



Port of Juneau

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November 19, 2013

Bruce B. Weyhrauch, for
Alaska Commercial Fishermen's Memorial in Juneau
P.O. Box 20092
Juneau, Alaska 99801

Dear Mr. Weyhrauch;

At the City Manager's request, this letter addresses questions and comments, contained in your letter of November 13, 2013, about the status of state owned submerged lands upon which a small portion of the Port of Juneau Cruise Ship Berths project would be constructed.

I am sure you are aware that a project of this magnitude has many elements requiring numerous permits, reviews, and approvals. Typical of projects of this scale, many processes are in play concurrently in order to meet deadlines and project completion expectations.

On August 23, 2011 Docks and Harbors (D&H) applied for a Corps of Engineers (Corps) Permit to develop the project. The plans submitted showed the entire structure of the project being constructed on CBJ owned tidelands. Alaska Department of Natural Resources, Division of Mining, Lands and Water (DMLW), was a participant during the permitting process. They pointed out that the cruise ships moored at our proposed berths would be located over state tidelands – the structures would be on CBJ tidelands but the ships would be over state tidelands. They encouraged us to apply for a tideland conveyance under Alaska Statute 38.05.825¹ indicating that it was a routine process. D&H applied for the conveyance on December 1, 2011.

On January 10, 2012 the CBJ Planning Commission (Commission) held a public hearing for a Conditional Use Permit (CUP) to allow development of the proposed cruise berths. After public testimony and lengthy discussion, the Commission continued the hearing and directed D&H to address issues raised at the hearing. D&H went back to the drawing board and made significant changes to address a number of issues including the primary concern regarding safe access to Taku Dock and the Alaska Commercial Fishermen's Memorial (Memorial). The fairway providing access to Taku Dock and the Memorial was increased from approximately 135 feet to approximately 211 feet.

The revised plan (see Attachment 1), presented to the Commission on June 26, 2012, clearly showed the changes to the original design resulting in a small portion of the south end of the project encroaching onto the state tidelands. After public testimony and Commission discussion the CUP was approved. At that

¹ Preliminary Decision document (November 7, 2013): "Unless it is found that the public interest in retaining the land in State ownership clearly outweighs CBJ's interest, AS 38.05.825(a) requires DMLW to convey to CBJ tide and submerged lands suitable for occupation and development when requested by CBJ ..."

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point we immediately notified the Corps and DMLW of the changes whereby they directed us to prepare applications to modify the Corps Permit and DMLW conveyance request.

On July 19, 2012 the CUP was appealed to the Assembly. The Corps and DMLW informed us that even though they had the modified plans for the cruise berths project they would hold off on their review and decision until the appeal process was completed. On January 7, 2013 the Assembly upheld the Commission's action to approve the CUP. The Corps issued a modified permit for the project on April 4, 2013. DMLW issued its Preliminary Decision recommending the state tidelands conveyance on November 7, 2013². It is anticipated that a final decision document will be issued sometime in December or January 2014.

Throughout the lengthy process of obtaining permits, approvals, and the tideland conveyance D&H has been forthcoming with needed information about the project. We have kept the agencies and the public informed about the project as changes occurred. DMLW assured us this tideland conveyance was routine and that they support the action which has been affirmed with their Preliminary Decision document. It is unfortunate this has taken so long to process but we were in constant communication with them encouraging quick resolution only to be told they were understaffed and they would proceed as time allowed. The Preliminary Decision has now been issued so the process must run its course.

We fully anticipate the tidelands will be conveyed as the state statute requires. With an abundance of caution we have placed the bid process on hold until this issue is resolved. Once the final decision has been rendered we will resume the bid process and look forward to a successful project.

Mr. Weyhrauch, we very much thank you for your well spoken words of gratitude and appreciation expressed in your testimony under Public Comments on Non-Agenda Items at the recent Docks and Harbors Board meeting of October 31, 2013. We always welcome comments on our operations and especially appreciate praise when it is expressed. From the top down my staff and I honor, respect, and protect the Memorial. Although we have no formal directive to do so, in the past, we have distributed applications for name nominations, removed snow in winter, and performed routine maintenance of the Memorial. We understand the sensitive nature of the Memorial and the important role it plays in our community.

While we understand your concerns about how the cruise berth project may impact the Blessing of the Fleet ceremony, we believe the extensive changes made to the project will allow an honorable ceremony to continue for years to come. As we have in the past, we continue to offer assistance in doing whatever we can to make the Blessing of the Fleet a ceremony that the community can be proud of.

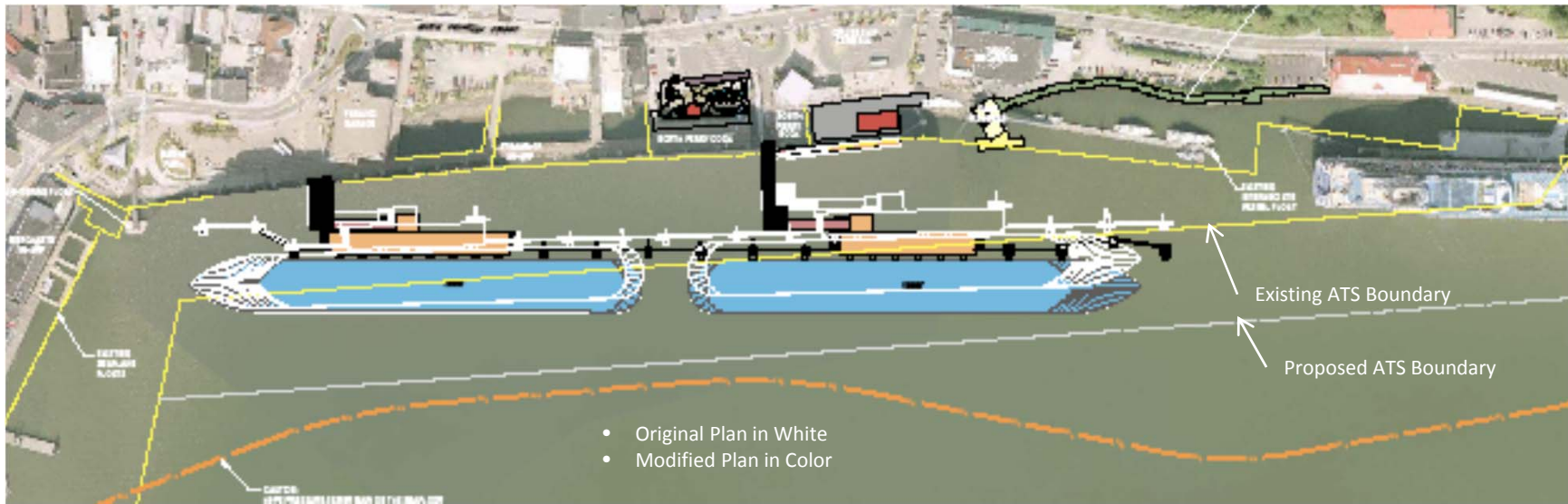
Sincerely;



Carl Uchytel, PE
Port Director

cc: Kim Kiefer, CBJ City Manager

² Preliminary Decision document (November 7, 2013): "regarding permits, on March 18, 2013, CBJ obtained a Department of the Army permit, POA-2011-924-M1. The Corps modified the permit on April 4, 2013. The Department of Environmental conservation waived its State Water Quality Certification requirement on May 10, 2013. **Thus, all requisite permits have been obtained by CBJ.**"



ATTACHMENT 1