



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

Southeast Regional Land Office

Regional Manager's Decision

ADL 107621

Haines Borough

Application for Easement

AS 38.05.850

Executive Summary

On April 29th, 2025, the Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), received a renewal application for a public easement from the Haines Borough (“applicant”) for a pre-existing refuge float on State-owned, DMLW-managed tidelands in Swanson Harbor, 26-miles southwest of Juneau, Alaska, located in Lynn Canal. Haines Borough requests a 25-year public easement for continued use of the float. The original easement was authorized from March 15th, 2011, and expired March 14th, 2021. The applicant submitted a new application to DMLW for continued use on April 29th, 2025, after the borough was notified the authorization had expired. The float is approximately 10-foot by 150-foot with six standard 12-inch pilings, which encompasses approximately 0.03-acres of state-owned submerged land. The easement boundary around the refuge dock encompasses a total area of 0.76-acres of state-owned submerged land. The State of Alaska intends to authorize this easement. A diagram of the proposed easement is included as Attachment 1.

Proposed Action

DMLW is adjudicating an easement renewal request from Haines Borough. This is a renewal of an existing easement for a floating refuge dock in Swanson Harbor that has been installed since 1979. No additions or development plan changes are proposed for this site. The easement area is depicted on Alaska Tideland Survey (ATS) 1486 Juneau Recording District. DMLW intends to authorize this easement renewal. A draft easement is included as Attachment 2.

Statutory Authority

This easement application is being adjudicated pursuant to AS 38.05.850, the Alaska Land Act as amended, The Submerged Lands Act of 1953, 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 *Northern Southeast Area Plan, October 2002* (NSEAP) and other classification references described herein, and the casefile for the application serialized by DNR as ADL 107621.

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: Swanson Harbor, within Lynn Canal, approximately 26-miles southwest from Juneau, Alaska.

Property Description: C042S063E21, SE ¼ Section 21, Township 42 South, Range 63 East, Copper River Meridian. ATS 1486 Juneau Recording District.

Width: 10-feet **Length:** 150-feet **Approximate Acreage:** 0.76 acres

Other Land Information

Municipality: Haines Borough

Regional Corporation: Sealaska Corporation

Village Corporation: Chilkoot Indian Association

Federally Recognized Tribe: Central Council of the Tlingit and Haida Indian Tribes of Alaska, Chilkat Indian Village

Title

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

Planning and Classification

The proposed site is subject to the *Northern Southeast Area Plan, October 2002* (NSEAP) and is located within Management Unit LT-15 – Point Couverden Area. The designated land use is Ha (Habitat) and Ru (Public Recreation and Tourism – Undeveloped). These designations convert into land classifications: Ha = “Wildlife habitat land” and Ru = “Public recreation land” (NSEAP 3-113 and 4-5).

According to 11 AAC 55.040(c), “A classification identifies the primary use for which the land will be managed, subject to valid existing rights and to multiple use.”

Management Intent: “Protect and maintain the recreation and scenic values of the upland parcels; tideland authorizations should only be granted that are consistent with its public recreation orientation. Protect and maintain fish and wildlife habitats and opportunities for commercial, sport, and community harvest...” (NSEAP 3-113).

Resources and Uses: “Juvenile pink, coho and chum salmon rear and adult coho, chum and pink salmon use this unit for schooling, spawning and migration. There are eagle nests along the unit. Dungeness, tanner, and red and brown King crab are commercially harvested in this unit. There is also a known spring concentration of black bears along anadromous fish streams in this unit. Both commercial and sport fishing for salmon occurs in the unit as well” (NSEAP 3-113).

“Tidelands affected by the Ru designation are to be managed to retain the scenic and recreational features of adjacent upland tracts recommended for inclusion in the state marine park system or are intended to maintain some popular tideland recreational activity. This designation is often used as a co-designation with Ha. Development authorizations in areas designated Ru are intended to be limited, and the recreation and habitat values of these areas must be retained. Tideland Ru designations are used at St. James Bay, Lynn Sisters, and at Point Couverden. All tideland and submerged land areas are to be managed to ensure the continuations of community and commercial harvest, and subsistence” (NSEAP 3-26).

This activity is allowed per the area plan, including the designations Habitat (Ha) and Public recreation land (Ru). The public easement is specifically used by recreators and visitors of Alaska and serves as refuge for vessels from storms and inclement weather events. The float provides direct access to the uplands of Point Couverden and surrounding State-owned uplands. The float does not impede the natural tide and submerged lands and has been installed since 1979 with no reported negative effects on surrounding habitat.

Third Party Information

None

Background

The Department of Transportation and Public Facilities (DOT&PF) installed the float in Swanson Harbor on State-owned tidelands in 1979. The float has been used as moorage for the public since it was installed. In 2011, Haines Borough applied for a 10-year public easement to continue use and maintenance of the float. The public easement was authorized on May 15th, 2011, and expired on May 14th, 2021. DMLW received an application for a 25-year public easement on April 29th, 2025.

Public Notice & Agency Review

Agency Review Summary

An Agency Review was conducted January 12th, 2026, to February 11th, 2026. The following organizations were included in this review:

- Alaska Association of Conservation Districts
- Alaska Department of Fish and Game (ADFG)
- Department of Environmental Conservation (DEC)
- Department of Natural Resources (DNR) – Division of Mining, Land and Water (DMLW)
- DNR – Division of Parks and Outdoor Recreation – Office of History and Archaeology (OHA)
- Department of Transportation and Public Facilities (DOT&PF)

Agency Review Comment and Response

ADFG – Access Defense Program

Summary: ADFG has no objection to the authorization of this easement; however, offer the following comments and recommendations:

1. Marine Mammal Considerations:

- a. There is no marine mammal critical habitat designated within the project area. There are several marine mammals with ranges overlapping the project area, including humpback whale, Steller sea lion, Dall's porpoise, gray whale, harbor porpoise, harbor seal, killer whale, minke whale, Pacific white-sided dolphin, and northern sea otter. All of these animals are managed under the Marine Mammal Protection Act and may require authorization from the National Marine Fisheries Service and/or US Fish and Wildlife. For NMFS consultation inquiries: nmfs.pr1.apps@noaa.gov. For sea otter information: r7mmmregulatory@fws.gov or call 907-201-2034.
 - b. Report marine mammal strandings as soon as possible:
 - i. For any injured, entangles, or dead marine mammal, contact NOAA 24-hour Stranding Hotline: 877-925-7773
 - ii. For sea otters specifically, contact USFWS at 1-800-362-5148 (business hours) or the Alaska SeaLife Center Hotline at 1-888-774-7325 (24-hours)
 - c. If the grantee documents negative marine mammal interactions, please direct reports to dfg.dwc.mmcomments@alaska.gov
 - d. To reduce risks:
 - i. Keep lines used to tether vessels taut and out of the water when possible. Secure all nets and points of entanglement so they do not enter marine waters when moored.
 - ii. Consistent with AS 46.06.080, trash should be disposed of in accordance with state law. Food waste should be properly disposed of to avoid attracting marine mammals.
 - iii. Store fuel securely to prevent entry into the marine environment. Spill kits should be kept on-site of all vessels.
 - iv. To reduce disturbance to pinnipeds hauled out onshore at recognized haulout sites, vessels should remain at minimum 1,640-feet offshore without compromising safe navigation. Key harbor seal haulouts are located less than 1.5 miles away and Steller sea lion haulout is located approximately 3.2 miles away.
2. Subsistence Use: Historic subsistence survey data from 1987 documents the use of Couverden Island by Gustavus residents for deer hunting. In contrast, the 2023 Gustavus household surveys did not record harvest activity in the area. Couverden Island remains a potential subsistence use area.
 3. Public Access: ADFG supports the continuation of this easement as it upholds public access to state waters, ensuring opportunities for recreation, fishing, and general navigation.

DMLW Response: The detailed information will be provided to the applicant.

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
- US Army Corps of Engineers
- Lynn Canal Conservation
- Haines Borough
- US Forest Service
- Juneau Post Office – Auke Bay
- Chilkat Indian Village
- Chilkoot Indian Association

No comments from the public were received.

Access

Physical and Legal Access: The applicant may access the site over state tide and submerged lands underlying Swanson Harbor and Lynn Canal, both of which are navigable waterbodies.

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.

The float has been in place since 1979 with no reported environmental impacts. The only contaminant risks that exist are fuel and oil stored on the vessels that moor at the float. Vessels are responsible for keeping spill-kits and absorbent items on-deck. No fuel, lubricants, or other hazardous materials are stored on site.

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.

The float will continue to provide public access opportunities to Swanson Harbor and the surrounding State-owned uplands and provide refuge moorage opportunities in the event of storms and sudden weather systems.

Discussion

Based upon the information provided by the applicant, as well as review of the relevant planning documents, comments from Agency Review, review of applicable statutes, regulations, environmental, and economic considerations related to this application, DMLW finds that the renewal of the public easement is in the best interest of the State.

Pictures were provided by ADFG staff to DMLW staff on February 9th, 2026, which show the floating refuge dock in generally fair condition; however, one section of the float surface appears to be sitting lower, with water over the top of the dock surface. This section of dock appears lower than the adjacent sections of dock. Due to low resolution and limited angles of the three photographs provided, the extent of the listing cannot be fully assessed or asserted by DMLW staff. ADFG staff report that one piling appears to be “off vertical”, but DMLW staff has not independently confirmed this observation, as a physical site visit by DMLW staff to the refuge float has not occurred. ADFG pictures show vessels moored to the dock at the time of pictures, rendering the dock in useable condition, for at least one portion of the refuge float.

Haines Borough reported that they conducted a site visit in Fall 2025 and are currently drafting a repair plan based on conditions observed during their visit. The Borough also stated they currently do not have funds available to complete necessary repairs. No engineering assessment, cost projections, or timeline for repairs have been provided to DMLW at this time.

Based on the limited photographic evidence and the Borough’s statement regarding their Fall 2025 site visit, DMLW recognizes that additional on-site documentation may be necessary to confirm the current condition of the float, verify the piling “misalignment”, and determine whether the observed listing poses an immediate safety or mooring concerns.

Standard maintenance and repair stipulations will be included in the easement agreement.

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: In consideration of the low risk associated with the proposed authorization and the applicant’s history of compliance with DMLW-issued authorizations, the requirements of performance guaranty are waived for ADL 107621. As stated in the proposed easement, DMLW reserves the right to require a performance guaranty in the event the grantee’s compliance is less than satisfactory or as a condition of authorizing significant changes in the land use. If required, such performance guaranty shall remain in effect until released, in writing, by DMLW and shall secure performance of the grantee’s obligation. The amount of the performance guaranty may be adjusted in the event of approved amendments to the proposed easement, changes in the development plan, or any change in the activities or operations conducted on the premises.

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.

In accordance with 11 AAC 96.065 and in consideration of the low risk associated with the proposed authorization and the applicant's known history of compliance, insurance is not required at this time. Haines Borough is self-insured as a government entity. DMLW reserves the right to require insurance during the term of the easement if deemed necessary.

Survey

In lieu of a Record of Survey, the applicant provided Alaska Tideland Survey (ATS) 1486 Juneau Recording District that delineates the leasehold area and is accepted by DMLW.

Fees

Easement: In accordance with 11 AAC 05.020(b) fees are waived for this authorization.

Entry Authorization

The Entry Authorization (EA) is an interim authorization that is issued when a survey and/or other items are necessary or required prior to easement issuance. Staff recommend waiving the EA as the easement can be located on ATS 1486 Juneau Recording District. An EA will not be required for this easement authorization.

Easement Term

The authorization requested under ADL 107621 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 public easement to Haines Borough pursuant to AS 38.05.850, upon satisfactory completion of the project in conformance with all the terms and conditions of this decision. The easement will be issued for a term of 25 years from the effective date of this decision that 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.

Quinn McClurg 2/27/2026
Quinn McClurg, Natural Resource Specialist III 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 107621 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 public 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 2/27/2026
Mason Auger, Natural Resource Manager II Date

Attachments:

- Attachment 1. Development Diagram
- Attachment 2. Easement draft