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February 28, 2025

State of Alaska Department of Transportation
Attn: Christopher Goins

CC: Commissioner Ryan Anderson, DOT&PF
Commissioner Doug Vincent-Lang, ADF&G

RE: Second Crossing PEL, Public Comment By City and Borough of Juneau

To Whom It May Concern,

The City and Borough of Juneau (CBJ) has enjoyed a long partnership with the Alaska Department of Transportation and Public Facilities (DOT&PF) and the Alaska Department of Fish and Game (ADF&G) to study the Juneau Douglas North Crossing.

CBJ supports the development of a transportation corridor to connect Juneau with North Douglas. Juneau can no longer rely on a single bridge. As neighborhoods and other developments flourish, Juneau must safely and efficiently grow. As part of this process, CBJ is submitting this public comment, but must preface the below with a reiteration of our willingness and desire to work together to best serve the people of Juneau and protect the pristine environment in which we live.

Since the 1980's, CBJ and DOT&PF have worked closely to study the development of a second crossing, connecting Juneau to North Douglas. The geography of the area will likely necessitate the placement of a new bridge on or close to the Mendenhall Refuge. Knowing that the next steps will be a NEPA review, as part of the PEL process, we would like to bring to your attention a conflict between the Alaska Constitution, Alaska Statute Title 16, and the 1990 Mendenhall Wetlands State Game Refuge Management Plan.

The Mendenhall Refuge was created by statute in 1976. Alaska Statute 16.20.34 contains the establishing language, setting forth the refuge boundaries, management of the refuge, and permitted activities in the refuge. Subsection (i) provides directive language to Fish and Game for the development of a management plan. Specifically, it states:

(i) The management plan adopted under (g) of this section must include provisions under which the City and Borough of Juneau may acquire land, by sale, exchange, or otherwise, for purposes of expanding the Juneau Municipal Airport, establishing additional transportation corridors, including water corridors, and establishing publicly owned and operated docking facilities, and these uses are considered preferential under art. VIII of the state constitution but subject to the requirements for plan specification and approval under AS 16.20.060. A deed, contract of sale, lease, or other instrument evidencing disposition by the Department of Natural Resources of land under this subsection must include, among other terms, the condition that the land is restricted to use for airport expansion, establishing additional transportation corridors, including water corridors, and establishing publicly owned and operated docking facilities.

While the overarching purpose of a state refuge is to protect land and resources for the public use, local governments are provided with preferential rights. Here, for example, CBJ has a preference for a transportation corridor. In reviewing other refuges, preferences are clearly and consistently found within statute. For example, a public right-of-way is included for transportation and utilities between Anchorage and Fire Island,¹ a transportation corridor is provided for in the Palmer Hay Flats,² several refuges include provisions for oil and gas exploration,³ and Creamer's Field expressly provides for agricultural activity within the refuge.⁴

In 1990, the Department of Fish and Game created the Mendenhall Wetlands State Game Refuge Management Plan ("the Plan"). The stated purpose of the Plan is to "provide consistent long-range guidance to the Alaska Departments of Fish and Game and Natural Resources and other agencies involved in managing the refuge."⁵ While the Plan is guidance only, it mandates that "Activities will be approved, conditioned or denied based on the direction provided in this plan as well as state laws and regulations."⁶

In reviewing the Plan as a whole, it does not make any allowance for governmental purposes, nor does it recognize the local government preferences set forth in the Alaska constitution and Alaska Statute Title 16.⁷ With regards to a transportation corridor, the Plan notes:

The City and Borough of Juneau may acquire land for a public transportation corridor, including a water corridor, only after the following has been demonstrated: 1) that there is a significant public need for the corridor which cannot reasonable be met off-refuge, 2) that the use of refuge lands are avoided or minimized to the maximum extent feasible including use of subsurface or elevated, no-fill corridor options where feasible; 3) that public access to

¹ AS 16.20.031.

² AS 16.20.032

³ AS 16.20.036 and 038.

⁴ AS 16.20.039.

⁵ https://www.adfg.alaska.gov/static/lands/protectedareas/_management_plans/mendenhall.pdf, page 1.

⁸ https://www.adfg.alaska.gov/static/lands/protectedareas/_management_plans/mendenhall.pdf, pages 9-10.

⁸ https://www.adfg.alaska.gov/static/lands/protectedareas/_management_plans/mendenhall.pdf, pages 9-10.

the refuge is maintained; and 4) that all unavoidable impacts to the refuge and to refuge resources are fully mitigated through restoration, replacement and/or other compensation.⁸

Similar constrictive and narrowing language is found under both the airport expansion and public docking facility sections.⁹

With regards to the Juneau North Douglas Crossing PEL Study, we encourage DOT&PF to adhere to the parameters of the Alaska constitution, Alaska Statute Title 16, and the guidance provided in the Plan as it closes out the PEL process and moves into the NEPA process. As this process moves forward, CBJ intends to submit a plan under 16.20.060, which will include mitigation details to protect the Refuge while preserving the transportation corridor.

As noted in the House Resource Committee minutes from January 30, 1976, the creation of the Mendenhall Wetland Refuge was done with the full knowledge and support of future development by CBJ, namely a second crossing, airport expansion, and a port facility.¹⁰ These documents and the intent behind them must work together to meet the needs of the people of Juneau and Alaska.

We look forward to working with DOT&PF and ADF&G on this exciting and challenging project.

Sincerely,



Emily Wright
City Attorney
City and Borough of Juneau

⁸ https://www.adfg.alaska.gov/static/lands/protectedareas/_management_plans/mendenhall.pdf, pages 9-10.

⁹ *Id.* Page 10.

¹⁰ *See*, attached page 1.