

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

**Preliminary Decision  
EV-3-383**

**Public Utility Easement Vacation & Replat  
Petitioners: Bruce Heiser, Raymond Castor and Chery Castor**

**Petitioned Action:**

EV 3-383 is in Southeast Alaska where Tuxekan Narrows and Tuxekan Passage converge. This action falls in the unorganized borough. The petitioner is requesting the vacation of a 20' public utility easement (PUE) running along the lot line between Lots 18 & 19, Block 2 of ASLS 85-317, elimination of said lot line, and creation of a new lot line 70 feet to the west, creating Lots 18A & 19A-1. The lot line to be eliminated is between Lot 18, Block 2 of ASLS 85-317, filed as Plat 87-24, Ketchikan Recording District and Lot 19-A of Plat 99-50, Ketchikan Recording District. This action falls within the NW¼ of Section 30, T. 69S., R. 80E., C.R.M., Alaska, as depicted on Attachment A.

The reasons cited by the applicant for this vacation/replat action:

- Lot 19A is currently too narrow, with the western property line too close to building structures. The requested new property line will allow sufficient width to accommodate anticipated property use, and leaving Lot 18 with a reasonable width compared to other properties in the area.

**Legal Authority:**

AS 29.03.030, AS 38.05.035(e), AS 38.05.945, AS 40.15.070, AS 40.15.300-.380, 11 AAC 51.065, 11 AAC 53.630-730.

The Alaska Department of Natural Resources (DNR) is the platting authority for the state in the Unorganized Borough.

**Administrative Record:**

The DNR Survey Case File EV-3-383 constitutes the administrative record used for the basis of this decision.

**Borough:**

The proposed action is located within the Unorganized Borough (UoB).

**State Easement Interest:**

The 20-foot wide utility easement proposed to be vacated was dedicated by Alaska State Land Survey 85-317, Naukati Bay Subdivision West, recorded in the Ketchikan Recording District as Plat No. 87-24. As the platting authority for the UoB, and in accordance with AS 40.15.305(e) & (f) and 11 AAC 53.730, the DNR has the authority for processing vacation and replat petition actions in the UoB.

**Underlying Interest:**

The petitioners own the estate underlying the areas proposed to be vacated and replatted.

**Alternate Route:**

The 20-foot public utility easement proposed to be vacated is centered along what is currently the western lot line of Lot 19A, Plat 99-50 and the eastern lot line of Lot 18, Block 2 ASLS 85-317, filed as Plat 87-24, both Ketchikan Recording District. This is the lot line proposed to be eliminated and replatted 70-feet due west. The alternate utility easement for the 20-foot PUE proposed to be vacated will be a 20-foot wide public utility easement centered on an existing service line between Lots 19A & 19B, Plat 99-50. The petitioner's surveyor has coordinated with Alaska Telephone and Power, who has agreed to a 20-foot public utility easement along this existing service line. The 20-foot utility easement will be depicted and dedicated on the final EV plat.

**Land Management Policies:**

- 1) Pursuant to 11 AAC 51.065, before any vacation, modification, or relocation of a public easement, the petitioner must demonstrate to the satisfaction of the department that equal or better access is available. Equal or better access must be access that is:
- 2)
  - Protected by an easement of record that is adequately wide for the purpose; if the easement of record is new, the petitioner must arrange for a note in the vacation document to be recorded that identifies the new easement as a replacement for the vacated easement; and,
  - At least equally usable, considering length, type of terrain, and level of improvement, as the easement to be vacated; if development or improvement is needed to make the replacement easement at least equally usable, the petitioner must arrange for the development or improvement to be completed before the vacation takes effect.
  - The department will determine if the vacation is in the State's best interest.

**Public Use Patterns:**

The existing 20-foot PUE does not provide utility services to either Lot 19-A of Plat 99-50 or Lot 18, Block 2 of ASLS 85-317, filed as Plat 87-24. The petition did not provide any additional information regarding existing utilities or other public use within the PUE proposed to be vacated. However, during email correspondence between the surveyor and Alaska Telephone & Power, it was verified that the PUE proposed to be vacated is not currently being used by any utility company. Furthermore, on May 14, 2024, AT&P provided a written non-objection to the vacation of the PUE in Bruce Hieser Subdivision (preliminary EV Plat for this action).

**Practicality of Use:**

Since utilities currently exist within the area underlying PUE proposed to be dedicated, and since there appear to be sufficient other PUEs in the immediate area, it is highly unlikely that any utility company would still need the PUE proposed to be vacated for future use.

**Agency Review:**

Initial Agency review of the proposed action began on March 19, 2024 and concluded May 29, 2024. Agencies notified included Department of Transportation and Public Facilities (DOT&PF),

Alaska Department of Fish and Game (ADFG), DNR Division of Mining, Land and Water – Southeast Regional Land Office (SERO), Alaska Mental Health Trust Land Office (MHTLO) and DNR Division of Parks and Outdoor Recreation (DPOR). All Agencies submitted comments of non-objection.

**Discussion:**

1. Determination of the existence of the PUE:  
The Public Utility Easement proposed to be vacated was platted and dedicated to public use by Alaska State Land Survey 85-317, recorded as Plat 87-24 in the Ketchikan Recording District.
2. DNRs authority for vacating easements in the Unorganized Borough is found under both 11 AAC 53.730(a) and 11 AAC 51.065(a)(3). 11 AAC 51.065 provides clear guidelines for the vacation of public easements in the Unorganized Borough.
3. Pursuant to 11 AAC 51.065(e)(1), the Department will give consideration to the recommendations of the Unorganized Borough Platting Authority regarding this action.

**Approval of the proposed “vacation and replat” action is contingent upon the following conditions:**

1. Pursuant to AS 38.05.945, public notice of the proposed action must be completed. The Department of Natural Resources may modify the decision based upon public comments. The advertising cost for public notice and required postage and handling fees to local parties is at the expense of the applicant.
2. Approval of a Final Finding & Decision and State Platting Resolution.
3. Dedication of the 20-foot public utility easement as proposed on Attachment A.
4. A final plat (owner signed/surveyor sealed mylar) must be submitted within 18-months from the date of the vacation approval. The survey plat must be filed in accordance with the provisions of AS 40.15.300-380 and in compliance with the provisions of 11 AAC 53.600-.900.
5. Submittal of a Certificate to Plat current within 90-days of final EV plat approval.

**Recommendation:**

Based on our findings, the applicant meets DNR’s requirements to vacate the subject public utility easement and replat the affected lots to facilitate the proposed subdivision. The proposed vacation/replat action may be in the state’s best interest. Therefore, the Division of Mining, Land and Water, Survey Section recommends approval of this action and may proceed with adjudication and public notice in accordance with AS 38.05.945.

Prepared by:

Victoria Braun

Victoria Braun  
Natural Resource Specialist 2

3/24/2025

Date

Approved by:

Gwen M. Gervelis

Gwen M. Gervelis, PLS  
Chief, Survey Section

3/24/2025

Date

**PUBLIC NOTICE:**

**Notice of Preliminary Decision & Public Hearing  
Public Utility Easement Vacation & Replat  
EV 3-383**

Per 11 AAC 51.065, the Department of Natural Resources, Division of Mining, Land and Water has issued a Preliminary Decision (PD) giving contingent approval to a petition proposing to vacate the 20-foot public utility easement and replat the lot line between Lot 18 of Plat 87-24, Ketchikan Recording District and Lot 19-A of Plat 99-50, Ketchikan Recording District. This action falls within the NW¼ of Section 30, T. 69S., R. 80E., C.R.M., Alaska, as depicted on Attachment A.

The public is invited to comment on the PD. Copies are available from DMLW, 550 W. 7<sup>th</sup> Avenue, Suite 650, Anchorage, AK 99501-3576 or online at <https://aws.state.ak.us/OnlinePublicNotices>. Persons wanting to provide comments on the proposed action can **submit their comments in writing, by e-mail or via the scheduled public hearing. In order to be eligible to appeal under AS 38.05.035(i)(j), meaningful participation by one of these methods is required. To ensure consideration, comments must be received on or before April 28, 2025.** Correspondence should be addressed to DNR, DMLW, Survey Section, Attn: Victoria Braun, 550 W. 7th Ave., Suite 650, Anchorage, Alaska 99501. Comments can be submitted via e-mail at [victoria.braun@alaska.gov](mailto:victoria.braun@alaska.gov). Please reference EV 3-383 in your correspondence, include your name, mailing address and telephone number to ensure you receive copies of all subsequent decisions.

**Notice is hereby given** that DNR, under the authority of 11 AAC 51.065(b) and AS 40.15.305, shall hold a public hearing to gather information and to obtain public input regarding the proposed vacation and replat action noted above. The public hearing will be held via teleconference **April 29, 2025 at 11:00am**. Persons wishing to attend the public hearing must call 1-800-315-6338, when prompted enter access code 98627 and #. Persons attending or not attending the public hearing may submit comments in writing as noted above.

If public comment analysis indicates the need for significant changes to the PD, additional public notice will be given. If no significant change is required, the PD, including any minor changes, will be issued as a Final Finding & Decision (FFD).

DMLW reserves the right to waive technical defects in this publication.

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