

**PROGRAMMATIC AGREEMENT AMONG
THE USDA FOREST SERVICE, TONGASS NATIONAL FOREST,
THE ALASKA STATE HISTORIC PRESERVATION OFFICER,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE ALASKA MENTAL HEALTH TRUST LAND OFFICE
REGARDING LAND EXCHANGE BETWEEN THE TONGASS NATIONAL FOREST
AND THE STATE OF ALASKA MENTAL HEALTH TRUST LAND OFFICE**

DATE: April 16, 2018

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Preamble

WHEREAS, the USDA Forest Service (Forest Service) manages the resources of the Tongass National Forest (TNF); and

WHEREAS, the Forest Service plans to exchange approximately 21,000 acres of National Forest System lands from the TNF within the Prince of Wales (POW) Ranger Districts and the Ketchikan Misty Fjords Ranger District (KMRD), as shown on 3 maps (Appendix A, Maps 1-3) for approximately 18,258 acres of non-Federal land from the Alaska Mental Health Trust Authority (AMHTA), throughout southeast Alaska (Appendix A, Maps 4) pursuant to the Consolidated Appropriations Act, 2017, P.L. 115-31, Div. G, Section 431(a)(2) (the “Alaska Mental Health Trust Land Exchange Act of 2017”) (The Act) enacted into law on May 5, 2017 (Public Law No: 115-31), this exchange is hereafter referred to as the Undertaking; and

WHEREAS, the Undertaking requires “Compliance with Applicable Law” and that “Prior to completing each phase of the land exchange described in subsection (n), the Secretary shall complete, for the land to be conveyed in the applicable phase, any necessary land surveys and required pre-exchange clearances, reviews, mitigation activities, and approvals relating to...(2) cultural and historic resources...”; and

WHEREAS, all parties recognize that “Compliance with Applicable Law” includes compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (NHPA) (54 USC 300101 et seq.) and its implementing regulations entitled Protection of Historic Properties (36 CFR 800); and

WHEREAS, the Forest Service has determined that the historic properties CRG-767; CRG-751; CRG-455; CRG-387; CRG-640; CRG-742; CRG-775; CRG-346; CRG-507, located within the parcels to be exchanged out of federal ownership as part of the Undertaking, are eligible for listing in the National Register of Historic Places (NRHP) with Alaska State Historic Preservation Officer (SHPO) concurrence of opinion; and

WHEREAS, the Forest Service has determined that a transfer of non-Federal lands from the AMHTA into the National Forest System will ensure adequate and legally enforceable restrictions or conditions for long-term preservation of the property’s historic significance under NHPA Section 106 provisions that may not have been previously available; and

WHEREAS, the Forest Service has determined that as a “Transfer...of property out of federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property’s historic significance”, the Undertaking shall result in adverse effects to known historic properties, and may have the potential for adverse effects to those historic properties yet to be identified [36 CFR 800.5(a)(2)(vii)]; and

WHEREAS, the AMHTA, a public Corporation within the State of Alaska, Department of Revenue, (AS 47.30.011 et seq.), by its agent pursuant to AS 37.14.009(a)(2), Alaska Mental Health Trust Land Office (TLO), Department of Natural Resources, is subject to the laws and regulations of the State of Alaska, and is an invited signatory to this Programmatic Agreement (PA); and

WHEREAS, the Forest Service recognizes its government-to-government and government-to-corporation relationships with federally recognized Indian tribes [as defined at 36 CFR 800.16(m)], hereinafter referred to as Alaska Native Tribes and Alaska Native Corporations; and

WHEREAS, all Signatory Parties recognize that some historic properties may be culturally significant to Alaska Native Tribes and Alaska Native Corporations; and

WHEREAS, Klawock Cooperative Association, Craig Tribal Association, Hydaburg Cooperative Association, Haida Corporation, Organized Village of Kasaan, Wrangell Cooperative Association, Central Council of the Tlingit and Haida Indian Tribes of Alaska, Shaan-Seet, Inc., Sealaska Corporation, Klawock Heenya Corporation, Kasilco, Inc., Metlakatla Indian Community, Organized Village of Saxman, and Ketchikan Indian Community were invited to consult on the development of this PA, and chose not to participate; and

WHEREAS, Tongass Tribe, Alaska Historical Society, Historic Ketchikan Inc., Tongass Historical Society, City of Ketchikan, Ketchikan Borough, City of Craig, City of Thorne Bay, City of Klawock, City of Coffman Cove, City of Edna Bay were invited to participate and comment on the development of this PA, and chose not to participate; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), the Forest Service has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii); and

WHEREAS, the Forest Service has determined that due to the complex course of action needed, a PA is the appropriate instrument for satisfying Section 106 requirements, and has developed this PA in consultation with the SHPO, ACHP, and TLO, in accordance with 36 CFR 800.14(b)(1); and

NOW, THEREFORE, the Signatory Parties agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties.

The Forest Service shall ensure that the following measures are carried out:

I. Stipulations

A. Professional Qualifications

The Forest Service shall ensure that any persons responsible for carrying out historic preservation work under the terms of this PA meet minimum professional qualification standards.

1. Implementing regulations for the NHPA 36 CFR 61 Appendix A provide minimum qualifications for non-federal employees. Federal employee qualifications are governed by the Office of Personnel Management.
2. Forest Service Heritage Professionals shall meet professional qualifications standards established by the Office of Personnel Management [§ 306131 (a)(1)(B)] and found at Forest Service Manual (FSM) 2360.5, FSM 2360.91.1, and Forest Service Handbook (FSH) 2309.12 Chapter Zero Code 04.1. (See Appendix B, Glossary, Acronyms, and Abbreviations).

B. Previously Completed Identification and Evaluation

The Forest Service has determined that the following parcels were adequately surveyed by Heritage Professionals using current professional standards developed in cooperation with the SHPO, and in keeping with the TNF's Predictive Model (USFS 2017, 2010, 2002, 1995). This work demonstrates the agency's "good faith" in carrying out appropriate identification efforts, which included literature searches, oral history interviews, or field survey(s), in accordance with 36 CFR 800.4. The Forest Service, in consultation with other Signatory Parties, has determined that no additional surveys are required except as specified in II.C. (Required Identification and Evaluation).

1. Shelter Cove Parcel (Appendix A, Map 5). A total of approximately 2120 acres have been surveyed in the Shelter Cove parcel in the past in advance of, primarily, timber sales and road construction activities. No potential or known historic properties have been discovered to date. None of the land in this parcel lies within high probability areas for the discovery of historic properties.
2. Naukati Phase I Parcel (Appendix A, Map 6). A total of approximately 421 acres have been surveyed in the Naukati Phase I parcel in the past in advance of, primarily, timber sales and road construction activities. No potential or known historic properties have been discovered to date. The Naukati Phase I parcel is located away from both modern shorelines and Paleoshorelines at high elevations and is considered a low probability area for potential or known historic properties.
3. East Naukati/2016 Naukati Addition Parcel (Appendix A, Map 6). A total of approximately 137 acres have been surveyed in the East Naukati/2016 Naukati Addition parcel in the past in advance of, primarily, timber sales and road construction activities. No potential or known historic properties have been discovered to date. The East Naukati/2016 Naukati Addition parcel is located

away from both modern shorelines and Paleoshorelines at high elevations and is considered a low probability area for potential or known historic properties.

4. Central Naukati Parcel (Appendix A, Map 6). A total of approximately 292 acres have been surveyed in the Central Naukati parcel in the past in advance of, primarily, timber sales and road construction activities. No potential or known historic properties have been discovered to date. Most of the land in this parcel lies within low probability areas for the discovery of potential historic properties.

[REDACTED]

No surveys are proposed in this vicinity.

5. West Naukati Parcel (Appendix A, Map 6). A total of approximately 1003 acres have been surveyed in the West Naukati parcel in the past in advance of, primarily, timber sales and road construction activities. No historic properties have been discovered inland in the low probability areas. However, there are a total of seven (7) recorded historic properties that were discovered

[REDACTED]

6. North Naukati Parcel (Appendix A, Map 6). A total of approximately 304 acres have been surveyed in the North Naukati parcel in the past in advance of, primarily, timber sales and road construction activities. No potential or known historic properties have been discovered to date.

[REDACTED]

7. Hollis Parcel (Appendix A, Map 7). A total of approximately 42 acres have been surveyed in the Hollis parcel in the past along the southern shoreline. Two historic properties have been recorded in this parcel: CRG-346 Wolf Creek Boatworks; and CRG-507, a series of culturally modified trees (Moble 2000). Wolf Lake itself, at the upper reaches of Wolf Creek, has not been previously surveyed, and may have the potential to yield cultural materials associated with mining and the boatworks.

C. Required Identification and Evaluation

The Forest Service has determined that a total of approximately 4319 acres, or 21%, of the exchange parcels have been adequately surveyed to current standards as described in I.B.

(Previously Completed Identification and Evaluation), and shown in Appendix A, Maps 5-9. The Forest Service has also determined that an additional 15069 acres of the exchange parcels do not require survey because they are located within the low or medium probability areas for discovery of potential or historic properties. Approximately 2501 acres within Hollis, North and West Naukati exchange parcels have been determined to not have been adequately surveyed.

The timeline for parcel exchanges are governed by The Act, and the Forest Service has determined it is not possible to complete identification and evaluation in those select areas in the given timeframe; therefore, the Forest Service shall ensure that additional identification and evaluation will be completed for those select areas during the period this PA is in effect and in accordance with the following:

1. No additional identification and evaluation will be required in the Shelter Cove, Naukati Phase I, East Naukati/2016 Naukati Addition, and Central Naukati Parcels.
2. Hollis Parcel (Appendix A, Map 7). Identification and evaluation shall be completed in the high probability areas as depicted in Appendix A, Map 7 and totaling approximately 14 acres within this parcel no later than September 30, 2018 by Forest Service Heritage Professionals in accordance with Forest Service standards as described in the 2017 Programmatic Agreement Among the USDA Forest Service, Alaska Region, the Advisory Council on Historic Preservation, and the Alaska State Historic Preservation Officer Regarding Heritage Program Management on National Forests in The State Of Alaska (USFS 2017) Appendix D Survey Strategy.
3. North and West Naukati Parcels. The Forest Service, in collaboration with the TLO, shall ensure that additional identification and evaluation shall be completed in select, high and medium probability areas in accordance with a Scope of Work (SOW) developed as an auxiliary document that is part of this PA (See IV. Scope of Work and Appendix F) for up to approximately 1138 acres in the North Naukati and West Naukati parcels (Appendix A, Maps 8 and 9). This acreage represents a sampling of approximately 50% of the acreage in high probability areas and 10% of the acreage in medium probability areas within the North and West Naukati exchange parcels.
4. Until such identification and evaluation efforts have been completed in the Hollis, North Naukati, and West Naukati parcels, developmental work such as timber harvesting, road construction, and other ground disturbing activities in the proposed survey areas shall be avoided by the AMHTA, and their contractors.
5. Should any new potential historic properties be discovered, the Forest Service shall ensure that they are recorded and evaluated for eligibility to the National Register of Historic Places in consultation with the SHPO and appropriate Alaska Native tribes and corporations. The historic properties information

shall be included in the Historic Properties Management Plan (See I.E.2 Mitigation Measures).

6. Field survey shall not be required in those areas that are not National Forest lands prior to the transfer of land under The Act; areas that other, existing, laws adequately protect by imposing buffers, or other restrictions that limit developmental activities in those area, for example, anadromous streams have protective buffers because of their designation under the Alaska Forest Resources and Practices Act (AS 47.17.950), with its implementing regulations found at 11 AAC 95).¹

D. Scope of Work for North and West Naukati Parcels (See I.C.3 Mitigation Measures).

A SOW shall be prepared through a collaborative process by a committee that includes representatives from the SHPO, TLO and the Forest Service, for the purposes of detailing required identification and evaluation efforts that remain to be completed prior to the expiration of this PA (See Appendix E Scope of Work, Draft Outline). The Forest Service TNF Heritage Program Manager shall coordinate the development of the SOW.

1. The committee shall include Forest Service TNF Heritage Program Manager; Forest Service Zone Archaeologist for POW; Office of History and Archaeology (OHA) State Archaeologist; TLO, Exchange Project Manager; SHPO Archaeologist I or II.
2. The committee shall meet monthly beginning in May of 2018 and shall complete the final SOW no later than October 15, 2018.
3. The SOW shall include, but not be limited to:
 - a. Description of identification needs for the parcels North Naukati and West Naukati.
 - b. An agreed timeline for the remaining surveys.
 - c. Description of specific survey strategies required for each area within the parcels to be investigated.
 - d. Description of procedures for inadvertent discoveries.
 - e. Description of procedures for the disposition of any cultural materials discovered and collected.

¹ Alaska Forest Resources and Practices Act (AS 47.17.950), with its implementing regulations found at 11 AAC 95 - Classification of waters found at AS 41.17.950(1), (10), 11 AAC 95.265(a)(4). Definition of the various water body types are found within the same statutes and regulations. Buffers are generally found in AS 41.17.116(a) or (b); 41.17.118/119 that provide protected buffers along anadromous streams for protecting fish habitat.

- f. Sufficient information so that it may be used for preparing Request for Bids in anticipation of contracting work.
- g. Provisions for quality control of work completed.
- h. Description of Forest Service responsibilities for fulfilling the PA should any issues be encountered such as weather or other delays, contractors cannot be utilized in the timeframe expected, or the work done was not adequate and there needs to be follow up in the stipulations of the PA.
- i. Description of deliverables and associated agreed on schedules for draft submission, Forest Service and SHPO review, finalization of reports and submittals.

E. Mitigation Measures

There are nine (9) identified historic properties located in the exchange parcels: CRG-767; CRG-751; CRG-455; CRG-387; CRG-640; CRG-742; CRG-775; CRG-346; CRG-507. Additional historic properties may be located during identification and evaluation of select high probability areas in the Hollis, West Naukati, and North Naukati parcels. All Signatory Parties agree that the following measures shall be implemented for the purposes of mitigating adverse effects to identified historic properties:

- 1. Data recovery shall be undertaken at CRG-387 and CRG-640 in the West Naukati Parcel. The Forest Service shall ensure that data recovery at CRG-387 and CRG-640 is carried out in accordance with a Data Recovery Plan prepared in coordination with the OHA State Archaeologist and reviewed by the SHPO (Appendix G).
- 2. The Forest Service shall ensure that a Historic Property Management Plan (HPMP) is prepared for the purposes of providing ongoing guidance in the protection of known historic properties as well as describing appropriate protocols to follow when new historic properties, or inadvertent discoveries of human remains are encountered (See Appendix F HPMP Draft outline). This HPMP shall be prepared collaboratively by a committee that includes representatives of the Forest Service, TLO, and SHPO. It shall be used by AMHTA when this PA expires, or earlier if all parties agree.
 - a. While the HPMP is not a legally binding agreement it will provide guidance intended to be used after the expiration of this PA so that the TLO and AMHTA can effectively apply the Alaska Historic Preservation Act (AHPA) further minimizing the effects of the land exchange on potential or known historic properties into the foreseeable future. This document does not outline any obligations other than what is asked under the AHPA. It is intended to provide TLO and the State with valuable information on high probability areas,

archaeological survey coverage, and potential or known historic properties on their newly acquired land.

- b. Once the HPMP is completed, and all other stipulations have been met, the Forest Service's obligations under Section 106 shall be satisfied and AMHTA is responsible for utilizing the HPMP into the future.
 - i. The HPMP shall be prepared through a collaborative process using a committee that includes representatives of the SHPO, TLO and the Forest Service.
 - ii. The committee shall include Forest Service TNF Heritage Program Manager; Forest Service Zone Archaeologist for POW; OHA State Archaeologist; TLO, Exchange Project Manager; SHPO Archaeologist I or II.
 - iii. The Forest Service TNF Heritage Program Manager shall coordinate the development of the HPMP.
 - iv. The HPMP First Draft shall be completed 30 days prior to the first annual meeting in February of 2019, and shall be updated regularly as identification and evaluation efforts are completed in accordance with this PA.
 - v. The Final HPMP shall be completed no later than 90 days prior to the expiration of this PA.
 - vi. The HPMP shall include, but is not limited to:
 - 1. Overview and Executive Summary.
 - a. Purpose of the plan
 - 2. Background.
 - a. Past surveys and findings in order to inform the decision making process for any future planned activities.
 - 3. Project Management and Preservation Goals (General guidance, Best Management Practices).
 - 4. Project Effects and Mitigation/Management Measures (in keeping with State of Alaska Historic Preservation laws and regulations).
 - 5. Human Remains.
 - a. Inadvertent discovery of human remains, State of Alaska protocols.
 - b. Unanticipated discovery plan.
 - 6. Emergencies.
 - 7. Implementation Procedures.

- a. HPMP coordinator designation.
 - b. Training project personnel.
 - c. An internal decision-making process.
 - d. Consultation with the SHPO and others.
 8. Reporting Requirements.
 9. Disposition of Collections.
 - a. Curation requirements.
 10. Actions requiring consultation with others, if any.
 11. GIS Spatial dataset, Appendices, Maps, Glossary.
3. The Forest Service shall host a symposium at a future Alaska Anthropological Association annual meeting (2021) covering the topic of "The History and Prehistory of POW". The symposium elements to be funded by AMHTA include:
 - a. Travel stipends (transportation/lodging) will be offered to a total of six (6) invited participants which include a total of two professional archaeologists, two students pursuing degrees in archaeology or a related field, and two Alaska Native Tribe members who agree to prepare written papers that will subsequently be submitted for publication in the association's Alaska Journal of Anthropology (AJA). Participants shall be selected by the symposium organizers based on submitted abstracts that are reviewed by the Zone Archaeologists and the TNF Heritage Program Manager.
 - b. One "Poster Session" that can be used subsequently as a travelling exhibit shall be prepared. The exhibit will travel to affected communities, or elsewhere as interest demands. The travelling poster session will become a permanent tool for public interpretation. An invited speaker shall prepare the content. The Forest Service shall own it and shall store it at the POW District Office in Thorne Bay, Alaska. The Forest Service POW Zone archaeologists shall be responsible for ensuring that it is available to other Forest Service archaeologists and/or interpretive staff.
 - c. One issue of the AJA, with the proceedings of the symposium. The Forest Service shall ensure that a written agreement from the AJA accepting proceedings of the symposium for publication shall be in place no later than April 30, 2021 after the symposium occurs.
 - d. Forest Service POW Zone archaeologists staff time shall be used for the purposes of organizing the conference session and coordinating the published proceedings. They shall coordinate inviting speakers, submitting a proposal during the call for papers in late fall of 2020, collecting prepared manuscripts and submitting them for inclusion in the AJA, coordinating with the AJA editors to ensure publication is timely, and coordinating with AMHTA in order to provide travel stipends,

subvention funding for publication, support for preparing a travelling poster session, and to ensure appropriate acknowledgements describing the nature of AMHTA, TLO, SHPO, and ACHP involvement in the symposium, poster session, and proceedings.

4. An interpretive kiosk shall be developed, constructed and installed at a suitable location in Southeast, Alaska for the purposes of interpreting local history. The Forest Service TNF Heritage Program Manager shall be responsible for ensuring the development of content and layout, and coordination of the installation. Installation shall occur no later than 90 days prior to the expiration of this PA. The SHPO shall be provided 30 days for review and comment on design and content.

F. Other Provisions Required by The Act

In accordance with The Act, the AMHT is obligated “to pay...all costs that are associated with each phase of the exchange...including... environmental reviews described in subsection (h)...”

The Forest Service provided AMHT cost estimates on February 7, 2018 that both the Forest Service and the AMHT agree shall serve as the baseline budget for complying with Stipulations I.C.3, I.D, I.E.1, and I.E.3-4 of this PA.

To facilitate reimbursement of any costs incurred by the Forest Service related to the Stipulations I.C.3, I.D, I.E.1, and I.E.3-4, the Forest Service and the AMHT shall enter into a separate Cost Reimbursable Agreement within 90 days of the signing of this PA.

II. Inadvertent Discoveries of Human Remains

During the term of this PA, in the event that any human remains are encountered, work in the immediate vicinity of the discovery shall cease and measures taken to protect the remains in place in such a way that minimizes further exposure or damage. Notification protocols for reporting discovery of human remains shall be initiated immediately or as soon as practicable upon the inadvertent discovery of human remains (Appendix C).

- A. While land is still held in federal ownership, State notification protocols shall be followed, and appropriate Forest Service officials shall be contacted (Appendix C). If it is determined that human remains are potentially Alaska Native, the provisions of Native American Graves Protection and Repatriation Act (NAGPRA) as outlined in 43 CFR 10 and Archaeological Resources Protection Act (ARPA) as outlined at 43 CFR 7 shall be followed. Only federally managed lands are subject to the provisions of NAGPRA. The Forest Service is responsible for carrying out the protocols and consultation relating to inadvertent discovery under NAGPRA.
- B. After transfer of land from federal ownership to AMHTA State notification protocols shall be followed, with a courtesy notification to the Forest Service Heritage Program Manager. If it is determined that human remains are potentially Alaska Native, State procedures for consultation and coordination with Alaska Native Tribes shall be followed. State and private lands are not subject to the provisions of NAGPRA.

III. Collections

- A. Prior to the transfer of any parcel from federal ownership in accordance with The Act, Forest Service policy shall apply to the collection of any cultural resource, which includes artifacts and other materials.
 - 1. The Forest Service Alaska Region has a limited collection policy, but any cultural resources collected prior to transfer shall remain the property of the Forest Service.
 - 2. When conducting surveys, only diagnostic artifacts (by time, function, etc.) will be collected, along with appropriate material samples for analysis (Carbon-14, pollen, etc.).
 - 3. All materials collected shall be curated in perpetuity with the exception of those samples which are subject to destructive analysis. This is standard professional practice in order to ensure that samples are retained for analysis using future techniques.
 - 4. Collections are managed according to FSM 2366 and FSH 2309.12 Chapter 60 and will be housed in a facility meeting standards in 36 CFR 79.
- B. After transfer in accordance with The Act and any subsequent amendments made to The Act, any cultural resources discovered and/or collected shall be the property of the State of Alaska and State of Alaska collection policies shall apply.
 - 1. All materials collected after transfer shall be curated in an OHA-approved repository in accordance with State collection policies.

IV. Documentation and Reporting

The Forest Service shall prepare an Annual Summary Report documenting actions carried out pursuant to this PA.

- A. The Annual Report shall be distributed to SHPO and the TLO no later than 30 days in advance of the annual February meeting as described in V. Interagency Collaboration.
- B. The Annual Report shall address identification and evaluation results; status of treatment and mitigation activities; any issues that are affecting or may affect the ability of the federal agency to continue to meet the terms of this PA; any disputes and objections received, and how they were resolved.

V. Interagency Collaboration

The Forest Service will invite Signatory Parties and any other interested parties to a review meeting annually to be held in February.

- A. Meetings may be conducted in any mutually agreeable location and/or format, including in-person, video conferencing, or teleconferencing.
- B. Agenda will include discussion of any actions carried out pursuant to this PA as well as any topics deemed necessary by the participating parties.

- C. One focus of this meeting shall be to set up the plans for the next field season's SOW, in addition to discussing the current status of activities.

VI. Dispute Resolution

Should any Signatory Party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, Forest Service shall consult with such party to resolve the objection. If Forest Service determines that such objection cannot be resolved, Forest Service will:

- A. Forward all documentation relevant to the dispute, including the Forest Service's proposed resolution, to the ACHP. The ACHP shall provide Forest Service with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, Forest Service shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, and Signatory Parties, and provide them with a copy of this written response. Forest Service will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, Forest Service may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, Forest Service shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatory Parties to the PA, and provide them and the ACHP with a copy of such written response.
- C. Forest Service's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

VII. Amendments

This PA may be amended when such an amendment is agreed to in writing by all Signatory Parties. The amendment will be effective on the date a copy signed by all of the Signatory Parties is filed with the ACHP.

Any of the appendices contained within this PA may be amended and updated when such an amendment is agreed to in writing by all Signatory Parties without amending the PA.

VIII. Termination

Any Signatory Party may terminate the PA by providing sixty (60) calendar days written notice by certified mail to the other Signatory Parties provided:

- A. If any Signatory Party determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatory Parties to attempt to develop an amendment per Stipulation VII, above.
- B. If within sixty (60) calendar days (or another time period agreed to by all Signatory Parties), after a notice of termination is served to all Signatory Parties, an amendment

cannot be reached, any signatory may terminate the PA upon written notification to the other Signatory Parties.

- C. Once the PA is terminated, and prior to work continuing on the Undertaking, the Forest Service must either (a) execute a PA pursuant to 36 CFR 800.14 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. The Forest Service shall notify the Signatory Parties as to the course of action it will pursue.

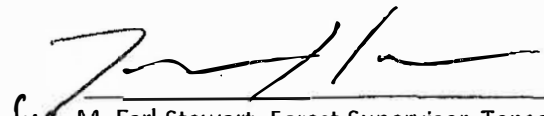
IX. Implementation and Duration

- A. This PA becomes effective on the date of the last signature written below and will remain in effect for a period of five years, or unless amended per Section VII.

Execution of this PA by the Forest Service, TLO, SHPO and ACHP and implementation of its terms evidence that the Forest Service has taken into account the effects of this Undertaking on historic properties.

Signatures

Forest Service

 Date 4/3/18
fo M. Earl Stewart, Forest Supervisor, Tongass National Forest

Signatures

Forest Service

Date _____
M. Earl Stewart, Forest Supervisor, Tongass National Forest

Alaska Mental Health Trust Land Office

 _____
Date 3/29/18
Wyn Menefee, Acting Executive Director

Alaska State Historic Preservation Officer

Date _____
Judith Bittner, State Historic Preservation Officer

Advisory Council on Historic Preservation

Date _____
John M. Fowler, Executive Director

Signatures

Forest Service

Date _____
M. Earl Stewart, Forest Supervisor, Tongass National Forest

Alaska Mental Health Trust Land Office

Date _____
Wyn Menefee, Acting Executive Director

Alaska State Historic Preservation Officer

_____
Date 4/4/2018
Judith Bittner, State Historic Preservation Officer

Advisory Council on Historic Preservation

Date _____
John M. Fowler, Executive Director

Signatures

Forest Service

Date _____ M. Earl Stewart, Forest Supervisor,
Tongass National Forest
Alaska Mental Health Trust Land Office

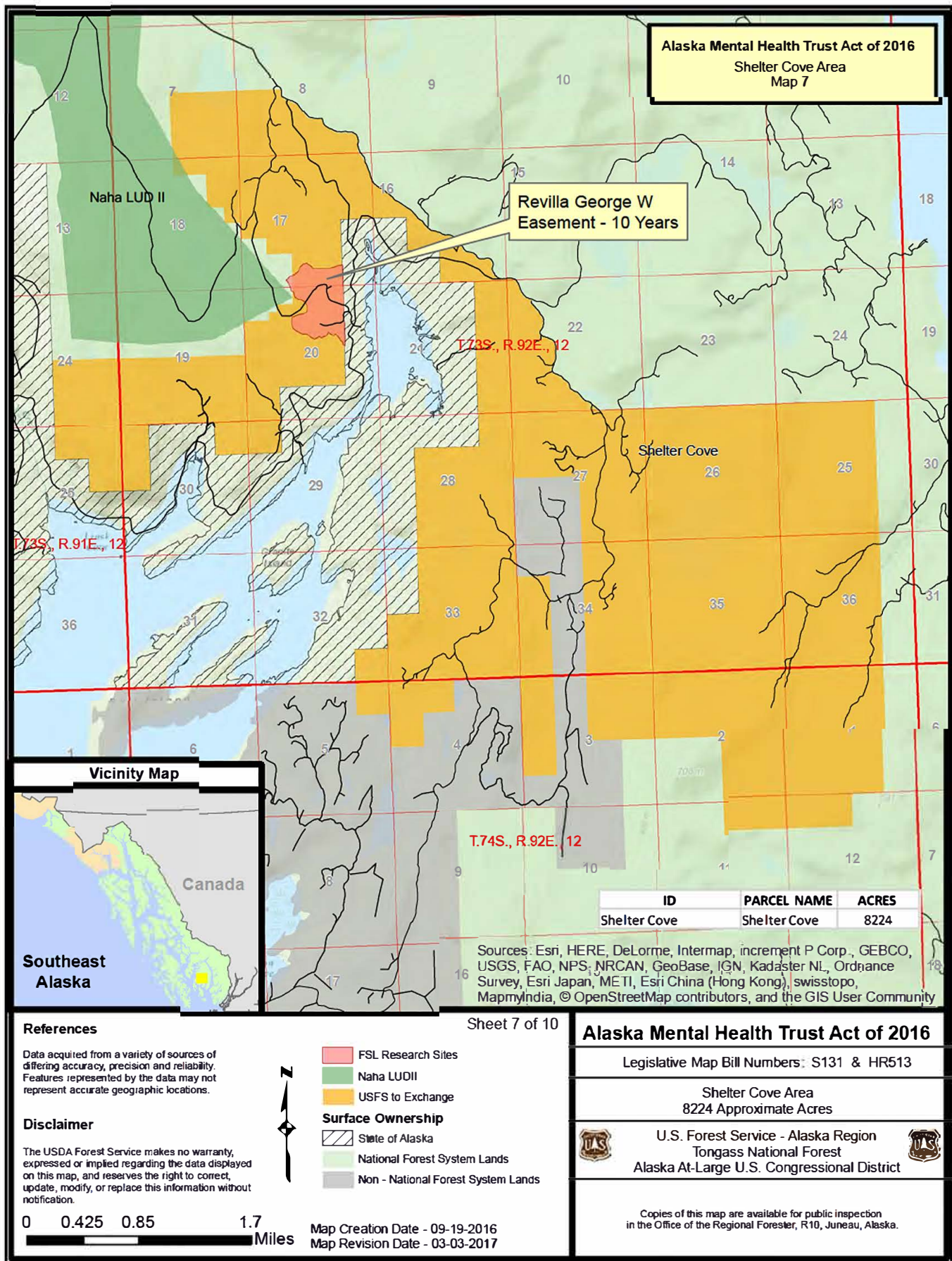
Date _____ Wyn Menefee, Acting
Executive Director

Alaska State Historic Preservation Officer

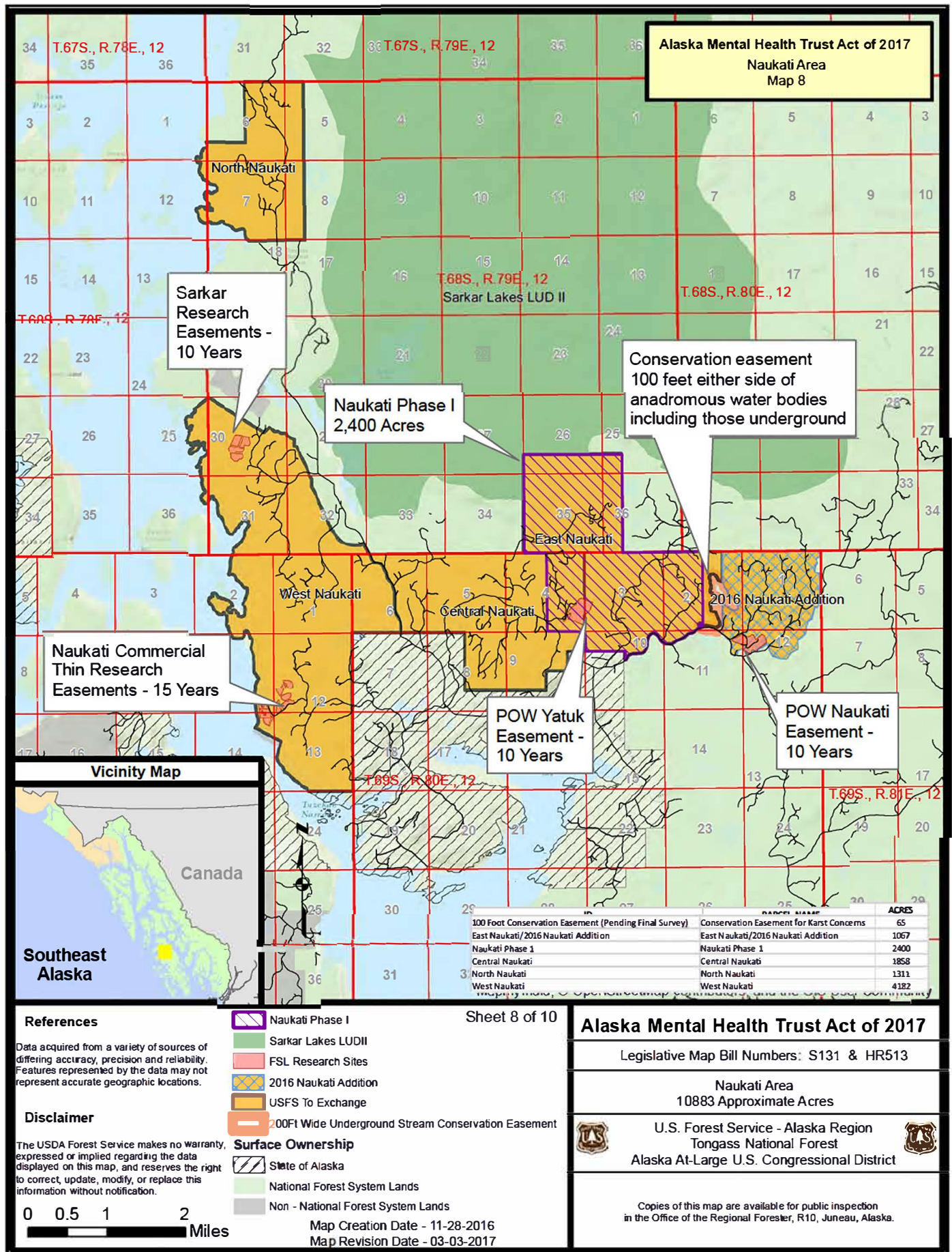
Date _____ Judith Bittner, State Historic
Preservation Officer

Advisory Council on Historic Preservation

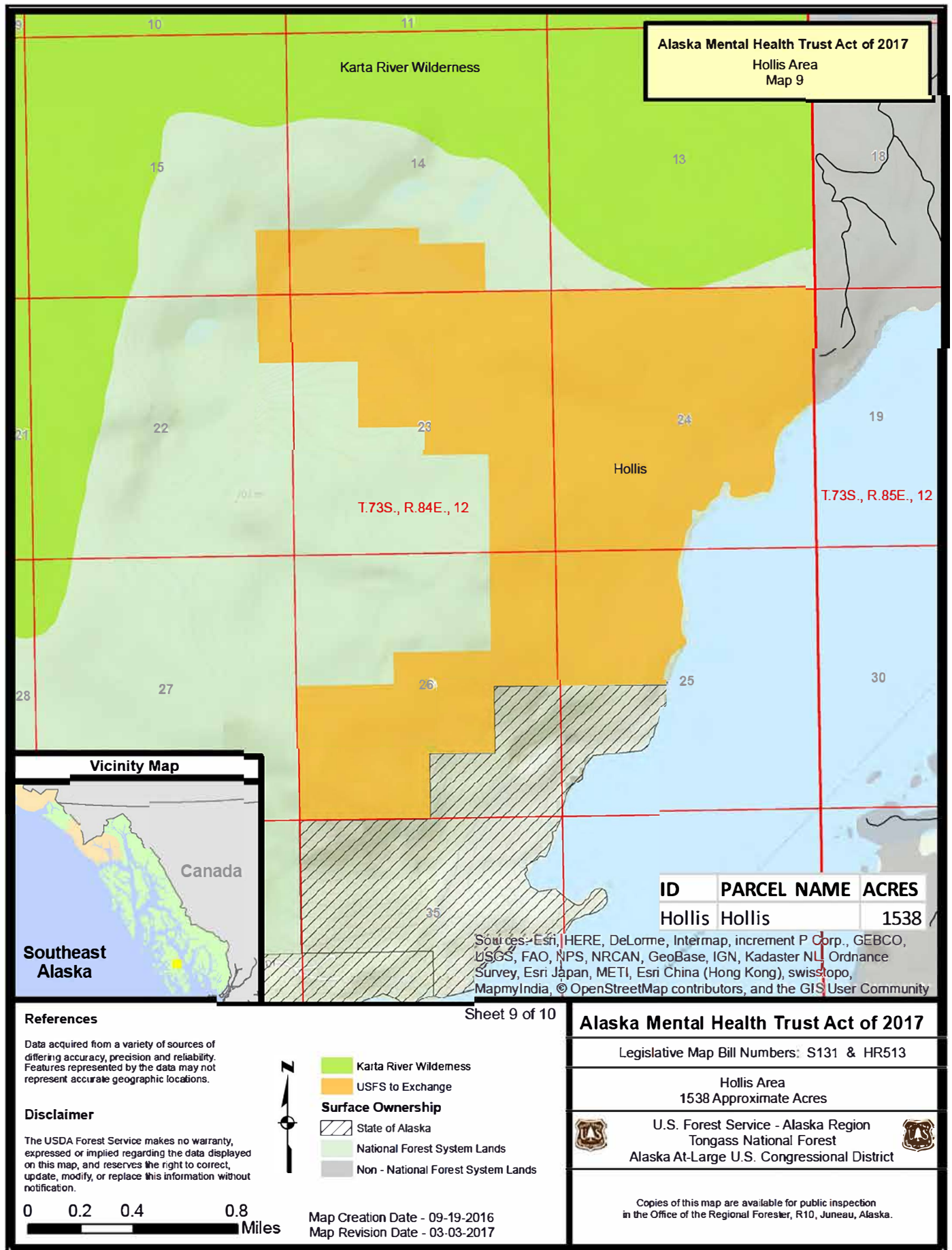
For  _____ Date 4/16/2018 John M. Fowler, Executive Director



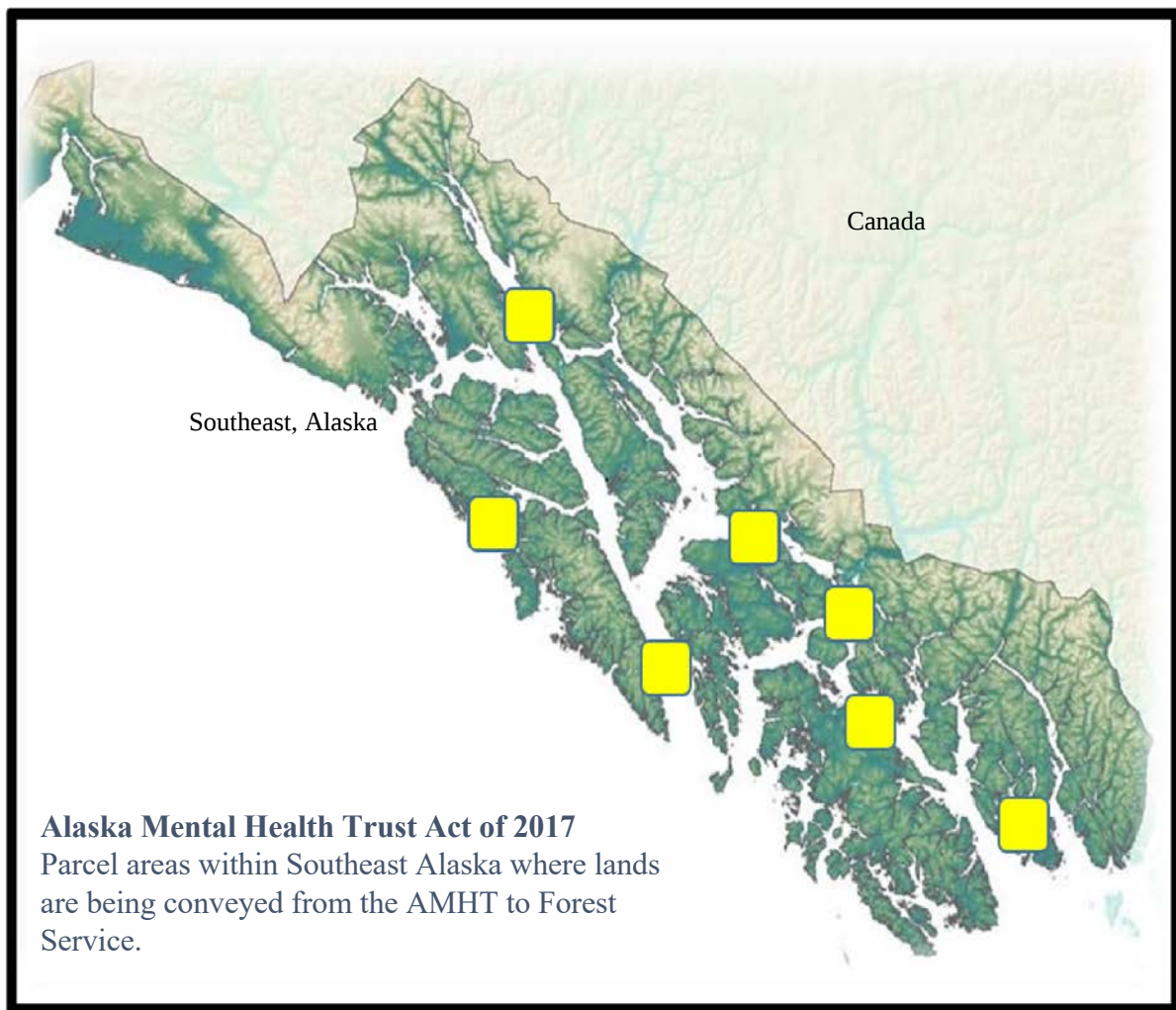
Map 1. Shelter Cove Parcel



Map 2. Naukati Area Parcels



Map 3. Hollis Parcel



Map 4. Areas throughout Southeast, Alaska where land is being conveyed from AMHT to the Forest Service.

Appendix B Glossary, Acronyms, and

Abbreviations ACHP Advisory Council on

Historic Preservation Alaska Native Corporation
Alaska Native Corporations were created under the Alaska Native Claims Settlement Act (43 USC Chapter 33) (ANCSA) for the purposes of managing lands and resources for Alaska Natives.

APE Area of Potential Effects

AMHTA Alaska Mental Health Trust Authority

Area of Potential Effects

Area of potential effects means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking [36 CFR 800.16(d)].

ARPA Archaeological Resources Protection Act

CRR Cultural Resource Record

Cultural Resources

Cultural resources are prehistoric, historic, archeological, or architectural sites, structures, places, or objects and traditional cultural properties (FSM 2360.5).

Federally Recognized Tribe

Federally recognized Indian or Alaska Native Tribe, band, nation, pueblo, village, or community included in Federally Recognized Indian Tribe List Act of 1994, (25 U.S.C. 479a) (FSM 1563.05)

Forest Service USDA Forest Service

FSH Forest Service Handbook

FSH 1509.13 Forest Service Handbook, American Indian and Alaska Native Relations

FSH 2309.12 Forest Service Handbook, Heritage Program Management

FSM Forest Service Manual

FSM 1563 Forest Service Manual, Tribal Relations

FSM 2360 Forest Service Manual, Heritage Program Management

3-27-2018.docx Government-to-Corporation

Consultation Alaska Native Corporations are consulted, in Alaska, on a government-to-corporation basis rather than government-to-government pursuant to Executive Order 13175 as modified by Public Law 108-199, 118 Stat. 3, 447, as further modified by Public Law 108-447, 118 Stat. 2809, 3267.

Government-to-Government Consultation

A process that enables Tribes to provide meaningful, timely input and, as appropriate, exchange views, information, and recommendations on Forest Service proposed policies or actions that may affect their rights or interests prior to a decision. (FSM1563.05). Within the Forest Service, consultation takes place between Tribal leaders and agency line officers/decision makers'

Historic Integrity

The authenticity of a property's historic identity. Historic integrity is the composite of seven qualities: location, design, setting, materials, workmanship, feeling, association.

Heritage Professional

Staff employed within the Forest Service in the GS-170 historian, GS-190 anthropologist, or GS-193 archaeologist series who "serve in a staff or advisory capacity and provide professional recommendations and services to assist land managers in meeting their Heritage Program responsibilities including cultural resource identification (inventory), evaluation, allocation, protection, stewardship, curation, and reporting" (FSM2360.91). See Qualifications.

Historic Property

Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties [36 CFR 800.16(l)(1)].

Historic Significance

To be eligible for the National Register of Historic Places, a historic property must meet criteria which demonstrates it is important through an association with events, activities, or patterns; an association with important persons; distinctive physical characteristics of design, construction, or form; or the potential to yield important information (including contributions to our understanding of human history of any time period). In addition, the historic property must provide evidence of authenticity through the survival of physical characteristics that existed during the property's prehistoric or historic period. See also Historic Integrity

Inadvertent Discovery

The unanticipated encounter or detection of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3 (d) of NAGPRA. [43 CFR 10.2 (g)(4)]

3-27-2018.docx Indian tribe

Indian tribe means an Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians [36CFR800.16(m)].

MOA Memorandum or Memoranda of Agreement

NAGPRA Native American Graves Protection and Repatriation Act

National Register of Historic Places (NRHP)

Authorized by the National Historic Preservation Act of 1966, the National Register of Historic Places, managed by the National Park Service, is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources.

NHL National Historic Landmark

NHPA National Historic Preservation Act

Non-federally Recognized Tribe

Any Indian tribe that does not meet the definition of federally recognized tribe.

NRHP National Register of Historic Places

OHA Office of History and Archaeology

POW Prince of Wales

Preservation Work

Any work related to implementing historic preservation activities outlined in NHPA Section 110 which requires that historic properties are: identified, evaluated and nominated to the NRHP; maintained in a manner that preserves their historic, archaeological, architectural, and cultural values; fully considered during planning. It also requires that agency compliance procedures follow implementing regulations for Section 106 at 36 CFR 800.

Qualifications

Federal employee qualifications are governed by the Office of Personnel Management and are spelled out in a series of handbooks that can be found on-line at www.opm.gov. In general Heritage Professional qualifications include a bachelor's degree in Archaeology, History, or Anthropology with specific coursework requirements that include regional focus, theory and methods, and archaeological field school (for archaeology series), and/or a combination of college-level education or training and/or experience that provided knowledge equivalent to a bachelor's degree,

plus appropriate technical experience or additional education or a minimum of four years relevant experience.

Qualifications non-federal employees

Non-federal employee Heritage professional qualifications follow the Secretary of the Interior Professional Qualifications Standards which require a graduate degree and experience in field survey, site testing, site excavation, artifact identification and analysis, documents research, and report preparation. See

<https://www.nps.gov/history/local-law/gis/html/introduction.html>

Sacred Site

Any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site (Executive Order 13007 I.b.iii).

Section 106

Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the SHPO and ACHP a reasonable opportunity to comment. Implementing regulations are found in 36 CFR 800.

SHPO

Alaska State Historic Preservation Officer

Signatory Party

People/organizations who have signed this PA as a signatory. Signatory Parties have review or other responsibilities identified in the PA.

TLO

Trust Land Office

TNF

Tongass National Forest

Transfer

To convey or remove from one place, person, etc. to another; pass or hand over from one to another; specifically to change over the possession or control of (as, to transfer title to land). [Black's Law Dictionary, 6th Edition]. For the purposes of this PA, the exchange of real property between the US Forest Service and the Alaska Mental Health Trust Authority (Trust Land Office), and the legislated dates for the exchange to occur (May 5, 2018 – Phase I, and May 5, 2019 – Phase II).

Tribal Consultation

See Government-to-Government consultation and Government-to-Corporation consultation.

Undertaking

A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of the Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval” [36 CFR 800.16(y)].

Unanticipated Discovery

As opposed to “inadvertent discovery” of human remains within the meaning of NAGPRA. Unanticipated discovery refers to the discovery of cultural resources during the course of an activity where no discoveries were anticipated.

GUIDELINES

Laws and Protocols Pertaining to the Discovery of Human Remains in Alaska

The treatment of human remains following inadvertent discovery is governed by state and federal laws, land status, postmortem interval (time since death), and biological/cultural affiliation. First and foremost, the site of discovered remains should be regarded a potential “crime scene” until a person with appropriate expertise and authority determines otherwise.

State Laws:

Several State laws are applicable to the discovery of human remains in Alaska. The State Medical Examiner (SME) has jurisdiction over all human remains in the state (with rare exceptions, such as military aircraft deaths), regardless of age.

AS 12.65.5 requires immediate notification of a peace officer of the state (police, Village Public Safety Officer, or Alaska State Trooper [AST]) and the State Medical Examiner when death has “been caused by unknown or criminal means, during the commission of a crime, or by suicide, accident, or poisoning.”

In this regard, contact the Alaska State Troopers in the applicable region first. (See list of contacts on following page.) The AST has interpreted notification procedures as applicable to all remains, including ancient remains.

AS 11.46.482(a)(3), which applies to all lands in Alaska, makes the “intentional and unauthorized destruction or removal of any human remains or the intentional disturbance of a grave” a class C felony.

AS 41.35.200, which applies only to State lands, makes the disturbance of “historic, prehistoric and archeological resources” (including graves, per definition) a class A misdemeanor.

AS 18.50.250, which applies to all lands in Alaska, requires permits for the disinterment, transport, and reinterment of human remains. Guidance and permits are available from Health Analytics & Vital Records (see attached list of contacts).

Federal Laws:

On Federal lands and Federal trust lands, the unauthorized destruction or removal of archaeological human remains (i.e., more than 100 years old) is a violation of **16 USC 470ee** (Archeological Resources Protection Act). If human remains on federal or federal trust lands are determined to be Native American, their treatment and disposition are also governed by the Native American Graves and Repatriation Act (NAGPRA) of 1990 (**PL 101-601; 25 USC 3001-30013**; 104 Stat. 3048-3058; 43 CFR 10). NAGPRA also applies to Native American human remains from any lands if the remains are curated in any institution that receives federal funds.

General Guidance:

Your first contacts should be the regional Alaska State Troopers, the Alaska State Medical Examiner’s Office, local law enforcement, AST/Missing Persons Clearinghouse, the Alaska Office of History and Archaeology, and the landowner.

In many instances, the field archaeologist must make a judgement call regarding the age of the remains, his/her level of confidence in the evaluation, and whether further investigation by a specialist is warranted. While notification under State Law is required, peace officers and the SME generally regard archaeologists competent to make these type determinations and welcome input that may assist with the investigation. With regard to ancient remains (> 100 years old), the SME and AST will generally defer to the opinion of the field archaeologist and require no further criminal investigation. However, the remains and a surrounding buffer area should not be disturbed until appropriate reporting and consultation have occurred.

**CONTACT INFORMATION FOR STATE OFFICIALS INVOLVED WITH HUMAN
REMAINS ISSUES IN ALASKA**

****Denotes suggested contact person in list below.***

1.) Alaska State Troopers, Missing Persons Clearinghouse:

Phone: (907) 269-5038

Fax: (907) 337-2059

Lt. Paul Fussey

Phone: (907) 269-5682

E-mail: paul.fussey@alaska.gov

*Malia Miller

Phone: (907) 269-5038

E-mail: malia.miller@alaska.gov

*After contact by phone, send e-mail with relevant information and photos to Lt. Fussey and Malia Miller.

2.) Alaska State Medical Examiner's Office:

* Reporting Hotline (Death Hotline) to speak with on-duty investigator.

Phone: (907) 334-2356

1-888-332-3273 (Outside Anchorage)

Stephen Hoage, Operations Administration

Phone: (907) 334-2202

Fax: (907) 334-2216

e-mail: stephen.hoage@alaska.gov

Dr. Gary Zientek, Chief Medical Examiner

Phone: (907) 334-2200

Fax: (907) 334-2216

e-mail: gary.zientek@alaska.gov

3.) Alaska Office of History and Archaeology (State Historic Preservation Office):

Office Phone: (907) 269-8700

*State Archaeologist

Fax: (907) 269-8908

Email: oha.permits@alaska.gov

4.) Health Analytics & Vital Records

For burial transit permits and disinterment/transit/reinterment questions:

* Registration Help Line

Phone: (907) 465-5423

**CONTACT INFORMATION FOR FOREST SERVICE OFFICIALS TO BE NOTIFIED IN THE EVENT OF AN
INADVERTENT DISCOVERY**

Tongass National Forest

**** Required contact. If a Contractor, also notify the COR and/or Contracting Officer.***

****Forest Supervisor***

Earl Stewart, Forest Supervisor
Phone: 907-228-6281

****Law Enforcement Official***

Bill Elsner
Phone: 907-228-6236
email: wfelsner@fs.fed.us

*After contact by phone, send email with relevant information and photos

****District Ranger***

Matt Anderson, District Ranger, Prince of Wales Ranger District
Phone: 907-826-1600
email: mdanderson@fs.fed.us

Sue Howle, District Ranger, Ketchikan Misty-Fjord Ranger District
Phone: 907-228-4100
email: showle@fs.fed.us

Heritage Specialists

*Heritage Program Manager (Forest Archaeologist)
Theresa Thibault
Phone: 907-228-6293
email: theresaathibault@fs.fed.us

Zone Archaeologist, Prince of Wales Ranger District
Shona Pierce
Phone: 907-828-3206
email: shonapierce@fs.fed.us

District Archaeologist, Ketchikan Misty-Fjord Ranger District
Martin Stanford
Phone: 907- 228-4104
email: mvstanford@fs.fed.us

APPENDIX D Bibliography

Mobley, Charles M.

2000 Archaeological Survey for the Wolf Lake Hydroelectric Project, Prince Of Wales Island, Alaska. Contract to Alaska Power & Telephone Company. Letter Re 3130-1R FERC, 3330-6 CRG-507, Wolf Lake Hydroelectric Project, Prince Of Wales Island, Alaska.

USDA Forest Service (USFS)

2017 *Programmatic Agreement among the USDA Forest Service, Alaska Region, the Advisory Council on Historic Preservation, and the Alaska State Historic Preservation Officer regarding Heritage Program Management on National Forests in the State of Alaska.*

2010 *Third Amended Second Amended Programmatic Agreement Among The United States Department Of Agriculture- Forest Service, Alaska Region; The Advisory Council On Historic Preservation; And The Alaska State Historic Preservation Officer Regarding National Historic Preservation Act, Section 106 Compliance In The Alaska Region Of The Forest Service, United States Department Of Agriculture.*

2002 *Second Amended Programmatic Agreement Among The United States Department Of Agriculture- Forest Service, Alaska Region; The Advisory Council On Historic Preservation; And The Alaska State Historic Preservation Officer Regarding National Historic Preservation Act, Section 106 Compliance In The Alaska Region Of The Forest Service, United States Department Of Agriculture.*
Agreement # 02MU-111001-076

1995 *Programmatic Agreement Among The United States Department Of Agriculture- Forest Service, Alaska Region; The Advisory Council On Historic Preservation; And The Alaska State Historic Preservation Officer Regarding National Historic Preservation Act, Section 106 Compliance In The Alaska Region Of The Forest Service, United States Department Of Agriculture.*
Agreement# 95MOU-10-029.

APPENDIX E Scope of Work

DRAFT Outline

This outline is intended to provide a guide for the SOW that is to be developed as an ancillary document under the terms of the PA. The Final Scope of Work is to be completed no later than October 15, 2018 in accordance with Stipulations at I.D.2. of this PA.

Scope of Work Outline

1. Project Description

- a. Project name and type
- b. State and county
- c. National Forest or Grassland, Ranger District
- d. Geographic area
- e. Legal location
- f. Legal authority
- g. Historic context
- h. Description of the undertaking
- i. Purpose & need
- j. Agency Contacts

2. Standard & Technical Definitions

- a. Key terms to understanding contract requirements

3. Technical Specifications Critical tasks, Work elements, Technical requirements, Performance standards, Quality assurance plan

- a. Data Recovery Plan,
- b. Survey Strategy, etc.

4. Permit Requirements

- a. Permit for Archaeological Investigations, other

5. Human Remains

- a. NAGPRA protocol
- b. Unanticipated discovery plan

6. Disposition of Collections

- a. Curation requirements

7. Exhibits

- a. Maps, photographs, records, etc.

8. Reporting Requirements

APPENDIX F Historic Properties Management Plan

DRAFT OUTLINE

This outline is intended to provide a guide for the HPMP that is to be developed as an ancillary document under the terms of the PA. The HPMP First Draft shall be completed 30 days prior to the first annual meeting in February of 2019, and shall be updated regularly as identification and evaluation efforts are completed in accordance with Stipulations at I.E.2. of this PA.

- 1. Overview and Executive Summary**
- 2. Background Information**
 - a. The historic context (time, place, and theme).
 - b. A description of known and potential historic properties with an explanation of their significance and public values
 - c. Appendices which include maps, relevant correspondence, and technical studies or summaries of these studies.
- 3. Project Management and Preservation Goals** (General guidance, Best Management Practices)
- 4. Project Effects and Mitigation/Management Measures.** (In keeping with State of Alaska Historic Preservation laws and regulations)
- 5. Inadvertent Discoveries of Human Remains**
- 6. Unanticipated discoveries**
- 7. Emergencies**
- 8. Implementation Procedures.** (Discussion of who would be required to implement any guidance herein)
 - a. An HPMP coordinator shall be designated to carry out the provisions within this HPMP.
 - b. Training project personnel.
 - c. An internal decision-making process.
 - d. Consultation with the SHPO and others.
 - e. Periodic reporting and meetings.
 - f. Periodic review and revision of the HPMP.
 - g. Actions requiring consultation with others, if any.

APPENDICES

MAPS

GLOSSARY