



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Natural Resources

DIVISION OF MINING, LAND & WATER
Resource Assessment & Development Section

550 West 7th Avenue, Suite 1050
Anchorage, Alaska 99501-3579
Main: 907.269.8534
TDD: 907.269.8411
Fax: 907.269.8915

July 9, 2013

Ms. Carol Rushmore
Economic Development Director
City and Borough of Wrangell
P. O. Box 531
Wrangell, AK 99929

Re: Final Finding and Decision for ADL 108133

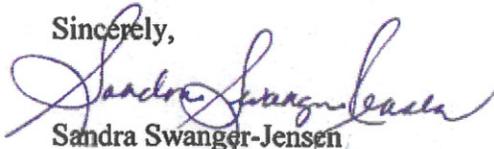
Dear Ms. Rushmore,

Enclosed is the Final Finding and Decision approved by the Alaska Department of Natural Resources on July 8, 2013. This is the State's best interest finding under AS 38.05.035(e).

This decision is subject to the appeal provisions that any person who meaningfully participated in comment on this decision and who is affected by the decision may appeal the decision to the Commissioner of Natural Resources. Please refer to the appeal paragraph in the decision for appeal procedure information. If no appeal is filed by the 31st day after issuance, the decision then goes into effect.

If you have any questions concerning this action, please contact myself @ (907)269-8526, or by email: sandra.swanger@alaska.gov or Bruce Phelps @ (907) 269-8592, or by email bruce.phelps@alaska.gov.

Sincerely,


Sandra Swanger-Jensen
Municipal Entitlement, Manager

Attachments:

Final Finding and Decision
Maps 1-9 & Vicinity Map

Cc: CBW, Timothy Rooney, Manager
CBW, Honorable David L. Jack, Mayor

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

FINAL, FINDING AND DECISION
CONVEYANCE OF LAND UNDER AS 29.36.010

CITY AND BOROUGH OF WRANGELL
MUNICIPAL LAND ENTITLEMENT SELECTIONS
ADL 108133

I. SUPPLEMENT STATEMENT

This Final Finding and Decision (FFD) supplements the Preliminary Decision issued on March 29, 2013 for the proposed actions, which is incorporated herein, except as modified by this decision.

II. RECOMMENDED ACTION

The Department of Natural Resources (DNR) has determined in this decision that Alternative 3 described in the Preliminary Decision (PD) is the preferred action since it best fits the intent of and requirements of the Municipal Entitlement Act. The PD recommended actions were to convey and reject certain lands selected as municipal entitlement selections by the City and Borough of Wrangell (CBW). This decision generally follows the recommendations of the PD, both conveying and rejecting selections, but also modifies the PD slightly. The FFD approves conveying the majority of these selections totaling approximately 7,384.39 acres as identified in TABLE 'A', and rejects a total of 1,922.96 acres in those areas identified in TABLE 'B'. The CBW total municipal entitlement is 9,006 acres.

LANDS TO BE CONVEYED

TABLE 'A' lists those lands totaling ^{7638.01} 7,384.39 acres for conveyance by this decision, and the acreage will be determined at time of survey. The determined acreage amount is a net chargeable acreage that will be credited towards the partial fulfillment of the CBW municipal land entitlement. The state will retain the beds including all the islands and gravel bars within any navigable waters and anadromous streams. The estimated acreages for conveyance does not account for any exclusions from navigable waters.

For these parcels this decision determines that the interests of the CBW in obtaining this land outweigh the interests of the state in retaining it. Note: this decision modifies the PD determining that the municipal land selection at Saint John Harbor is appropriate for conveyance to the CBW. The PD had recommended that this parcel be retained by the state, but a more thorough review of this selection resulted in the DNR determination that the interests of the CBW outweigh those of the state, and that this area is appropriate for conveyance.

TABLE 'A'

Approved

Map # Parcel Name	CRM Township, Range	Section	Acres
1 Sunny Bay	T. 68 S., R. 87 E.	Sec. 15: that portion of Tract A Sec. 16: that portion of Tract A Sec. 17: that portion of Tract A Sec. 18: that portion of Tract A Sec. 19: that portion of Tract A Sec. 20: that portion of Tract A Sec. 21: that portion of Tract A Sec. 22: that portion of Tract A Sec. 28: that portion of Tract A Sec. 29: that portion of Tract A Sec. 30: that portion of Tract A	2,254.00
	T. 68 S., R. 86 E.	Sec. 24: that portion of Tract A Sec. 25: that portion of Tract A	* 253.62
2 Olive Cove	T. 65 S., R. 85 E.	Sec. 31: Lot 2 (33.24 acres) Lot 3 (33.34 acres) Lot 4, excluding Olive Cove Subdivision ASLS 810233 (7.25 acres) Lot 5, excluding Olive Cove Subd. ASLS 810233 and ASLS 820063 (24.16 acres) Lot 6 (33.42 acres) Lot 7 (33.52 acres) Lot 8 (47.22 acres) SE1/4NW1/4, excluding ASLS 810233 Olive Cove Subdivision (30.00 acres). SW1/4NW1/4 (40.00 acres).	33.24 33.34 7.25 24.16 33.42 33.52 47.22 30.00
	T. 66 S., R. 85 E.	Sec. 6: Lot 1 (35.17 acres) excluding USS 1966 Lot 2 (33.60 acres) Lot 3 (33.68 acres) Lot 4 (33.98 acres) excluding USS 1966 Lot 5 (45.34 acres)	40.00 181.77
3 Thoms Place	T. 65 S., R. 85 E.	Sec. 25: S1/2 SW1/4 (80 acres), SW1/4SE1/4 (40 acres)	120.00
		Sec. 26: SE1/4 (160 acres), N1/2SW1/4 (80 acres), SE1/4SW1/4 (40 acres), and Lot 1 (39.93 acres).	319.93
		Sec. 27: Lot 4 (39.98 acres), Lot 5 (17.60 acres), and SE1/4NE1/4 (40 acres). Sec. 35: Lot 6 (39.04 acres),	97.58

*amcail
7/18/13 Sandra
Swanger-Jensen*

		Subdivision ASLS 83-7 (69.61 acres).	69.61
5 Earl West Cove	T. 64 S., R. 85 E.	Sec. 2: Lot 1 (29.54 acres), Lot 2 (39.30 acres), and NW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 acres).	108.84
		Sec. 3: Lot 1 (23.47 acres), Lot 2 (8.13 acres), Lot 3 (5.64 acres), Lot 4 (10.94 acres), Lot 5 (39.26 acres), Lot 6 (34.09 acres), Lot 7 (3.68 acres), and N $\frac{1}{2}$ SE $\frac{1}{4}$ (80 acres).	205.21
		Sec. 4: Lot 1 (3.50 acres), Lot 2 (30.69 acres), Lot 3 (4.35 acres), Lot 4 (8.37 acres), Lot 5 (21.53 acres), Lot 6 (37.23 acres), and SW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 acres)	145.67
		Sec. 9: Lot 1 (34.39 acres), NW $\frac{1}{4}$ NE $\frac{1}{4}$ (40 acres), S $\frac{1}{2}$ NE $\frac{1}{4}$ (80 acres), NW $\frac{1}{4}$ (160 acres),	314.39
		Sec. 10: Lot 1 (31.29 acres) Lot 2 (7.37 acres) Lot 3 (2.57 acres), Lot 4 (39.95 acres), and SE $\frac{1}{4}$ NW $\frac{1}{4}$ (40 acres).	121.18

6 Wrangell Island East	T. 62 S., R. 84 E.	Sec. 27: Lot 1 (12.08 acres) Lot 2 (42.15 acres) Lot 3 (45.12 acres) Lot 4 (16.75 acres), and SW1/4NW1/4 (40.00 acres).	156.10
		Sec. 28: Tract B (54.78 acres)	54.78
		Sec. 34: NW1/4NE1/4 (40 acres), Lot 2 (35.71 acres), SE1/4NE1/4 (40 acres), NE1/4SE1/4 (40.00 acres).	155.71
		Sec. 35: Lot 1 (39.92 acres), Lot 2 (24.51 acres), N1/2SW1/4 (40 acres), Lot 3 (37.60 acres) Lot 4 (26.01 acres), and SW1/4 SE1/4 (40 acres)	208.04
7 Mill Creek South	T. 63 S., R. 84 E.	Sec. 1: Lot 1 (7.52 acres), Lot 2 (13.54 acres) Lot 3 (14.86 acres) Lot 4 (17.21 acres)	53.13
		Sec. 2: Lot 1 (39.85 acres) SE1/4NE1/4 (40.00 acres) E1/2SE1/4 (80.00 acres)	159.85
		Sec. 11: E1/2NE1/4NE1/4 (20 acres) NE1/4SE1/4NE1/4 (10 acres)	30.00
		Sec. 12: Lot 1 (28.32 acres) N1/2 of Lot 2 (28.98 acres)	57.30
7 Crittenden Creek	T. 62 S., R. 84 E.	Sec. 31: Lot 3 (37.57) Lot 4 (31.00) E1/2SE1/4 (80.00)	148.57
7 Crittenden Creek	T. 62 S., R. 84 E.	Sec. 9: Lot 1 (46.30 acres), Lot 2 (23.85 acres) W1/2SE1/4SE1/4 (20.00 acres)	90.15
		Sec. 15: Lot 1 (39.19 acres), Lot 2 (15.96 acres), W1/2SW1/4NW1/4 (20.00 acres), SW1/4NW1/4NW1/4 (10.00 acres), W1/2SE1/4SW1/4 (20.00 acres), SE1/4SE1/4SW1/4 (10.00 acres), S1/2NE1/4SE1/4SW1/4 (10.00 acres), SW1/4SW1/4NE1/4SW1/4 (5.00 acres), S1/2SE1/4 (40.00 acres), NE1/4SE1/4SE1/4 (10.00 acres), SE1/4NE1/4SE1/4 (10.00 acres), E1/2NE1/4NE1/4SE1/4 (5.00 acres)	205.15

7 Crittenden Creek		Sec. 16: Lot 1 (46.41 acres)	69.51
		Lot 2 (23.10 acres)	
		Sec. 22: Lot 1 (10.36 acres)	
		Lot 2 (15.11 acres)	
9 St. Johns Harbor	T. 62 S., R. 80 E.	Sec. 32: Lot 1 (115.42 acres)	115.42
		Sec. 33: All uplands following along the Mean High Water Mark, as determined by survey, upland a 1,000 feet in width.	142.85
	T. 63 S., R. 80 E.	Sec. 5: Lot 1	240.63
TOTAL ACREAGE			7,384.39

+253.42
7,1438.01

LANDS TO BE REJECTED

TABLE 'B' lists those lands totaling 1,922.96 that will be rejected by this decision that are either retained in state ownership, because the interests of the state outweigh those of the CBW and where the state has no ownership rights to the land. Those affected areas to be retained in state ownership and the rationale for this action are described below. These lands are depicted on Maps 3, 6 & 8: Bradfield Canal, Thoms Place, and Wrangell Island East.

Thoms Place Parcels (Map 3):

The area of the selection in Section 8, Lot 9 consisting of 22.65 acres is rejected; the Central/Southern Southeast Alaska Area Plan (C/SSEAP) requires for this area be retained by the state. This area is to function as a buffer between different uses, especially between the Thoms Place Subdivision and Thoms Place State Marine Park.

Didn't address request for 3a an- guess a change

The area of the selection in Section 27, consisting of 199.59 acres is also rejected; is necessary for the effective maintenance of the state land sale disposal program. The utility of this area was re-evaluated as a result of comments received from the CBW. The state maintains that this area represents an important component of the overall state disposal program in Southeast Alaska. Additionally, the remainder of the state land that abuts this parcel situated to the north and east may also be suitable for development. These lands were not selected by the CBW; the development by the CBW of the waterfront portion in Section 27 would make development of these lands difficult, because of the conflicting ownerships, and absence of access, resulting in the inability to develop valuable state lands and the creation of isolated remnant parcels of state land.

Wrangell Island East (Map 6):

The area of the selection in Section 24, consisting of 461.30 acres is also rejected. This area is necessary for the effective maintenance of the state land sale program and for the state forestry program. The utility of this area was re-evaluated as a result of comments from the CBW, and further examination reveals that this area has nearby on-going timber sale activity that is linked by roads to the land that is being rejected and to other components of the Southeast Alaska State Forest. This area also connects to state land to the north (again, not selected by the CBW) that would otherwise lack road access and access to water, which both are vital to the land disposal

program. Without this access, this land would be landlocked and become an isolated remnant parcel of state land. A valuable parcel of state land might become undevelopable.

Bradfield Canal, Bradfield North Shore & Bradfield South Shore (Map 8):

The area of the selections consisting of 1,165 acres in this area is also rejected. These parcels are essential to be retained by the state in order to accommodate roads, other planned transportation facilities and electrical transmission easements. The CBW municipal land selections conflict with the planned transportation routes and facilities (ferry terminal), as identified in the Southeast Alaska Transportation Plan and other Alaska Department of Transportation & Public Facilities (ADOT/PF) documents. The ADOT/PF has existing rights across both state and federal lands to plan and construct rights-of-way and utility corridors in the Bradfield Corridor under the authority of Section 404 of Public Law 109-59. (See comments of ADOT/PF in PD for details.)

Lands not owned by the state:

The CBW land selections that pertain to land that is not owned (or selected) by the state is rejected totaling 74.42 acres for reasons of ownership. These include areas in: Olive Cove (9.31 acres), Thoms Place (40 acres), Earl West Cove (2.96 acres), and Saint John Harbor (22.65 acres).

TABLE 'B'

Map # Parcel Name	MTR	Section	Acres
2 Olive Cove	T. 65 S., R. 85 E.	Sec. 31: Lot 1, Block 1, Olive Cove Subdivision of ASLS 810233 (3.435 acres)	3.44
	T. 66 S., R. 85 E.	Sec. 6: USS 1966/US Forestry Land (5.87 cres)	5.87
3 Thoms Place	T. 65 S., R. 85 E.	Sec. 25: SE¼ SE¼ (40 acres)	40.00
		Sec. 27: S½NW¼ (80 acres)	199.59
		SW¼NE¼ (40 aces)	
		Lot 1 (9.92 acres)	
		Lot 2 (11.74 acres)	
Lot 3 (17.93 acres)			
3 Thoms Place South	T. 66 S., R. 86 E.	Sec. 8: Lot 9 (22.65 acres)	22.65
5 Earl West Cove	T. 64 S., R. 85 E.	Sec. 3: USFS Commercial Use/ Earl West Marine /LTF/USFS Earl West Rec. Site	2.96
6 Wrangell Island East	T. 63 S., R. 84 E.	Sec. 23: E½E½E½ (80 acres)	80.00
		Sec. 24: Lot 1 (12.70 acres)	381.30
		Lot 2 (35.91 acres)	
		W1/2NW1/4 (80 acres)	
		SW1/4 (160 acres)	

		Lot 3 (7.70 acres) Lot 4 (33.67 acres) Lot 5 (11.32 acres) SW1/4 SE1/4 (40 acres)	
8 Bradfield Canal	T. 65 S., R. 90 E.	Sec. 14: (156 acres) Sec. 23: (46 acres) Sec. 22: (132 acres) Sec. 21: (140 acres) Sec. 20: (294 acres)	768.00
8 Bradfield North Shore	T. 65 S., R. 90 E.	Sec. 19: (63 acres)	167.00
8 Bradfield South Shore	T. 65 S., R. 90 E.	Sec. 29: (66 acres) Sec. 30: (85 acres) Sec. 31: (79 acres)	230.00
9 St John Harbor	T. 62 S., R. 80 E.	Sec. 33: Low Pt. Lighthouse Reserve/USS 1719	22.15
		TOTAL ACRES	1,922.96

III. AUTHORITY

The proposed actions for this Final Finding and Decision is authorized pursuant to the Alaska State Statues (AS) together with the Alaska Administration Code (AAC), particularly AS 29.65, AS 38.05.035(e), AS 38.05.125, AS 38.05.127, AS 19.10.010 and 11 AAC 55.

IV. PUBLIC NOTICE

Public Notice has been accomplished in accordance with AS 38.05.945.

DNR Response:

ADF&G and the CBW were the only two entities who submitted comments in response to the PD.

V. COMMENTS ON THE PRELIMINARY DECISION AND DNR RESPONSES

1. Comments from Department of Fish and Game (ADF&G), Div. of Sport Fish-HQ

ADF&G reviewed the PD and stated in its review of the Agency Review draft they provided resource information and recommendations on the selections. Their main concerns addressed riparian buffers along anadromous fish streams and public access easements. ADF&G also recommended Thoms Place South and Bradfield Canal parcels to be retained in state ownership for public recreation and the protection of fish and wildlife resources. ADF&G noted that, in according to the PD, public access easements, section line easements, and riparian buffers will be

reserved. DNR also determined that it is in the best interest of the state to retain the Thoms Place South parcel and the Bradfield Canal, Bradfield North Shore, and Bradfield Shore parcels, as recommended by ADF&G.

ADF&G has no objection to the conveyance of the recommended for conveyance to CBW in the PD or with the conditions and reservations to be included in the conveyance documents.

DNR Response to ADF&G:

DNR acknowledges ADF&G comments, which supports the recommendations in the PD.

2. Comments from Public Access Assertion & Defense Unit (PAAD)

PAAD states that all of their concerns have been met.

DNR Response to PAAD

DNR acknowledges PAAD statement.

3. Comments from the City and Borough of Wrangell (CBW)

The CBW stated they reviewed the PD and have the following comments:

Thoms Place South, W-28, (Map 3):

The City and Borough of Wrangell objects to the complete rejection of the proposed 22.65 acres in Thoms Place South, W-28, Section 8 as shown on Map 3. The State has indicated the rejection was based on needing that area to remain as a greenbelt and buffer between Thoms Place development and Thoms Place State Marine Park. The Borough has requested selection in this area as a result of and at the request of the Thoms Place residents. Discussions with landowners during our Comprehensive Plan process in 2010 identified a potential need for a community moorage and a possible community center for Thoms Place communication equipment, emergency cache, and other community economic needs. This area was determined to be a fairly protected and easily accessible moorage area for a community dock. It is the Borough's position that consolidating community resources in one area would provide more effective and efficient service and therefore sought to select adjacent uplands to provide on shore community services. The Borough would be comfortable with one or two acres in order to be able to provide for the Thoms Place community needs. No large scale development is proposed that would impact the Marine Park, but rather necessary service area to meet the needs of the area landowners in an easily accessible area with necessary protected moorage.

Thoms Place, W-18, (Map 3):

The City and Borough of Wrangell objects to the rejections of the 199.59 acres, in Section 27 of W-18, Map 3 for the State of Alaska to retain for support of their own land disposal program. DNR acknowledges that there is little land in Southeast Alaska for this purpose so

DNR is retaining a total of approximately 900 acres in the Wrangell area (Thoms, PatCreek/Eastern Passage and St. Johns), of prime development land.

Why is the State's interest in providing disposal opportunities a better interest than of the Borough? The Borough would argue that our ability to have quality land available for development purposes based on the needs and requirements of the public and Borough residents outweighs that of the State.

The Borough of Wrangell (or previously the City of Wrangell) was unaware that the State was ever considering land disposal in the Thoms Place area in addition to the previously completed land sales at that location. If the City (and Borough) of Wrangell was previously notified of this intent by the State of Alaska, please provide a copy of that notification.

St. John Harbor (Map 9):

The City and Borough of Wrangell objects to the rejection of 2,400.63 acres in St. John Harbor as depicted on Map 9. Again, why is the State's interest in providing land disposal opportunities a better public interest than that of the local Borough? St. John Harbor is a very important safe harbor. Commercial and recreational boaters use the harbor frequently for a variety of economic and recreational uses. The harbor provides safe moorage during bad weather, offer great access to the Zarembo Island road system for hunting and other recreational or subsistence uses by not only residents of the Wrangell Borough, but also the residents of the newly formed Petersburg Borough. Additionally, this area provides access for timber harvesting, shipping, and nearby mining interests. The Borough believes that the land that DNR is rejecting could provide beneficial economic uses to the Wrangell Borough. DNR has rejected all of the land that is within the Harbor area and some of the most protected and desirable land available in that unit. Potential uses ranging from residential, recreational, or industry support areas are now no longer an option for the Borough.

DNR noticed the City and Borough of Wrangell in 2009 of a proposed subdivision development and the Borough responded at that time that the area was of interest for selection by a newly formed Wrangell Borough (see attached letter). The area notified for subdivision development in 2009 included Sections 32, 33, and 34 whereas the State's proposed land development in 2013 is now Section 5.....different from what was notified previously. If the State is having difficulty zeroing in on an area it deems it wants to keep for subdivision development, we begin to question why the State's interest outweighs that of the City and Borough of Wrangell.

Pats Creek Parcel on Eastern Passage/Wrangell Island East (Map 6):

The City and Borough of Wrangell objects to the rejection of 461.30 acres on Pats Creek drainage on the Eastern Passage, W-10, as depicted on Map 6. The land area is some of the most desirable land on the Eastern Passage because of the topography and amount of sun that the northern and eastern shoreline receives. The parcel also was the only land area on the Eastern Passage considered for potential commercial economic development use in the Borough's 2010 Comprehensive Plan. In January of 2013, this parcel was zoned Industrial in keeping with the Comprehensive Plan's proposed future growth maps and economic development opportunities. Most of the land on the Wrangell Island East/Eastern Passage area is timber land of which the

state has already harvested the vast majority of the resource. The parcel is still considered valuable for economic growth by the Borough. The Borough would certainly support any harvesting activities already under contract and supports continued access and use by the State on the state forestry road.

Bradfield Canal, North and South Shores (Map 8):

The City and Borough of Wrangell object to the complete rejection of the proposed 1,165 acres in the Bradfield Canal area on Map 8. The City and Borough of Wrangell has selected land with the primary purpose of providing future economic development opportunities to Borough residents should the Bradfield Road and/or electric connection ever be constructed. The terrain can be very steep and difficult or flat through floodplain areas. The Borough is seeking some developable land along the shoreline or adjacent to the rights-of-ways reserved by the Department of Transportation in order to provide commercial support services for the transportation corridor. DNR should be able to grant to the Borough for potential future development opportunities small chunks of developable land in the range of 20 to 40 acres on both the north shore and south shore. Any right-of-way easements are supported, but adjacent land could still be useful for commercial support activities.

Additionally, member communities of the Southeast Alaska Power Agency (SEAPA) are currently in the process of reviewing the management agreement for the Tyee Hydro facility. It is possible – in the future – the member communities will vote to modify the existing agreement and ownership of the facility could change. If these changes result in the City and Borough of Wrangell owning the Tyee Hydro facility, it would make sense that the land on which it is located also be owned by the City and Borough of Wrangell, as well as land adjacent to it.

DNR Response to the CBW:

Thoms Place South (Map 3):

The CBW land selection identified as Thoms Place South located in unit W-28 is to be retained in state ownership and managed under the Undeveloped Recreation designation and in accordance with the C/SSEAP management guideline that affects this selection. This parcel of land is reserved in this plan (management guideline) to act as a greenbelt and buffer between development and Thoms Place State Marine Park; the guideline specifically requires that this unit be retained in state ownership. The interest of the state outweighs the interest of the CBW by protecting this area from future development.

Thoms Place (Map 3):

DNR re-evaluated this selection due to the adverse CBW response to the PD, but we have determined that this parcel is important to the state land disposal program and that this area should be retained in state ownership. There is substantial state land to the north and east of this CBW selection, but this land can only be developed if water and land access are retained. The selection by the borough of (only) the waterfront property essentially land locks the abutting state land, making its development difficult at best. Were the state to agree to convey this selection, DNR would end up with a parcel of state land of considerable size that could not be developed, resulting in the creation of an isolated remnant of inaccessible state land. DNR has

NOT DUE -
we kept a waterfront
access

always maintained that the 'high grading' of state land (by selecting only the waterfront) is inappropriate and has avoided such actions in the past in its disposal actions. Moreover, the borough will receive considerable state land within Thoms Place that is classified Settlement and the amount of land being retained by the state is small in comparison. The state's interest outweighs that of the CBW in this instance and this land will be retained by the state.

Wrangell Island East (Map 6):

DNR re-evaluated this parcel, and concluded this land should remain in state ownership. The DNR Forestry Division has on-going timber sales in this area, and is building of new roads that affect the Wrangell East area and specifically this selection. Moreover, this selection adjoins portions of the Southeast Alaska State Forest, and it is important that the links to the State Forest from nearby state land be retained. This selection is also important because of the water and road access it provides to both land disposal and forestry activities. It is also appropriate to retain this parcel since, if it were to be conveyed to the borough, it would land lock state land situated to the north. Without continuous state land ownership in this area, this northern parcel would be inaccessible, resulting in the creation of an isolated parcel of state land. DNR's practice is to avoid the creation of such remnant parcels. DNR therefore concludes that the interest of the state outweighs the interest of the CBW and this parcel is to be retained in state ownership.

St. Johns Harbor (Map 9):

DNR has re-evaluated the state's opposition to the entitlement selection in St. John Harbor. We have determined that the state's interest does not outweigh that of the borough and that this action will not result in the creation of isolated remnants of state land, as it does in the other two selections at Thoms Place and Wrangell Island East. DNR finds it appropriate to convey all CBW land selections in St. Johns Harbor, excluding the Low Point Lighthouse Reserve as the state holds no ownership to the land.

Bradfield Canal, Bradfield North Shore & Bradfield South Shore (Map 8):

DNR has determined that the interests of the state outweigh the interest of the CBW on these land selections and that they need to remain in state ownership. Discussions with ADOT&PF, as well as the extensive comments submitted by that agency, which maintained that these state lands need to be retained, have indicated that it would be inappropriate to convey any of these lands as the state needs to preserve the lands for future roads and facilities. The CBW land selections conflict with planned transportation routes, as identified in part by the Southeast Alaska Transportation Plan. ADF&G has existing rights across federal lands to plan and construct rights-of-way and utility corridors in the Bradfield Corridor under Section 404 of Public Law 109-59. See the comments of that agency in the PD for additional details.

In regards to the area of the Tyee Hydro facility, since there have not been any land selections made by the CBW in this area; it is premature to evaluate this issue in depth. It appears that the CBW will fall slightly short of their granted municipal entitlement; subsequent to this decision and a determination that the CBW entitlement is not fulfilled. The CBW can submit an application for new land selections of state owned land in this area and DNR will adjudicate their selections at that time. *

VI. DISCUSSION AND FINAL FINDING AND DECISION

This decision affects the CBW municipal entitlement land selections totaling ~~9,307.35~~ ^{7638.01} acres. The majority of these selections (totaling ~~7,384.39~~ ^{9560.97} acres) were determined to meet the requirement of AS 29.65.050(c), with the decision determining that the interest of the CBW outweigh those of the state and are to be conveyed to the CBW, although some (totaling 1,848.54 acres) were found to be inconsistent with the requirement and are to be retained by the state.

The reasons for rejection of the selections vary, but are related to the need to protect areas along the Bradfield Canal that are important for state roads, transportation facilities, and electrical transmission easements, or to the need to maintain a certain amount of land for the state land disposal program in Southeast Alaska. Lands to be conveyed to the CBW are identified in TABLE 'A'; these lands will be credited towards the partial fulfillment of the CBW entitlement and are subject to the requirements and stipulations identified in the PD. The parcels identified in TABLE 'B' are rejected as they are to be retained by the state.

Additionally, DNR is rejecting 74.42 acres where the state has no ownership to the lands.

The following are specific findings in this decision that:

It is appropriate to convey ~~7,384.39~~ ^{7638.01} acres of state owned land to CBW. The interest of the state to retain these lands does not outweigh the interest of the CBW to obtain them.

It is appropriate to reject a total of 1,922.96 acres of CBW land selections as the interest of the state outweighs the interest of the CBW, which entail rejecting 1,165 acres in Bradfield Canal, Bradfield North Shore, and Bradfield South Shore to preserve state lands for future roads and facilities; these selections conflict with the planned transportation routes as identified in part by the Southeast Alaska Transportation Plan.

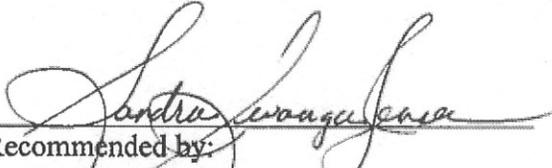
It is appropriate to reject 22.65 acres in Thoms Place South requirement in the C/SSEAP to retain an area to function as a greenbelt and act as a buffer between residential and park areas, and reject 199.59 acres for the purpose of providing some lands for the state land disposal program in the Wrangell and to avoid the creation of inaccessible undeveloped land and the creation of isolated remnant parcels of state land.

It is appropriate to reject 461.30 acres in Wrangell Island East in order to accommodate on-going state timber sales, provide an area for the construction of roads that will provide access to both forest and land disposal functions, avoid the creation of inaccessible and isolated remnants of state land, as well as to provide an area for state land disposals.

It is appropriate to reject 74.42 acres of the CBW land selections as these are not state owned.

7638.01

The findings presented above has been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945. The case file has been found to be complete and the requirements of all applicable statues have been satisfied. I find that it is in the best interest of the state to proceed with the conveyance of those lands recommended for conveyance in this decision totaling 7,384.39 acres, subject to the requirements and stipulations of this decision and the PD and reject 1,922.96 acres of those lands recommended to be retained by the state and those lands the state has no ownership. TABLE 'A' identifies those lands to be conveyed and TABLE 'B', of those that are rejected.


Recommended by:
Sandra Swanger-Jensen
Municipal Entitlement, Manager

7/8/2013
Date

Bruce Phelps
Approved by:
Bruce Phelps, Section Chief
Resource Assessments & Development

7/8/13
Date

*Olick Cove property by
Dave Swear
if we appeal?
when / time frame to resubmit?*

ATTACHMENTS
FFD Vicinity Map
FFD Maps 1-9

APPEAL PROVISION

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received in writing within 20 calendar days after the date of the issuance of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Daniel S. Sullivan, Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov.

If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the department on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources.