

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

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

<b>PETERSBURG BOROUGH MUNICIPAL LAND ENTITLEMENT SELECTIONS ADL 108579</b>
--

**I. SUPPLEMENT STATEMENT**

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated February 9, 2021 for the proposed actions, which are incorporated herein, except as modified or clarified by this FFD. The maps attached to this FFD depict the selection that is the focus of this decision. The PD (attached) has had the required public review.

**II. RECOMMENDED ACTION**

The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) recommends that Alternative 3, as described in the PD, is the preferred action aligning with the intent and requirements of the Municipal Entitlement Act. This decision covers approximately 1,804 acres, approving approximately 1,421 acres for conveyance and transfer of management authority to the Petersburg Borough (Borough). This decision postpones conveyance of approximately 240 acres and rejects approximately 143 acres.

**III. AUTHORITY**

The authority for conveyance of state land for municipal entitlements is pursuant to *AS 29.65 General Grant Land* and the authority for the Final Finding and Decision is pursuant to *AS 38.05.035(e) Power and Duties of the Director*.

**IV. PUBLIC PARTICIPATION AND INPUT**

Pursuant to *AS 38.05.945 Notice*, public notice announcing the Preliminary Decision for the proposed conveyance of municipal entitlement selections along with the solicitation for public comment was published and distributed in the following manner:

- Posted under State of Alaska Online Public Notice from February 9 to March 12, 2021.
- Posted on the DNR Land Sales website from February 9 to March 12, 2021.
- Posted on the DNR Municipal Entitlement website from February 9 to March 12, 2021.
- Mailed with a request to post for 30 days to the Kupreanof and Petersburg postmasters and Petersburg Library per *AS 38.05.945(c)(4)*.
- Mailed to the regional corporation and local tribes per *AS 38.05.945(c)(2)-(3)*.
- Mailed and/or emailed to the Petersburg Borough.

The public notice stated that written comments must be received by 4:30 PM, Friday, March 12, 2021 in order to ensure consideration and eligibility to appeal. For more information, refer to the attached PD.

**V. SUMMARY OF COMMENTS**

DNR DMLW LCS received comments from Alaska Department of Transportation and Public Facilities, Alaska Department of Fish and Game, DNR DMLW Statewide Abatement of Impaired Land, DNR Division of Forestry, United States Department of Agriculture - Forestry Service, and the Petersburg

Borough during the public comment period. All comments received during the public comment period are summarized and addressed below.

DNR DMLW LCS received brief comments of non-objection from the following agencies:

DNR DMLW Statewide Abatement of Impaired Land and the Alaska Department of Transportation & Public Facilities.

*DNR DMLW LCS Response:* LCS appreciates your review.

Comments from the Alaska Department of Fish and Game (ADF&G):

The Alaska Department of Fish and Game (ADF&G) has reviewed the Preliminary Decision (PD) for ADL 108579, as part of the Petersburg Borough Municipal Entitlements. The PD appears to adequately address ADF&G's previous comments, particularly those regarding applying public access easements to and along any known anadromous, navigable, public and/or marine waterbodies.

ADF&G would like to reiterate our previous comments regarding the importance of maintaining a natural buffer adjacent to Falls Creek, as recommended by the Central Southern Southeast Area Plan for Unit P-14. ADF&G concurs with the decision by DNR DMLW LCS to postpone adjudication for the portion of this unit south of the minor trail that transects Section 12, T60S, R79E, CRM until such time that ADF&G can provide additional information about the importance of the previously discussed tributaries to Falls Creek.

*DNR DMLW LCS Response:* Thank you for your review of the PD. LCS will abide by the buffer set in the Central Southern Southeast Area Plan (CSSEAP) for Falls Creek. We also understand the need for proper data to make informed decisions about the management of land around public and potentially anadromous streams. The adjudication of the land in the S1/2 S1/2 N1/2 and N1/2 S1/2 of Section 12, Township 60 South, Range 79 East, Copper River Meridian will be postponed until ADF&G can effectively gather data and present the results. Using aliquot parts for the legal description of the land to be postponed better defines the area (see *Attachment G: Falls Creek*), see **Section VI. Modifications to Decision** below.

Comments from DNR Division of Forestry (DOF):

DOF appreciates the proposal of retaining the area around Woodpecker Cove in state ownership (Lots 1 and 2, east half of Lot 3 and Tract 37).

Even though, DOF is aware that this current PD does not address the east side of Woodpecker Cove, they have sent in a request and their reasoning for retaining Lot 5 in state ownership. They provided information to demonstrate more clearly the specific safety issues and conflicts associated with conveying Lot 5 into private ownership, as well as support from the USFS demonstrating that no other LTF in the area provides the same benefits to the timber industry.

The Woodpecker Cove LTF is a vitally important asset to the timber industry in Southeast Alaska, and unless the state retains Lot 5, DOF is convinced that the LTF will not remain viable for long. The small size of Woodpecker Cove ensures that significant private or industrial use of Lot 5 (which would include docks, buoys, and other obstacles to shipping) will render the LTF unusable.

*DNR DMLW LCS Response:* Thank you for your review of the PD. Lot 5 (Section 18, Township 62 South, Range 81 East, Copper River Meridian) is not addressed in this decision and will be addressed in a later decision. At that time, LCS will review DOF's reasoning for keeping the lot in state ownership. LCS understands the issue of safety and the economic value of log transfer facilities (LTFs) to the timber industry and for those reasons, Lots 1, 2, the east half of Lot 3,

## Final Finding and Decision

Petersburg Borough – ADL 108579

Page 3 of 15

Tract 37, and the land south of FDR 6285 (within Lot 3 of Section 7) will be retained in state ownership (see *Attachment I: Woodpecker Cove*).

### Comments from USDA Forest Service (USFS) Tongass National Forest:

The Forest Service reviewed the preliminary decision notice and the lands proposed conveyance for municipal entitlement. While we generally support the preliminary decision, we have concern on the impacts to three of Log Transfer Facilities (LTF's) used for today's operations.

Section 4407 of the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for users of August 10, 2005" or "SAFETEA-LU." (23 U.S.C. 10, 119 Stat. 1777), as amended, provided for an exchange of road and tideland easements between the State of Alaska and the United States Forest Service. Under SAFETEA-LU, the United States Forest Service was issued tideland easements for LTF's at Blind Slough, Thomas Bay, and Woodpecker Cove, which intersect and are directly adjacent with the lands proposed for conveyance to the City and Borough of Petersburg for community development and/or subdivision.

The LTF's are necessary for today's Forest Service operations and their industrial use is essential for timber management purposes and other commercial uses including gravel transport and barge operations. Copies of the LTF easements are enclosed. Additional information regarding specifics on the Thomas Bay, Blind Slough, and Woodpecker Cove LTF's are noted below.

1. **The Thomas Bay LTF** is directly adjacent to the lands proposed for conveyance in the tidelands. This LTF will be utilized for future timber operations. This LTF is also currently utilized for sand and gravel transfer.
2. **The Blind Slough LTF** serves as a marine access point for timber transportation needs and will continue to be used for timber management, as outlined in the Tongass Forest Land and Resource Management Plan.
3. **The Woodpecker Cove LTF** is currently the only LTF with a concrete ramp permitted for log transfer on Mitkof Island. We support the preliminary decision for the State to retain the LTF at Woodpecker Cove for reasons described by DNR Division of Forestry (Page 12). This will allow for continued industrial use as part of a long-term transition framework to young growth management on the Tongass.

In addition to the LTF's, the Forest Service retained multiple National Forest System Roads (formerly noted as Forest Development Roads (FDR's)) in the patents to the State of Alaska in the proposed conveyance and will continue management for public access and use.

*DNR DMLW LCS Response:* Thank you for your review of the PD. LCS will retain the LTFs at Blind Slough and Woodpecker Cove in state ownership. The LTF at Thomas Bay was not selected by the Borough and it is to stay in state ownership per the CCSEAP. All the FDRs have a reservation of 66' or 100' ROW.

### Comments from Petersburg Borough:

The Petersburg Borough supports the LCS's decision to convey approximately 1,452 acres of state-owned vacant, unappropriated, unreserved (VUU) general grant land.

*DNR DMLW LCS General Response:* LCS appreciates your review and seeks to further explain the PD/FFD process. The FFD complements and updates the PD as necessary to provide clarification, make modifications to the original proposed action if technical errors were identified in the PD or due to comments received during the public comment period, and to act as our final decision on an action proposed through a PD. Therefore, language or wording that needs

## **Final Finding and Decision**

Petersburg Borough – ADL 108579

Page 4 of 15

clarification or modification due to a technical error will be addressed in this FFD and included in **Section VI. Modifications to Decision** below. To provide clarity on specific items brought up by the Borough through their comment, please see LCS's responses incorporated below.

### **FANSHAW BAY**

The Petersburg Borough supports the LCS decision to convey approximately 33.35 acres in Fanshaw Bay to the Petersburg Borough.

The Petersburg Borough concurs with the ADFG finding that the proposed selection is more than 50' from the OHW mark of the unnamed stream (AWC#110-31-10100).

*DNR DMLW LCS Response:* LCS appreciates your review and concurrence.

### **THOMAS BAY**

The Petersburg Borough supports the LCS decision to convey approximately 38.83 acres in Thomas Bay to the Petersburg Borough. The Petersburg Borough concurs with the LCS finding that there are no inland waters subject to navigable or public water reservations on the lands proposed for conveyance. The Petersburg Borough has the following additional comments regarding statements in the preliminary decision:

ADL 105605. Private Easement. Please confirm in the Final Decision that this easement is located within Tract C and therefore is located on land rejected for conveyance.

*DNR DMLW LCS Response:* LCS appreciates your review and concurrence and confirms that ADL 105605 is located within Tract C which is proposed for rejection in this decision.

ADL 106536, Quiet Title. Please confirm in the FFD whether this quiet title action is Tract B-2 and not selected by the municipality.

*DNR DMLW LCS Response:* LCS confirms that Tract B-2 was part of the quiet title and the tract was not included in the selections provided by the Borough.

ADL 107637/ADL108804 Material Sale. Please confirm in the FFD that this material sale is within Tract C and therefore is located on land rejected for conveyance.

*DNR DMLW LCS Response:* LCS confirms that ADL 107637 and ADL 108804 are within Tract C which is proposed for rejection in this decision.

Forest Development Road 6256. Please confirm in the FFD whether FDR 6256 extends into Section 35 as shown on DNR maps.

*DNR DMLW LCS Response:* FDR 6256 extends into Section 35 as shown on *Attachment C: Thomas Bay*. The location of FDR 6256 is confirmed by USFS maps and State plats indicating this road is present. FDR 6256 only borders Tract C and no other selected parcels within this decision.

ADL107968 Trespass. Please confirm in the FFD that this trespass parcel is located within Tract C and therefore located on land rejected for conveyance.

*DNR DMLW LCS Response:* LCS confirms that ADL 107968 is within Tract C which is proposed for rejection in this decision.

### **FREDERICK POINT**

The Petersburg Borough supports the LCS decision to convey approximately 134.2 acres in Frederick Point to the Petersburg Borough. The borough notes the LCS has not stated any overriding state interest in Quarry #4 and a portion of Quarry #3 and these areas should be conveyed along with surrounding parcels.

*DNR DMLW LCS Response:* LCS confirms that the quarries are proposed to be conveyed to the Borough in this decision.

Table 3, page 9, lists an Unnamed Creek at Frederick Point. The ADFG review makes no mention of this creek nor does a creek appear on any of the DNR maps or online map. Please provide additional information in the FFD regarding this creek to justify a public waters reservation.

*DNR DMLW LCS Response:* The unnamed creek running through Lot 3 is present on the USGS Quad (1:63,360) map Petersburg D-3 and on Alaska Mapper, the State's interactive mapping program for land data. There is another unnamed creek present that runs through Lot 1. Should a survey find either or both creek widths to be 10 feet or more, then a public access easement will be imposed. Please note, not all streams may be listed on Table 3 as waterbodies determined to be public waters but, their lack of listing does not preclude them from needing an access easement pursuant to *AS 38.05.127 Access to Navigable or Public Water* should they meet the statutory requirements.

ADEC identified an active contaminated site located at Frederick Point (Hazard ID 1762). The ADEC Contaminated Site Report (2015) states the site is located on "seven acres of land leased from the United States Forest Service." A legal description is provided: "Section 27, Township 058 South, Range 079 East, Copper River Meridian", which places the site in the downtown Petersburg area. The ADEC online mapper places the FAA beacon at Section 4, Township 059 South, Range 080 East, Copper River Meridian, which would not be within a parcel proposed for conveyance. The preliminary decision does not list any third-party interest related to the USFS, FAA, or any other entity within the selected parcel. The LSC should disclose an accurate location of the hazardous site, including a legal description, and any encumbrances or third-party interests in its FFD so the borough may determine whether it wishes to accept conveyance of the parcel.

*DNR DMLW LCS response:* Hazard ID 1762 and the FAA beacon are located within Section 4, Township 59 South, Range 80 East, Copper River Meridian which is outside of the lands being adjudicated by this decision. However, this parcel was selected by the Petersburg Borough as part of their municipal entitlement and will be addressed with selections in ADL 108983. Any third-party interests related to this site will be addressed in a decision for ADL 108983.

The Petersburg Borough has the following additional comments regarding statements in the preliminary decision:

ADL107872/ADL106863 Material Sale. Please confirm in the FFD whether the material sales are active as stated in Table 1 or closed.

ADL107871/ADL107614 Material Sale. Please confirm in the FFD whether the material sales are active as stated in Table 1 or closed.

*DNR DMLW LCS Response:* LCS confirms the material sites ADL 107872 and 107871 are active. LCS does not include closed case files in the Third-Party Interest Table and therefore, ADLs 106863 and 107614 were not included in the table as they are closed.

### **NE Mitkof & Rock Pit**

The Petersburg Borough supports the LCS decision to convey approximately 174.65 acres in NE Mitkof

## **Final Finding and Decision**

Petersburg Borough – ADL 108579

Page 6 of 15

to the Petersburg Borough.

The Petersburg Borough has the following additional comments regarding statements in the preliminary decision:

ADL107870/ADL105928 Material Sale. Please confirm in the FFD whether these material sales are located on lands rejected for conveyance.

*DNR DMLW LCS Response:* LCS confirms that material site ADL 107870 is active and is located on lands proposed for rejection in this decision. ADL 105928 was not mentioned in the PD and, according to state land records, is closed.

FDR 6206 Climber Rd. Please confirm in the FFD whether this road is located within the lands proposed to be conveyed.

*DNR DMLW LCS Response:* FDR 6207 is known as Climber Road and does not cross any lands proposed to be conveyed in this decision. It traverses through the SE State Forest. FDR 6206, known as Cabin Creek Road, does not cross any selected land in this decision. This road will be addressed in a future decision.

### **Duncan Canal**

The Petersburg Borough supports the LCS decision to convey approximately 144.7 acres in Duncan Canal to the Petersburg Borough.

The preliminary decision references an unnamed stream. Please provide additional information in the FFD regarding this stream and justifying a public waters reservation.

The ADFG finding also references associated wetlands and there is a separate reference in the decision document to an unnamed small lake subject to a public waters reservation in Table 3. 11 AAC 51.035 makes no mention of public water reservations along wetlands and the minimum size of water bodies for designation is at least 10 acres. Anecdotal information suggests this is a beaver pond and does not appear to meet the minimum size requirement for a public water's reservation. LCS should clarify the water bodies being reserved and provide evidence of the state's interest in the reservation under 11 AAC 51.035.

*DNR DMLW LCS Response:* This stream was identified by ADF&G as a waterbody in their October Agency Review comments (Pg. 17 of the PD) and noted that this stream may be anadromous. However, upon a further review it was found the stream was not anadromous and the beaver pond held no resident fish. A public access easement would not be required for this water body nor the inlet stream.

### **Falls Creek**

The Petersburg Borough supports the LCS decision to convey approximately 100.78 acres at Falls Creek to the Petersburg Borough.

The LCS references an unnamed minor trail/road on maps and in the preliminary decision document but does not list any third-party interest indicating a public access reservation or other interest in this unnamed minor trail/road. The borough is not aware of any minor trail/road at this location. The LCS should provide documentation of its existence and disclose any third-party interest or delete the reference in the FDD.

Regarding postponing the decision of 218.31 acres in Falls Creek, the Borough has no objection as there is significant acreage left to adjudicate and Falls Creek can be included in a future preliminary decision document. The LCS should encourage ADFG to consult with the borough on an appropriate retention buffer for this location prior to deciding on conveyance.

*DNR DMLW LCS Response:* To clarify the adjudication of this area, LCS has determined that using aliquot parts for the legal description of the land to be postponed and the land to be

## **Final Finding and Decision**

Petersburg Borough – ADL 108579

Page 7 of 15

conveyed, better defines the area (see *Attachment G: Falls Creek*), see **Section VI. Modifications to Decision** below.

### **Blind Slough**

The Petersburg Borough supports the LCS decision to convey approximately 697.49 acres at Blind Slough to the Petersburg Borough.

The unnamed tributary (108-10550-2013) and unnamed creek (108-40-10576) do not appear to be located within the lands proposed for conveyance. Please clarify in the FFD.

The borough notes the only state interest in Tract 37, “Olsen’s Log Dump” is ADFG’s recommendation that “an easement or right-of-way be reserved through the selection to the log transfer site to allow continued public use”. ADFG does not recommend the state retain ownership. Neither DNR Division of Forestry nor DOT&PF indicated any state interest in this specific facility during their agency review in March of 2018 and again in October of 2020.

Access to Tract 37 is reserved along FDR 40101 and Tract 37 itself appears to be reserved as a ROW in PA 50-2015-0074. The state should convey these lands subject to the existing access reservations of the patent as well as any state public access dedication that currently exist. This would preserve the state’s interest in the parcel.

The borough notes the Preliminary Decision does not list an easement for FDR 40101 or Tract 37 other than what is set out in PA 50-2015-0074. Regardless, the state can convey the parcel to the borough reserving any existing access rights.

*DNR DMLW LCS Response:* Unnamed creek (Anadromous Waters Catalog (AWC)# 108-40-10576) is within lands rejected for conveyance. Unnamed tributary (AWC# 108-40-10550-2013) is located just outside of lands proposed for conveyance for this decision but will be listed in a further decision of Petersburg selections.

In agency review, ADF&G recommended a public easement to the LTF through Tract 37. In the PD, LCS showed that access to the LTF is issued to the USFS and determined that the tract should be retained by the State. DOTP&F requested all of Unit P-25 (all of Blind Slough) for future transportation projects.

During the public notice period, USFS recommend that the State retain access to Tract 37 for continued public access and recreational use of the boat ramp at “Olsen’s Log Dump”. Additionally, DOF and USFS recommended that the State retain the log transfer facility at Tract 37 to enable continued practical and economic movement of forest products onto and off Mitkof Island. The importance of the LTF and its association with the State Forest management practices make this parcel valuable to the State. This decision maintains the finding that it is in the State’s best interest to retain Tract 37.

### **Woodpecker Cove**

The Petersburg Borough supports the LCS decision to convey approximately 117.86 acres at Woodpecker Cove to the Petersburg Borough.

ADFG’s recommendation for a public waters reservation of “several unnamed creeks” lacks sufficient information to answer basic questions (how many creeks are there? where are these creeks located? What is the basis for ADFG’s ‘prediction’ regarding occupation by anadromous fish?), making it impossible for the borough to concur with or object to the finding or provide any meaningful response.

*DNR DMLW LCS Response:* ADF&G has identified several unnamed streams flowing into the Sumner Strait through the selected land. The location of these five streams is depicted on the Woodpecker Cove map (*Attachment I: Woodpecker Cove*). ADF&G has identified these streams as likely being occupied by anadromous or resident fishes. ADF&G makes predictions whether

streams are or are not anadromous based on gathering additional field data on resident fish populations. A survey will determine if any of the creeks are to be considered public waterbodies and therefore be subject to AS 38.05.127.

ADEC identified an active contaminated site located at Woodpecker Cove (Hazard ID 3871). Please confirm that this site is located in Tract 37 and Lot 2, Section 18, lands rejected for conveyance.

*DNR DMLW LCS Response:* LCS confirms that an active contaminated site is located at Woodpecker Cove (Hazard ID 3871). Per coordinates provided by the Department of Environmental Conservation (DEC), the contaminated site falls within Tract 37 which are lands rejected for conveyance.

The Division of Forestry requests a transition zone be retained alongside Tract 37. The DOF argues the buffer is necessary because development adjacent to the LTF facility is incompatible particularly for residential owners, but then also states the buffer is needed to allow for expansion or reconfiguration to accommodate “future multiple-use management in the area.”

Between the DOF’s statement that it requires property for “future multiple-use management” and the management intent from the CSSAP that the area should be used for public recreation, the area surrounding the LTF site clearly is compatible with development and other uses. The borough has no objection to the state retaining Lot 2, which is directly adjacent to the LTF, but Lot 3 should be conveyed in its entirety to the borough.

*DNR DMLW LCS Response:* DOF, in an agency review and a response to the PD, have identified the Woodpecker Cove Log Transfer Utility as a critical infrastructure facility for forest management of State Forest and USFS land on Mitkof Island. DOF and USFS recommended that the State retain the log transfer facility at Tract 37 to enable continued practical and economic movement of forest products onto and off Mitkof Island. The importance of the Log Transfer Facility (LTF) and its association with the State Forest management practices make this parcel valuable to the state. Conveyance of this land out of state ownership puts future timber management on public land at risk. Additionally, ADF&G recommended that the State retain access to Tract 37 for continued public access and recreational use of the boat ramp. This decision recognizes the importance of the facility and retaining Lot 2 and the eastern half of Lot 3 adjacent to Woodpecker Cove. These lots will provide for a necessary transition zone or buffer for the log transfer site. It is necessary for the State to retain these lots as development adjacent to the facility is incompatible and could create possible safety issues. Lot 2 and the eastern half of Lot 3 is needed to accommodate possible expansion or reconfiguration of the site to accommodate future multiple-use management. The State finds that conveying the western half of Lot 3 is permissible. This decision maintains the finding that it is in the State’s best interest to retain Tract 37.

## **GENERAL COMMENTS**

P. 2. The City of Petersburg was dissolved in favor of the Petersburg Borough in 2013. Please delete the reference in the FFD.

*DNR DMLW LCS Response:* In terms of municipal entitlement processes, the City of Petersburg was dissolved or subsumed under the authority of the Borough. However, Petersburg as a home rule city still exists and was our intended reference in Section V, subsection A of the Preliminary Decision. For modifications and clarifications to this decision, please see **Section VI. Modifications to Decision** below.

P. 3. The first sentence appears incomplete. The second sentence indicates the State “holds fee title to the land and mineral estates” listed in Table 1 “through either Patent or Tentative Approval(TA)”. None



## Final Finding and Decision

Petersburg Borough – ADL 108579

Page 9 of 15

of the lands listed in Table 1 are held through Tentative Approval (TA). The FFD should make clear the state holds a Patent for all lands adjudicated in this decision.

*DNR DMLW LCS Response:* The statement is correct as stated in the PD and no amendment to the language is necessary. The wording about Tentative Approval (TA) or Patent is general and put in all decisions and is not intended to be explicit. If the selected land was in TA status, it would be listed as such in Table 1. Once land is patented to the State, the TA status is subsumed.

P. 6. The James J. Johnson Airport in Petersburg is owned by the State of Alaska.

*DNR DMLW LCS Response:* The reference to the Petersburg's airport is only referring to the fact there is an airport within the city limits, not that it belongs to the city of Petersburg.

P. 7. The small road system in Thomas Bay developed as a result of state timber sales and an active material sale in the area. There is no "developing subdivision" in Thomas Bay.

*DNR DMLW LCS Response:* The Thomas Bay Subdivision, ASLS No. 81-235 was filed as Plat 82-16 on October 21, 1982 and although the parcels are not in private ownership, the subdivision can be considered to be "developing" since its recordation as segments of the platted access have been developed and utilized.

P. 7. A land survey should not be required to make a determination of OHWM and MHWM. The FFD should be amended to read, "If no state approved survey exists, a survey will determine the Ordinary High-Water Mark OHWM)....".

P. 8. The borough requests the following amendment in the FFD: All tidal waters are considered navigable under the Submerged Lands Act... The MHWM is established at the time of survey, unless a state approved survey exists.

*DNR DMLW LCS Response:* The statement is correct as stated in the PD and no amendment to the language is necessary.

P. 8. The borough notes that the LCS does not propose any alternative upland access routes to be reserved under 11 AAC 51.045(d)(1).

P. 8. The LCS has identified only marine waters as navigable waters and subject to a 50' public access easement. The borough concurs with this determination.

P. 8. The borough concurs with the LCS that the beds of public waters are to be conveyed to the borough with the adjoining approved lands.

P.22 The borough notes that no waters navigable in fact have been identified by the state in this decision.

*DNR DMLW LCS Response:* LCS appreciates your review and concurrence.

P. 22. The borough requests the following language be amended in IX.B.2. "...location of the MHWM and OHWM of navigable waters...to determine the specific area to be retained by the state, unless a state approved survey exists."

P.22. The borough requests the following language be amended in IX.B.3. "...location of the OHWM of public waters will be determined at the time of survey, unless a state approved survey exists."

*DNR DMLW LCS Response:* The statement is correct as stated in the PD and no amendment to the language is necessary.

**Final Finding and Decision**

Petersburg Borough – ADL 108579

Page 10 of 15

**VI. MODIFICATIONS TO DECISION**

Pursuant to comment’s received during the public notice period, there a few small corrections or clarifications made between the PD and the FFD. None of these changes affect the amount of acreage approved for conveyance, nor the amount being rejected in this decision.

- LCS recognizes that Petersburg is a home-rule city, however for this decision process within municipal entitlement, the City of Petersburg is considered subsumed under the authority Petersburg Borough.
- There is a change between the PD and the FFD with regards to Falls Creek lands. DNR will postpone adjudication of a portion of this selection as follows: the S1/2 S1/2 N1/2 and the N1/2 S1/2 (about 240 acres) of Section 12, Township 60 South, Range 79 East, Copper River Meridian until additional data is gathered from the Alaska Department of Fish and Game. This impacts the amount of conveyable acreage in the Falls Creek parcel.
- The FFD attachments have been modified with updated GIS data to clarify locations of creeks that were not present in the PD attachments.
- The unnamed tributary (AWC# 108-40-10550-2013) is located just outside of lands proposed for conveyance for this decision and should have not been listed in Table 3 of the PD, however, it will be listed in a further decision of Petersburg selections.

**VII. DISCUSSION AND FINAL FINDING AND DECISION**

Through this Final Finding and Decision, DNR determines that it is in the best interest of the State to convey 1,421.08 acres of state land with management authority transferred to the Borough upon the effective date of this decision. There are no overriding state interests in retaining these selections and the conveyance to Petersburg Borough is consistent with the requirements for conveyance under AS 29.65, and the management intent requirements of the Central/Southern Southeast Area Plan.

**Lands Approved for Conveyance**

Table 1 lists those lands approved for conveyance in this decision. The estimated acreages for conveyance do not account for any exclusions, and exact acreages are determined by survey. The final acreage amount will be credited towards partial fulfillment of Petersburg Borough municipal land entitlement.

Table 1

Map Name	MTR	Section and Legal Description	Acres
Fanshaw Bay	C054S075E	<b>Sec. 04:</b> Lots A – C USS 2590 (8.82 ac.) Lots D – M USS 2591 (19.33 ac.) Lots N and O USS 2592 (5.2 ac.)	33.35
Thomas Bay	C056S079E	<b>Sec. 35:</b> Lots 1 – 5 Block 1 ASLS 81-235 (11.64 ac.) Lots 1 and 2 (3.168 ac.), portion of Lot 3 (1.521 ac.), portion of Lot 4 (0.162 ac.) Block 2 ASLS 81-235	16.49
	C057S080E	<b>Sec. 03:</b> Lot 13 (2.856 ac.), portion of Lot 11 (0.506 ac.), portion of Lot 12 (2.799 ac.) Block 2 ASLS 81-235 <b>Sec. 04:</b> Lots 5 – 10 (12.501 ac.), portion of Lot 3 (0.086 ac.), portion of Lot 4 (1.445 ac.), portion of Lot 11 (2.112 ac.), portion of Lot 12 (0.036 ac.), Block 2 ASLS 81-235	22.34
Frederick Point	C058S080E	<b>Sec. 32:</b> Lots 1 – 4 (116.88 ac.) <b>Sec. 33:</b> Lot 1 (17.32 ac.)	134.2
NE Mitkof & Rock Pit	C059S080E	<b>Sec. 03:</b> Lot 1 (11.61 ac.) <b>Sec. 10:</b> Lots 1 and 2 (71.24 ac.), Lots 3 and 4 (73.61 ac.) <b>Sec. 15:</b> Lot 1 (18.19 ac.)	174.65

Map Name	MTR	Section and Legal Description	Acres
Falls Creek	C060S079E	<b>Sec. 12:</b> N1/2 S1/2 N1/2 (80 ac.)	80
Blind Slough	C061S081E	<b>Sec. 26:</b> Lots 1 – 6 (162.28 ac.), NE1/4 SW1/4 (40 ac) <i>excluding Mitkof Hwy ROW</i> <b>Sec. 35:</b> Lots 1 – 5 (107.77 ac.) <i>excluding Mitkof Hwy ROW</i> <b>Sec. 36:</b> Lot 1 (17.85 ac.) <i>excluding Tract A ASLS 2004-52</i> , SE1/4 (160 ac.), N1/2 SW1/4 (80 ac.), SE1/4 SW1/4 (38.87 ac.) <i>excluding Tract A ASLS 2004-52, excluding Mitkof Hwy ROW and public access easement (ADL 107222)</i>	606.77
	C062S081E	<b>Sec. 01:</b> Lots 1 and 2 (55.54 ac.), Lot 3 (31.84 ac.) <i>excluding Tract B ASLS 2004-52</i> , Lot 4 (0.18 ac.) <i>excluding Tract B ASLS 2004-52</i> , Lots 5 and 6 (3.16 ac.)	90.72
Woodpecker Cove	C062S080E	<b>Sec. 12:</b> Portion of Lot 1 south of Woodpecker Cove Road (5.35 ac.) <b>Sec. 13:</b> Lot 2 (1.86 ac.), portion of Lot 1 south of Woodpecker Cove Road (17.47 ac.)	24.68
	C062S081E	<b>Sec. 07:</b> Those portions of Lots 1 and 2 south of Woodpecker Cove Road (37.19 ac.), south of Woodpecker Cove Road within SW1/4 SE1/4 (21.91 ac.), portion of Lot 3 south of Woodpecker Cove Road and north of FDR 6285 (8.79 ac.) <b>Sec. 18:</b> West half of Lot 3 (10.07 ac.), Lot 4 (15.22 ac.)	67.89 25.29
Duncan Canal	C060S078E	<b>Sec 36:</b> Lots 1 – 3 (64.7 ac.), SE1/4 NE1/4, NE1/4 SE1/4 (80 ac.)	144.7
<b>APPROXIMATE TOTAL APPROVED ACRES:</b>			<b>1421.08</b>

**Lands Approved for Postponement**

Table 2 lists those lands approved for postponement in this decision. The estimated acreages for conveyance do not account for any exclusions, and exact acreages are determined by survey. These lands will be reassessed for adjudication in the future.

Table 2

Map Name	MTR	Section and Legal Description	Acres
Falls Creek	C060S079E	<b>Sec 12:</b> the N1/2 S1/2 (160 ac.), S1/2 S1/2 N1/2 (80 ac.)	240
<b>APPROXIMATE TOTAL POSTPONED ACRES:</b>			<b>240</b>

**Lands to be Rejected**

Table 3 lists those lands that were selected by Petersburg Borough that will be rejected in this decision. These include lands to be retained by the State because the interest of the State outweighs that of the Borough or the CSSEAP states the land will be retained by the State.

Table 3

Map Name	MTR	Section and Legal Description	Acres
Thomas Bay	C057S080E	<b>Sec. 04:</b> Portion of Tract C, ASLS 81-235 (25.345 ac.) <b>Sec. 09:</b> Portion of Tract C, ASLS 81-235 (1.852 ac.)	27.197
NE Mitkof & Rock Pit	C059S080E	<b>Sec. 09:</b> Portion within Material Site in SW1/4 SW1/4 NE1/4	3.54
Woodpecker Cove	C062S081S	<b>Sec: 07:</b> Portion of Tract 37 (1.36 ac.), Lot 3 south of FDR 6285 (4.1 ac) <b>Sec: 18:</b> Portion of Tract 37 (2.21 ac.), Lot 1 (.17 ac), Lot 2 (.79 ac), E1/2 Lot 3 (10.07 ac)	18.7

**Final Finding and Decision**  
 Petersburg Borough – ADL 108579  
 Page 12 of 15

<b>Map Name</b>	<b>MTR</b>	<b>Section and Legal Description</b>	<b>Acres</b>
Blind Slough	C061S081E	<b>Sec. 35:</b> Tract 37 (2.96 ac.) <b>Sec. 36:</b> Tract A ASLS 2004-52 (10.17 ac.), Public Access Easement ADL 107222 (6 ac.)	19.13
	C061S082E	<b>Sec. 31:</b> From 300 ft upland of the Mitkof Hwy. (31 ac), Lot 1 (15.16 ac.), portion of Lot 4 south of Mitkof Hwy. (23.81 ac.), portion of NW1/4 NE1/4 south of Mitkof Hwy. (3.29 ac.), Lot 5 (1.08 ac.)	74.34
	C062S081E	<b>Sec. 01:</b> Tract B, ASLS 2004-52 (0.44 ac.)	0.44
<b>APPROXIMATE TOTAL REJECTED ACRES:</b>			<b>143.347</b>

Recommendation and approval of the Final Finding and Decision follow.

**Final Finding and Decision**

The Land Conveyance Section recommends proceeding with the action as described in the Preliminary Decision. This action is undertaken under relevant authorities.

The following are the findings for this FFD:

1. That it is appropriate to convey approximately 1,421.08 acres of state-owned land to Petersburg Borough. This decision determines that the State's interest to retain this land does not outweigh the Borough's interest to obtain it.
2. That it is appropriate to postpone adjudication of 240 acres of state-owned land so that ADF&G may gather more data on the Falls Creek tributary and drainage system.
3. That it is appropriate to reject 69.007 acres of borough land selections where the interest of the State in retaining the land outweighs the interest of the Borough in obtaining it.
4. That it is appropriate to reject 74.34 acres of borough land selections because they are within Legislatively Designated Areas (Southeast State Forest and Ernie Haugen Public Use Area), and thus are ineligible for conveyance.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945, and comments received were considered. The case files have been found to be complete and the requirements of all applicable statutes have been satisfied. LCS recommends proceeding with the proposed action as described in the Preliminary Decision and this Final Finding and Decision.



Recommended by:

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

7/28/2021  
Date

Under the authority of the applicable statutes, it is in the best interest of the state to proceed with the recommended action as described in this Final Finding and Decision.



Approved by:

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

July 28, 2021  
Date

**ATTACHMENTS**

- Maps: *Attachment A*: Vicinity  
*Attachment B*: Fanshaw Bay  
*Attachment C*: Thomas Bay  
*Attachment D*: Frederick Point  
*Attachment E*: NE Mitkof & Rock Pit  
*Attachment F*: Duncan Canal  
*Attachment G*: Falls Creek  
*Attachment H*: Blind Slough  
*Attachment I*: Woodpecker Cove

## **Final Finding and Decision**

Petersburg Borough – ADL 108579

Page 15 of 15

### **APPEAL PROVISION**

A person affected by this decision may appeal it in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of “issuance” of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-(907) 269-8918, or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 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) and (b).

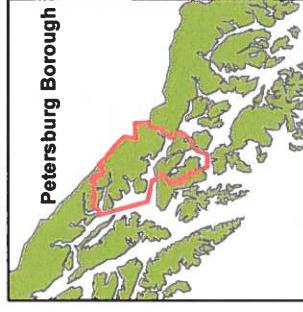
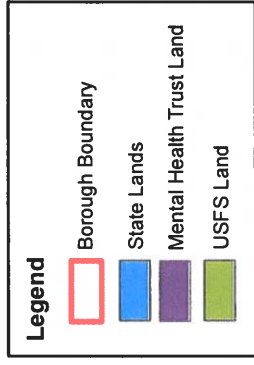
If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31<sup>st</sup> calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.



Attachment A

**Petersburg Borough**  
Municipal Selections  
Vicinity Map

ADL 108579



Created By: SOA-DNR-DMLW-LCS

July 2021



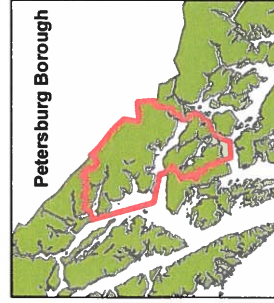
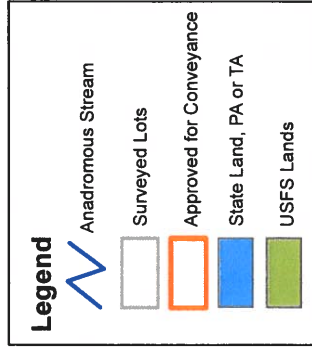
This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.





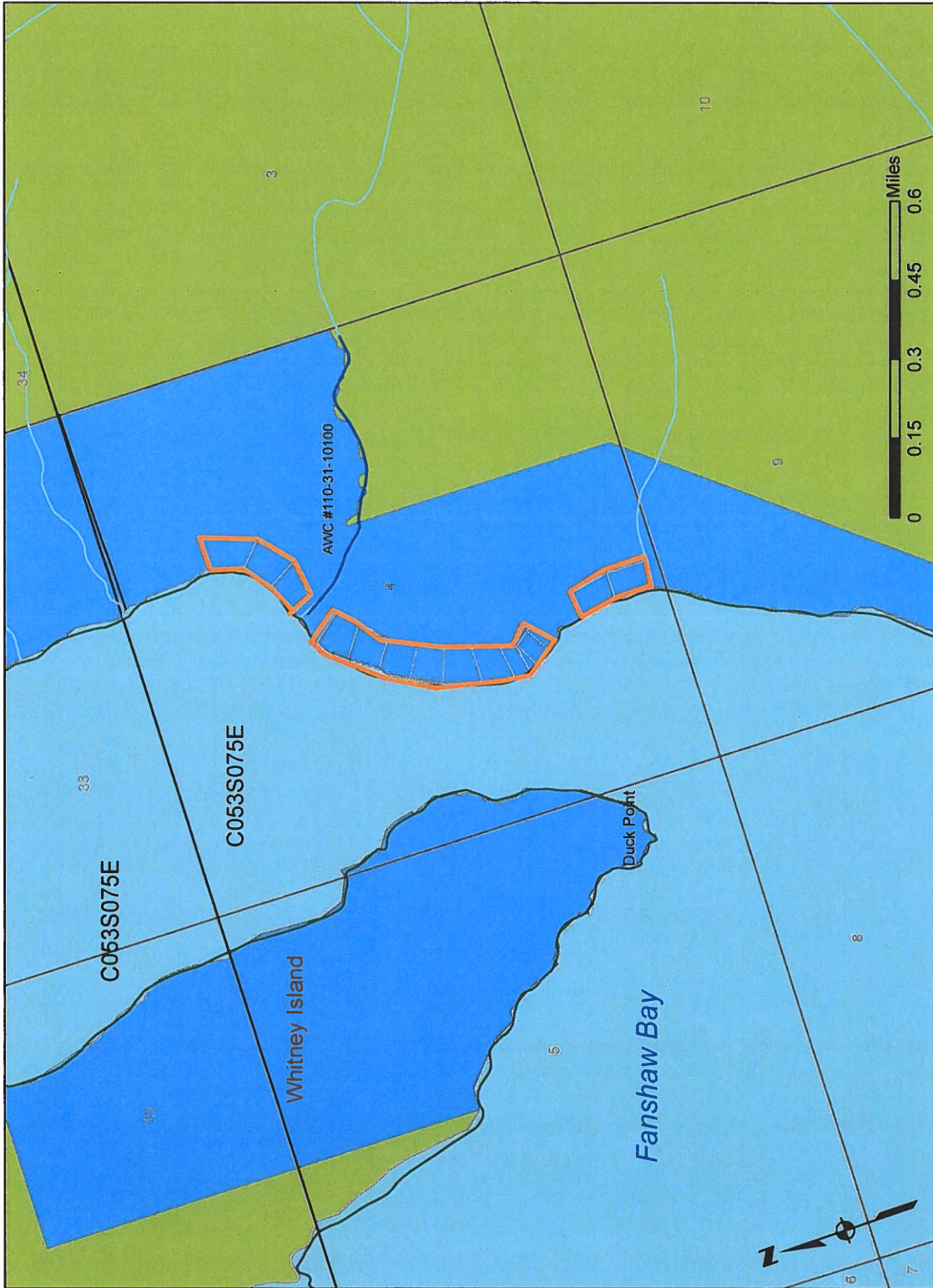
ATTACHMENT B  
**Petersburg Borough**  
 Municipal Selections  
 ADL 108579  
 Final Finding and Decision

Fanshaw Bay



Created by: SOA-DNR-DMLW-LCS

July 2021



This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

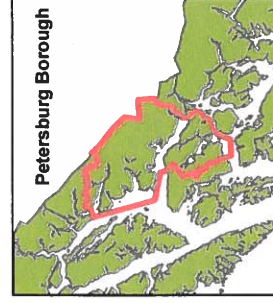
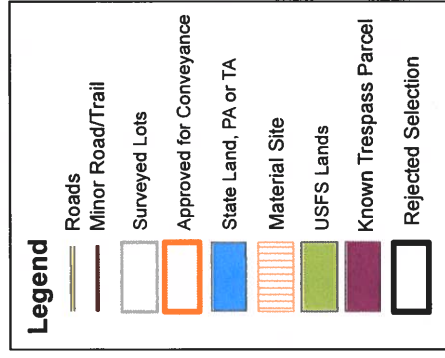




ATTACHMENT C  
**Petersburg Borough**  
 Municipal Selections  
 ADL 108579

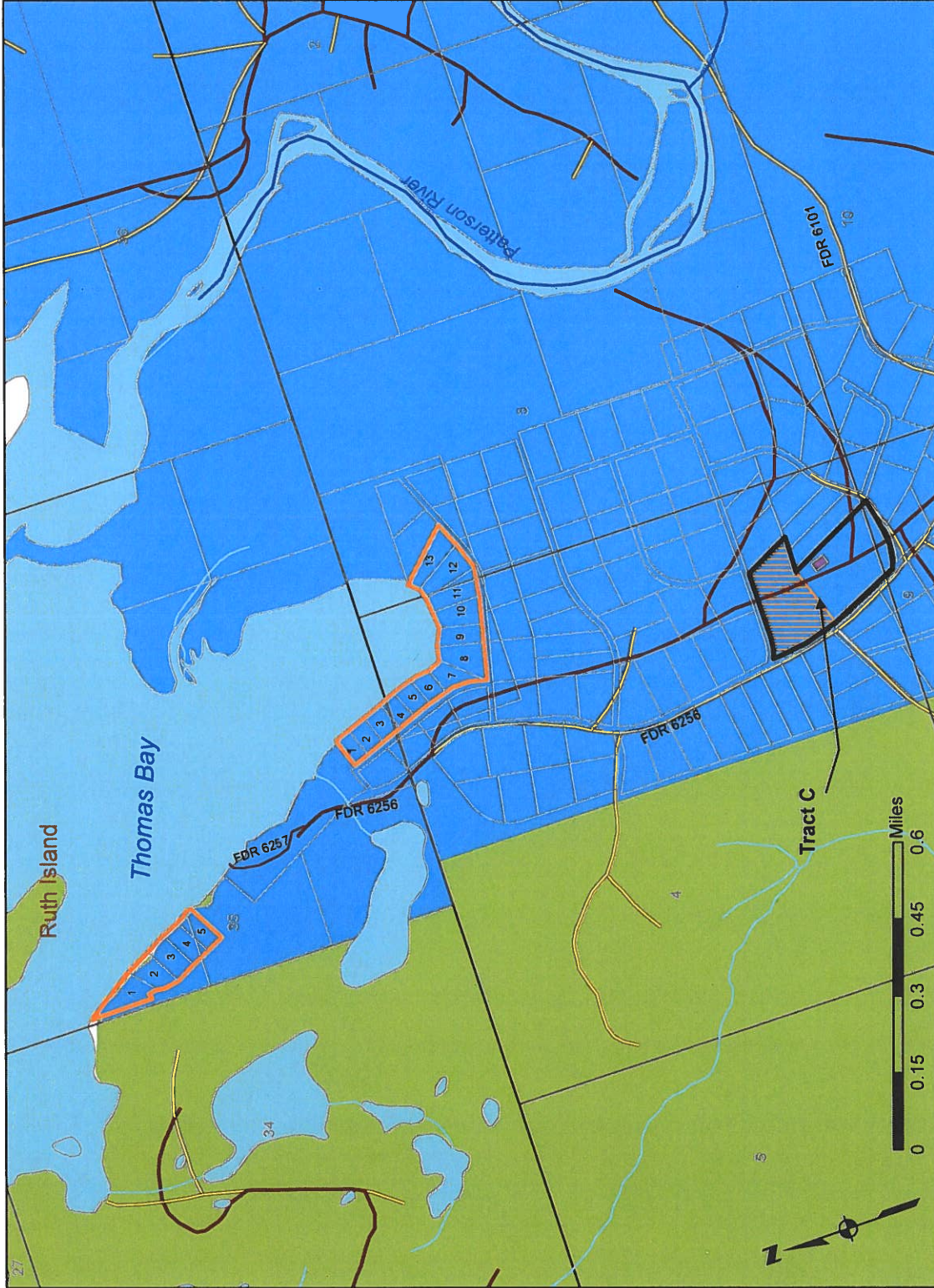
Final Finding and Decision

Thomas Bay



Created by: SOA-DNR-DMLW-LCS

July 2021



This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

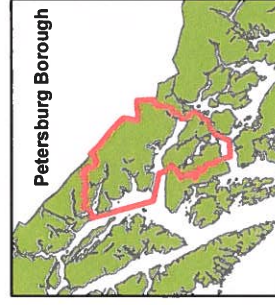
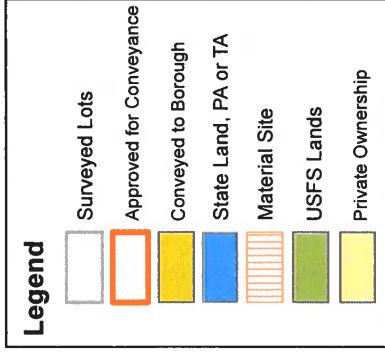




ATTACHMENT D  
**Petersburg Borough**  
 Municipal Selections  
 ADL 108579

Final Finding and Decision

**Frederick Point**



Created by: SOA-DNR-DMLW-LCS

July 2021

This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.





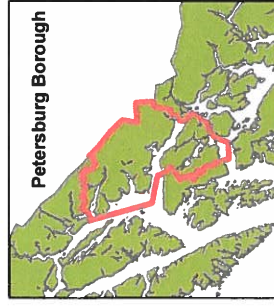
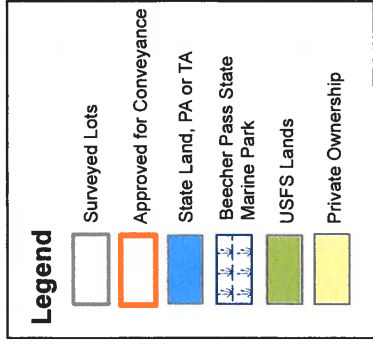
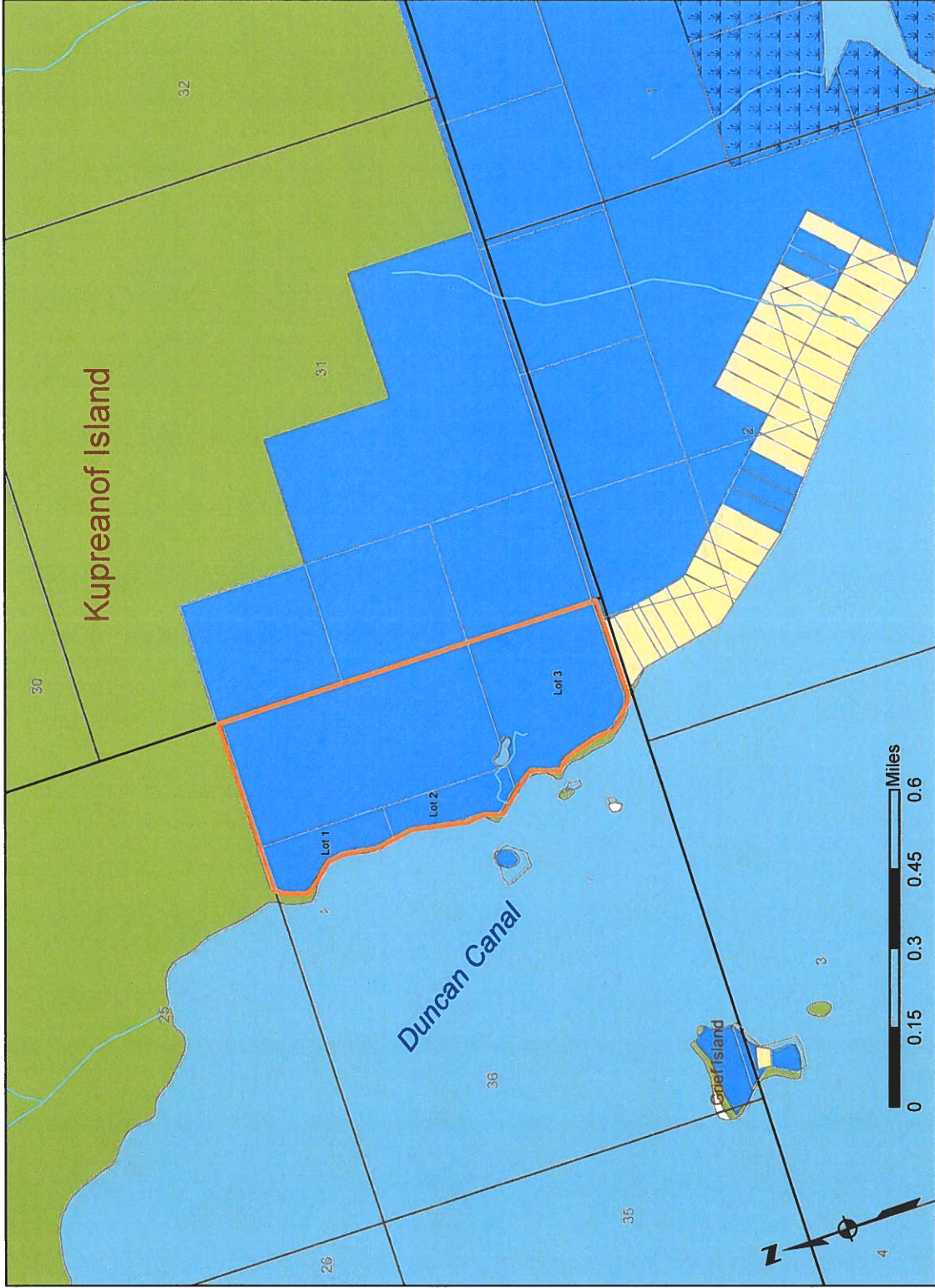




ATTACHMENT F  
**Petersburg Borough**  
 Municipal Selections  
 ADL 108579

Final Finding and Decision

**Duncan Canal**



Created by: SOA-DNR-DMLW/LCS

July 2021

This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

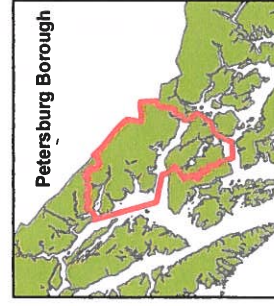
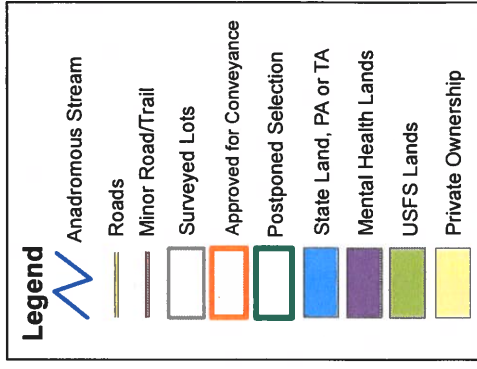




ATTACHMENT G  
**Petersburg Borough**  
 Municipal Selections  
 ADL 108579

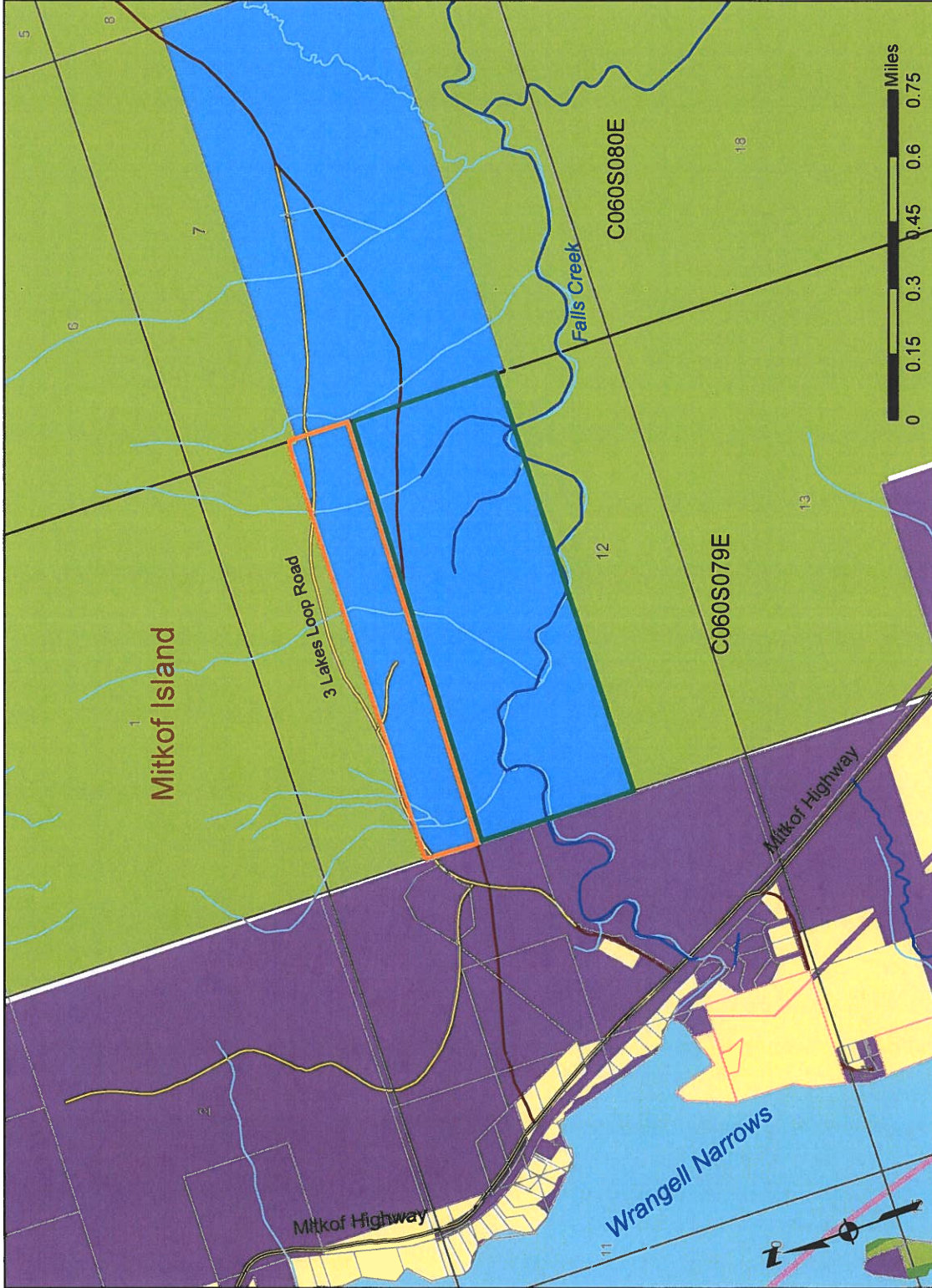
Final Finding and Decision

Falls Creek



Created by: SOA-DNR-DMLW-LCS

July 2021



This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

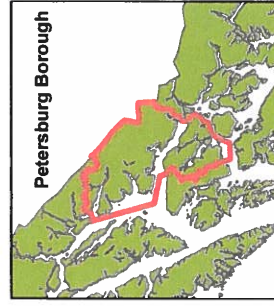
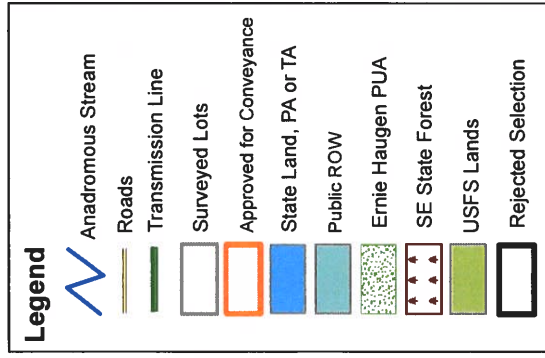




ATTACHMENT H  
**Petersburg Borough**  
 Municipal Selections  
 ADL 108579

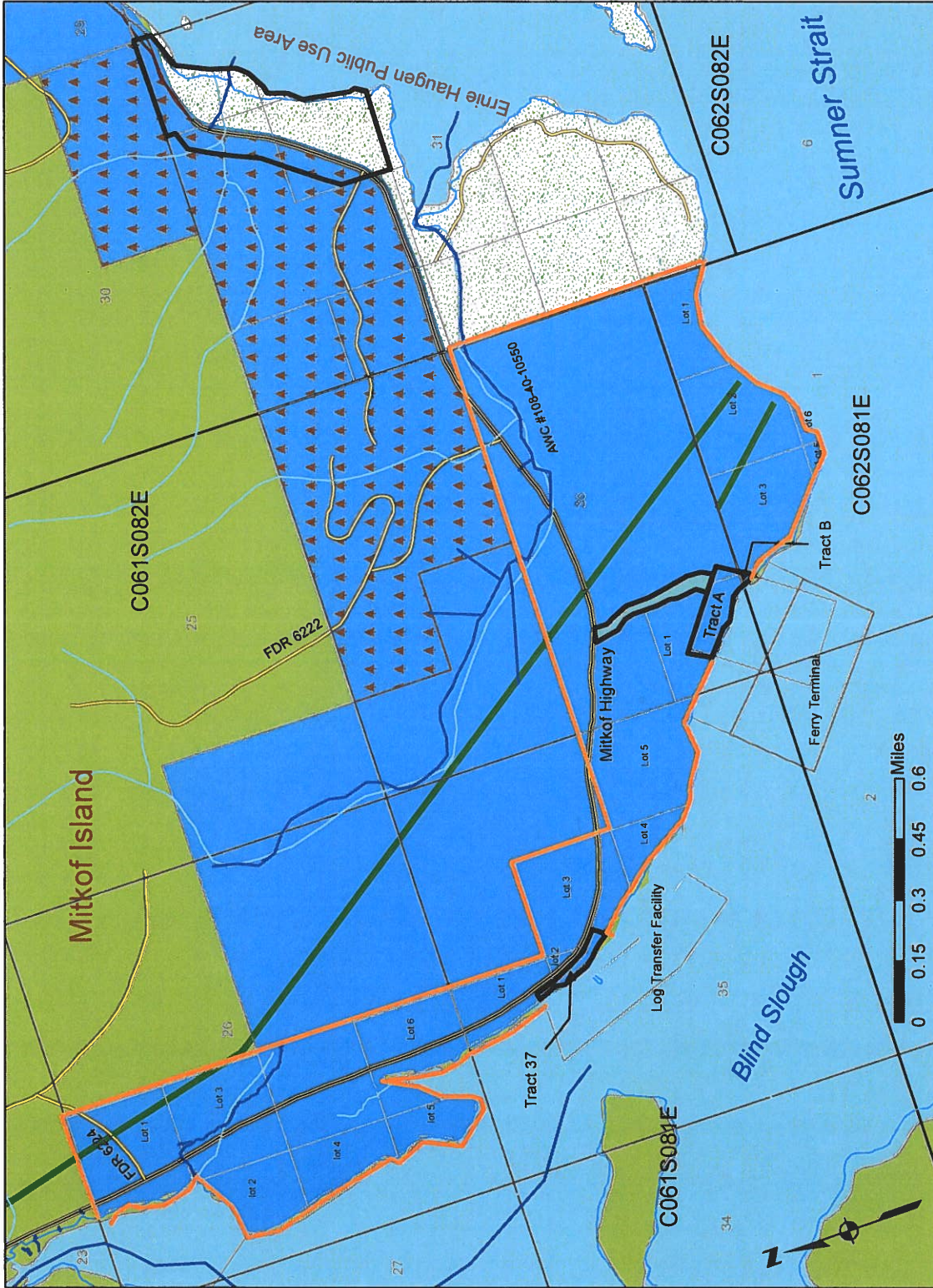
Final Finding and Decision

**Blind Slough**



Created by: SOA-DNR-DMLW-LCS

July 2021



This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

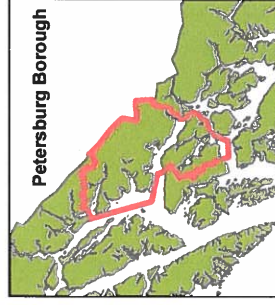
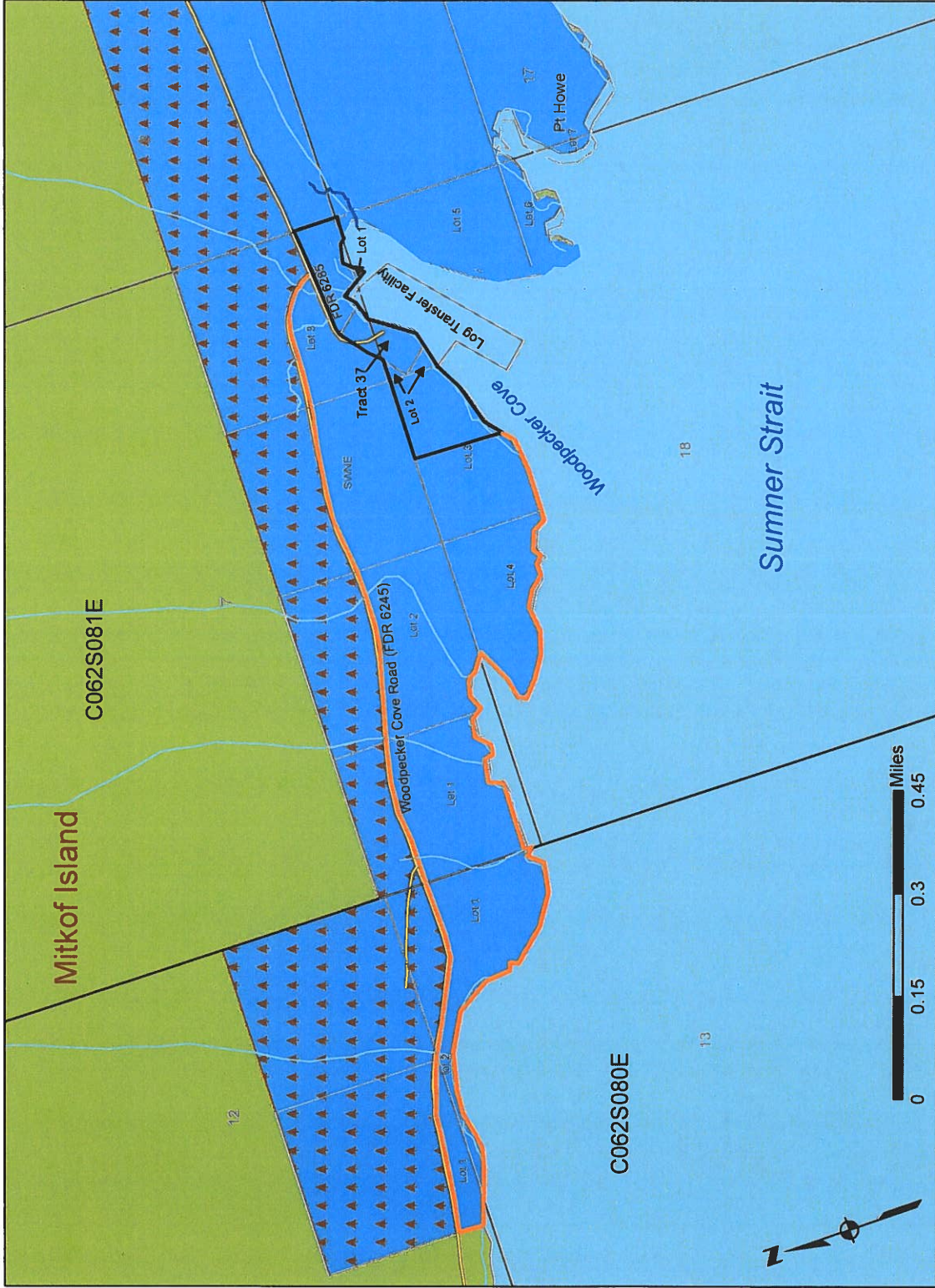
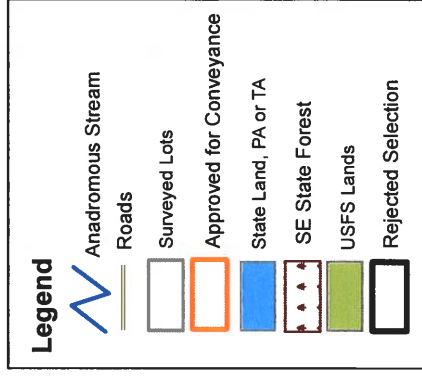




ATTACHMENT I  
**Petersburg Borough**  
 Municipal Selections  
 ADL 108579

Final Finding and Decision

**Woodpecker Cove**



Created by: SOA-DNR-DMLW-LCS

July 2021

This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.

