

**AMENDMENT NUMBER 1 TO A
COOPERATIVE RESOURCE MANAGEMENT AGREEMENT**

**Between
THE CITY OF GUSTAVUS
and
THE STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES,
DIVISION OF MINING, LAND AND WATER**

GUSTAVUS BEACH TRACTS ADL # 108940

AS 38.05.027(a)

INTRODUCTION AND BACKGROUND:

- A. On April 4, 2019, the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, & Water (DMLW) (State), of 400 Willoughby Avenue, P.O. Box 111020, Juneau, Alaska 99801, and the City of Gustavus (City), of P.O. Box 1, Gustavus, Alaska 99826, entered into a Cooperative Resource Management Agreement (Agreement), serialized as ADL # 108940.
- B. The State and the City are the only two Parties to the Agreement.
- C. The Parties entered into the Agreement after the U.S. District Court issued a 1985 Judgment Quieting Title, in DeBoer v United States, Case No J-76-9 (Judgment). The Agreement incorporates the Judgment.
- D. The Agreement described two tracts of land within the City, Tract A and Tract B, which together total about 30 acres, more or less. Tract A is located to the west of the centerline of the existing dock road in the City that contains 16.26 acres, more or less. Tract B is located to the east of the centerline of the existing dock road and contains 16.19 acres, more or less, including the Gustavus Beach Park.
- E. The Agreement describes and defines the City's management of Tract B and refers to Tract B as the Gustavus Beach Park. The "Gustavus beach area" and the "Gustavus Beach Park" are used interchangeably in the Agreement.
- F. In the Agreement, among other things, the Parties agreed i) to cooperatively manage the Gustavus Beach Park, ii) the City would be the primary management authority of the Gustavus Beach Park to facilitate recreational uses while preventing damage to the land, and iii) the State would retain ownership of all the land defined in the Agreement.

- G. In the Agreement, the Parties confirmed that the Gustavus Beach Park was an important public recreational site. The Parties agreed that the City would manage the Gustavus Beach Park consistent with the Purposes in Section 1 of the Agreement and the City's Responsibilities, described in Section V of the Agreement.
- H. Appended to the Agreement, and made part of it, were the Judgment, a Gustavus Beach Development Plan Map, an eight-page Gustavus Beach Tracts Development Plan, and letters signed and notarized by Benjamin DeBoer and Donna DeBoer-Williams indicating these two individuals, who were the only adjacent landowners to Tract A and Tract B, approved the Agreement and Gustavus Beach Tracts Development Plan.
- I. In 2020 and 2021, the City approach the State and suggested amendments to the Agreement, which the City believed would better protect and preserve the Gustavus Beach Park, and more clearly define the areas of Tract A and Tract B that are used for the Gustavus Beach Park.
- J. Tract B comprises two "sub-tracts." Tract B-1 is an area within Tract B. Tract B-1 contains a fenced-off area and an unfenced area used by the public. Tract B-2 is the other area within Tract B that is used by the public.
- K. Tract B-2, along with Tract A, are the two only tracts of land that the City wanted to refer to in order to clarify that they are the only two tracts of land that comprise the Gustavus Beach Park, and that the Gustavus Beach Park excludes Tract B-1.
- L. The City prepared a Revised and Amended Development Plan for the Gustavus Beach Park, and updated and amended the Gustavus Beach Development Plan Map and submitted those to the State for the State's review and consideration.
- M. The Parties conferred and reviewed and considered amendments to the Agreement that are set forth in this Amendment Number 1 to the Agreement (Amendment Number 1) and all the Attachments to this Amendment Number 1, and believe they memorialize the Parties' understandings, intentions, and agreements.
- N. The Agreement requires that all landowners adjacent to Tract A and Tract B give their written, notarized approvals of this Amendment Number 1.
- O. The Parties understand that before they execute this Amendment Number 1, the public would have at least thirty days to review and comment on this Amendment Number 1, and that the City must provide its residents with notice of this Amendment Number 1 and an opportunity to comment on it.

THEREFORE, based upon the preceding Introduction and Background, the exchange of valuable consideration, and the following agreements, terms, conditions, and Findings, the Parties agree as set forth below.

A. AGREEMENT:

1. Tract B comprises two separate parcels of land, Tract B-1 and Tract B- 2. Both Tract B-1 and Tract B-2 are solely defined to be within the existing boundaries of Tract B as set forth and described in Section III of the Agreement.
2. Tract B contains 16.19 acres, more or less. Tract B-1 comprises 1.322 acres, more or less, and has a fenced off area that contains bulk fuel storage tanks. Tract B-2 contains 14.471 acres, more or less.
3. Alaska State Land Survey No. 2009-15, which is attached and incorporated into this Amendment Number 1 by reference, depicts all of Tract A, all of Tract B, and shows the two separate Tract B-1 and Tract B-2 within Tract B.
4. The bulk fuel storage tanks within Tract B-1 are owned by the City and leased to an outside operator. Because of the nature of the use of Tract B-1 is to store and contain bulk fuel storage tanks, that portion of B-1 that contains the bulk fuel storage tanks is not open to the public, but it has been and will continue to be used by the City to store bulk fuel tanks to be used for the public. Tract B-1 is neither part of the Gustavus Beach Park nor is it managed by the City as part of the Gustavus Beach Park. However, by agreement with the bulk fuel storage tanks operator, the City maintains restrooms and recycling containers on the southwest corner of Tract B-1 for the public's use and benefit.
5. In 2013, DNR issued Quitclaim Deed No. 1898 (attached), recorded in the Juneau Recording District at 2013-003685-0, to the City for Tract B-1, which Quitclaim Deed is subject to the Judgment, and which provides that Tract B-1 is to be used by the City for a public purpose and in the public interest and not sold conveyed or transferred without DMLW's written consent. The City will continue to manage and own Tract B-1 in accordance with the Quitclaim Deed as a fenced-off site to maintain bulk fuel storage tanks. Tract B-1 now includes, and will continue to include, land solely used for bulk fuel storage tanks, restrooms, and recycling containers.
6. Tract B-2 is the only part of Tract B that includes and will continue to contain the Gustavus Beach Park. The Parties define the area comprising the Gustavus Beach Park as all of Tract A and all of Tract B-2. The Gustavus Beach Park specifically excludes Tract B-1.
7. As part of its management of the Gustavus Beach Park, the City submitted an Amended Gustavus Tracts Development Plan (attached) and an Updated and Amended Gustavus Beach Development Plan Map (attached), which are both incorporated by reference into this Amendment Number 1.
8. The State has reviewed and approved both Amended Gustavus Tracts Development Plan and the Updated and Amended Gustavus Beach Development Plan Map, and the City

may operate and manage the Gustavus Beach Park on Tract A and Tract B-2 as provided in those documents.

9. The City's management of the Gustavus Beach Park will continue under the Agreement and this Amendment Number 1 and includes the authority to manage the surface estate and so much of the subsurface as may be required in order to make use of Tract A and Tract B-2 for public purposes within the statutory authority of the City and the terms of the Judgment, the Agreement, and this Amendment Number 1, but does not otherwise diminish the State's rights, authorities, management, or jurisdiction over Tract A and Tract B in their entirety.
10. This Amendment Number 1 terminates at the same time as the Agreement and in no way modifies the 20-year term of the Agreement, unless as otherwise provided in the Agreement, or as the Parties may agree in writing. After this Amendment Number 1 is signed, and before the Agreement terminates or before the Agreement is again amended, the Parties will determine if Tracts A and B should be designated as a Special Use Area, or whether Tracts A and B should be leased to the City by DMLW.
11. Except as specifically provided in this Amendment Number 1, the Parties do not amend any other term, condition, or other part of the Agreement.
12. DMLW expressly reserves jurisdiction and management of all subsurface minerals, including oil and gas in Tract A and Tract B, provided, however, that DMLW will not permit surface entry for the purpose of mineral or oil and gas exploration or development without the State and City's mutual, written consent.
13. The Parties may amend this Amendment Number 1 or the Agreement at any time, but no amendments will be effective unless the Parties agree to them in writing.
14. Except as provided in this Amendment Number 1, it does not otherwise expand or restrict the duties, obligations, purposes, management intent, responsibilities, general provisions, term, termination, amendment, notices, or anything else imposed on the Parties or contained in the Agreement.
15. The City's Mayor is fully authorized to execute this Amendment Number 1 by, and on behalf of, the City, and is authorized to bind the City to the terms and conditions set forth in this Amendment Number 1.
16. The City warrants that it provided a copy of this Amendment Number 1 to all persons who own lands adjacent to Tract A and Tract B. As of the date of this Amendment Number 1, the City confirms that the only adjacent landowners to Tract A and Tract B are Benjamin DeBoer and Donna DeBoer-Williams, and that they have received, reviewed, and given their approval and consent to the terms of this Amendment Number 1 as indicated below by their written, notarized signatures of approval.

17. The Parties have given the public at least thirty days to review and comment on this Amendment Number 1. The City has provided its residents with notice of this Amendment Number 1 and an opportunity to comment on it for at least thirty days.

B. FINDINGS:

1. The State has considered this Amendment Number 1 and reviewed it. The state has provided 30-day public notice of this Amendment Number 1 under AS 38.05.945 and finds that the public has been provided notice of this Amendment Number 1 .
2. AS 38.05.027(a) deals with cooperative resource management agreements and provides: “Consistent with the authority of the commissioner under law, the commissioner, after determining that the agreement is in the best interests of the public and the state, may enter into cooperative resource management or development agreements with the federal government, a state agency, a village or municipality, or a person. Specific guidelines to protect the state and public interest shall be established, if necessary, by the commissioner before entering into an agreement under this section.”
3. The State finds that this Amendment Number 1 has specific guidelines to protect the state and public interest, and further finds that it is in the state’s best interest to enter into this Amendment Number 1 under AS 38.05.027(a).
4. DMLW’s Director has been delegated the authority to enter into this Amendment Number 1 on behalf of the DNR Commissioner, and who, by signing below, finds that this Amendment Number 1 is in the best interests of the public and the state consistent AS 38.05.027(a).

WHEREFORE, this Amendment Number 1 to the 2019 Cooperative Resource Management Agreement, serialized as ADL # 108940, is effective on the last date that all the individuals below have signed it. By signing this Amendment Number 1, all the signatories have reviewed and agreed to it.

Attachments:

1. Alaska State Land Survey No. 2009-15.
2. Quitclaim Deed No. 1898.
3. Amended Gustavus Tracts Development Plan.
4. Updated and Amended Gustavus Beach Development Plan Map

-- SIGNATURE PAGES FOLLOW --

CITY OF GUSTAVUS

SKO
10/31/23

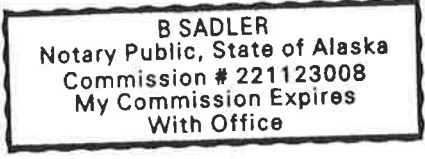
By: ~~Mike Taylor~~ Shelley K. Owens 10/31/2023
Its: Mayor

State of Alaska)
) ss.
First Judicial District)

SKO
10/31/23

THIS CERTIFIES that on this 31ST day of OCTOBER, 20 23 before me personally appeared ~~Mike Taylor~~ Shelley K. Owens to be known and known by me to be the person named in, and who executed this, document and acknowledged voluntary signing it. IN TESTIMONY WHEREOF, I have set my hand and affixed my official seal, on the day and year shown above.

Notary Public in and for the State of Alaska
My commission expires: w/OFFICE



BENJAMIN DeBOER

Ben De
By: Benjamin DeBoer

State of Alaska)
) ss.
First Judicial District)

THIS CERTIFIES that on this 5th day of April, 2023 before me personally appeared Benjamin DeBoer to me known and known by me to be the person named in, and who executed, this document and acknowledged voluntary signing it. IN TESTIMONY WHEREOF, I have set my hand and affixed my official seal, on the day and year shown above.

[Signature]
Notary Public in and for the State of Alaska
My commission expires: 03/09/2025



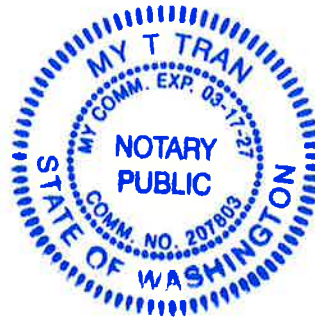
DONNA DeBOER-WILLIAMS

Donna DeBoer-Williams
Donna DeBoer-Williams

State of Washington)
KING) ss.
Snohomish County)

THIS CERTIFIES that on this 10th day of Oct, 2023 before me personally appeared Donna DeBoer-Williams to me known and known by me to be the person named in, and who executed, this document and acknowledged voluntary signing it. IN TESTIMONY WHEREOF, I have set my hand and affixed my official seal, on the day and year shown above.

My Tran
Notary Public in and for the State of Washington
My commission expires: 3. 17. 2027



STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES, DIVISION OF MINING, LAND AND WATER, SOUTHEAST REGIONAL OFFICE:

Kaitlyn Raffier

Kaitlyn Raffier

Regional Manager, Southeast Regional Office, Division of Mining, Land and Water

State of Alaska)
) ss.
First Judicial District)

THIS CERTIFIES that on this 4 day of December, 2023 before me personally appeared Kaitlyn Raffier to me known and known by me to be the person named in and who executed this document and acknowledged voluntary signing it. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, on the day and year shown above.

Clint Gundelfinger
Notary Public in and for the State of Alaska
My commission expires: With Office



STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES, DIVISION OF MINING, LAND AND WATER, ON BEHALF OF DNR'S COMMISSIONER:

Christy Colles Dated: 5th day of December, 2023
Christianna Colles, Director
Division of Mining, Land and Water
Alaska Department of Natural Resources

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GUSTAVUS BEACH TRACTS ADL # 108940

AS 38.05.027(a)

Attachments

Attachment 1
Alaska State Land Survey No. 2009-15

Attachment 2
Quitclaim Deed No. 1898

Attachment 3

Amended Gustavus Tracts Development Plan

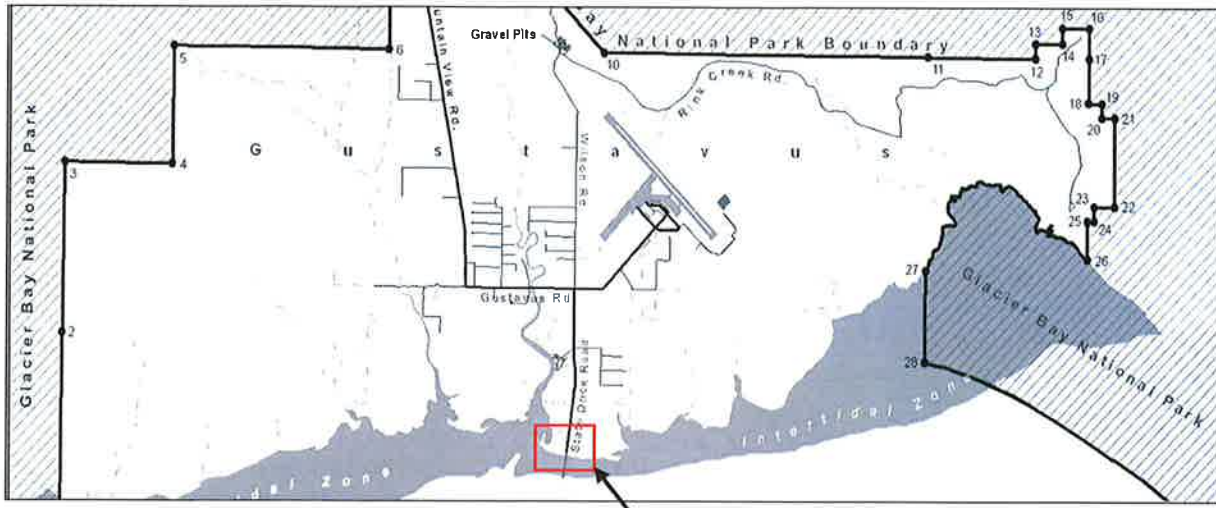


Figure 1. City of Gustavus

Location of Gustavus Beach Tracts A and B-2

The Gustavus Beach is very important to the citizens of Gustavus. It is where residents and visitors take walks, picnic, pick berries and enjoy the views of the Fairweather Range and of Icy Strait. The Alaska Marine Highway dock is located at the Gustavus Beach, and it is therefore the first view and impression visitors have of Gustavus. The public beach lands in question comprise approximately 31 acres, as originally surveyed, on either side of Dock Road (see Figure 1). With isostatic rebound, the tracts have increased in size as the shoreline has extended out into Icy Passage. These lands, known as Tracts A and B-2, are owned and managed by Alaska Department of Natural Resources. The public beach lands in question do not include Tract B-1, the City of Gustavus Bulk Fuel Facility. These lands are priceless for the beauty and recreation opportunities they provide to the residents of and visitors to Gustavus. As Gustavus continues to grow, it becomes even more critical that these lands are protected for future generations. This development plan will result in the following outcomes:

- Beach lands will be protected and remain accessible to all citizens and visitors to Gustavus for the purposes of recreation compatible with protection of the beach natural resources.
- Infrastructure (trails, picnicking, benches, etc.), and a parking area on the east side, appropriate to the collective desires of the citizens of Gustavus, may be developed and will be appropriately managed. Parking “area” is intended to include the east beach parking area as well as additional Right-of-Way (ROW) parking that can be negotiated with the Department of Transportation and Public Facilities (DOT).
- Except for designated and demarked parking areas on the east side and the DOT Dock Road Right-of-Way, motorized vehicle traffic will be prohibited on both uplands and the beach strand.
- Beach areas that are currently degraded will be restored or hardened to accommodate appropriate use.

- Gustavus citizens will take pride in their beach and care for it.
- Adjacent private landowners will be satisfied with appropriate and respectful recreational use of their lands.
- The City will coordinate with DOT regarding any developments such as parking areas within the DOT Right-of-Way that bisects the beach tracts.
- To these ends, the City of Gustavus is authorized to manage the Beach Park lands in accordance with State statutes and regulations and through provisions of the City of Gustavus Code of Ordinances.

These outcomes are in alignment with the legal judgment settling title of the original two 16-acre tracts A and B with the State and recognize the rights of the adjacent landowners. The two tracts of land in question were acquired by the state in 1985 because of a lawsuit that was ultimately settled in the 9th Federal Circuit Court of Appeals in San Francisco. This judgment (No. J-76-9 CIVIL) recognized the rights of the upland landowner (the DeBoer Family) and awarded them accreted acreage down to mean high tide line. But the judgment also set aside 32 acres for the public in recognition of historic recreational use and created a covenant that stressed the intention that the recreational use on these tracts should be “low intensity” in its nature. The covenant states:

“(We) agree that the state shall use the above-described property for the purpose of continuing the historic recreational uses of the land without interference or disruption and that the land vested in the state will be used for recreational purposes, including walking, jogging, horseback riding, picnicking, camping, sun-bathing, hunting fishing, recreational boating, beach-combing, berry picking, cross-country skiing and other similar recreation uses. It is intended that the recreational use shall be consistent with the natural state of the land and be of a low-intensity nature.”

History of Community Protection Concerns and Measures

Documentation exists within the file system of the City of Gustavus that the community residents became concerned about an increase in recreational use in this area as early as 1981, when the land in question was included in a bill to create a State Game Refuge (city files). The first mention of public concern regarding motorized vehicle use is recorded in 1994 (city files). A letter dated October 26, 1994 to the Department of Natural Resources (DNR) from the Gustavus Community Association (this was prior to the City becoming incorporated) requested assistance in defining acceptable access and uses for the areas in question, in “accordance with the [DeBoer] court judgment and existing [state] regulations.” The letter and public postings detail some of the impacts being observed including defined roadways through the dunes, increased size of parking areas, and crisscrossed dunes. No response from DNR is located within the files from this time period (City files).

The issue of beach impacts came to public attention again in 2010. This time the City of Gustavus was incorporated and an official Beach Committee was established by the City to address recreational use issues at the Gustavus Beach. The committee comprised citizens both for and against motorized vehicle use at the Beach. They met several times to try to adopt a recommendation to the City for management of the area. All indications are the group was unable to establish trust and could not move beyond internal discord to present a recommendation to the City regarding motorized use.

When Gustavus residents were asked in a 2016 survey to rate reasons for appreciating our community, 86.9% rated “scenic beauty” as very important and 75.4% rated “pristine environment” as very important. Slightly more than half (55.9%) believe “protection for the beach near the dock” will have positive impacts for the community, while 72.4% believe “mechanized use of beaches and wetlands” will have negative impacts. These statistics demonstrated community support of a cooperative management agreement and development plan for the beach parcels on each side of the Dock Road, Tracts A and B-2, currently managed by the Alaska State Department of Natural Resources.

Beginning in 2017, an ad hoc group of Gustavus beach advocates, with support of Mayor Barb Miranda, began meeting to develop a new approach to protecting the beach lands in accordance with the indicated wishes of the community as expressed in the 2016 survey. The group conferred with the adjacent landowners, the DeBoer family, to assure that provisions aligned with covenants held by the family. The group held public meetings and with that input drafted the original version of this Cooperative Resource Management Agreement (CRMA), which was signed and adopted by the City and DNR in Spring, 2020. The role of the City of Gustavus under the CRMA with the State is to be the steward of the beach lands, assisting the Department of Natural Resources with the management of the tracts. The City may enforce provisions through its Code of Ordinances.

When the original CRMA was signed in Spring 2020 the Gustavus Beach was unmanaged, and there was visible and growing evidence of disturbed vegetation and soil. Parking areas within the dunes had grown and new motorized tracks had developed over the years. Community members claimed that ground nesting birds and a short-eared owl nest had been disturbed by motorized use. In spring 2018 the first-ever Arctic tern nest was discovered at the beach. Additionally, the DeBoer family had continued to allow non-motorized recreational access to their adjacent private lands, but repeated efforts to halt motorized traffic on their lands had failed. The Nature Conservancy allows only non-motorized traffic on its lands to the east of the DeBoer property with the intent to prevent damage to natural beach and upland resources there. The ability of the City to manage the motorized use on the state-owned tracts will aid the private landowners in enforcing their desire for no motorized access on their property.

Since adoption of the CRMA in Spring, 2020, the City has assumed management responsibilities for the Gustavus Beach Park lands. The City adopted Ordinance Section 10.08.020 - Gustavus beach lands management, conservation, and public use. The ordinance authorizes the City to manage the beach park lands in cooperation with the State of Alaska in accordance with this Cooperative Resource Management Agreement, and “for the conservation and enhancement of natural ecological and scenic values and for compatible public use.” To that end, the City has demarked and improved a parking area on the east side of Dock Road, Tract B-2 and has barricaded motor vehicle access to the west side of Dock Road, Tract A. The City has posted signs prohibiting motor vehicle access beyond the designated parking/vehicle limits. Recreationists visit the areas now only by foot or bicycle. In May 2020, the City began restoration of vehicle-damaged surfaces beyond the vehicle limits by raking vehicle-rutted areas. As of Summer, 2020, native vegetation is returning to the restored surfaces naturally. A Gustavus Beach Park sign has been installed. Additional amenities such as picnic tables, improvements to a fire pit site, and interpretive signs are in discussion.

Development Plan Elements

Legal Description:

Tract A is located within Township 40 South, Range 59 East, Copper River Meridian, Alaska and is located on the Easterly side of the Salmon River at its confluence with Icy Passage. The point of beginning of this description being the intersection of the southerly extension of the centerline of the existing road to the dock, with the mean high water line of Icy Passage; thence northerly along the centerline of the existing road a distance of 900 feet; thence West a distance of 711 feet, more or less, to the mean high water line of the salmon River thence meandering southerly along the mean high water line of the Salmon River and Icy Passage.

Tract B is located within Township 40 South, Range 59 East, Copper River Meridian, Alaska and is located east of the centerline of the existing road to the dock and being easterly of the confluence of the Salmon River with Icy Passage. The point of beginning of this description being the intersection of the southerly extension of the centerline of the existing road to the dock, with the mean high water line of Icy Passage; thence northly along the centerline of the existing road a distance of 900 feet; thence East a distance of 753.48 feet; thence South & 13'30" West along the mean high water line of Icy Passage a distance of 80 feet, more or less; thence North 83 11'25" West along the mean high water line of Icy Passage a distance of 670 feet, more or less, to the point of beginning. The herein described parcel contains 16.19 acres, more or less.

Tract B has been subdivided into B-1, which comprises the City of Gustavus-owned Bulk Fuel Facility property (1.433 acre), and B-2 (14.471 acres), which comprises the remainder of the original Tract B. Tract B-1 is not subject to the terms of this Agreement.

As isostatic rebound continues, the mean high tide line is expected to move southward into Icy Strait and westward into the Salmon River estuary adding dry land to the beach Tracts A and B-2. These accreted lands will be managed as part of the beach park under the Agreement.

Terrain/ground cover:

The shoreline between Salmon River and Glen's Ditch is fronted by a series of sandy rises and swales built by Salmon River sediments moving eastward by prevailing currents. These features are built atop former beach flats and sloughs that now form the backshore to the north. The landscape is rising about an inch a year due to glacial rebound. Facilities anchoring the former and present docks have tended to interrupt the pattern of deposition.

The first dock had much to do with capture of the sand and initiation of the basic swale and rise features. The modern dock (abutment, island, sheet pile) now appears to be modifying the seaward sedimentation pattern, accelerating deposition to the eastward and initiating erosion to the westward.

Plant communities have developed according to their salt tolerance, response to disturbance and soil characteristics. The communities can be divided in this way:

- Ryegrass sod along the outer shore and slough margins
- Beach sedge/saltgrass/beach asparagus sod below the ryegrass in some sheltered slough margins
- Strawberry/small herb meadow above the ryegrass on the outer shore

- Grass/tall herb/small spruce meadow above the strawberries on the swales and higher parts of the backshore
- Young spruce groves on the highest swales

As uplift has moved the landscape into the upper intertidal and above-tide zones, the communities have matured and tended to shift seaward. Zones seem to have various near-term futures. Ryegrass is being eliminated by traffic just east of the dock. Erosion west of the dock is tending to pinch the strawberry/small herb meadow between ryegrass and tall meadow; it is being erased in widening roadways but perhaps retained by more moderate foot disturbance elsewhere. Tall meadows are being increasingly dominated by grasses and young spruces in some places. Spruce groves are aggressively spreading on the rises and backshore.

Proposed Changes to the terrain/ground cover:

The overarching goal of any vegetation management shall be to maintain the historic viewshed which can be characterized as open with sweeping views of Icy Strait and the Fairweather Range. To this end the City may designate and retain some spruce groves and take active measures to reduce or eliminate spruce succession onto meadows.

Access:

Existing access to both parcels is from Dock Road. Many residents and visitors park on or near the road or in the delineated east side parking area and walk the length of the beach. Others use bicycles. Previous motorized vehicular use along the top and behind the main dune has been blocked. Planned access will remain the same in terms of origination point at Dock Road; proposed changes are intended to restore natural vegetation, prevent erosion, and to protect the beach and dune vegetation from further damage from uncontrolled motorized vehicle use while still providing for public access. Under all alternatives, vehicle access to the beach to allow for kayak and small boat drop-off will be retained at the existing location on the east side of the dock. The City will prohibit motorized vehicle use on uplands outside the posted parking areas and on the non-vegetated beach portion of the tracts below the vegetated dunes. Non-motorized access will be allowed to all the beach lands managed under this Agreement.

Parking and Access: The parking area in the sand on the east side of the dock has been delineated and accommodates a vehicle turnaround for kayak and passenger drop-off with pedestrian access to the beach and water's edge. No parking is allowed on the west side of the Dock Road. The City seeks to negotiate with ADOT&PF for arrangements to construct additional parking within the DOT Right-of-Way. No motorized traffic will be allowed beyond the established parking areas. Adjacent private landowners will retain the right to access their property through these tracts, however temporary barriers will restrict access until they request their removal for such access.

Trails: A hardened pathway may be developed to the current viewing bench on the west side, and eventually may continue on to create a loop trail along the river, through the meadow, and back to Dock Road, ending approximately across from the Bulk Fuel Facility.

Future Access: The City requests authorization to develop additional trails and/or boardwalks as well as handicap parking if and when deemed necessary or desirable.

Buildings and other structures:

Attractive fencing, bollards, barriers, curbed sidewalks and signage may be installed to create an overall visual identity for the public use beach area. Simple yet effective log barriers now surround the parking area and identify boundaries for vehicles, without impacting views to Icy Strait. The existing concrete “Jersey” barriers in the DOT ROW that protect dock electrical and piping infrastructure at the entrance to the dock may be painted or covered and screened with a decorative wooden structure.

The existing fire pit on the west side may be further developed/hardened to minimize haphazard use and habitat destruction. Another public fire pit area may be developed on the eastern side of the dock at a location determined in consultation with the ad hoc Beach Committee.

No buildings or structures beyond the current benches and picnic tables are planned at this time, but the City requests authorization to build structures in the future, which could include covered picnic areas, benches and/or hardened pathways.

Power source:

No power source is necessary.

Waste types, waste sources, and disposal methods:

Trash undoubtedly will continue to be generated by users of the beach. The City maintains bear-proof trash and recycling containers for disposal, co-located with the current City-owned bathroom facility year-round. The City of Gustavus has already added beach cleanup to the Marine Facilities Coordinator position job duties and shall continue to participate in and promote volunteer cleanup duties.

Hazardous substances:

NA

Water supply:

There is no water supply currently provided or planned.

Parking areas and storage areas:

Currently, residents and visitors park on the paved designated parking areas in the DOT ROW, in the east side parking area of Tract B-2, and on the “island” located midway to the terminus of the Gustavus dock. Parking on the island is disallowed on days when the ferry is scheduled to land in Gustavus. Ferry travelers often leave their cars for several days at a time, in designated spaces and off the paved road. Long-term and short-term parking will be retained on the paved road. Alternatives for continued parking options are described in the Access section, above. The City will work with DOT representatives to identify specific locations of long and short-term parking with posted time limits.

Number of people using the site:

The beach is utilized by practically all Gustavus citizens and visitors. No visitation estimates are available, but there has been a trend of increasing use in recent years.

Closure/reclamation plan:

Provide a closure/reclamation plan, if required for the type of authorization being applied for (e.g. material sale).

NA

Maintenance and operations:

Maintenance of the public use beach area will primarily consist of regular trash pick-up and removal, added as responsibilities of the City of Gustavus Marine Facilities Coordinator position. Additional maintenance chores on an irregular basis will include repair of built structures authorized under the CRMA. This type of task could be potentially taken on by citizen volunteers.

A simple monitoring plan will be developed to document effects on minimizing impacts to dune and beach vegetation and erosion. Developing a monitoring plan adds rigor to the local knowledge already amassed regarding the recreation impacts at the Gustavus Beach.

A baseline set of data will be collected to document the current extent of motorized vehicle impacts on Tracts A and B-2. The type of data collected will at a minimum include photo-documentation of existing conditions and could also possibly include site attributes such as: trail depth and width measurements, soil surface conditions (rutting/erosion, exposed sand etc.), estimated percentage of vegetation loss on road/trail surface as compared to vegetative cover adjacent to area, types of trail use, and the observed presence/absence of: noxious weeds, trail hazards, campfires, localized tree/shrub damage, unsanitary waste, and litter.

Data collection will be conducted by citizen volunteers in collaboration with the City of Gustavus. The overall goal of the simplified monitoring program is to establish the current status of motor vehicle and other recreation impacts and assess whether implementation of this cooperative management agreement has an effect on reducing those impacts.

Camping:

Under this Development Plan, camping will be allowed in the Beach Park consistent with State of Alaska policy and regulations. No camping related improvements are planned for the near term, but the City will monitor for potential impacts or conflicts and may consider designating specific areas for camping, improve facilities, and/or provide rules in support of safe use without impact to resources.

The Development Plan has focused on the beach strip, however, the upland portions of the Park in Tract A, north of the major spruce groves, have a different array of attributes than the beach strip, and may offer desirable uses other than those presently provided for in the current CRMA, such as development of a campground or access route to the river estuary. The city would like to consider future planning for allowable uses on the uplands and will consult with the Department of Natural Resources accordingly.

Attachment 4 Gustavus Beach Park Map



Proposed Changes to CRMA and Attachment C Development Plan

Development Plan--Gustavus Beach Tracts

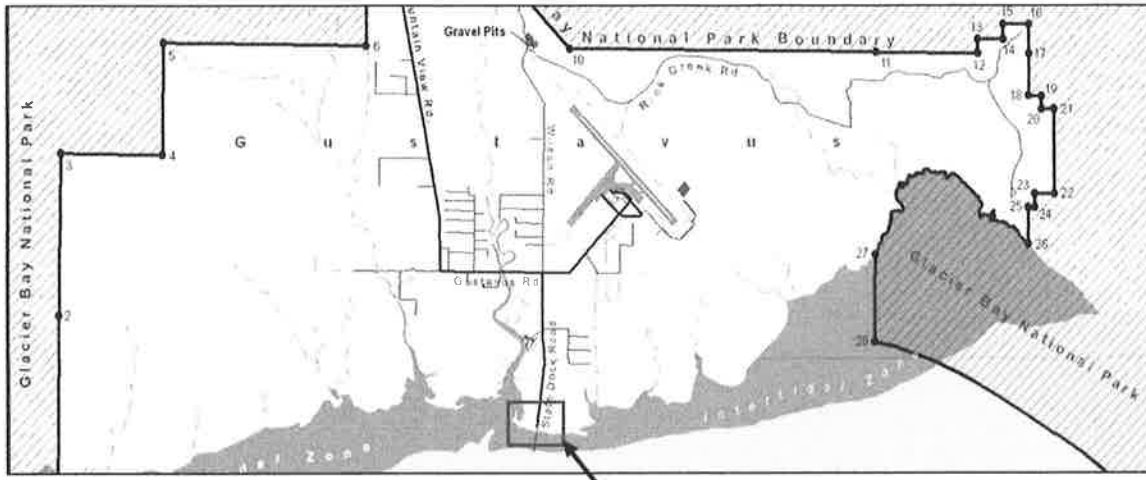


Figure 1. City of Gustavus

Location of Gustavus Beach Tracts A and B-2

The Gustavus Beach is very important to the citizens of Gustavus. It is where residents and visitors take walks, picnic, pick berries and enjoy the views of the Fairweather Range and of Icy Strait. The Alaska Marine Highway dock is located at the Gustavus Beach, and it is therefore the first view and impression visitors have of Gustavus. The public beach lands in question comprise approximately 31 acres, as originally surveyed, on either side of Dock Road (see Figure 1). With isostatic rebound, the tracts have increased in size as the shoreline has extended out into Icy Passage. These lands, known as Tracts A and B-2, are owned and managed by Alaska Department of Natural Resources. The public beach lands in question do not include Tract B-1, the City of Gustavus Bulk Fuel Facility. These lands are priceless for the beauty and recreation opportunities they provide to the residents of and visitors to Gustavus. As Gustavus continues to grow, it becomes even more critical that these lands are protected for future generations. This development plan will result in the following outcomes:

- Beach lands will be protected and remain accessible to all citizens and visitors to Gustavus for the purposes of recreation compatible with protection of the beach natural resources.
- Infrastructure (trails, picnicking, benches, etc.), and a parking area on the east side, appropriate to the collective desires of the citizens of Gustavus, may be developed and will be appropriately managed. Parking "area" is intended to include the east beach parking area as well as additional Right-of-Way (ROW) parking that can be negotiated with the Department of Transportation and Public Facilities (DOT).
- Except for designated and demarked parking areas on the east side and the DOT Dock Road Right-of-Way, motorized vehicle traffic will be prohibited on both uplands and the beach strand.
- Beach areas that are currently degraded will be restored or hardened to accommodate appropriate use.
- Gustavus citizens will take pride in their beach and care for it.
- Adjacent private landowners will be satisfied with appropriate and respectful recreational use of their lands.

- The City will coordinate with DOT regarding any developments such as parking areas within the DOT Right-of-Way that bisects the beach tracts.
- To these ends, the City of Gustavus is authorized to manage the Beach Park lands in accordance with State statutes and regulations and through provisions of the City of Gustavus Code of Ordinances.

These outcomes are in alignment with the legal judgment settling title of the original two 16-acre tracts A and B with the State and recognize the rights of the adjacent landowners. The two tracts of land in question were acquired by the state in 1985 because of a lawsuit that was ultimately settled in the 9th Federal Circuit Court of Appeals in San Francisco. This judgment (No. J-76-9 CIVIL) recognized the rights of the upland landowner (the DeBoer Family) and awarded them accreted acreage down to mean high tide line. But the judgment also set aside 32 acres for the public in recognition of historic recreational use and created a covenant that stressed the intention that the recreational use on these tracts should be “low intensity” in its nature. The covenant states:

“(We) agree that the state shall use the above-described property for the purpose of continuing the historic recreational uses of the land without interference or disruption and that the land vested in the state will be used for recreational purposes, including walking, jogging, horseback riding, picnicking, camping, sun-bathing, hunting fishing, recreational boating, beach-combing, berry picking, cross-country skiing and other similar recreation uses. It is intended that the recreational use shall be consistent with the natural state of the land and be of a low-intensity nature.”

History of Community Protection Concerns and Measures

Documentation exists within the file system of the City of Gustavus that the community residents became concerned about an increase in recreational use in this area as early as 1981, when the land in question was included in a bill to create a State Game Refuge (city files). The first mention of public concern regarding motorized vehicle use is recorded in 1994 (city files). A letter dated October 26, 1994 to the Department of Natural Resources (DNR) from the Gustavus Community Association (this was prior to the City becoming incorporated) requested assistance in defining acceptable access and uses for the areas in question, in “accordance with the [DeBoer] court judgment and existing [state] regulations.” The letter and public postings detail some of the impacts being observed including defined roadways through the dunes, increased size of parking areas, and crisscrossed dunes. No response from DNR is located within the files from this time period (City files).

The issue of beach impacts came to public attention again in 2010. This time the City of Gustavus was incorporated and an official Beach Committee was established by the City to address recreational use issues at the Gustavus Beach. The committee comprised citizens both for and against motorized vehicle use at the Beach. They met several times to try to adopt a recommendation to the City for management of the area. All indications are the group was unable to establish trust and could not move beyond internal discord to present a recommendation to the City regarding motorized use.

When Gustavus residents were asked in a 2016 survey to rate reasons for appreciating our community, 86.9% rated “scenic beauty” as very important and 75.4% rated “pristine environment” as very important. Slightly more than half (55.9%) believe “protection for the beach near the dock” will have positive

impacts for the community, while 72.4% believe “mechanized use of beaches and wetlands” will have negative impacts. These statistics demonstrated community support of a cooperative management agreement and development plan for the beach parcels on each side of the Dock Road, Tracts A and B-2, currently managed by the Alaska State Department of Natural Resources.

Beginning in 2017, an ad hoc group of Gustavus beach advocates, with support of Mayor Barb Miranda, began meeting to develop a new approach to protecting the beach lands in accordance with the indicated wishes of the community as expressed in the 2016 survey. The group conferred with the adjacent landowners, the DeBoer family, to assure that provisions aligned with covenants held by the family. The group held public meetings and with that input drafted the original version of this Cooperative Resource Management Agreement (CRMA), which was signed and adopted by the City and DNR in Spring, 2020. The role of the City of Gustavus under the CRMA with the State is to be the steward of the beach lands, assisting the Department of Natural Resources with the management of the tracts. The City may enforce provisions through its Code of Ordinances.

When the original CRMA was signed in Spring 2020 the Gustavus Beach was unmanaged, and there was visible and growing evidence of disturbed vegetation and soil. Parking areas within the dunes had grown and new motorized tracks had developed over the years. Community members claimed that ground nesting birds and a short-eared owl nest had been disturbed by motorized use. In spring 2018 the first-ever Arctic tern nest was discovered at the beach. Additionally, the DeBoer family had continued to allow non-motorized recreational access to their adjacent private lands, but repeated efforts to halt motorized traffic on their lands had failed. The Nature Conservancy allows only non-motorized traffic on its lands to the east of the DeBoer property with the intent to prevent damage to natural beach and upland resources there. The ability of the City to manage the motorized use on the state-owned tracts will aid the private landowners in enforcing their desire for no motorized access on their property.

Since adoption of the CRMA in Spring, 2020, the City has assumed management responsibilities for the Gustavus Beach Park lands. The City adopted Ordinance Section 10.08.020 - Gustavus beach lands management, conservation, and public use. The ordinance authorizes the City to manage the beach park lands in cooperation with the State of Alaska in accordance with this Cooperative Resource Management Agreement, and “for the conservation and enhancement of natural ecological and scenic values and for compatible public use.” To that end, the City has demarked and improved a parking area on the east side of Dock Road, Tract B-2 and has barricaded motor vehicle access to the west side of Dock Road, Tract A. The City has posted signs prohibiting motor vehicle access beyond the designated parking/vehicle limits. Recreationists visit the areas now only by foot or bicycle. In May 2020, the City began restoration of vehicle-damaged surfaces beyond the vehicle limits by raking vehicle-rutted areas. As of Summer, 2020, native vegetation is returning to the restored surfaces naturally. A Gustavus Beach Park sign has been installed. Additional amenities such as picnic tables, improvements to a fire pit site, and interpretive signs are in discussion.

Development Plan Elements

Legal Description:

Tract A is located within Township 40 South, Range 59 East, Copper River Meridian, Alaska and is located on the Easterly side of the Salmon River at its confluence with Icy Passage. The point of beginning of this description being the intersection of the southerly extension of the centerline of the existing road to the dock, with the mean high water line of Icy Passage; thence northerly along the

centerline of the existing road a distance of 900 feet; thence West a distance of 711 feet, more or less, to the mean high water line of the salmon River thence meandering southerly along the mean high water line of the Salmon River and Icy Passage.

Tract B is located within Township 40 South, Range 59 East, Copper River Meridian, Alaska and is located east of the centerline of the existing road to the dock and being easterly of the confluence of the Salmon River with Icy Passage. The point of beginning of this description being the intersection of the southerly extension of the centerline of the existing road to the dock, with the mean high water line of Icy Passage; thence northly along the centerline of the existing road a distance of 900 feet; thence East a distance of 753.48 feet; thence South & 13'30" West along the mean high water line of Icy Passage a distance of 80 feet, more or less; thence North 83 11'25" West along the mean high water line of Icy Passage a distance of 670 feet, more or less, to the point of beginning. The herein described parcel contains 16.19 acres, more or less.

Tract B has been subdivided into B-1, which comprises the City of Gustavus-owned Bulk Fuel Facility property (1.433 acre), and B-2 (14.471 acres), which comprises the remainder of the original Tract B. Tract B-1 is not subject to the terms of this Agreement.

As isostatic rebound continues, the mean high tide line is expected to move southward into Icy Strait and westward into the Salmon River estuary adding dry land to the beach Tracts A and B-2. These accreted lands will be managed as part of the beach park under the Agreement.

Terrain/ground cover:

The shoreline between Salmon River and Glen's Ditch is fronted by a series of sandy rises and swales built by Salmon River sediments moving eastward by prevailing currents. These features are built atop former beach flats and sloughs that now form the backshore to the north. The landscape is rising about an inch a year due to glacial rebound. Facilities anchoring the former and present docks have tended to interrupt the pattern of deposition.

The first dock had much to do with capture of the sand and initiation of the basic swale and rise features. The modern dock (abutment, island, sheet pile) now appears to be modifying the seaward sedimentation pattern, accelerating deposition to the eastward and initiating erosion to the westward.

Plant communities have developed according to their salt tolerance, response to disturbance and soil characteristics. The communities can be divided in this way:

- Ryegrass sod along the outer shore and slough margins
- Beach sedge/saltgrass/beach asparagus sod below the ryegrass in some sheltered slough margins
- Strawberry/small herb meadow above the ryegrass on the outer shore
- Grass/tall herb/small spruce meadow above the strawberries on the swales and higher parts of the backshore
- Young spruce groves on the highest swales

As uplift has moved the landscape into the upper intertidal and above-tide zones, the communities have matured and tended to shift seaward. Zones seem to have various near-term futures. Ryegrass is being eliminated by traffic just east of the dock. Erosion west of the dock is tending to pinch the strawberry/small herb meadow between ryegrass and tall meadow; it is being erased in widening roadways but perhaps retained by more moderate foot disturbance elsewhere. Tall meadows are being

increasingly dominated by grasses and young spruces in some places. Spruce groves are aggressively spreading on the rises and backshore.

Proposed Changes to the terrain/ground cover:

The overarching goal of any vegetation management shall be to maintain the historic viewshed which can be characterized as open with sweeping views of Icy Strait and the Fairweather Range. To this end the City may designate and retain some spruce groves and take active measures to reduce or eliminate spruce succession onto meadows.

Access:

Existing access to both parcels is from Dock Road. Many residents and visitors park on or near the road or in the delineated east side parking area and walk the length of the beach. Others use bicycles. Previous motorized vehicular use along the top and behind the main dune has been blocked. Planned access will remain the same in terms of origination point at Dock Road; proposed changes are intended to restore natural vegetation, prevent erosion, and to protect the beach and dune vegetation from further damage from uncontrolled motorized vehicle use while still providing for public access. Under all alternatives, vehicle access to the beach to allow for kayak and small boat drop-off will be retained at the existing location on the east side of the dock. The City will prohibit motorized vehicle use on uplands outside the posted parking areas and on the non-vegetated beach portion of the tracts below the vegetated dunes. Non-motorized access will be allowed to all the beach lands managed under this Agreement.

Parking and Access: The parking area in the sand on the east side of the dock has been delineated and accommodates a vehicle turnaround for kayak and passenger drop-off with pedestrian access to the beach and water's edge. No parking is allowed on the west side of the Dock Road. The City seeks to negotiate with ADOT&PF for arrangements to construct additional parking within the DOT Right-of-Way. No motorized traffic will be allowed beyond the established parking areas. Adjacent private landowners will retain the right to motorized access to their property through these tracts, however temporary barriers will restrict access until they request their removal for such access.

Trails: A hardened pathway may be developed to the current viewing bench on the west side, and eventually may continue on to create a loop trail along the river, through the meadow, and back to Dock Road, ending approximately across from the Bulk Fuel Facility.

Future Access: The City requests authorization to develop additional trails and/or boardwalks as well as handicap parking if and when deemed necessary or desirable.

Buildings and other structures:

Attractive fencing, bollards, barriers, curbed sidewalks and signage may be installed to create an overall visual identity for the public use beach area. Simple yet effective log barriers now surround the parking area and identify boundaries for vehicles, without impacting views to Icy Strait. The existing concrete "Jersey" barriers in the DOT ROW that protect dock electrical and piping infrastructure at the entrance to the dock may be painted or covered and screened with a decorative wooden structure.

The existing fire pit on the west side may be further developed/hardened to minimize haphazard use and habitat destruction. Another public fire pit area may be developed on the eastern side of the dock at a location determined in consultation with the ad hoc Beach Committee.

No buildings or structures beyond the current benches and picnic tables are planned at this time, but the City requests authorization to build structures in the future, which could include covered picnic areas, benches and/or hardened pathways.

Power source:

No power source is necessary.

Waste types, waste sources, and disposal methods:

Trash undoubtedly will continue to be generated by users of the beach. The City maintains bear-proof trash and recycling containers for disposal, co-located with the current City-owned bathroom facility year-round. The City of Gustavus has already added beach cleanup to the Marine Facilities Coordinator position job duties and shall continue to participate in and promote volunteer cleanup duties.

Hazardous substances:

NA

Water supply:

There is no water supply currently provided or planned.

Parking areas and storage areas:

Currently, residents and visitors park on the paved designated parking areas in the DOT ROW, in the east side parking area of Tract B-2, and on the "island" located midway to the terminus of the Gustavus dock. Parking on the island is disallowed on days when the ferry is scheduled to land in Gustavus. Ferry travelers often leave their cars for several days at a time, in designated spaces and off the paved road. Long-term and short-term parking will be retained on the paved road. Alternatives for continued parking options are described in the Access section, above. The City will work with DOT representatives to identify specific locations of long and short-term parking with posted time limits.

Number of people using the site:

The beach is utilized by practically all Gustavus citizens and visitors. No visitation estimates are available, but there has been a trend of increasing use in recent years.

Closure/reclamation plan:

Provide a closure/reclamation plan, if required for the type of authorization being applied for (e.g. material sale).

NA

Maintenance and operations:

Maintenance of the public use beach area will primarily consist of regular trash pick-up and removal, added as responsibilities of the City of Gustavus Marine Facilities Coordinator position. Additional maintenance chores on an irregular basis will include repair of built structures authorized under the CRMA. This type of task could be potentially taken on by citizen volunteers.

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