

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

Southeast Regional Land Office

Regional Manager's Decision

ADL 109421

Highland Estates Inc.

Application for Easement

AS 38.05.850

Executive Summary

On February 20, 2025, the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW) received an application from Roger Schnabel (doing business as Highland Estates Inc.) for a private, non-exclusive right-of-way easement approximately 100.14 feet in width by 414.49 feet in length for a total 0.64 acres, more or less. The proposed easement is for a road connecting Mosquito Lake Road at the edge of Lot 1 to Kelsall Road in Lot 19. Both Lots 1 and 19 are owned by the applicant but are separated by the state-owned Haines State Forest.

The applicant intends to construct the road with materials on site, except for a high-density polyethylene (HDPE) culvert. The size of the culvert will be dependent upon conditions of the site. Should additional material be needed for road construction, it would be no more than 250 cubic yards of gravel sourced from offsite. Several trees will need to be cut down, and non-merchantable slash and wood debris burned. Machinery on site will include 323 Caterpillar Excavator, a D6T Dozer, and Caterpillar 980H Loader. As a secondary use, the applicant intends to place electrical utility lines along the road of a size, design, and composition consistent with the local electrical authority, codes and requirements of the State, and municipal regulations. A diagram of the proposed easement is included as Attachment 1.

Proposed Action

DMLW will issue an entry authorization (EA) for a term of two years to allow for construction of the road and completion of a DMLW-approved survey, which is a prerequisite for issuance of the final easement. Pursuant to 11 AAC 51.015(d)(1)(D), DMLW proposes an easement of 60 feet in width and 415 feet in length for a total of 0.45 acres, more or less for the construction of a road and placement of utility lines as described above. The term of the EA shall be inclusive of the total easement term of 25 years. A draft EA is included as Attachment 2. A draft private, non-exclusive right-of-way easement is included as Attachment 3.

Statutory Authority

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

Administrative Record

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced herein,

the 2002 Haines State Forest Management Plan, and other classification references described herein, and the casefile for the application serialized by DNR as ADL 109421.

Scope of Decision

The scope of this decision is to determine if it is in the State's interest to create an easement for the proposed use. The scope of administrative review for this authorization is limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) facts pertaining to the land or resources; and (4) issues that are material to the determination that issuing the authorization is in the interest of the State of Alaska.

Location Information

Geographic Location: State-owned uplands in the Haines State Forest near Mosquito Lake, approximately six miles northwest of Klukwan, AK.

Property Description: NE1/4 SE1/4 Section 10, Township 28 South, Range 55 East, Copper River Meridian specifically, Lot 2, Tract E USS 3708.

Width: 60 feet Length: 415 feet Approximate Acreage: 0.45

Other Land Information

Municipality: Haines Borough

Regional Corporation: Sealaska Corporation

Village Corporation: Klukwan Incorporated

Special Use Areas: ADL 106858

Federally Recognized Tribe: Central Council of the Tlingit and Haida Indian Tribes of Alaska, Chilkoot Indian Association, and Chilkat Indian Village (Klukwan).

Title

The State of Alaska received title to the applicable lands within Section 10, Township 28 South, Range 55 East, Copper River Meridian, Alaska via Patent 50-65-0019, U.S Patent 1229892 which is serialized by DNR as MH16.

Planning and Classification

The proposed site is subject to the 2002 Haines State Forest Management Plan (HSFMP, August 2002) and is located within Management Unit 1 (Kelsall River) Subunit 1c (Kelsall River Lowlands). Pursuant to 11 AAC 96.010(a)(2) and 11 AAC 96.010(b) and Special Use Designation ADL 106585, all state-owned lands in the Haines State Forest are designated as Special Use Lands. The purpose of this designation is to enable the Department of Natural Resources (DNR) to create and manage a non-motorized area in the general area of Mt. Ripinski, to prohibit the commercial use of Personal Watercraft on Chilkoot and Chilkat Lakes (HSFP, B-1) and to manage large-scale commercial recreation activities. (HSFP, E-1). Subunit 1c (Kelsall River Lowlands) is designated as Special Use Land and has a classification of Forest Land.

ADL 106585-- Pursuant to 11 AAC 96.010(a)(2) and 11 AAC 96.010(b), all state-owned lands in the Haines State Forest are designated as Special Use Lands. The purpose of this designation is to enable the Department of Natural Resources (DNR) to manage large-scale commercial

recreation activities. The result of this designation is to require a permit for commercial recreation activities in the Forest and in a few small areas, to prohibit such uses. These uses would otherwise be considered “generally allowed uses” under 11 AAC 96. (HSFP, E-1).

Forest Land (f) – Pursuant to 11 AAC 55.070 land classified forest is land that is or has been forested and is suited for forest management because of its physical, climatic, and vegetative conditions.

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. It does not preclude other uses outside of this classification. The proposed easement is not within the non-motorized areas of the special use designations and does not pertain to commercial recreation. Furthermore, the proposed easement does not obstruct forestry activities. It is therefore allowed.

Third Party Information

None identified.

Background

On February 20, 2025, Roger Schnabel dba Highland Estates Inc. (applicant) submitted an application for a private, non-exclusive right-of-way easement approximately 100.14 feet in width by 414.49 feet in length for a total 0.64, acres more or less. The proposed easement is for a road to connect the Mosquito Lake Road on the edge of Lot 1 to the Kelsall Road in Lot 19. Lots 1 and 19 are owned by the applicant through Skookum Holdings LLC (Lot 1) and Highland’s Estates Inc. (Lot 19) and are divided by the Haines State Forest. The applicant proposes to connect the privately owned lots across state-land for access and utility purposes.

Public Notice & Agency Review

Agency Review Summary

An Agency Review was conducted November 20, 2025, to December 21, 2025. The following organizations were included in this review: Alaska Association of Conservation Districts (AACD); Alaska Department of Fish and Game (ADF&G) Division of Habitat, Habitat Conservation Areas Office, Office of Regional Biologist, and Division of Wildlife Conservation Access Defense Program; Alaska Department of Environmental Conservation (DEC) Commissioner’s Office and Division of Water; Alaska Department of Transportation & Public Facilities (DOT&PF) Right-of-Way Office, Utilities Office, and Environmental Office; and Alaska Department of Natural Resources (DNR), Directors Office, Public Access Assertion and Defense, Water Resources, Division of Parks and Outdoor Recreation, Office of History and Archaeology, Land Sales, and Division of Forestry and Fire Protection.

Agency Review Comment and Response

DNR, Division of Forestry and Fire Protection Comment:

DFFP comments on this application for easement through the HSF RMA.

1. All road development on the Haines State Forest is subject to the DFFP Southeast Road Building Standards and must meet minimums for the intended use (attached).
2. Forest development activities are subject to the Forest Resources and Practices Act and the associated Regulations. The successful execution of the development will adhere to the Act and its Regulations.
3. All merchantable timber, as defined by DFFP policy, removed within the HSF RMA during development must be prepared and located (decked or stored on site) in a manner directed by DFFP.
4. The DFFP is designated as the lead agency ensuring compliance to the Act and Regulations, and as such, must be informed of the development activities.
 - a. DFFP will be provided the proposed development plans created for the project to include engineer drawings of the route including necessary location of the work required, prior to construction operations.
 - b. DFFP will be notified when the proposed development location is clearly identified on the ground to provide an opportunity for agency review prior to construction operations. This may include other agencies as required under FRPA.
 - c. DFFP will be notified of the start date for construction activities, including tree clearing operations within the proposed ROW.
5. All merchantable timber, as defined by DFFP policy, removed within the HSF RMA during development must be prepared and located (decked or stored on site) in a manner directed by DFFP.

Thank you for the opportunity to comment on this easement application.

DMLW Response:

Thank you for the provided information and comment. Should an easement be issued, the applicant will be required to coordinate with DFFP on road construction and the removal/felling of timber.

ADF&G Comment:

ADF&G has no objection to the authorization of this easement; however, we offer the following comments:

1. The Habitat Section reviewed the application and determined that the proposed culvert may require a Fish Habitat Permit due to its low site grade and proximity to Mosquito Lake (ADF&G Waterbody No. 115-32-10250-2123-0020). Although the stream has not yet been surveyed, a fish presence assessment is planned for spring. If fish are found, the Section will work with the applicant to obtain the necessary permit. For questions, please contact

Dylan Krull with the ADF&G Habitat Section (Southeast) at 907-465-6160 or dylan.krull@alaska.gov.

2. ADF&G has no sport fishery-related concerns, provided that appropriate measures are taken to protect nearby fish habitat in Mosquito Lake.
3. Nesting: Conserving habitat features like trees, shrubs, and ground cover can help support breeding bird populations while meeting project goals. Information on typical nesting seasons in Alaska is available at <https://www.fws.gov/alaska-bird-nesting-season>, which may be useful when considering the timing of vegetation clearing.
4. The proposed easement is located near RST 1705 (Wells Creek–Clear Creek Trail), a recognized RS 2477 right-of-way. ADF&G recommends that DNR ensure public access along this historic route is not obstructed or diminished.

Thank you for the opportunity to review and comment.

DMLW Response:

Thank you for your comment and the provided information, it will be conveyed to the applicant through this decision. Per the standard stipulations of an easement, Lessees are subject to all valid prior existing rights, including easements, rights-of-way, reservations, or other interests in land.

DOT&PF Summary:

Has no comment at this time.

DMLW Response:

None required.

Public Notice Summary

Notice of this application was posted on the Alaska Online Public Notice System website and sent to the following known interested parties: Southeast Alaska Conservation Council; Sealaska Corporation; Central Council of the Tlingit and Haida Indian Tribes of Alaska; U.S. Army Corp of Engineers; Upper Lynn Canal Advisory Committee; Haines Borough Clerk, Manager, and Planner; Chilkoot Indian Association; Chilkat Indian Village; Lynn Canal Conservation; Takshanuk Water Council; Klukwan Incorporated; Haines Post Office; Thomas and Tawney Paine; Raymond and Hannah Reeves; Sage and Holly Thomas Family Trust; Morgan Hebert; Robert Pollock Living Trust; Ciana Redmen; Heidi Fredrickson and Adam Mcallister Trust; Joseph and Anita Leitch; and Sean and Margaret McLaughlin.

Public Notice Comment and Response

US Army Corp of Engineers Comment:

The proposed work described below may need a permit from USACE. Department of the Army authorization is required if anyone proposes to place dredged and/or fill material

into waters of the U.S., including wetlands and/or perform work in navigable waters of the U.S.

A copy of the DA permit application can be found online at

www.poa.usace.army.mil/Missions/Regulatory

Sample drawings can also be found on our website at

www.poa.usace.army.mil/Portals/34/docs/regulatory/guidetodrawings2012.pdf

Section 404 of the Clean Water Act requires that a DA permit be obtained for the placement or discharge of dredged and/or fill material into waters of the U.S., including jurisdictional wetlands (33 U.S.C. 1344). The Corps defines wetlands as those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Section 10 of the Rivers and Harbors Act of 1899 requires that a DA permit be obtained for structures or work in or affecting navigable waters of the U.S. (33 U.S.C. 403).

Section 10 waters are those waters subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or other waters identified by the Alaska District.

Aquaculture structures and work would require Section 10 Authorization.

You are welcome to submit a preapplication meeting request, a jurisdictional determination request, or a permit application directly to our general mailbox (regpagemaster@usace.army.mil) and you will be assigned a project manager to assist you. Please feel free to contact our main line if you have any questions or concerns at 907-753-2712.

DMLW Response:

Thank you for the provided information. It will be conveyed to the applicant through this decision. Per the standard stipulations of an easement, Lessees shall comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to the easement. That compliance extends to any of the Lessee's employees, agents, contractors, subcontractors, licensees, or invitees

Access

Physical and Legal Access: The applicant may access the site via private property owned by the applicant (Lots 1 and 19).

Environmental Considerations

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

Environmental contamination risk associated with this proposed easement is minimal. Fuel, lubricants, and other hazardous materials will be restricted to those necessary and contained within vehicles. No fuel or other hazardous materials will be stored on site. There are no known environmental considerations/constraints in this location and construction will be coordinated with Division of Forestry and Fire Protection.

Economic Benefit and Development of State Resources

In accordance with AS 38.05.850, DMLW considers three criteria to determine if this project provides the greatest economic benefit to the State and the development of its natural resources: direct economic benefit to the State, indirect economic benefit to the State, and encouraging development of the State's resources.

This project encourages the development of the State's resources by providing additional access to the Mosquito Lake Subdivision and to lots on the Kelsall Road.

Discussion

The requested easement is near the Wells Creek-Clear Creek R.S. 2477 trail. The historic route underlies the Mosquito Lake Road, ASLS 79-191, with its practical beginning within Section 10, T28S, R55E, CRM, at the northern end of Moose Valley. From here the trail heads north along the western side of Mosquito Lake and follows the Chilkat River northward to the Kelsall River. The proposed easement connects to the Mosquito Lake Road but veers west away from Mosquito Lake and towards the Kelsall Road.

Performance Guaranty

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

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

Performance Guaranty Narrative:

The applicant is required to submit a performance guaranty in the amount of \$1,000 to ensure completion of EA requirements. These funds will also serve as a survey deposit (per AS 38.05.860) and may be reduced one time during the term of the EA by an amount equal to payments made by the applicant to a licensed surveyor under contract for completion of a survey of ADL 109421 in accordance with survey instructions issued by the DMLW Survey Section as described herein. This performance guaranty shall remain in place during the term of the EA and will be subject to release upon the acceptance of a DMLW-approved survey and the fulfillment of all conditions and stipulations of this decision and the EA. The guaranty may also be adjusted to reflect updates and changes in the associated project, and the applicant may be required to furnish an additional performance

guaranty if DMLW determines there to be additional risk to the State. The guaranty may be utilized by DMLW to cover actual costs incurred by the State to pay for necessary corrective actions in the event the applicant does not comply with site utilization and restoration requirements and other stipulations contained in the EA. An additional performance guaranty may be required for an extension of the EA beyond the initial term proposed under this decision.

Insurance

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

Survey

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

Fees

Entry Authorization: In accordance with 11 AAC 05.070(d)(2)(I), the fee for an Entry Authorization for an approved easement or right-of-way for site development is \$240 annually for up to two acres, and \$120 annually for each acre above two. The annual fee for this Entry Authorization will be \$240.

Easement: DMLW has adopted new fee regulations, effective on July 1, 2018. The relevant land use fees prescribed by those regulations have been waived in part by a Director's Fee Order, effective July 13, 2018. In accordance with the Director's Fee Order, the annual use fee for 11 AAC 05.070(d)(1)(A), a private easement or right-of-way containing approximately no more than one acre is \$600 is reduced to \$480. The total annual fee is estimated to be \$480.

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

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

Entry Authorization

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

- Payment of the Entry Authorization fee, \$240
- Payment of the easement fee, \$480
- Evidence of having made a request for survey instructions to the DMLW Survey Section.
- Certificate of Insurance
- Performance Guaranty, in the amount of \$1,000
- Evidence of having contacted DNR, Division of Forestry and Fire Protection for guidance on road construction standards and merchantable trees in easement area.

Easement Term

The authorization requested under ADL 109421 will be issued for a term of 25 years from the effective date of this decision.

Term Discussion

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

Recommendation

In consideration of all events and criteria described above, it is my determination that this project is consistent with the overall classification and management intent for this land and would be a benefit to the State of Alaska. Therefore, I recommend issuance of a private, non-exclusive

easement to Roger Schnabel dba Highlands Estates Inc pursuant to AS 38.05.850, upon satisfactory completion of the project in conformance with all the terms and conditions of this decision and the EA. The easement will be issued for 25 years from the effective date of this decision and may be terminated if a higher and better economic use for the project area is established, as determined by DMLW Director, if the land is no longer used for the above stated purpose, or is revoked for cause.

Christi Scott

Christi Scott, Natural Resource Specialist 2

2/2/2026

Date

Regional Manager's Decision

When adjudicating an easement authorization pursuant to AS 38.05.850, DNR seeks to responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with the public interest. In consideration of all events and criteria listed above, DMLW has determined that the authorizations to be granted under ADL 109421 are consistent with DNR's mission. It is my decision that this project is consistent with the overall classification and management intent for this land. DMLW will issue a non-exclusive private easement, pursuant to AS 38.05.850, once the applicant has conformed to all terms and conditions of this decision and the EA.

Mason Auger

Mason Auger, Natural Resource Manager 2

2/2/2026

Date

Attachments:

- Attachment 1. Development Diagram
- Attachment 2. Draft Entry Authorization
- Attachment 3. Draft Easement

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department. Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.