Notice of Proposal: In accordance with AS 38.05.945 Notice, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comments on this proposal.

See **Section XV. Submittal of Public Comments** at the end of this document and *Attachment B: Public Notice* for details on submitting a comment for consideration. If, after consideration of timely, written comments, LSC moves forward with the proposal, a Final Finding and Decision (FFD) will be issued.

**II. Authority**

DNR has the authority under AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities to convey State-owned tide and submerged lands if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by AS 38.05.035(e) Powers and Duties of the Director. Article VIII, Section 1 of the Constitution of the State of Alaska states, "It is the policy of the State to encourage the settlement of its land and the

development of its resources by making them available for maximum use consistent with the public interest.”

### III. Administrative Record

The tideland conveyance case file (ADL109287) constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Central/Southern Southeast Area Plan (CSSEAP) adopted in November 2000 and associated land classification files;
- Alaska Department of Fish & Game (ADF&G) Alaska Anadromous Waters Catalog & Atlas to the Catalog, Southeast (2024);
- Alaska Department of Environmental Conservation (DEC) Contaminated Sites Database;
- Petersburg Borough Resolution 2022-14;
- Petersburg Borough Comprehensive Plan (2016);
- Petersburg Borough Waterfront Master Plan (2016);
- DNR case files: Alaska Tideland Survey (ATS) 251 (unapproved), ATS 921, Interagency Land Management Agreement (ILMA) ADL 20978.

### IV. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section II. Authority**, is limited and specific to the determination of whether it is in the State’s best interest to convey the subject parcel to the Borough under AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities. It also includes identifying any third-party interests, other interests of record, and stipulations necessary to ensure that statutory requirements have been met. This decision does not consider any future development, or the effects of such development, that may occur after the transfer.

### V. Location

The subject parcel is located within DNR’s Southeast Region, on tide and submerged lands located approximately 3 miles northwest of the head of Blind Slough and approximately 9 miles south of Petersburg on the east shore of Wrangell Narrows at Papke’s Landing on Mitkof Island, located in Sections 11 and 14, Township 60 South, Range 79 East, Copper River Meridian.

<i>Borough/Municipality:</i>	Petersburg Borough
<i>Meridian:</i>	Copper River (C)
<i>Regional Native Corp:</i>	Sealaska Corporation
<i>Federally Recognized Tribe:</i>	Petersburg Indian Association, Wrangell Cooperative Association
<i>Village Corporation:</i>	None
<i>USGS Map Coverage:</i>	Petersburg Quadrangle (1:250,000): Petersburg C-3 (1:63,360)

### VI. Legal Description

Tide and submerged land within unapproved survey ATS 251 associated with ADL 20978 ILMA for the Papke’s Landing dock containing 2.28 acres, more or less; and ATS 921 according to the survey plat filed in the Petersburg Recording District on August 18, 1980, as Plat No. 80-4, containing 6.52 acres, more or less, aggregating 8.8 acres, more or less.

### VII. Title

Information from Title Report 22871, current as of February 2, 2024, confirms the State received title to the tidelands and submerged lands at statehood through the Alaska Statehood Act, the Submerged Lands Act in 1953, and the Doctrine of Equal Footing upon entry of the State into the

Union. Management is subject to the Public Trust Doctrine. An updated title report has been requested; if any concerns are discovered, they will be addressed in the FFD.

*State Reservation of and Access to Mineral Estate:* In accordance with *Section 6(i) of the Alaska Statehood Act and AS 38.05.125 Reservation [of Rights to Alaska]*, the State retains ownership of the mineral estate that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals (such as gold, copper, silver, etc.), and leasable minerals (such as oil, gas, coal, etc.).

The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing, and producing these reserved mineral resources. Access reserved to these retained interests is superior to any and all surface uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, AS 38.05.130 Damages and Posting of Bond also provides that the land estate owner will be compensated for damages resulting from mineral exploration and development.

*Navigable Waters:* Wrangell Narrows is a navigable body of water. Per AS 38.05.126(b) *Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the state, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the state." This trust is in accordance with the principles of the Public Trust Doctrine, which are included in Article VIII, Section 14 of the Constitution of the State of Alaska and protected in the United States Constitution. It is vested in the title to this land, is not transferable, and the State's title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made and access will be reserved per AS 38.05.127 *Access To and Along Public and Navigable Water*. For more information, see **Section XI. Access, Including Access To and Along Public or Navigable Water**.

*Other Conflicts or Pending Interest:* The Department of Transportation & Public Facilities (DOT&PF) holds interest in the dock under Interagency Land Management Agreement (ILMA) ADL 20978. However, per written communication, DOT&PF will transfer their interest to the Borough when the FFD becomes effective.

## **VIII. Background and Discussion**

The Borough submitted an application for acquiring the tidelands in September of 2022. The Borough Assembly signed Resolution #2022-14 on September 19, 2022, in favor of acquiring the tidelands and dock under AS 38.05.825 *Conveyance of Tide and Submerged Land to Municipalities*. The Borough has stated that the primary purpose of this conveyance is to maintain and manage the dock and tidelands for the benefit of the residents and visitors to the area. The dock would allow for public access for the mooring of boats and float planes, which would provide access to trails and other public areas of interest. The Borough has submitted a comprehensive plan to repair and maintain the dock and has contacted DOT&PF about acquiring the dock. Once the FFD becomes effective, DOT&PF has confirmed it will relinquish its interest in the ILMA.

Petersburg Borough has also applied to purchase the uplands at Papke's Landing (ADL 234165) under AS 38.05.810 *Public and Charitable Use*. The uplands would allow public access to the community dock and tidelands addressed in this decision

AS 38.05.825(a) *Conveyance of Tide and Submerged Land to Municipalities*, requires DNR to convey to the municipality tide and submerged lands suitable for occupation and development when requested by the municipality unless it is found that public interest in retaining State

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ownership clearly outweighs municipal interest. The municipality must apply for conveyance, the tide and submerged lands must be within the boundaries of the municipality, the use cannot unreasonably interfere with navigation or public access, the land may not be subject to a shore fisheries lease under AS 38.05.082 Leases for Shore Fisheries Development, the land classification must be consistent with or compatible with the proposed use, and the land must be required for a public or private development approved by the municipality. The Borough has met the application requirements of the statute through the following:

- Public Interest - The public interest in retaining the lands within the subject parcel in State ownership does not outweigh the municipal interest in managing these submerged lands. The Borough plans to operate and maintain a facility that will be used by the public. LCS believes that there are no other overriding State interests in the subject parcel for conveyance; the municipal interest clearly rises above the public interest in retaining these lands in State ownership.
- Location - The land is within the boundary of the municipality.
- Navigation - The proposed use would not unreasonably interfere with navigation. An open channel for navigation will exist within the borough-owned tidelands.
- Public Access - The proposed use would not unreasonably interfere with public access and is intended to improve public access.
- Application - The Borough has submitted an application for conveyance.
- Shore Fisheries Leasing - The land is not subject to a shore fisheries lease.
- Land Classification - The land classification in the CSSEAP is consistent with the proposed action.
- Municipal Approval of Development - The Petersburg Borough Assembly supports the proposed development for this tideland conveyance and passed Resolution No. 2022-14.

## IX. Planning and Classification

1. *Planning:* The subject parcel is located within the CSSEAP, Unit PT-18, Unit PT-55, and a small portion is unclassified. Unit PT-18 is co-designated Waterfront Development (Wd) and Shoreline Use (Sd), Unit PT-55 is co-designated Habitat (Ha), Harvest (Hv), and Public Recreation – Dispersed Use (Ru), and all state-owned lands not otherwise designated are designated General Use (Gu). These designations convert to classifications of Waterfront Development Land, Settlement Land, Wildlife Habitat Land, Public Recreation Land, and Resource Management Land.

The CSSEAP states that the plan's management intent for Unit PT-18 is as follows:

*Management Intent: Maintain the high fish and wildlife values and user hunting, fishing and wildlife viewing opportunities while still maintaining public access to private uplands. The Wd designation applies to the area of Papke's landing (see plan map), which is used as a log transfer facility; a public dock and log storage area adjoin it. The Wd designation also applies to the W1/2S1/2NW1/4 of Section 11, T. 059S, R. 060E. This area includes a site with deep water access development potential, appropriate for a commercial dock. The Sd designation is intended to support upland development and corresponds to the City of Petersburg zoning ordinance. The Ha and Hv designations also apply to the areas affected by the Sd designation.*

*Resources: This parcel contains an extensive mud flat and the mouths of two anadromous fish streams, Falls Creek and Twin Creeks. Outmigrant juvenile pink and coho salmon rear within this parcel and adult salmon and steelhead school near the mouths of the two anadromous fish streams. Dungeness crab are abundant in seaward portions of this parcel. The parcel receives considerable use by waterfowl including Vancouver Canada geese and puddle ducks. A portion at the southern end*

*of this parcel known as Papke's Landing contains a log transfer site that is also used by local residents as a boat ramp. The unit is a community harvest area for waterfowl and coho and king salmon and a commercial and community harvest area for Dungeness crab.*

The CSSEAP states that the plan's management intent for Unit PT-55 is as follows:

*Managed Resources/Intent: Protect fish and wildlife habitat and community use/harvest values.*

*Resources: This unit is a waterfowl/shorebird spring and fall concentration area. Vancouver Canada geese frequent the tidal flats on the east side of Wrangell Narrows. Juvenile pink and coho salmon rear and adult salmon school in the unit. Black bears concentrate along the shoreline/upper tide flats in spring. The unit is a terminal harvest area for coho and king salmon returning to the Crystal Lake Hatchery as well as a community harvest area for these salmon. Portions of the unit at the mouth of Falls Creek are a community harvest area for steelhead. The unit is a pot shrimp and Dungeness crab commercial harvest area. Non-consumptive wildlife users on cruise ships, the Alaska Marine Highway, charter boats and personal watercraft view waterfowl, deer and black bear along this portion of Wrangell Narrows.*

The management intent specified within the CSSEAP is consistent with the current and future use of the subject tide and submerged lands for a public dock. The nearest anadromous stream is approximately 900 feet south of the subject parcel. The tidelands have been authorized as a log transfer facility and public dock for over 60 years, therefore no new impacts to wildlife are expected.

AS 38.05.825(a)(5) Conveyance of Tide and Submerged Land to Municipalities, requires that land to be conveyed must be either "classified for waterfront development or for another use that is consistent or compatible with the use proposed by the municipality, or the proposed use of the land is consistent or compatible with a land use plan adopted by the municipality or the department." Although Wildlife Habitat Land is not typically a conveyable classification, Public Recreation Land can be conveyed depending on the management intent and relative value of the recreational resources. Chapter 3 of the plan also states that land designated as Habitat or Harvest "...will remain in state ownership except for areas where a tidelands conveyance to a municipality is allowed under AS 38.05.825." Per comments from DMLW Resource Assessment and Development Section (see below **Section XIV. DMLW and Agency Review**), the portion of Unit PT-55 within the project area would allow for conveyance to the Borough. Per CSSEAP chapter 3, page 26, General Use (Gu) designation applies to all state-owned lands not otherwise designated. The designation General Use converts to Resource Management Land, a conveyable classification to municipalities under AS 38.05.825.

2. *Land Use Classification:* The State classified the subject parcel as Waterfront Development Land, Settlement Land, Wildlife Habitat Land, Public Recreation Land, and Resource Management Land under Classification Order CL SE-00-001 based on the CSSEAP, adopted in 2000.
3. *Local Planning:* The Borough has submitted a comprehensive plan to maintain the dock and has contacted DOT&PF about acquiring the dock. The Borough has provided, with their application, the repair and replacement plans that a local contractor submitted.

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The Petersburg Borough has assured, per their 2022-14 Resolution, that the use of the property will continue to be consistent with waterfront use for the public good as outlined in the Borough's Comprehensive Development and Waterfront Master plans and that the future development that is planned will enhance its use. Hunting and fishing lodges, subsistence users, sportfishing charters, local transportation, and the general public primarily use the dock and ramps.

**X. Traditional Use Findings**

The subject parcel is located within Petersburg Borough and a traditional use finding is therefore not required per AS 38.05.830 Land Disposal in the Unorganized Borough. However, information on current or traditional use is welcomed and can be given during the public comment period. See **Section XV. Submittal of Public Comments** at the end of this document and *Attachment B: Public Notice* for details on how to submit comment.

**XI. Access, Including Access To and Along Public and Navigable Water**

Terrestrial access to the selected tideland is via the Mitkof Highway then turning west onto Papke's Landing Road. Boats and float planes are used to access the dock from Wrangell Narrows and may moor at the dock. Pursuant to AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities, the conveyance of tidelands cannot unreasonably interfere with public access and the municipality must provide reasonable access to public waters and tidelands.

*Access To and Along Public or Navigable Waters:* In accordance with AS 38.05.127 Access To Navigable or Public Water, DNR has determined Wrangell Narrows navigable. Regulations dictating the creation of easements or rights-of-way under this statute include 11 AAC 51.035 Determination of Navigable and Public Water, 11 AAC 51.045 Easements To and Along Navigable and Public Water, and 11 AAC 53.450, Buffer Strips, Reserved Areas, and Public Easements.

*Easements and Setbacks:* A 50-foot continuous public access easement seaward from the current MHW of public or navigable water bodies shall be reserved to the State in accordance with AS 38.05.127 Access To Navigable or Public Water

Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.

**XII. Hazardous Materials and Potential Contaminants**

Based on a review of the Alaska Department of Environmental Conservation's (DEC) list of Contaminated Sites, no hazardous material or contamination from hazardous material is known to affect the subject parcel.

Petersburg Borough is expected to inspect the area of its tideland selection and familiarize itself with the condition and quality of the tideland. The State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State does not assume any liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances ever be identified.

**XIII. Survey**

Upon DNR approval for the conveyance of the parcel, an Alaska Tideland Survey (ATS) performed by an Alaska Registered Land Surveyor under the direction of the DMLW Survey

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Section will be required at the applicant's expense. The survey will be required before issuing a state tideland patent. There is no requirement under state statutes to appraise the land prior to conveyance.

ATS 251 was drafted in 1963, considered unapproved, and will require a new survey prior to issuance of a state tideland patent. The Borough is aware of these survey requirements and has agreed per resolution 2022-14. ATS 921 was filed with the Petersburg Recording District on August 18, 1980, as Plat No. 80-4, and will not need to be resurveyed.

**XIV. DMLW and Agency Review**

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this PD. Agency review was conducted between January 24, 2024, through February 23, 2024. The intent of an agency review is to request comments from agencies that may be affected by a municipal entitlement land conveyance decision. Agencies are given the opportunity to evaluate and comment on the municipality's land selection to determine if the State should retain all or a portion of the selected lands and, if so, provide supporting reasons for the requested action. Additionally, agencies are requested to identify any stipulations that may be appropriate if the land is to be conveyed out of state ownership.

DNR DMLW LCS received brief comments of non-objection from the following agencies: Department of Transportation & Public Facilities, DNR Division of Oil and Gas, and DNR DMLW Southeast Regional Land Office.

*DNR DMLW LCS Response:* LCS appreciates your review.

Comments from the DNR DMLW Public Access Assertion and Defense (PAAD):  
“PAAD has a single recommendation for the conveyance of these state owned tide and submerged lands. Please make the conveyance subject to the following clause that has been located on other ATS conveyances: GRANTEE TAKES TITLE TO THE TIDELANDS SUBJECT TO THE RIGHTS OF THE PUBLIC UNDER THE PUBLIC TRUST DOCTRINE.”

*DNR DMLW LCS Response:* LCS appreciates your review. This conveyance will be made subject to the Public Trust Doctrine.

Comments from the Department of Fish & Game (ADF&G):  
“Alaska Department of Fish & Game (ADF&G) has reviewed this a tideland selection and dock on Mitkof Island. AKDOT&PF currently manage the dock and tideland. This application is for the Petersburg Borough to own the dock and tidelands so they can maintain it for public access.

ADF&G has no objections to the conveyance of this tideland selection with the following comment:

The project area is adjacent to marine habitat used by multiple marine mammal species for foraging and travel. While construction activities may temporarily displace animals occurring in the area, any impacts would be temporary. There are no nearby pinniped haulouts, designated critical habitat areas or known biologically important area for cetaceans.

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Thank you for the opportunity to review and comment on this tideland selection. Additionally, we request a copy of the decision documents when issued.”

*DNR DMLW LCS Response:* LCS appreciates your review.

*Comments from the DNR DMLW Water Resources Section (WRS):*

“The ADNR Water Resources Section has reviewed the ADL 109287 Application and associated materials.

Based upon the information available it appears that there will not be any significant water use per AS 46.15.180 and 11 AAC 93.035 associated with this tideland conveyance that would require authorization from the Department.

Additionally, a review of the ADNR Land Administrative System database for Sections 11 and 14, Township 60 South, Range 79 East, Copper River Meridian shows no existing water rights or water use authorizations associated with Alaska Tideland Survey No. 251 or Alaska Tideland Survey No. 921, or any of their immediately adjacent uplands. Therefore, the ADNR Water Resources Section has no objection to, or further comments regarding, the ADL 109287 Application.”

*DNR DMLW LCS Response:* LCS appreciates your review.

*Comments from the DNR DMLW Resource Assessment & Development Section (RADS):*

“Thank you for the opportunity to review and comment on the proposed Municipal Tideland Entitlement conveyance to the Petersburg Borough. The Resource Assessment & Development Section (RADS) has reviewed the available data, satellite imagery, and the applicable regional land use plan – Central/Southern Southeast Area Plan (CSSEAP) and provides the following comments.

**Background & Discussion:**

Petersburg Borough has requested the conveyance of state tideland parcel (ADL 109287) pursuant to AS 38.05.825. The parcel is partially surveyed by Alaska Tideland Survey ATS 921 which contains approximately 6.52 acres and makes up the majority of the parcel. The remaining area (approximately 2.28 acres) is identified on other adjacent surveys as ATS 251. However, ATS 251 has never been recorded and does not exist as a public record. The entire requested conveyance aggregates 8.80 acres, more or less.

The parcel has infrastructure important to the community. Currently, the Department of Transportation & Public Facilities (DOT&PF) manages a dock on the portion of the parcel shown as ATS 251 under Interagency Land Management Agreement (ILMA) ADL 20978. The Borough has been in contact with DOT&PF about acquiring the dock. The area of the parcel covered by ATS 921 contains a boat launch ramp. The Borough plans to maintain the dock and boat ramp to encourage public use. A comprehensive plan of development has been submitted.

The parcel is located within Sections 11 and 14, Township 60 South, Range 79 East, Copper River Meridian on the Wrangell Narrows at Papke’s Landing and entirely within the Petersburg Borough boundary. The parcel (ADL 109287) is within the Central/Southern Southeast Area Plan (CSSEAP) units PT-18 & PT-55 with a small portion being unclassified. Unit PT-18 is co-designated as Waterfront Development (Wd) and Shoreline Use (Sd), which converts to Waterfront Development Land and Settlement Land and is appropriate for conveyance. Unit PT-55 is co-designated Habitat (Ha), Harvest (Hv), and



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Public Recreation – Dispersed (Ru) which converts to Wildlife Habitat Land and Public Recreation Land. Public Recreation land can be conveyed to Municipalities depending on the unit's management intent and the relative value of the recreational resources. In this case it would be appropriate to convey the portion located within Unit PT-55. Per chapter 3 page 26 the designation of General Use (Gu) applies to all state-owned lands not otherwise designated. The designation General Use converts to the classification Resource Management Land which is a conveyable classification to Municipalities under AS 38.05.825.

**Recommendation:**

Based on RADS review of the subject lands and taking the above area plan recommendations into account, the proposed state land conveyance to Petersburg Borough should move forward. The Petersburg Borough will be responsible for surveying the area shown as ATS 251. Thank you for the opportunity to review.”

*DNR DMLW LCS Response:* LCS appreciates your review.

*Comments from the DNR DOPR Office of History and Archaeology (AK OHA) - State Historic Preservation Office:*

“The Alaska Office of History and Archaeology (AK OHA) received your request (dated January 24, 2024) for review under the Alaska Historic Preservation Act (AHPA) (AS 41.35.070) on January 31, 2024. Following our review of the materials provided, we believe a finding "No Historic Properties Affected" is appropriate for this undertaking. However, our office may need to re-evaluate our decision if there are changes to project scope.

It should be noted that an AHRs site, PET-00273, which consisted of human remains, was found in a tidal area ¼ mile south of Papke's Landing in 1986. Should inadvertent discoveries of cultural resources occur during the project, work must halt, and our office must be promptly notified so that we can evaluate the resource(s) (Section 41.35.070[d]).

Please contact me if you have any questions or if we can be of further assistance.”

*DNR DMLW LCS Response:* LCS appreciates your review. If any changes to project scope occur, Petersburg Borough will need to notify AK OHA.

The following agencies or groups were included in the agency review, but no comment was received:

- U.S. Fish and Wildlife Service
- Alaska Conservation District
- Department of Environmental Conservation
- Office of Project Management and Permitting
- State Pipeline Coordinator's Section
- Department of Natural Resources
  - Division of Forestry & Fire Protection
  - Division of Geological and Geophysical Surveys
  - Alaska Mental Health Trust Land Office
  - DLMW Statewide Abatement of Impaired Lands
  - Division of Parks and Outdoor Recreation – Alaska State Parks

**XV. Submittal of Public Comments**

**See Attachment B: Public Notice for specific date and conditions**

Pursuant to AS 38.05.945 Notice, LCS is issuing public notice for comment on this Preliminary Decision.

In accordance with AS 38.05.946(a) Hearings, a municipality or corporation entitled to receive notice under AS 38.05.945(c) Notice may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

LCS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the PD, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the Preliminary Decision, including any deletions, minor changes, and summary of comments and LCS responses will be issued as a subsequent Final Finding and Decision without further notice.

Only persons from whom LCS receives timely, written comments during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Upon approval and issuance of a Final Finding and Decision, a copy of the decision will be made available online at <https://dnr.alaska.gov/mlw/landsales/public-notice/> and sent with an explanation of the appeal process to any party who provides timely written comment.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact DNR's Public Information Center. For more information, refer to the attached Public Notice.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS  
4:30 PM, FRIDAY, APRIL 25, 2025**

**XVI. Stipulations**

If approved for conveyance, applicable conditions, restrictions, and reservations will be imposed upon the transfer of equitable title when the Final Finding and Decision is effective and on the final conveyance document, including but not limited to the following:

1. Administration of state leases and permits in the surface estate, if any, will be transferred to PB when the FFD is effective. Applications for state leases or permits in the subject area that have not been adjudicated or issued will be closed.
2. Management authority for the approved subject parcel will be transferred to the Borough when the FFD is effective. Applications for state leases or permits in the subject area that have not been adjudicated or issued will be closed.
3. Interagency Land Management Agreement ADL 20978 will be closed when the FFD is effective.
4. All mineral-related permits, licenses, claims, and leases affecting the tidelands proposed for conveyance, if any, will remain under the authority of the State.
5. Notification to the Alaska State Historic Preservation Office in accordance with AS 41.35.070(d) Preservation of Historic, Prehistoric, and Archeological Resources Threatened

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by Public Construction is required upon discovery of historic, prehistoric, or archaeological sites, locations, remains, or objects.

6. A notice to proceed to survey will be issued if no appeals are received, or when appeals are resolved, after the issuance of the FFD. The applicant must hire a surveyor, and the surveyor must apply to DMLW's Survey Section for Survey Instructions. The applicant's survey must be approved by DMLW and the local platting authority, if any, as set forth in the Survey Instructions. Survey costs shall be borne by the municipality.
7. The approved tideland conveyance is subject to the terms and conditions of AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities, including: 1) Grantee may lease the land, but may not sell it; 2) Grantee takes title to the tide and submerged lands subject to the Public Trust Doctrine that may be enforced by the State in a court of competent jurisdiction; 3) The municipality shall be required to ensure that reasonable access to public waters and tidelands is provided; 4) The municipality may not lease land conveyed under this section for shore fisheries, but after conveyance, the land may be leased by the State for shore fisheries under AS 38.05.082 Leases for Shore fisheries Development; account if the Commissioner determines that the lease is compatible with the municipality's use of the land; and 5) Title to the land conveyed under this authority reverts to the State upon dissolution of the municipality.
8. The approved tideland conveyance is subject to valid existing rights, including reservations, easements, and exceptions in the U.S. Patent, or other state or federal conveyance, and in acts authorizing the issue thereof, easements, rights-of-way, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any.
9. Pursuant to AS 38.05.125 Reservation, the mineral estate shall not be conveyed.
10. Pursuant to AS 38.05.127 Access To Navigable or Public Water, a 50-foot continuous public access easement seaward from the current MHW of public or navigable water bodies shall be reserved to the State.

**XVII. Discussion and Alternatives**

The following alternatives were considered:

Alternative 1: Convey Subject Parcel

Approve the proposed conveyance of the 8.8-acre tide and submerged land parcel to the Borough with management authority to be transferred when the Final Finding and Decision becomes effective. The subject parcel encompasses the area required for dock management and maintenance. This alternative meets the intent of AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities to convey tide and submerged land to municipalities where the municipality's interest in obtaining the subject parcel outweighs the public interest in retaining State ownership.

Alternative 2: Retain

LCS will reject and retain the tide and submerged land requested by the Borough. This alternative would, in effect, preclude the Borough's ownership of the tidelands considered to be important for their community development and access. This action would be inconsistent with the purpose of AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities and inconsistent with the basis for the disapproval of a tideland conveyance request in that section of the statute. A tideland conveyance request can only be rejected when the State's interest outweighs that of the municipality, and there is no basis for such a determination.

For the aforementioned reasons, Alternative 1 is the preferred alternative.


Recommendation follows.

#### **XVIII. Recommendation and Preliminary Decision**


This Preliminary Decision for the proposed disposal of State lands described throughout this document and its attachments are consistent with the overall management intent for state-owned land. Alternative 1 is the preferred alternative. Under AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities, no direct economic benefit is realized by the State, but further development of this parcel will serve the needs of the Petersburg Borough. Facilitating community development activities in the Borough indirectly provides economic benefit to the State by encouraging settlement and related economic activity. LCS believes that the proposed conveyance complies with the requirements of AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities, as discussed above. Unless public comment indicates that the parcel does not qualify for conveyance under AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities, or that the public interest in retaining the parcel clearly outweighs the municipality's interest in retaining the parcel, DNR must convey the parcel subject to the completion of a new ATS for the area of ATS 251.

This Preliminary Decision, described above, represents the preferred alternative that has been reviewed and considered. After review and consideration of materials in this PD, LCS finds that the recommended action may be in the best interest of the State and that it is hereby approved to proceed to Public Notice in accordance with AS 38.05.945 Notice.

After public notice, the subsequent review process may result in changes to the preferred alternative(s) or disapproval of the proposed action altogether. A Final Finding and Decision will address any significant issues or concerns raised during the public review process.

  
\_\_\_\_\_  
Prepared by: Mary Hermon  
Natural Resource Specialist 2  
Land Conveyance Section  
Division of Mining, Land and Water  
Department of Natural Resources  
State of Alaska

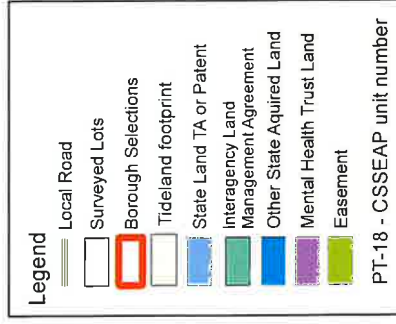
  
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Date

  
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Approved by: Hannah Uher-Koch  
Section Chief  
Land Conveyance Section  
Division of Mining, Land and Water  
Department of Natural Resources  
State of Alaska

  
\_\_\_\_\_  
Date

ATTACHMENT A  
**Petersburg Borough**  
 Tideland Selection  
 Preliminary Decision

**ADL 109287**  
 Papke's Landing



Created by DNR-DMLW-LCS-ME

March 2025



This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



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

**Attachment B: PUBLIC NOTICE**

Requesting Input for a Proposed Conveyance Under AS 38.05.825  
**Petersburg Borough Municipal Tideland Selection – ADL 109287**

**COMMENT PERIOD ENDS: 4:30 PM, FRIDAY, APRIL 25, 2025**

The Department of Natural Resource (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) has prepared a Preliminary Decision (PD) for a proposal to convey approximately 8.8 acres of state-owned tide and submerged land (herein 'tideland') to Petersburg Borough (Borough), under AS 38.05.825 Conveyance of Tide and Submerged Land to Municipalities. Located within DNR's Southeast Region, this tideland selection falls with *Region 3. Petersburg* as identified in the Central Southern Southeast Area Plan. LCS finds that the proposed conveyance is consistent with the requirements of AS 38.05.825, and that the Borough's interest in obtaining this state tideland outweigh the State's interest in retaining it.

Pursuant to AS 38.05.945 Notice, the public is invited to comment on this PD which proposes to transfer ownership of state tideland to the Petersburg Borough. **The deadline for submitting public comment is 4:30 PM, Friday, April 25, 2025.** Only persons from whom LCS receives timely written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision (FFD). Comments must be received in writing to the Division of Mining, Land and Water, Attention: Mary Hermon, at 550 West 7th Avenue, Suite 640, Anchorage, Alaska 99501, by fax at (907) 269-8916, or by email at [mary.hermon@alaska.gov](mailto:mary.hermon@alaska.gov). If you have questions, call Mary Hermon at (907) 269-6546.

The public notice is available on the Alaska Online Public Notice System at: <http://dnr.alaska.gov/commis/pic/pubnotfrm.htm>. The Preliminary Decision is available on the DMLW Land Sales website at: <https://dnr.alaska.gov/mlw/landsales/public-notice/>.

Following the comment deadline, LCS will consider the written responses received and may modify the decision to incorporate public comments in the FFD. Only persons who comment during this public comment period will be eligible to file an administrative appeal of the FFD. LCS will send a copy of the FFD to any person who comments on the PD. The FFD will include the appeal instructions. Please direct all inquiries or questions to Mary Hermon at the above address, by email, phone, or fax.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids or services when requested. Individuals with audio impairments who wish to respond to this decision by telephone may call the DNR, Public Information Center in Anchorage between the hours of operation: 10:00 AM to 5:00 PM, Monday through Friday at TTY: 711 for Alaska relay or 800-770-8973 or go to <http://dnr.alaska.gov/commis/pic/>

If no significant change is required, the PD, including any minor changes and a summary of comments and responses, will be issued as the FFD, without further notice. A copy of the FFD will be sent to any persons who commented timely on the PD.

DNR reserves the right to waive technical defects in this notice.