



United States
Department of
Agriculture

Forest
Service

Alaska Region

P.O. Box 21628
Juneau, AK 99602-1628

Reply to: 5450/1580

Date: MAR 31 1992

Subject: Memorandum of Agreement Between the USDA Forest Service and the
State of Alaska, Department of Natural Resources

To: Forest Supervisors

Attached for your review and records is a copy of the recently signed Memorandum of Agreement (MOA) with the State of Alaska regarding the management of uplifted and subsided coastal lands in Alaska.

The highlights of the Agreement provide that lands below mean high tides will be managed by the State of Alaska, Department of Natural Resources (DNR), and that lands within the National Forest System above mean high tides will be managed by the Forest Service.

In areas where known recent movement has occurred, such as uplifted or subsided lands resulting from the earthquake, the agencies will notify each other before making commitments to land uses in excess of two years, and will require concurrence for the commitment of land uses over ten years.

Please read the full document carefully and retain the copy for your files. Should you have any questions about the document, please contact John Hammen in this office at 586-7871.

WILLIAM G. EDWARDS
Director, Lands, Minerals,
and Watershed Management

Enclosure

cc:
Forest Supervisors
Glen McGuire

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NATIONAL FOREST
CHUGACH



Caring for the Land and Serving People

FS-6200-28(7-82)

MEMORANDUM OF AGREEMENT
between
USDA, FOREST SERVICE
and
STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES

This Memorandum of Agreement is entered into between the United States Department of Agriculture, Forest Service and the State of Alaska, Department of Natural Resources, (hereinafter jointly referred to as "the agencies"), in accordance with the agencies' respective authorities for entering into cooperative land management agreements between state and federal agencies set forth in 16 U.S.C. § 565a-1 and Alaska Statutes 38.05.020.

This agreement provides interim guidelines for determining management authority over certain state and federal coastal lands within or adjacent to the boundaries of the Chugach or Tongass National Forest, title to which may have been affected by natural movement of the coastal boundary as a result of the 1964 earthquake, until such time as the United States and the State of Alaska reach a longer term resolution regarding questions of title to these coastal lands, or the agencies otherwise terminate this Agreement.

In this agreement, the phrase "coastal lands" refers exclusively to any tide or submerged lands which, as a direct result of the earthquake, uplifted above the line of mean high tide as it existed at the time of the earthquake thus effectively becoming dry land, and, conversely, to any uplands which, also as a direct result of the earthquake, subsided below the line of mean high tide as it existed at the time of the earthquake thus effectively becoming tide or submerged lands, plus any additions or deletions to those uplifted or subsided coastal lands occurring since the 1964 earthquake as a result of a natural movement of the coastline through avulsion, accretion, reliction, erosion, submersion, or other means.

In entering this Agreement, the agencies seek to promote efficient, cooperative management of state and federal coastal lands, and public access to such lands. This agreement is intended to avoid or defer the need for litigation between the governments to resolve potential ownership and management disputes regarding these coastal lands. The agencies have determined that the public interest will be benefited by this agreement and that there exists a mutual interest other than monetary considerations.

The agencies agree as follows:

1. At any location where a mean high tide line is identified by either agency as the legal boundary separating National Forest System uplands from State of Alaska tide and submerged lands, for management purposes only the actual physical location of the mean high tide line, as of the effective date

of this agreement and adjusted according to any subsequent natural movement of the line, shall be treated by both agencies as the boundary.

2. The Forest Service shall have the authority to manage the coastal uplands inland of the mean high tide line as defined in ¶ 1 of this agreement and of the State of Alaska shall have the authority to manage the coastal tide and submerged lands seaward of that line.

3. Irrespective of the actual location of the legal boundary separating National Forest System lands from State of Alaska lands, the agencies intend to cooperate in management of coastal lands to the degree practicable and consistent with their respective legal authorities and policies. Each agency shall manage coastal lands within its management authority under this agreement according to its respective legal authorities and policies, including retention of appropriate fees derived from those lands.

4. Coastal lands shall be managed to ensure that access to those lands is not denied to any member of the public legally entitled to access, subject to regulation by the agency having management authority over such lands under this agreement, according to its respective legal authorities and policies.

5. Neither agency shall take actions permanently obligating or disposing of coastal lands, or obligating them to a permitted or leased use for a term exceeding ten years, without prior notice to and the written concurrence of the other agency, to the extent allowed by applicable law.

6. Neither agency shall take actions obligating coastal lands to a permitted or leased use for a term exceeding two years without prior notice to the other agency. The agencies shall seek where practicable to reach joint agreement on any actions obligating coastal lands for a term between two and ten years prior to committing to such actions.

7. The agencies shall jointly pursue reaching, as soon as reasonably practicable, a cooperative, permanent resolution of any questions between the United States and the State of Alaska regarding title to lands covered by this agreement.

8. This agreement shall not affect any dispute between the agencies other than a dispute over the respective authorities of the agencies to manage the coastal lands covered by this agreement while this agreement remains in effect. In particular, but without limitation, this Agreement shall not affect any dispute over:

- a. the location of the legal boundary between National Forest System lands and State of Alaska lands for purposes of determining title to those lands, including

lands that have been conveyed or leased to a third party by the United States or the State of Alaska;

b. whether the present day mean high tide line determines the legal boundary separating National Forest System lands from State of Alaska lands and, if so, the actual location of that line;

c. assertions of jurisdiction by either the United States or the State of Alaska over matters occurring outside lands to which the government asserts title, based upon claims of extra-territorial jurisdiction.

9. This Agreement does not obligate either party to expand funds in excess of appropriations or otherwise lawfully available.

10. This Agreement shall bind only the two governments represented by the agencies entering this agreement, and their agents, contractors, successors, and assigns. This Agreement shall not confer standing or a right or cause of action against either government upon any third party.

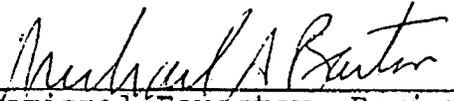
11. This Agreement may be modified only by written agreement of authorized representatives of both agencies. This Agreement may be terminated by either agency upon 60 days written notice to the other agency.

12. This Agreement shall be effective upon the last date signed below by authorized representatives of each agency:


For Commissioner, State of Alaska
Department of Natural Resources

Date

3/24/92


Regional Forester, Region 10
USDA, Forest Service

Date

3/20/92