

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

**AMENDED FINAL FINDING AND DECISION**  
**CONVEYANCE OF STATE LAND UNDER AS 29.65**

<b>PETERSBURG BOROUGH</b> <b>MUNICIPAL LAND ENTITLEMENT SELECTIONS</b> <b>ADL 108981</b>
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This Amended Final Finding and Decision is based on a Final Finding and Decision (FFD) issued on July 6, 2021, to convey in part and reject in part, lands selected by the Petersburg Borough in partial fulfillment of their general grant entitlement under *AS 29.65.010 Determination of Entitlement of Boroughs and Unified Municipalities*. Public notice will be issued for this Amended Final Finding and Decision (AFFD).

**SUMMARY OF THE DECISION**

The July 6, 2021 FFD for ADL 108981 affirmed the April 1, 2021 Preliminary Decision (PD) which approved approximately 616 acres for conveyance and transfer of management authority to the Petersburg Borough (PB) and rejected conveyance of approximately 85 acres.

While drafting a patent to PB for the lands approved in the FFD, it was found that the roads in the Thomas Bay Subdivision were dedicated to public use on Plat 82-16 (ASLS 81-235) and, therefore, cannot be conveyed. This dedication was done when the Petersburg Borough area was still unorganized as a Home Ruled Borough (which was accomplished in 2013). Division of Mining, Land and Water (DMLW) Survey Section stated that there was no ‘acceptance’ statement on the plat, so the dedication statement was considered ‘an offer of dedication to the public.’ Once a lot or road is developed within the subdivision, that offer is accepted. Therefore, the rights-of-ways are effectively ‘owned’ by the public, and the State cannot convey them out of state ownership.

On December 9, 2022, staff from the DMLW Land Conveyance Section (LCS) met with PB to discuss options for reaching a compromise to accommodate the ownership of the roads in the Thomas Bay Subdivision. LCS staff presented two options:

1. LCS issues an amendment to the FFD to remove the road acreage from the approved conveyance and retain the roads in state ownership. This acreage would be credited back to PB; however, PB would have management authority over the roads.
2. PB requests a vacation of the roads in the subdivision, submitting the costs to create the vacation and therefore gaining ownership of the acreage of the roads.

On December 16, 2022, PB identified option #1 as their preferred option.

**MODIFICATIONS TO THE DECISION**

A review of the FFD shows that the following modifications are needed:

Modification One: Section II. Recommended Action is modified to state, “This decision covers approximately 701 acres, approving approximately 550 acres for conveyance and transfer of management authority, and rejecting conveyance of approximately 151 acres.”

Modification Two: Section VII. Discussion and Final Finding and Decision is modified to state, “Through this Final Finding and Decision, DNR determines that it is in the best interest of the State to convey 550.378 acres of state land with management authority transferred to PB upon the effective date of this decision.”

Modification Three: Table 1 is modified as follows:

Map Name	MTR	Section and Legal Description Thomas Bay Subdivision ASLS 81-235, Plat 82-16	Acres
Thomas Bay	C056S079E	<b>Sec. 35:</b> BL 5 Lot 1 (2.458 ac.), portion Lot 2 (0.547 ac.)	3.005
	C057S079E	<b>Sec. 03:</b> BL 2 Lots 14, 15 (7.811 ac.) BL 3 Lots 5-11 (26.45 ac.), portions Lots 4, 12 (1.049 ac.) BL 7 Lots 12, 13 (8.518 ac.), portions Lots 11, 14 (4.617 ac.) BL 8 Lots 3, 4 (9.309 ac.), portions Lots 2, 5 (4.742 ac.) BL 9 Portions Lots 2-4 (4.932 ac.) BL 10 Lots 1-6 (25.95 ac.), portions Lots 7, 8, 9, 10, 11 (8.432 ac.) BL 11 Lots 1-5 (20.27 ac.) BL 12 Lots 1-3 (12.2 ac.), portion Lot 4 (1.019 ac.)	135.299
		<b>Sec. 04:</b> BL 3 Lots 1-3, 13-18 (34.09 ac.), portions Lots 4, 12 (6.102 ac.) BL 4 Lots 1-8 (33.641 ac.) BL 5 Lots 3, 4 (5.361 ac.), portion Lot 2 (2.017 ac.), BL 6 Lots 1-11 (44.944 ac.) BL 7 Lots 1-10, 15 (48.264 ac.), portions Lots 11, 14 (4.618 ac.) BL 8 Lots 1, 6 (8.606 ac.), portions Lots 2, 5 (5.021 ac.) BL 9 Lots 1, 5-7 (15.499 ac.), portions Lots 2-4 (4.546 ac.) BL 10 Portions Lots 8, 10, 11 (2.089 ac.) BL 16 Portions Lots 1, 2 (3.524 ac.) BL 17 Lots 1, 2 (5.689 ac.), portions Lots 3, 4 (.685 ac.)	224.697
		<b>Sec. 09:</b> BL 10 Lots 17-19 (12.972 ac.), portions Lots 10, 15, 16, 20, 21 (10.47 ac.) BL 14 Portions Lots 1-3 (7.4 ac.) BL 15 Lots 1-5 (21.003 ac.) BL 16 Lots 3-7 (22.473 ac.), portions Lots 1, 2 (4.262 ac.) BL 17 Lots 5-12 (32.778 ac.), portions Lots 3, 4 (5.835 ac.)	117.193
		<b>Sec. 10:</b> BL 10 Lots 12-14 (12.909 ac.), portions of Lots 7, 10, 11, 15, 16, 20, 21 (16.687 ac.) BL 12 portion Lot 4 (2.282 ac.), Lot 5 (3.704 ac.) BL 13 Lots 1-5 (21.892 ac.) BL 14 Lots 4, 5 (8.222 ac.), portions Lots 1-3 (4.488 ac.)	70.184
<b>Approximate Total Approved to be Conveyed</b>			<b>550.378</b>

Modification Four -Table 2 is modified as follows:

Map Name	MTR	Section and Legal Description Thomas Bay Subdivision ASLS 81-235, Plat 82-16	Acres
Thomas Bay	C056S079E	<b>Sec. 35:</b> Portion Tract A (52.624 ac.)	52.624
	C056S080E	<b>Sec: 04:</b> Portion Tract A (8.85 ac.), Tract D (23.522 ac.)	32.372
		<b>Subdivision Roads</b>	65.825
<b>Approximate Total to be Rejected:</b>			<b>150.821</b>

Modification Five: Finding for this decision are modified to state:

1. That it is appropriate to convey approximately 550.378 acres of state-owned land to Petersburg Borough. This decision determines that the interest of the State to retain this land does not outweigh the interests of the Petersburg Borough to obtain it.
2. That it is appropriate to reject approximately 150.821 acres of borough land selections because the roads within the Thomas Bay Subdivision are to remain in state ownership and the CSSEAP states Tracts A and D and will be retained by the State.

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3. It is appropriate to give management authority to Petersburg Borough over the state-owned roads for public access and maintenance.

Other than the changes noted herein, all of the terms and conditions of the Final Finding and Decision and Preliminary Decision (ADL 108981) remain as written and approved.

*Mary Hermon*

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Mary Hermon, Adjudicator  
Natural Resource Specialist 2  
Land Conveyance Section  
Division of Mining, Land and Water  
Department of Natural Resources  
State of Alaska

1/25/2023

\_\_\_\_\_  
Date

**Approval:**

*Rachel Longacre*

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Rachel Longacre  
Section Chief  
Land Conveyance Section  
Division of Mining, Land and Water  
Department of Natural Resources  
State of Alaska

1/25/2023

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Date

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**APPEAL PROVISION**

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 State Courts establish 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](mailto: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 .pdf or print copy of *11 AAC 02* may be obtained by contacting Erik Fossum via phone at (907) 269-8429, via email at [erik.fossum@alaska.gov](mailto:erik.fossum@alaska.gov), and is also available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.