

APPENDIX A

U.S. DEPARTMENT OF TRANSPORTATION ACT SECTION 4(F) COORDINATION

MEMORANDUM



To: Project Files

From: Carrie Connaker

Date: September 15, 2020

Subject: Shotgun Cove Road Extension Project Section 4(f) Analysis Memorandum

Summary

The City of Whittier (City) is proposing a project that would construct a 2.5-mile long gravel road extension of Shotgun Cove Road. The road would run parallel to the shoreline beginning at the current Shotgun Cove Road terminus (mile 2.0) and continue on to U.S. Forest Service land at Trinity Point (Figure 1). Emerald Cove Trail exists in the proposed right-of-way and would be impacted by construction of the proposed project (Figure 2). The purpose of this memo is to describe the existing Emerald Cove Trail and identify the status determination made with regards to Section 4(f) of the U.S. Department of Transportation Act of 1966 (23 CFR 774).

Purpose and Need

The proposed project is located in a rural area currently used primarily for recreation with no roadway beyond the existing terminus. The proposed road extension would be constructed approximately 250 to 350 feet from the shoreline and would run roughly down the middle of City-owned land, ending with a small parking lot at Trinity Point. Project design includes several spur roads to the north and south along the alignment to allow for future beach access points, trailheads for uplands access, and access to potential private parcels. The purpose of the proposal is to improve access to federal and state lands, alleviate pressure on Whittier's regional transportation system, and realize potential economic growth.

Recreation Resource Description

The Emerald Cove Trail begins at the existing end of Shotgun Cove Road and generally parallels Passage Canal to terminate near Emerald Bay. At the trailhead, and for about one mile, the trail is approximately two to four feet wide and sporadically maintained by the City. Within the first mile, the trail is a gravel footpath. After the first mile, the trail dwindles to a narrow footpath that is difficult to follow through the dense undergrowth and muddy marsh bogs, eventually disappearing prior to reaching Emerald Bay approximately two miles from the trailhead. Wooden planks support the trail through the marshier areas, but have fallen into disrepair in recent years. The trail experiences flooding and muddy conditions for most of the summer. Figures 3 and 4 present pictures indicative of trail conditions of the trail's first mile and second mile, respectively.

Whittier residents reportedly use the first mile for hiking, dog walking, and berry picking, mainly during the summer months. The trail experiences very low traffic as compared to other trails in

the Whittier area, seeing an estimated 500 users per summer. Use of the trail's second mile is uncommon and sporadic, as it is difficult to find in some locations; trail bushwhacking is necessary to get to the end of mile two. The trail is impassible to hikers from late fall to early spring, due to the high volume of snow accumulation characteristic of the Passage Canal area. The trail has no defined end point and does not terminate at a beach access location or scenic viewpoint, disappearing before reaching Emerald Bay. Tourists visiting Whittier generally do not pass beyond the parking lot at the end of the existing Shotgun Cove Road at mile 2.0, which offers spectacular views of Passage Canal.

Section 4(f) Determination

According to 23 CFR 774.11(c), a property does not qualify as a Section 4(f) resource *when the official(s) with jurisdiction over a park, recreation area, or wildlife and waterfowl refuge determine that the property, considered in its entirety, is not significant.*

The trail is situated on land transferred to the City in 1994 by the Alaska Department of Natural Resources (ADNR). The land transfer included a stipulation for a "100-foot road right-of-way easement" to provide "for the construction of a road or trail from Whittier to and along the shoreline of Shotgun Cove" (ADNR 1994; Appendix A). Shotgun Cove Road was mentioned as early as 1988 in ADNR's Prince William Sound Area Plan for State Lands. After the land transfer was complete, the trail was created through an agreement between ADNR and the City to "construct...a five mile long Shotgun Cove Trail from the Second Salmon Run area to Shotgun Cove" to provide new public hiking trails in the Whittier area (ADNR and City of Whittier 1997; Appendix B). ADNR constructed the first miles of the trail, but did not extend the trail to Shotgun Cove or Trinity Point as originally intended in the agreement. After completing this segment, ADNR turned over ownership and maintenance responsibility for the trail to the City.

"In the case of public parks, recreation areas, and wildlife and waterfowl refuges, the official(s) with jurisdiction are the official(s) of the agency or agencies that own or administer the property in question and who are empowered to represent the agency on matters related to the property" (23 CFR 774.17). The trail was constructed by ADNR on land owned by the City and these entities are the official(s) with jurisdiction (OWJ) for Emerald Cove Trail. In March of 2020, the two OWJ dissolved the 1997 agreement that created the trail, aiming to fulfill the original intent for the land to become a transportation corridor and provide access to publicly-owned lands and other recreation opportunities, and future privatized lands. Additionally, as OWJ for the trail, the City has attested it is not a significant recreation resource (Appendices C and D).

Today the trail remains a two-mile long path that disappears and reappears intermittently prior to reaching Trinity Point. The trail is not included in any ADNR or City maps, and has not been officially designated as a significant recreation resource by either entity. The original intent for the land transfer to the City was to make the land accessible for recreation purposes and for private sale. The OWJ have determined that Emerald Cove Trail, considered in its entirety, is not a significant recreation resource.

Attachments:

Figures; Appendix A: ADNR Final Finding and Decision AS 38.05.035 (e); Appendix B: ADNR and City of Whittier 1997 Cooperative Agreement for Whittier Trail and Shotgun Cove Trail; Appendix C: Letter from Ricky Gease, Director, ADNR Division of Parks and Outdoor Recreation to Jim Hunt, Manager, City of Whittier; Appendix D: Letter from Jim Hunt, Manager, City of Whittier to Seth English-Young, FHWA

Copies: Scott Korbe, City; Bill Johnson, CRW Engineering; Colin Singleton, CRW Engineering

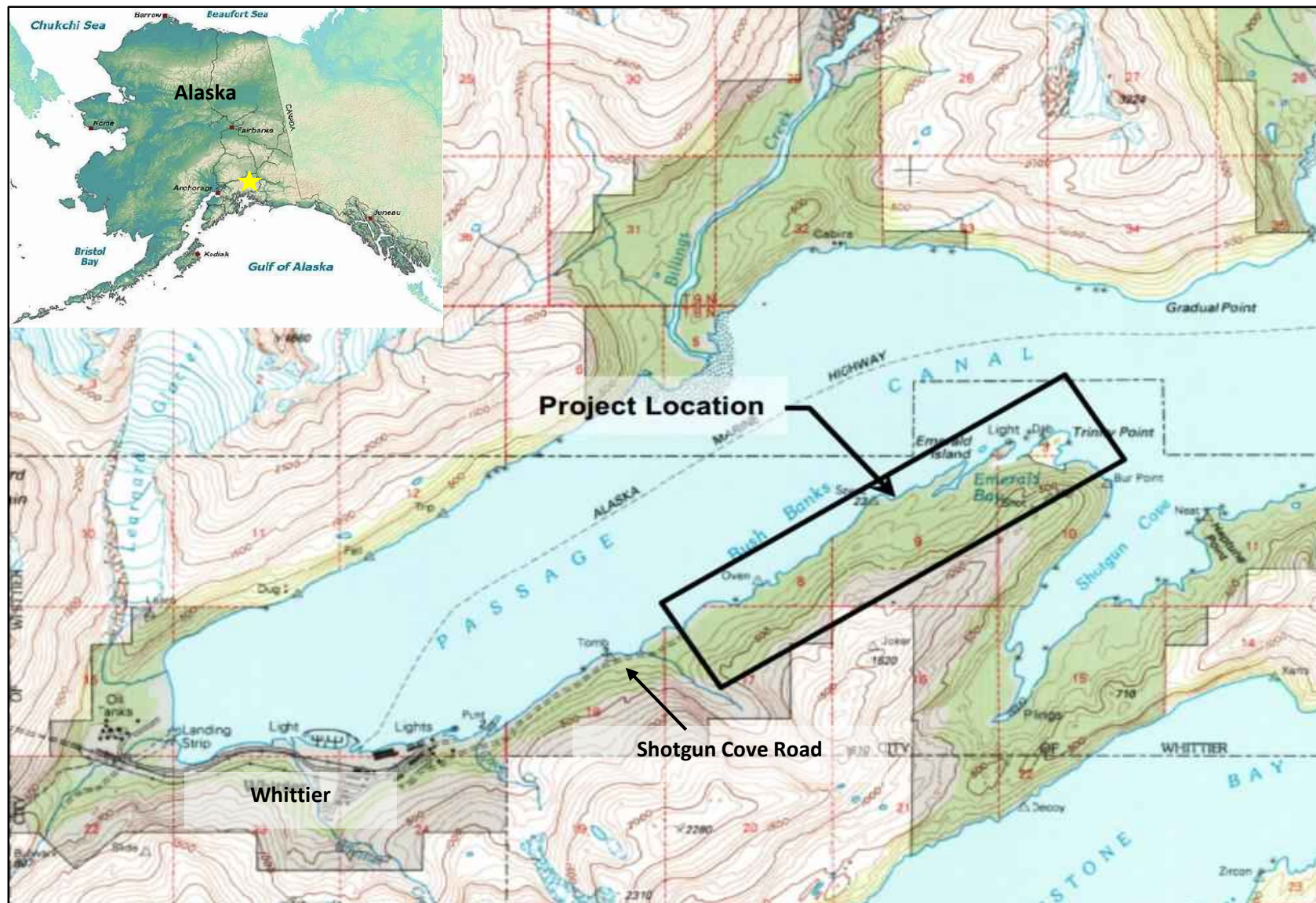


Figure 1. Proposed project location and vicinity



Figure 2. Emerald Cove Trail location and vicinity



Figure 3. Emerald Cove Trail; Mile 1



Figure 4. Emerald Cove Trail; Mile 2

Appendix A

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
FINAL FINDING and DECISION
AS 38.05.035(e)

City of Whittier
ADL 222791 and ADL 225460

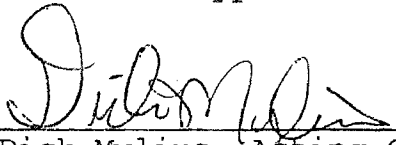
Summary of Public Comment:

- ☒ No public comments were received from notices in newspaper publications pursuant to AS 38.05.945(b).
- ☐ No comments were received from notice given to agencies pursuant to AS 38.05.945(c).
- ☒ Summary of comments received pursuant to AS 38.05.945(b), see Attachment 1.
- ☒ Summary of comments received from the municipality, native corporation, village corporation, postmaster, or community organization pursuant to AS 38.05.945(c), see Attachment 1.

Modifications to Decision:

- ☐ Decision is not modified.
- ☒ Decision is modified as specified in Attachment 2.

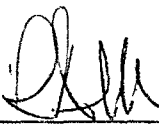
Recommend Approval:



Dick Mylius, Acting Chief
Resource Assessment & Development
Division of Land

29 June 94
Date

Concur:



Ron Swanson, Director
Division of Land

June 29, 1994
Date

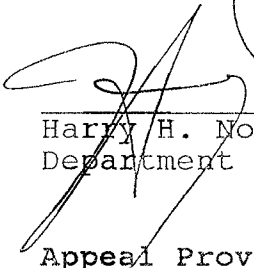
City of Whittier
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Approval:

Public Notice has been accomplished according to AS 38.05.945. Comments received have been considered, summarized (Attachment 1), and incorporated in this decision (see attachment 2). The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. I have reviewed the above decision and it is my finding that the proposed action is in the best interest of the state and is hereby

☐ APPROVED AS PROPOSED

☒ APPROVED AS MODIFIED



Harry H. Noah, Commissioner
Department of Natural Resources

6/29/94
Date

Appeal Provision:

A person adversely affected by that final order and decision may (1) appeal to Superior Court within 30 days in accordance with the rules of the court, and to the extent permitted by applicable law, or (2) request reconsideration of this decision, in accordance with 11 AAC 02, to Harry A. Noah, Commissioner, Department of Natural Resources, 400 Willoughby Avenue, Juneau, Alaska 99801. Any request for reconsideration must be received at the above address within 20 calendar days after the date of "delivery" of the decision, as defined by 11 AAC 02.040(c) and (d). A copy of 11 AAC 02 may be obtained from any Department of Natural Resources office. If no request for reconsideration is filed before the end of the period specified, the decision then goes into effect.

Attachments: Attachment 1, Summary of Public and Agency Comment
Attachment 2, Modifications of Decision

Attachment 1

Final Finding and Decision City of Whittier ADL 222791 and ADL 225460

Summary of Public and Agency Comment

Public Notice under AS 38.05.945(b)

Public notice for this action and the Mineral Closing Order was published in the Anchorage Daily News on May 22, 1994 and the Alaska Journal of Commerce on May 30, 1994. Additionally, notice was published in the Seward Phoenix Log and the Valdez Vanguard on May 26, 1994. On May 24, 1994, a copy of the public notice was posted in the City Hall and City Bulletin Board by Debra Burnham. Notice was also sent to the Chugach Alaska Corporation and the Alaska Miners Association on May 20, 1994. Any comments were to have been received by 4:30 p.m., June 22, 1994. No comments were received.

Copies of the preliminary finding and decision and public notice were sent for review and comment to the following:

Nelda Warkentin, Planning Supervisor, Department of
Community and Regional Affairs

Pete Panarese, Chief of Operation, Division of Parks and
Outdoor Recreation

Responses received included Robert K. Walsh, Director, DCRA who concurred with the 114 acre conveyance under AS 29.65 (ADL 225460). AS 29.65.050(c) required DCRA to review and to give recommendation of approval or disapproval of the land selected under AS 29.65.

The Division of Parks and Outdoor Recreation originally requested that a minimum of a two acre site for a visitor and ranger station fronting the waters of Shotgun Cove be located within the area of ADL 225460. After a field visit, involving city officials and DNR staff to the Shotgun Cove to identify a site, it was apparent that it would be in the best mutual interest of State Parks and the City of Whittier to locate the site outside of the boundaries of ADL 225460. This site could be located in the Shotgun Cove area (ADL 222791) or the current City of Whittier townsite area (state selected land). The location of the site would be mutually agreed upon.

Public Notice under AS 38.05.945(c)

The Postmaster in Whittier was requested to post a copy of the public notice in a conspicuous location accessible to the general public until June 23, 1994.

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Final Finding and Decision
City of Whittier
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A copy of the preliminary finding and decision and a copy of the public notice was sent to Mr. Gary Williams, City Manager and to Mr. Ben Butler, Mayor on May 20, 1994. No written comments were received; however, it has been agreed that the location of the two acre site need not be limited to land within ADL 225460.

Attachment 2

Final Finding and Decision City of Whittier ADL 222791 and ADL 225460

Modifications of Decision

The location of a Visitor and Ranger Station having access to the waters of Shotgun Cove or the waters near the City of Whittier center will be identified with the concurrence of the Division of Parks and Outdoor Recreation and the Division of Land and the City of Whittier. The location of this site may be located within ADL 222791 or ADL 225460.

All the other stipulations listed in the preliminary finding and decision are unchanged.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
Division of Land
Resource Assessment and Development

PRELIMINARY FINDING AND DECISION
AS 29.65 and AS 38.05.810(a)
City of Whittier
ADL 222791 and ADL 225460

Proposed Action:

The City of Whittier has selected its remaining acreage of a 600 acre land grant given to it under a Special Legislative Act (Chapter 73 SLA 1984) in the vicinity of Shotgun Cove. This land is identified as remaining land in fulfillment of the grant and identified as ADL 222791. The legislative grant contained a provision that the City must sell all grant land not needed for community development and expansion within 10 years of receipt.

The City of Whittier in 1987 was found to be entitled to 114 acres of municipal entitlement under AS 29.65. The City identified 114 acres within the 600 acre grant that will fulfill their municipal entitlement and will not be subject to the restrictions of the grant. This land is identified as ADL 225460.

The proposal is to convey approximately 375 acres of state land, under the authority of Chapter 73 1984 and AS 29.65, to the City of Whittier and to close approximately 600 acres of land to mineral entry pursuant to AS 38.05.185.

AUTHORITY:

This action is authorized pursuant to the following state statutes and regulations:

AS 29.65
AS 38.05.035(e)
AS 38.05.810(a)
AS 38.05.125
AS 38.05.127
AS 38.05.185
Chapter 73 SLA 1984

The Division of Land Delegations and Redelegations, dated October 15, 1993, delegates the Chief of Resource Assessment and Development the authority to approve decisions under AS 29.65. The legislative act (Chapter 73 SLA 1984) designates the Commissioner of Natural Resources to grant land under the act to the City of Whittier. However, because of the combined decision format of the two proposed actions (to convey the land to the city and to close the land to mineral entry) the Commissioner of DNR will approve the Mineral Closing Order and Final Decision.

ADMINISTRATIVE RECORD:

Department of Natural Resources casefiles ADL 222791 and ADL 225460 comprises the administrative record used for the basis of this decision. Also, adjudication procedures specified by the Division Procedures Manual were used.

DISCUSSION:

Location

1. Geographic: Shotgun Cove is located directly east of the City of Whittier along the shoreline of Passage Canal approximately 5 miles in the general area of Prince William Sound.
2. Borough/Municipality: The land is not located within an organized borough; however, it is located within the municipal boundaries of the City of Whittier.
3. Native Regional Corporation: Chugach Alaska Corporation
4. Native Village Corporation: None
5. Coastal District: City of Whittier Coastal District adopted December 4, 1989.
6. USGS Map Coverage: Seward D-5 Quadrangle Map
7. Legal Description:

ADL 222791 State land selected in the vicinity of Shotgun Cove pursuant to SLA 1984.

Township 8 North, Range 5 East, S.M.

Lots 1, 2, and 3 described in a metes and bounds description described in Attachment "A" and depicted on Map Attachment "C" aggregating approximately 402 acres.

ADL 225460 State land selected pursuant to AS 29.65 Municipal Entitlement Act.

Township 8 North, Range 5 East, S.M.

Tracts 1 and 2 described in a metes and bounds description described in Attachment "B" and depicted on Map Attachment "C" aggregating approximately 114 acres.

8. Attachments: Attachments "A" and "C" identify land described within ADL 222791 pursuant to the special

land grant to the City. Attachments "B" and "C" identify land described within ADL 225460 pursuant to AS 29.65.

Title

Information based on Title Report SC-94-036 current as of April 14, 1994.

1. Title Status: The State received Tentative Approval for this land on 02-26-85 and 09-02-88 under the National Forest Community Grant for the purpose of furthering Community development and expansion. The applicable state selection casefile is NFCG-56. Also, the State received Tentative Approval for land within NFCG-333 on 10-30-91.

2. Title Restrictions/Reservations: The land is subject to the restrictions, limitations and conditions of Title VI of the Civil Rights Act of 1964.

Excluded from the federal conveyance to the State are the Trinity Point Administrative Site (U.S. Survey 8636); Lots 1 and 2, U.S. Survey 8857.

There is excepted and reserved from the conveyance a right-of-way for ditches or canals constructed by the authority of the U.S. in accordance with the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945. Also excepting and reserving further a reservation under Sec. 906(1)(2) of the Alaska National Interest Lands Conservation Act (ANILCA) of December 2, 1980 (94 Stat. 2371) for the Trinity Point (AA-51241) lighted aid to navigation within Sec. 10, T.8N., R.5E., S.M. and more specifically described as follows:

A small red house 39' above water, on end of a narrow point between Emerald Island and Trinity Point at the intersection latitude 60°48'N and longitude 148°34'W. Beginning at a point on the mean high tide line N45°E from the light, thence S45°W to a point 100' S45°E of the light where it intersects a line running N45°W and S45°E to the line of mean high tide in each direction and encompassing the land NE of this line, containing approximately 1.0 acre, with the right of ingress/egress and control of the arc of visibility from the light between 259° true and 82° true.

3. Third Party Conflicts or Pending Interests: none

Background

The City of Whittier received a land grant of 600 acres under a Special Legislative Act (Chapter 73 SLA 1984) effective August 30, 1984. This grant was to include no less than 400 acres of state land from Shotgun Cove and no less than 200 acres from a proposed state land disposal area of Whittier Subdivision, subsequently known as Emerald Cove Subdivision. Land conveyed under this legislation stipulated the land be sold by the City within 10 years of the enactment of the act. In the event that land was not sold, the land would revert back to the State, unless the commissioner found that the City of Whittier had diligently prepared the land for sale to the public.

On January 22, 1986, the City selected approximately 228 acres under ADL 222791 in the Whittier Subdivision area. A Final Finding and Decision approved this selection on May 13, 1986. Whittier was issued survey instructions for Alaska State Rectangular Survey No. 93-169 on December 20, 1993 for this land.

On August 5, 1987, the City amended the boundaries of its May 29, 1986 selection to exclude Lots 1 and 2, USS 8857 (land owned by Chugach Alaska Corporation). The revised selection contained approximately 390 acres in the Shotgun Cove area.

The municipal general grant land entitlement law was revised in 1987 which entitled the City to receive 114 acres under AS 29.65. In a decision, dated June 13, 1988 the Director of Land, certified the City's 114 acre municipal entitlement and determined Whittier's entitlement fulfilled by the legislative grant. The decision, however, allowed the city to identify 114 acres of the 600 acre grant from which the 10 year restriction would be removed. On August 10, 1989, the City identified two tracts of land totaling 114 acres of which the restrictions of Chapter 73 SLA 1984 would not apply. Additionally, the City again amended the selection in the Shotgun Cove area to include a total of approximately 402 acres which included several coastal areas that had been previously omitted.

Land conveyed under the 600 acre grant was stipulated to be sold by the City within 10 years of the enactment of the Act (August 30, 1984). In the event that land was not sold, the land would revert to the State, unless the Commissioner found that the City of Whittier had diligently prepared the land for sale to the public. On November 28, 1990, the

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Commissioner of Natural Resources granted the City an extension of the 10 year reversionary clause to August 30, 2004.

In summary, the casefile shows that 228 acres have been approved and approximately 402 acres selected. Of the selected acreage the 114 acres are identified to be part of the City's municipal entitlement under AS 29.65.

Planning and Classification

Land Use Plan: The subject area is included within the Prince William Sound Area Plan, dated June, 1988. Specifically the land is located in the Passage Canal Management Unit 2, Subunit 2F Shotgun Cove and Vicinity, pgs. 3-12 thru 3-22.

Coastal Zone Consistency: The subject land is located within the coastal zone; however, a mere conveyance of land by the state to a municipality does not require a Coastal Zone Consistency Review.

Mineral Entry: The subject uplands identified for conveyance; and also, those lands previously approved for conveyance to the City in the amended Final Find and Decision, dated May 13, 1986, will be closed to mineral entry. The tide and submerged land within Shotgun Cove is closed to mineral entry (MCO #556) pursuant to the Area Plan, Appendix D, Mineral Orders.

Land Classification: State owned uplands are classified by the Prince William Sound Area Plan as Public Recreation/Settlement PWSP 2F, and identified as classification SC-88-004.

Waterbodies

BLM navigability determination was addressed in the state selection file and administratively made on 1-10-85 for the waterbodies within the selection which was found to be non-navigable.

Public Access And Reservations

Whittier is a land locked community which is contemplating community development and expansion. Improvement of road access through the tunnel from Portage and construction of a road to Shotgun Cove is planned. A 100 foot road right-of-way easement provided for the construction of the road from

Whittier to and along the shoreline of Shotgun Cove in the previous decision approving land for conveyance to the City. Also, the federal patent 50-87-0268 for Lots 1 and 2, USS 8857, issued to Chugach Alaska Corporation, excepted and reserved a road easement 60 feet in width for a local road or trail which may be constructed within the road easement around the shoreline of Shotgun Cove. This provision allows for continuous right-of-way through the private owned land parcels to serve the community.

This proposed conveyance will need to provide a 100 foot right-of-way for road or trail construction along the shoreline of the cove. The location will need to be determined at the time of survey of the land.

A 50 foot wide public access easement, as required by AS 38.05.127(a) and regulations implementing that statute, will apply to this conveyance. This easement will be reserved 50 feet upland of the mean high water line along the shoreline of Shotgun Cove to provide free public access. There are no streams within the project area shown on the USGS quadrangle map.

The State of Alaska, as required by AS 38.05.125, is required to expressly save, except and reserve out of the grant those resources specified by statute. These include but are not limited to all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every name, kind or description, including the right to explore the same.

Trespass

No known unauthorized uses exists on the subject land. The State has researched its land records and finds no uses authorized. No provisions will be made in this conveyance, nor should any provision of this decision, be interpreted to apply to any unauthorized use.

Environmental Risk

Environmental risk associated with this proposed disposal is minimal or is non-existent.

Survey and Appraisal

After affirmation of the Finding and Decision, the City will be responsible at its expense to have the unsurveyed land surveyed under DNR instructions.

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No appraisal is necessary for an AS 29.65 conveyance since the land is conveyed without charge.

Agency Comments

Agency review of the proposed action was conducted on March 25, 1994.

The Department of Fish and Game responded having no objection to the action; however, staff indicated need for public access along the shoreline of Shotgun Cove, and to adjoining public lands; and additionally, a need for a public camp site.

The Division of Parks and Outdoor Recreation, as part of the process of developing a management plan for marine parks in Prince William Sound, commented on the need for the provision of a road or trail right-of-way through the proposed conveyance to access the Decision Point State Marine Park located approximately 3 miles east along Passage Canal. Additionally, the Division sighted the need for retention of a 2 acre site for a visitor accessible ranger station in the Shotgun Cove area. This would be in conjunction with the long range plans of the development of the Cove by the City of Whittier including a new small boat harbor, recreation destination, residential and road development. Also, a recreation destination development and a potential lodge development is part of long range plans for the native owned land in the cove.

The Division of Mining, in a letter dated December 3, 1993, indicated no objection to a mineral closing order for the land conveyed to the City.

As specified by AS 29.65.050(c), before this Proposed Finding and Decision is affirmed as the Final Finding and Decision, the Department of Community and Regional Affairs shall review this Proposed Finding and Decision and recommend approval or disapproval of the land proposed to be conveyed under the authority of AS 29.65.

Alternatives

The alternatives which exist to the City revolve around the availability of state selected or state conveyed land. The legislative mandate of Chapter 73 SLA 1984, and the need to fulfill the City's municipal entitlement, does not allow for viable alternatives. The identification of these lands are appropriate due to limited land availability.

Recommendation:

The Resource Assessment and Development Section of the Division of Land recommends approval for conveyance under the legislative or statutory authority given for each casefile as listed below.

If this Preliminary Finding and Decision is affirmed to become the Final Finding and Decision, land management authority will be granted to the City when the appeal period ends. Land cannot be relinquished after this occurs. After management authority occurs and before patent is issued to the City of Whittier, the city may execute conditional leases and make conditional sales only with the consent of the Director of the Division of Land.

ADL 222791 under the authority of Chapter 73 SLA 1984, the City of Whittier was to receive no less than 600 acres of land. Included within the 600 acres are selections known as Whittier Subdivision, 228 acres, which is now known as Emerald Cove Subdivision; lots 1, 2, and 3 generally described in a metes and bounds description in Attachment "A"; and 114 acres which is under the authority of AS 29.65 and described in ADL 225460 of this decision. The Emerald Cove Subdivision has been adjudicated, approved, and is under survey instructions ASRS 93-169. The reversionary clause as stipulated in the legislative authority and amended by the Commissioner of DNR on November 28, 1990, is to expire August 30, 2004.

1. All federal exceptions and reservations as shown on the federal patent when it is received.
2. Subject to AS 38.05.127 and 11 AAC 53.330, a 50 foot public access easement upland and seaward of the mean high water line of Passage Canal and Shotgun Cove.
3. Subject to a 100 foot wide right-of-way easement for the proposed Shotgun Road or trail. After the right-of-way has been platted, the Grantee shall formally notify the Grantor of the location of said right-of-way.
4. All valid existing rights and reservations, if any, but not limited to those herein listed.
5. Reservation pursuant to AS 38.05.125.
6. A 50 foot easement, each side of the section line, which is reserved to the State of Alaska for public highways under AS 19.10.010.

ADL 225460 under the authority of AS 29.65. Those lands identified as tracts 1 and 2 described in a metes and bounds description generally described in Attachment B and depicted on Map Attachment "C". Within this description a 2 acre minimum site shall be identified with the concurrence of the Division of Parks and Outdoor Recreation and the Division of Land for the purpose of a visitor and ranger station fronting the waters of Shotgun Cove. A survey of the area conveyed under AS 29.65 is not to exceed 114 acres. The reversionary restriction clause of Chapter 73 SLA 1984 shall not apply to land conveyed under this authority, however conveyance is subject to the following:

1. All federal exceptions and reservations as shown on the federal patent when it is received.
2. Subject to AS 38.05.127 and 11 AAC 53.330, a 50 foot public access easement upland and seaward of the mean high water line of Passage Canal and Shotgun Cove.
3. Subject to a 100 foot wide right-of-way easement for the proposed Shotgun Road or trail. After the right-of-way has been platted, the Grantee shall formally notify the Grantor of the location of said right-of-way.
4. All valid existing rights and reservations, if any, but not limited to those herein listed.
5. Reservation pursuant to AS 38.05.125.
6. A 50 foot easement, each side of the section line, which is reserved to the State of Alaska for public highways under AS 19.10.010.

Finding:

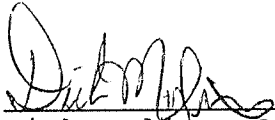
The transfer of the subject land to the City of Whittier as proposed under the authority given for each conveyance, will provide the City an economic base for community development and expansion. A very small land base exists in the area for residential, commercial, or recreation development. Land is also necessary for the construction of public facilities needed for anticipated development. Also, the transfer of the land will fulfill the legislative mandate given for each conveyance.

Planned surface development of the area will be incompatible with potential mineral entry in the area; therefore, all land

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transferred to the City is appropriate to be closed to mineral entry.

It is determined that the proposed disposal, subject to the conditions listed in the recommendation, serves the best interest of the State.



Dick Mylius, Acting Chief
Resource Assessment & Development

5-20-94
Date

Public Notice, Decision, and Appeal Procedures:

A public notice, announcing this Preliminary Finding and Decision and the Mineral Closing Order, soliciting comments will be published in the Anchorage Daily News, Alaska Journal of Commerce, Seward Phoenix Log and the Valdez Vanguard per AS 38.05.945(b). Notice will also be given to the City of Whittier pursuant to AS 38.05.945(c)(1) and a courtesy notice to Chugach Alaska Corporation. In addition, the City of Whittier and the Whittier Post Office will be requested to post the notice per AS 38.05.945(b)(2). Also, the notice will appear in the Alaska Administrative Journal.

The public is invited to comment on the Preliminary Finding and Decision to transfer the ownership of State land to the City and to close land to mineral entry. Copies of the documents are available from the Division of Land, Resource Assessment and Development, 3601 "C" Street, Suite 1116, PO Box 107005, Anchorage, Alaska 99510-7005. Attention: Arlan De Yong. Any comments, objections, or expressions of interest concerning these proposed actions must be received in writing by the Division of Land at the above address on or before 4:30 p.m., June 22, 1994, in order to insure consideration.

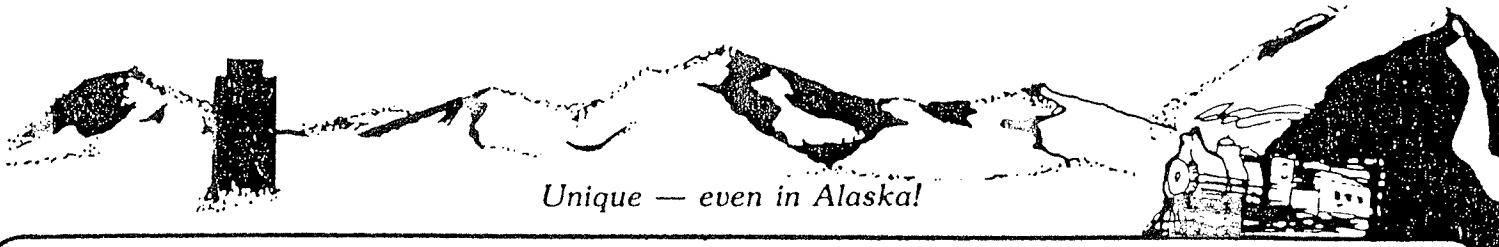
Following the comment deadline, **all written responses will be considered and this decision may be modified** to incorporate public comments. If public comment in response to this notice indicates the need for significant changes in the Preliminary Finding and Decision, or in the proposed Mineral Closing Order, additional public notice will be given on or about June 29, 1994. If no significant change is required, the Preliminary Finding and Decision and the Mineral Closing Order, including any minor changes, **will be issued as a final order and decision of the Department of Natural Resources on June 29, 1994, without further notice.** In that case June 29, 1994, will, for purposes of appeal, constitute the date of "delivery" under 11 AAC 02.040. A

City of Whittier
ADL 222791
ADL 225460
Page 11

copy of this decision will be available at the address listed above.

A person adversely affected by that final order and decision may (1) appeal to Superior Court within 30 days in accordance with the rules of the court, and to the extent permitted by applicable law, or (2) request reconsideration of this decision, in accordance with 11 AAC 02, to Harry A. Noah, Commissioner, Department of Natural Resources, 400 Willoughby Avenue, Juneau, Alaska 99801. Any request for reconsideration must be received at the above address within 20 calendar days after the date of "delivery" of the decision, as defined by 11 AAC 02.040(c) and (d). A copy of 11 AAC 02 may be obtained from any Department of Natural Resources office. If no request for reconsideration is filed before the end of the period specified, the decision then goes into effect.

Attachments: Attachments "A" and "C" for ADL 222791
 Attachments "B" and "C" for ADL 225460



Unique — even in Alaska!

THE CITY OF WHITTIER

August 9, 1989

Ms. Veronica Gilbert, Regional Manager
Southcentral Region
Department of Natural Resources
P.O. Box 7005
Anchorage, Alaska 99510-7005

Subject: ADL 222791

Dear Ms. Gilbert:

This is to amend the City of Whittier's land selections authorized under 73 SLA 1984 as submitted in its selection letters of May 29, 1986 and August 5, 1987. The amendments are intended to include several coastal segments which had previously been omitted. Also, we request conveyance of the subject lands at your earliest convenience.

Whittier reserves the right to make additional selections of State land in the area under AS 38.05.810(a) as needed for valid public purposes.

Thank you for your assistance in this matter. If you have any questions, please contact myself at 472-2337 or Pete Nagel at 563-8866.

Sincerely,

David Moffat

David Moffat
City Manager

c:✓ Gary Gustafson, DNR
Pete Nagel, CAC

Attachment "A" ADL 222791

8/8/89

LAND DESCRIPTION

Lot 1

Beginning at corner No. 1, a meander corner, a point on the line of mean high water (MHW) of Passage Canal where the section line between sections 3 and 4, T8N, R5E (Seward) intersects; thence south along the section line approximately 400' to corner No. 2; thence northeasterly and southwesterly along the line of mean high water approximately 2000' to corner No. 1, the point of beginning, containing approximately 7 acres.

Lot 2

Beginning at corner No. 1, a meander corner, a point on the line of mean high water (MHW) of Passage Canal where the section line between sections 9 and 10, T8N, R5E (Seward) intersects; thence south along the section line approximately 700' to corner No. 2; thence N 8° E approx. 2600' to corner No. 3; thence S 53° E approx. 1000' to corner No. 4; thence S 20° W approx. 1280' to corner No. 5; thence S 48° W approx. 1600' to corner No. 6; thence S 33° W approx. 2050' to corner No. 7; thence S 23° W approx. 1200' to corner No. 8; thence S 43° W approx. 1050' to corner No. 9; thence S 23° W approx. 2100' to corner No. 10; thence S 39° E approx. 1550' to corner No. 11; thence N. 72° E approx. 1350' to corner No. 12; thence N 44° E approx. 2530' to corner No. 13; thence N 52° E approx. 1000' to corner No. 14 on the southwestern boundary of USS 8857 lot 2; thence northwesterly along the said boundary approx. 1450' to corner No. 15, a meander corner on the line of MHW on the shore of Shotgun Cove; thence westerly along line of MHW approx. 7600' to corner No. 16, a meander corner also known as (aka) corner No. 3 of USS 8857 Lot 1; thence northwesterly along the survey boundary approx 600' to corner No. 17, aka Corner No. 2 of USS 8857 Lot 1; thence northeasterly along the survey boundary approx. 500' to No. 18, a meander corner, aka Corner No. 1 of USS 8857, Lot 1; thence northerly along line of MHW approx. 10,000 feet to corner No. 1, the point of beginning, containing approximately 240 acres.

Lot 3

Beginning at corner No. 1, a meander corner on line of MHW of Shotgun Cove, aka corner No. 1 of USS 8857 Lot 2; thence southeasterly along the survey boundary approx. 950' to corner No. 2, aka corner No. 2 of USS 8857 Lot 2; thence N 44° E approx. 5600' to corner No. 3; thence N 64° E approx. 1600' to corner No. 4, lying on the line between sections 11 and 12 of T8N, R5E (Seward); thence northerly along the section line approx. 800' to corner No. 5, a meander corner on line of mean high water of Passage Canal; thence westerly along the line of MHW approx. 17,000 feet to corner No. 1, the point of beginning, containing approximately 155 acres.

Total aggregating approximately 402 acres.

8.44

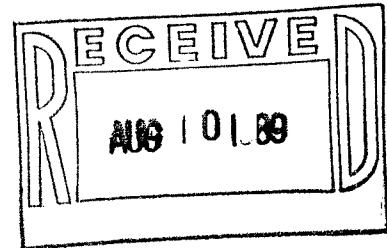
Department of Natural Resources

AUG 11 1989

Wildlife is Unique here even in Alaska!

THE CITY OF WHITTIER

August 9, 1989



Mr. Gary G. Gustafson, Director
Division of Land and Water Management
Department of Natural Resources
P.O. Box 107055
Anchorage, Alaska 99510-7005

Dear Mr. Gustafson:

We are in receipt of your letter of June 13, 1988 determinating the State general grant land allocation for the City of Whittier and instructions for fulfilling this entitlement. On December 7, 1988, we met with Mssrs. Daigger and DeYoung of your staff to discuss this matter.

Pursuant to your decision, following is a metes and bounds description of the lands which the City of Whittier identifies for conveyance without the restrictions that attach to lands otherwise conveyed under 73 SLA 1984.

Tract 1

Beginning at corner No. 1, a meander corner, a point on the line of mean high water (MHW) on the south shore of Shotgun Cove at Passage Canal, also known as corner No. 4 of Lot 2, USS 88571 thence southeasterly along the boundary between corners 4 and 3 of Lot 2, USS 8857 approximately 1100' to corner No. 2; thence S46°E approximately 1350' to corner No. 3; thence N43°44'W, approximately 650' to corner No. 4; a meander corner, thence northerly along line of MHW approximately 1600' to corner No. 1, the point of beginning, containing approximately 31 acres.

Tract 2

Beginning at corner No. 1 a meander corner of the line of MHW of Shotgun Cove, aka corner No. 1 of USS 8857 Lot 2, thence southeasterly along the survey boundary approximately 950' to corner No. 2, aka corner No. 2 of USS 8857 Lot 2; thence N 44° E approximately 3650' to corner No. 3; thence N47°W approximately 1800' to corner No. 4 a meander corner on line of MHW of Shotgun Cove; thence southerly along line of MHW approximately 6000' to corner No. 1, the point of beginning, containing approximately 83 acres.

Total aggregating approximately 114 acres.

8.44

Attachment "B" ADL 225460

Page 2

Thank you for your cooperation and attention to this important matter. Do not hesitate to contact myself at 472-2337 or Pete Nagel at 563-8866.

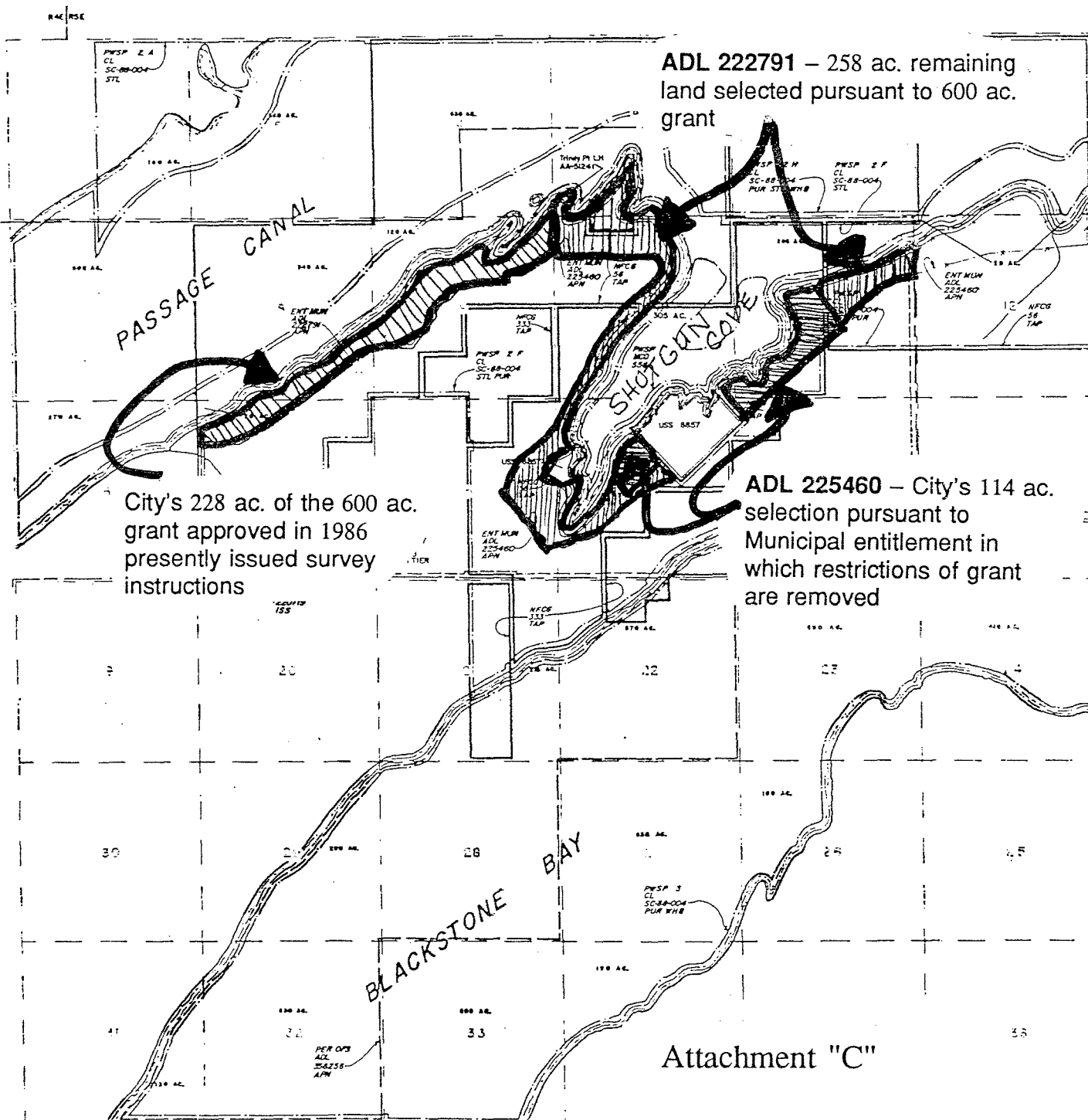
Sincerely,

David Moffat

David Moffat
City Manager

Attachments

c: Peter Nagel, CAC



OTHER ACTIONS AFFECTING DISPOSAL OR USE OF STATE LANDS.

USS 8857, Accepted 4/16/87

NPCB 24, Subject To Am. Civ. A.A. 5041

ADL 224013, City Of Warren Corporate Boundary Plat

Document Dated 4/18/73

Subject To PWS

DRANCH 470 From ADL 5-14-86 AMEND. 8-1-87 RLB

Lat 50° 44' 00.841" N.
Long 148° 26' 40.391" W.

DATE	CHECKED BY
1/21/94	DTL

Appendix B

522-1148
Rick Bennett

Cooperative Agreement
between the
Alaska Department of Natural Resources
Division of Parks and Outdoor Recreation
Marine Recreation Project Office
and the
City of Whittier
for
Whittier Trail and Shotgun Cove Trail

This cooperative agreement is made and entered into between the Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation, Marine Recreation Project Office, hereinafter referred to as ADNR and the City of Whittier, hereinafter referred to as the CITY.

I. PURPOSE OF THE AGREEMENT

To provide new public hiking trails in the Whittier area. Specifically to construct a mile long Whittier Trail to the alpine and a five mile long Shotgun Cove Trail from the Second Salmon Run area to Shotgun Cove.

II. COVENANTS OF THE ADNR

The ADNR does hereby agree:

1. To provide funding necessary to complete these two projects not to exceed the Governor approved budgets of \$150,000 for the Whittier Trail and \$60,000 for the Shotgun Cove Trail. Money from either budget is not interchangeable.
2. To act as project manager to insure completion of these two trail projects per the work plans.
3. To control finances, employ workers, act as sole employer of the crew, be self insured, and manage the project in order to complete the projects within the allocated budgets.
4. To make a good faith effort to complete the projects within 1997. If unforeseen circumstances don't allow this, the projects will be completed in 1998.
5. To present to the city manager the trail route once layout is completed in order to get final route approval.
6. To make a final trail construction report to the CITY that documents the actual cost, details of amenities constructed, and a letter transferring responsibility of the trail to the CITY.

Post-It® Fax Note		7671	Date	# of pages
To: <i>UK</i>		From: <i>E</i>		<i>3</i>
Co./Dept.		Co.		
Phone #		Phone #		
Fax # <i>6</i>		Fax #		

III. COVENANTS OF THE CITY

The CITY does hereby agree:

1. To dedicate CITY owned land on which to construct the trail and to dedicate it for public use that will not restrict or be inconsistent with the purpose of the public hiking trail.
2. To allow ADNR free access to CITY land and allow CITY owned natural resources to be used to construct the trail.
3. To allow ADNR use of CITY facilities if they may be beneficial to finishing the projects and won't hinder normal CITY run operations and management. To make an apartment with utilities available free of charge to the trail crew from June 1, 1997 until October 31, 1997. The apartment is to be used as a base station, dry out room, equipment storage, and office.
4. To maintain these two hiking trails on both CITY and State land, in good condition for public use once constructed, for a period of at least 30 years with no financial assistance from the ADNR.
5. To reconstruct the trail to the same standards of initial construction and cover all costs that would be required to move the trail in the event that other development or CITY action would necessitate a rerouting of the trail to reach the same destinations during the life of this agreement.

IV. IT IS MUTUALLY AGREED THAT

1. ADNR and the CITY shall cooperate in accomplishing the purpose of this agreement.
2. The effective date of this agreement shall be from the date of final signature by both parties.
3. This agreement shall remain in effect until December 31, 2027.
4. Either party may terminate this agreement by written notice to the other at least 90 days in advance of the date on which the termination is to become effective. The disposition of these trails will abide in one of the following contingencies, whichever is appropriate:

a. Agreement expires on December 31, 2027:

The parties are released of this agreement and the CITY may manage the trails as they deem appropriate.

b. ADNR terminates its involvement:

If prior to December 31, 2027, ADNR terminates its involvement or does not comply with its requirements of this agreement, the improvements funded by ADNR will become

the property of the CITY at no additional cost to the CITY.

c. The CITY terminates its involvement:

If prior to December 31, 2027, the CITY terminates its involvement or does not comply with its requirements of this agreement, this agreement shall be terminated. The CITY shall be obligated to repay a prorated share of the cost of the improvements and personnel costs to ADNR.

5. Nothing in this agreement shall obligate any agency to the expenditure of funds or future payments of money in excess of those herein agreed upon or authorized by law.

6. Nothing in this agreement transfers title or land jurisdiction other than set forth herein.

7. Each agency agrees that it will be responsible for its own acts and the results thereof, and each agency shall not be responsible for the acts of the other agencies and each agency agrees it will assume to itself risk and liability resulting in any manner under this agreement.

8. Nothing herein is intended to conflict with federal, state, or local laws or regulations. If there are conflicts, this agreement will be amended at the first opportunity to bring it into conformance with conflicting laws or regulations.

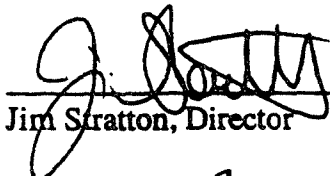
9. This agreement may be revised as necessary by mutual consent of all parties, by the issuance of a written amendment, signed and dated by all parties.

10. All approvals and notices required by this agreement shall be written and shall be sent by registered or certified mail to:

Marine Recreation Project
Division of Parks and Outdoor Recreation
3601 C Street, Suite 1200
Anchorage, AK 99503-5921

City of Whittier
City Manager
P.O. Box 608
Whittier, AK 99693

11. This agreement is complete and has no other encumbrances, addenda, attachments, or amendments except Attachment A: Whittier Trail Work Plan and Attachment B: Shotgun Cove Work Plan.


Jim Stratton, Director

21 April 97
Date


Whittier City Manager

4/7/97
Date

Appendix C



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

DIVISION OF PARKS AND OUTDOOR RECREATION
Director's Office
550 W 7th Ave, Suite 1380
Anchorage AK 99501
Main: 907-269-8700

March 9, 2020

Jim Hunt
City Manager, City of Whittier
PO Box 608
Whittier, AK 99693

Dear Mr. Hunt,

The Division of Parks and Outdoor Recreation (DPOR) understands that the City of Whittier would like to construct the next phase of the Shotgun Cove Road along the south side of Passage Canal, ending at Chugach National Forest land. This construction will overlap with the Shotgun Cove Trail constructed by DPOR and maintained by the City pursuant to the attached agreement made in 1997 (1997 Agreement).

The proposed road will improve access to a variety of outdoor recreation opportunities, including potential new hiking trails and access to Shotgun Cove as well as City, State, and Chugach National Forest lands and represents a net benefit to outdoor recreation. Therefore, DPOR hereby releases the City of Whittier from their obligations under the 1997 Agreement with respect to the Shotgun Cove Trail.

DPOR expects that the City will continue to honor the agreement for the Whittier Trail to the alpine described in the 1997 Agreement, also known as the Horsetail Falls trail.

Sincerely,

A handwritten signature in black ink, appearing to read "Ricky Gease".

Ricky Gease
Director, DPOR

Cc: Jack Blackwell, Kenai/Prince William Sound Superintendent, DPOR
Dan Beutel, DPOR
Scott Korbe, City of Whittier

Appendix D



THE CITY OF WHITTIER

Gateway to Western Prince William Sound

P.O. Box 608 • Whittier, Alaska 99693 • (907) 472-2327 • Fax (907) 472-2404

September 15, 2020

Seth English-Young
Environmental Manager
U.S. Department of Transportation, Federal Highway Administration
Western Federal Lands Highway Division
610 E. Fifth Street
Vancouver, WA 98661

Re: Statement of Significance; Emerald Cove Trail, Whittier, Alaska

Dear Mr. English-Young:

The City of Whittier (City) is proposing a project that would construct a 2.5-mile long gravel road extension of Shotgun Cove Road. The road would run parallel to the shoreline beginning at the current Shotgun Cove Road terminus (mile 2.0) and continue on to Forest Service land at Trinity Point (Figure 1). A trail exists within the proposed project area that would be impacted by the proposed construction. The Emerald Cove Trail begins at the existing end of Shotgun Cove Road and parallels Passage Canal to terminate near Emerald Bay. The trail was constructed in 1997 through an agreement between the City and the Alaska Department of Natural Resources (ADNR) to provide public hiking trails in Whittier, on land owned by the City that was intended to eventually support community development and expansion or to be resold. ADNR constructed the trail and then turned over ownership and maintenance responsibility to the City. The trail was never formally designated by either entity, was not delineated on official maps, and was not intended to become a permanent recreation resource. Construction of the trail was not completed to the extent outlined in the original agreement and disappears before reaching Emerald Cove. Today, trail maintenance is generally not performed beyond the first mile of trail. In March of 2020, the cooperative agreement that created the trail was dissolved through mutual agreement of the City and ADNR.

As the officials with jurisdiction (OWJ) over the property, we attest that the Emerald Cove Trail, considered in its entirety, is **not a significant recreation resource** because:

- the trail was never formally designated,
- the trail is not included on any official maps,
- the trail was not completed and does not reach any recreation destination, and
- the agreement that originally created the trail has been dissolved by the OWJ.

Please contact Scott Korbe at skorbe@whittieralaska.gov if you have any questions or if you need more information.

Thank you,


Jim Hunt

City Manager, Whittier, Alaska

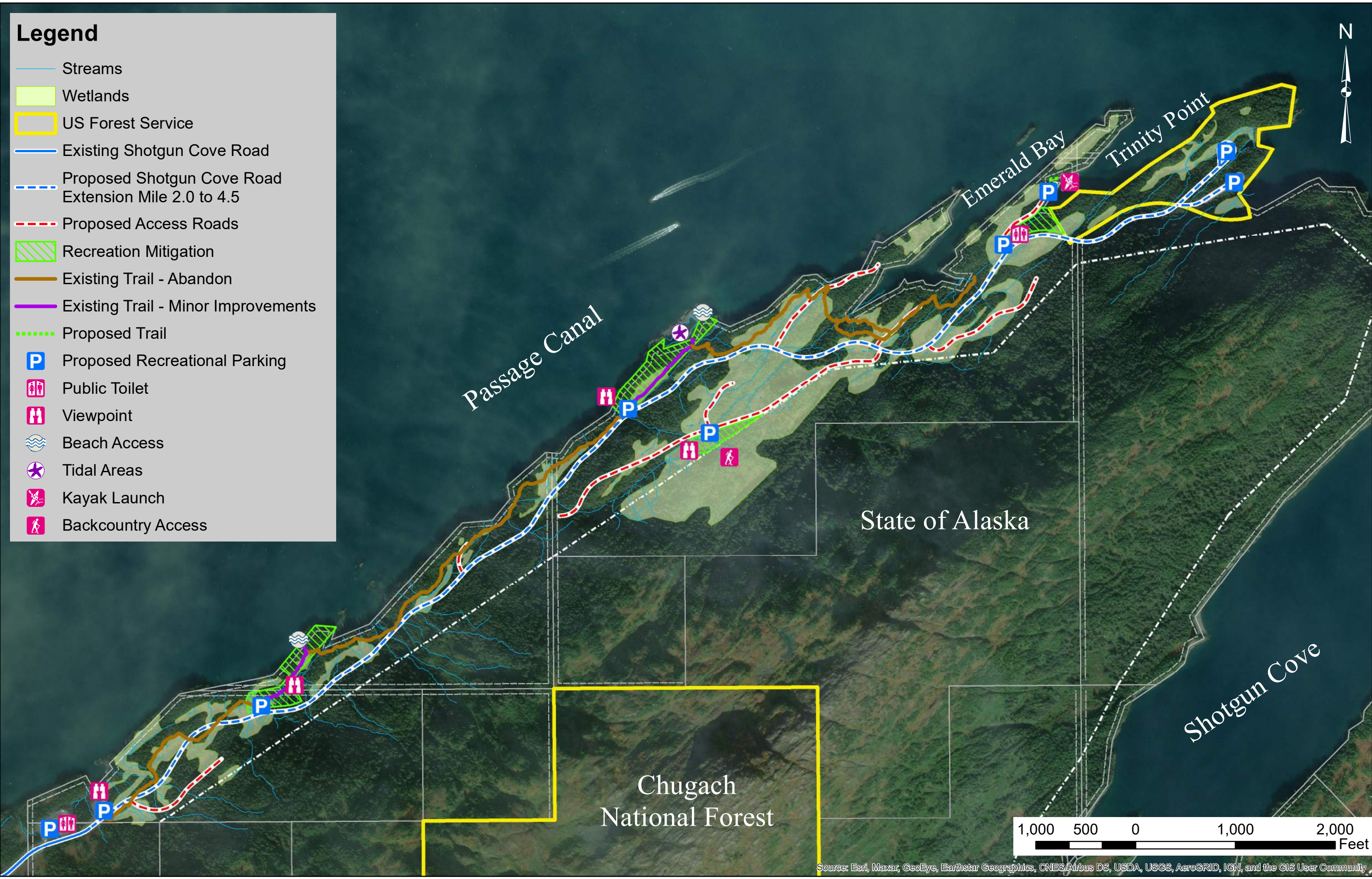
Copies: Scott Korbe, City; Bill Johnson, CRW Engineering; Colin Singleton, CRW Engineering

www.ci.whittier.ak.us

PROPOSED RECREATION MITIGATION AND EXISTING TRAIL SEGMENTS TO REMAIN

Legend

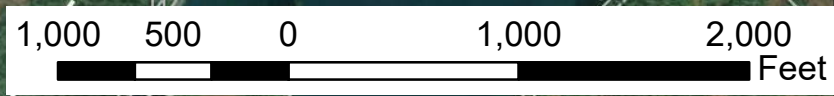
- Streams
- Wetlands
- US Forest Service
- Existing Shotgun Cove Road
- Proposed Shotgun Cove Road Extension Mile 2.0 to 4.5
- Proposed Access Roads
- Recreation Mitigation
- Existing Trail - Abandon
- Existing Trail - Minor Improvements
- Proposed Trail
- P Proposed Recreational Parking
- Public Toilet
- Viewpoint
- Beach Access
- Tidal Areas
- Kayak Launch
- Backcountry Access



State of Alaska








Chugach
National Forest

Shotgun Cove



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Legend

- Streams
- Wetlands
- US Forest Service
- Existing Shotgun Cove Road
- Proposed Shotgun Cove Road Extension Mile 2.0 to 4.5
- Proposed Access Roads
- Recreation Mitigation
- Existing Trail - Abandon
- Existing Trail - Minor Improvements
- Proposed Trail
-  Proposed Recreational Parking
-  Public Toilet
-  Viewpoint
-  Beach Access
-  Tidal Areas
-  Kayak Launch
-  Backcountry Access



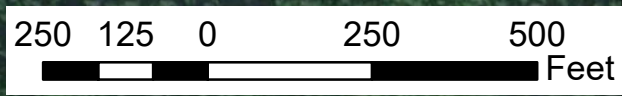
Legend

- Streams
- Wetlands
- US Forest Service
- Existing Shotgun Cove Road
- Proposed Shotgun Cove Road Extension Mile 2.0 to 4.5
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Legend

- Streams
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- Proposed Shotgun Cove Road Extension Mile 2.0 to 4.5
- Proposed Access Roads
- Recreation Mitigation
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Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community