

POSSIBLE MOTION

I MOVE TO approve Resolution 2019-10
on first and final reading.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Paxton and Assembly Members

From: Keith Brady, Municipal Administrator

Date: May 9, 2019

Subject: Approval of the Resolution to the State of Alaska to Remove the Restriction on the Green Lake Property Deed

Summary

The Green Lake parcel consists of 5,555.75 acres near Sitka. Title to the parcel is with the City and Borough of Sitka.

On July 28, 1978, the Federal government approved transfer of title of the lands to the State of Alaska by way of a Tentative Approval of a land selection under section 6(a) of the Statehood Act. A land selection under section 6(a) of the Statehood Act is also called a "National Forest Community Grant State Selection." Lands selected by the state under section 6(a) were intended to provide a way for development and expansion of communities in the Tongass National Forest.

On March 16, 1979, the State issued a quitclaim deed to the City and Borough of Sitka for the Green Lake parcel.

The State of Alaska, Department of Natural Resources (DNR) quitclaim deed was issued under AS 38.05.810 "Public and charitable use". The quitclaim deed contained what DNR calls a ".810(g)" reservation. The language in the quitclaim deed says:

"The above described lands shall revert back to the State of Alaska if restricted from public use and public access."

This restriction/reservation effectively prohibits the City and Borough from leasing, selling, or developing the land. A .810(g) reservation can be waived by the Commissioner of DNR after a written request is made.

There are Federal Energy Regulatory Commission (FERC) deed restriction/reservations on the property. The final patent contains a reservation or restriction that all parts of the Green Lake parcel below an altitude of 450 feet above sea level is subject to potential use as power site.

Part of our FERC licensing is below, it is just one of the FERC License modifications which would be required:

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands' of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of, structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

This restriction can be narrowed or removed by the FERC on request by the City to just the boundaries of the current Green Lake power project. A request must be made in writing to FERC. It may be a long road ahead, but first, we will work with the state to remove the restriction then the federal government. We are working on the mapping to see where the areas of concern would be.

Overall, the Electric Department does not see any highly significant issues with regards to the properties being converted with the following few exceptions:

1. We would need an easement established about 200 feet wide for the transmission line corridor.
2. The Road would need to be modified for public use, and this is not an insignificant cost (barriers, lighting, pullouts, etc.).
3. Maintenance and insurance coverage for the new public road.
4. FERC review. Anything within the FERC boundary would require FERC approval. This would effectively open the FERC license.

Fiscal Note

\$0. Development of this area would produce revenue for CBS.

Recommendation

Approval of the resolution to the state to remove the restrictions on the Green Lake property deed.