



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Transportation and Public Facilities

OFFICE OF THE COMMISSIONER
Marc Luiken, Commissioner

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Thomas Reinarts, Mayor
City of Kupreanof
P.O. Box 50
Petersburg, Alaska 99833

Dear Mayor Reinarts:

Thank you for your letter dated December 19, 2015 regarding a transfer of the Department of Transportation & Public Facilities (DOT&PF) Kupreanof Float harbor facility to the City of Kupreanof.

First, you cited a 2010 harbor transfer offer from DOT&PF which the Alaska Legislature didn't fund. That offer died with the adjournment of the second (2010) session of the 26th Legislative Session. For the current fiscal year, the Governor has already made his funding decisions and presented his FY17 capital budget requests to the Alaska Legislature. No harbor transfer funds are proposed in his budget.

Second, regarding the current transfer effort of the Kupreanof Float, DOT&PF coincidentally received a similar harbor transfer request letter last month from the Petersburg Borough requesting that the department transfer the same Kupreanof Float to the Petersburg borough. In addition, the Petersburg borough stated that they are interested in DOT&PF transferring two additional state harbor facilities, located at Papke's Landing and at Entrance Island, to the borough. It is unusual to have two harbor transfer requests for the same facility at the same time. The situation made us review the State Constitution, Alaska Statutes, and the charters and ordinances of the Petersburg Borough and the City of Kupreanof before making a final decision.

Alaska Statute (AS) 35.10.120 authorizes DOT&PF to transfer a harbor facility to a municipality. The purpose of the statute is to allow cities and incorporated areas to operate and maintain these public facilities by *enforcing municipal ordinances and legally assessing fees to meet maintenance costs*. The Petersburg Borough, previously operating as the City of Petersburg, has existing ordinances in place regarding harbor usage rules and procedures, a harbor fees structure, and a paid harbor staff to inspect and maintain its harbors. The borough has started and completed several minor maintenance and major replacement harbor projects. The borough has considerable experience and a long history of owning, managing, inspecting, staffing, collecting fees, and maintaining three large harbors (North, Middle, and South) within the borough. Considering the legislative purpose for transferring harbor facilities listed above, the Petersburg Borough is the only municipality eligible to enter into a harbor transfer arrangement with the department for the Kupreanof Float.

"Keep Alaska Moving through service and infrastructure."

AS 29.35.250(b) states that no city within a borough may exercise a borough areawide power unless authorized by borough ordinance. My staff performed a review of the borough's and the city's charters and ordinances. There is clear language in the borough code of ordinances that says only the borough has the power and jurisdiction over harbor facilities. Please reference the following sections of the charter:

- Section 2.13 - Port and Harbor Jurisdiction says that "the assembly shall regulate the use and development of all waters and submerged lands which are subject to the jurisdiction of the borough."
- Section 14.06 - Areawide Powers says that "the following powers shall be exercised on an areawide basis....D. The power to provide port and harbor facilities and services"

There is no allowance in the borough's ordinance that would allow the sharing of port and harbor jurisdiction with the city.

The Petersburg Borough has the required jurisdiction and ordinances to assess harbor maintenance fees to ensure the continued operation and maintenance of the Kupreanof Float. Transferring the facility to the borough serves the public interests and will benefit many commercial and recreational boaters within, and passing through, the Petersburg region and the area surrounding the borough. Therefore, DOT&PF has decided to pursue a transfer of the Kupreanof Float with the Petersburg Borough. Once the harbor transfer is completed, it is my hope that the city and borough mutually agree on their respective roles and responsibilities regarding the float and that both parties work in harmony to serve all Alaskans.

Sincerely,



Marc Luiken
Commissioner

cc: The Honorable Bill Walker, Governor
The Honorable Byron Mallott, Lieutenant Governor
The Honorable Bert Stedman, Senator
The Honorable Jonathan Kreiss-Tomkins, Representative
The Honorable Mark Jenkins, Mayor, Petersburg Borough
Michael J. Coffey, Southcoast Region Director, DOT&PF