

Coordination & public notice

A. Upland owner objection to use of tidelands or submerged lands

If the upland owner objects to an application for use or development of adjacent tidelands or submerged lands, the applicant must demonstrate to the satisfaction of the Department of Natural Resources (DNR) that there is no feasible and prudent alternative site. A feasible and prudent alternative site is one that DNR, in consultation with the applicant, finds physically suitable, that meets the guidelines of this plan and other permit requirements, and has no objection from the upland owner. If no feasible and prudent alternative site has been identified, DNR will adjudicate the application considering at least the following:

1. whether site design and operating stipulations can effectively minimize or eliminate the objection; and
2. the magnitude of the potential impacts to the upland owner, including but not limited to monetary cost, changes to present or expected land management, and the consequences of trespass.⁵

B. Upland owner permission for shore use

For proposed tideland or submerged land activities that use non-state uplands, DNR will not issue an authorization until the applicant has requested the upland owner's permission. The applicant must submit to DNR copies of his request to the upland owner. Alternatively, the applicant may show how all necessary housing, warehousing, processing, and other uses will be accommodated on the tidelands.

1. **If upland support is essential.** If upland support is essential to the project's success, and DNR is ready to authorize the activity before the upland owner's permission is obtained, DNR should hold the authorization pending that permission.
2. **If upland support is not essential.** Where upland support is not essential to the project's success, DNR may authorize the use with the stipulation that activities requiring upland support will not begin until the applicant notifies DNR that the upland owner's permission has been obtained. For example, where a facility can use either anchors or shore ties, DNR may authorize the facility with the provision that shore ties will not be used without the upland owner's permission.

If the upland owner denies or cancels an authorization for upland support, the permittee will notify DNR and DNR may modify or cancel the tideland authorization, based on an evaluation of the circumstances. DNR will notify the upland owner if DNR cancels the authorization.

C. Notice and coordination regarding university timber rights

1. When DNR issues authorizations on lands included in the university settlement, DNR will inform the applicant of the university timber rights under ADL 223456 and state the earliest date on which nearby timber harvest might occur. DNR will submit the proposed authorizations to the university for their review.
2. For the duration of the university timber rights under ADL 223456, no use of timber will be allowed on lands included in the university settlement unless approved by the university.

D. Notice to aquatic farm operators

DNR should notify aquatic farm permit holders when it reviews applications for activities that may affect existing aquatic farm operations. DNR should give the permit holders an opportunity to comment.

⁵ DNR has cause to revoke an authorization for use of tidelands or submerged lands if the user is convicted of trespass or unauthorized use of adjacent land related to the activity on state land.