SOUTHEAST ALASKA LAND TRUST

SEALT Comments on the JDNC PEL Study's Final Draft Report

June 2025

Summary

The Southeast Alaska Land Trust (SEALT) has engaged in the JDNC PEL Study process since March 2022 as participants on the Technical Advisory Committee (TAC). Additionally, SEALT developed the WESPAK-SE wetland functional assessment tools which were cited within DOWL's study, in addition to the NATAK-SE toolkit for nearshore aquatic resources, and we provide comments below on the use of those tools.

While SEALT appreciates some of the revisions made in the revised May 2025 Draft PEL Study in response to constructive criticism of the 2024 Level 2 Screening, we strongly object to key assertions in the current Draft. As DOWL has not responded to the technical analyses or detailed comments SEALT has submitted since 2023, this document is a summary of outstanding issues, questions, and recommendations.

Both this 2025 summary and the attached 2024 comments should be included with the final report. We also submit our Taashuyee-Chookan.ani (Mendenhall Wetlands) Wetland Functional Assessment Report, which is the most comprehensive scientific assessment of the Mendenhall Wetlands to date.

Outstanding Issues

Public Process

The purpose of the PEL process was to apply environmental study as well as regulatory and engineering constraints early in the transportation planning process and, in the context of a proposed second crossing, rank and eliminate the most environmentally detrimental and less feasible options. In this Draft, five build alternatives for a second crossing are presented as viable. **To forward alternatives of proven unacceptable environmental damage, namely the two Sunny Point alternatives and Vanderbilt, is a failure of the objective of the PEL process**.

The findings of the Draft and the PEL process are subject to public inquiry and comment. At the May 15 public open house at which this Draft was purportedly subject to public comments as required, the five build options were displayed without scores labeled, explicitly misrepresenting to the public that each option is feasible and implying that all of the alternatives have equal merits. Additionally, the cost-benefit table displayed in a poster format for public review had incorrect numbers compared with the actual Draft report.

The JDNC PEL Study has failed to adequately communicate the findings of the Draft content and PEL process to the public at each level of review, and DOWL's profound lack of quality control persists after three and a half years of opportunities to communicate accurate information.

No Build

Despite the responsibility to prove purpose and need for a second crossing, the Draft does not adequately consider no-build options. For example, though the proposed Alaska Move 2050 Draft Long Range Transportation Policy posits its defining policies include State of Good Repair, claiming the inclusion of maintenance as "fundamental to

improving funding allocation in a consistent and effective manner," at no point does the Draft propose repairing or upgrading the extant bridge between the mainland and Douglas Island as a no-build alternative.

Sunny Point (West and East)

The inclusion of Sunny Point alternatives is **fatally flawed.** There is no justification to their advancement into consideration under NEPA. Even by DOWL's own metrics, Sunny Point West and Sunny Point East scored objectively poorly. Their inclusion as possibilities is the most egregious compromise to the legal and ecological integrity of the Mendenhall Wetlands State Game Refuge, and they should be eliminated prior to an EIS.

Additionally, the Draft asserts – as the prior draft Level 2 screening results also asserted – that the Sunny Point West alternative was developed by DOWL in order to avoid filling SEALT mitigation sites; this is not correct. SEALT detailed in our April 2024 comments as a technical advisor to this PEL Study that the Sunny Point West alternative would directly fill the Honsinger Wetlands Mitigation Site, a SEALT property, from the expansion of Egan Drive to support a bridge crossing for Sunny Point West. **Failure to recognize this obvious conflict between the Sunny Point West footprint and the Honsinger Wetlands demonstrates a general lack of attention to comments provided by the Technical Advisory Committee members over the duration of this study.**

Vanderbilt

We reiterate our concern that the results of this time-intensive study are largely the same as if there had been no preliminary study. A preliminary study is designed in part to flag and eliminate problematic alternatives that would score poorly and lead to disqualifying challenges in execution. As is the case for Sunny Point East and Sunny Point West, the Vanderbilt alternative also scored quite poorly – reflecting the large footprint affecting wetlands and channels – and it should be removed from further consideration. The traveler time savings is minimal in comparison to the Twin Lakes and Salmon Creek alternatives and impacts to stream channels, wetlands, and key waterfowl concentration and human use areas are much greater.

Eliminating Vanderbilt in addition to Sunny Point East and Sunny Point West would achieve what the PEL process was designed to do, which is – with stakeholder and agency dialogue – produce a narrow field of 2-3 constructable alternatives for consideration by an EIS.

Wetland Mitigation

As the only wetland and stream mitigation sponsor in Southeast Alaska who provides mitigation credits for impacts to tidal wetlands and other aquatic resources that a second crossing's development would require, we are in an expert position to point out that the injunction to **avoid**, **minimize**, and **mitigate** is not merely a suite of options: it is a legally mandated procedure, where development that impacts aquatic resources must first **avoid** damage, *then* **minimize** when it is not possible to avoid**,** *then* **mitigate** the remaining impacts that are acceptable to the regulators. Mitigation cannot be the assumption, nor an afterthought. It is an expensive and time-consuming process and does not receive adequate consideration in the Draft.

Beyond the need for more comprehensive analysis of the PEL Study Team's suggestion that mitigation is a cure-all for the build alternatives' impacts, rather than the final step of a regulatory review that seeks to eliminate impacts in the first place, potential mitigation sites appropriate for offsetting the specific impacts of the second crossing are practically nonexistent.

SEALT has conserved almost all of the tidal wetlands that would be appropriate in-kind mitigation options for impacts to the study area, and has conducted a preliminary analysis of what we would be tasked with doing as the mitigation sponsor if a second crossing alternative impacting special aquatic sites was to advance. We conducted this analysis because at our one-on-one meetings with DOWL, in the study documentation, and in public meetings, DOWL stated that mitigation is included in the "fudge factor" of the study's time and cost estimates; is not a limiting consideration for the alternatives; and will be addressed at an unidentified future point in the NEPA process.

After three and a half years, DOWL's obvious lack of qualifications to assess wetlands using standard protocol; their unserious approach to addressing data gaps; the questionable assertions identified within their reports; and the strong likelihood that SEALT will be tasked with fulfilling the special conditions for any 404 permit(s) written by the U. S. Army Corps of Engineers (USACE) for the construction of a second crossing, led SEALT's staff and contractors to estimate the magnitude of what would be required. The mitigation required for the five build alternatives currently discussed by the Draft – especially the four within the Mendenhall Wetlands State Game Refuge (MWSGR) that would have both construction and fill impacts to a variety of special aquatic sites including

high-value salt marsh – would be one of the most complex mitigation projects ever undertaken in our region.

The short version of our findings: if the SEALT ILF Mitigation Program were able to secure mitigation sites that directly matched the impacts on a watershed basis, the mitigation sites would be profoundly more expensive, time consuming, and difficult to establish than any other mitigation sites we have protected in the last 27 years of operating a mitigation program for developers across Southeast Alaska. It would certainly take more than the regulated period of three growing seasons to achieve, and cost taxpayers $20 million. Even with an effort to identify as many cost saving opportunities as possible using our decades of nonprofit experience in bundling acquisitions to find an economy of scale, this was the lowest responsible estimate we could establish for impacts at Sunny Point West, East, or Vanderbilt.

DOWL's suggestion that mitigation is a simple solution to the build alternatives' impacts is a naïve and incompetent answer to a complex problem.

In addition to compensatory mitigation for special aquatic sites (that by definition includes some streams, as well as mudflats, refugia, and wetlands) under Section 404 of the Clean Water Act (CWA), an EIS will also need to consider species mitigation, fish habitat mitigation, and acreage mitigation for impacts to 4(f) resources including the Mendenhall Wetlands State Game Refuge and other state and municipal conservation areas.

Scoring Methods

SEALT has previously objected to the inconsistent methodology used in the Level 2 Screening, which used metrics that demonstrably undervalued conservation and environmental factors by placing them on a differently scaled metric. **A PEL study should use a data-driven process with consistent methodology that can bear peer review.**

The methodology for scoring should be transparent and articulated coherently. The unexplained and subjective "refuge weighting" in the revised scoring helped to highlight refuge impacts but introduced other problems. Where off-refuge footprints are large as at the Mendenhall Peninsula site, the weighting method can in effect "unweight" refuge impacts since apparently guided by their proportion of the total footprint rather than the impact acreage.

Moreover, it would make sense to add refuge impacts to overall resource impacts rather than to remove or unweight non-refuge impacts. The new scoring of "high value wetlands" vs "wetlands" is also problematic with unexplained definitions and method. The two-tiered scheme apparently draws upon a flawed application of the WESPAK-SE wetland functional assessment tool, magnifying errors in wetland assessment and delineation.

Unqualified Application of WESPAK-SE Wetland Assessment Protocol

DOWL made use of the WESPAK-SE toolkit shared publicly on SEALT's website, a protocol developed by SEALT with municipal, state, federal, and scientific partners to rapidly collect and analyze wetlands data for decision-making in a way that precisely represents the wetland types and functions in Southeast Alaska.

A major red flag in our review of DOWL's wetland assessment report was that **DOWL failed to complete any field work for the functional assessments** themselves, asserting questionably that field work is not required for the WESPAK-SE protocol because there is a provision for experienced practitioners who are familiar with an assessment area to be able to extend their assessment area without going back out to dig soil pits and validate vegetation. **Field work is absolutely required to be able to competently apply the WESPAK-SE tools and follow its protocol**, and neglecting to complete field work for the wetland assessment means that DOWL lacks credible inputs for their report. DOWL's wetland assessment report is further confounded by the lack of knowledge its authors have on the protocol, as they demonstrate in the text that they do not understand how to assign assessment areas, or understand the values and functions that make up the scoring tables as multiple values and functions appear to be repeatedly misrepresented. For example, the "Public Use and Recognition" function describes human uses on the wetland being assessed, such as hunting, fishing, hiking, education and cultural practices – not uses that are adjacent to or "off" the wetland such as the DIPAC hatchery at Salmon Creek, which DOWL used to inflate a score for Salmon Creek.

It is also alarming that DOWL's team failed to recognize that portions of their assessment areas (even poorly delineated as they were) actually required the NATAK-SE tool to evaluate nearshore aquatic resources. Nowhere does the DOWL report indicate a comprehension of these high value resources unique to Southeast Alaska, or a fluency with the habitat types.

Setting aside how DOWL misapplied the WESPAK-SE protocol and failed to use the NATAK-SE protocol where required, their scoring outcomes are seriously incongruent with SEALT's extensive wetland mapping and assessment project conducted from 2023-2024, with **DOWL's final scores deviating up to 50% from what they should be – indicating errors in DOWL's process and execution**. Prior to DOWL's completion of their wetland assessment report when they had only produced delineations in the winter of 2023-2024, SEALT staff offered to provide wetland assessment results from our more extensive habitat mapping and assessment project as a courtesy; DOWL declined, stating that they did not need this information.

DOWL's report, and their unsubstantiated assertions about each alternative's impact to the assessment areas, should be scrutinized carefully by expert reviewers under NEPA. SEALT conducted our landscape-scale Taashuyee-Chookan.ani (Mendenhall Wetlands) Habitat Mapping and Assessment Project covering a study area of 5,252 acres of wetlands and released the final report to the public earlier this year. That report, which was completed with a team of wetland scientists, biologists, and regulatory specialists who are highly qualified in the WESPAK-SE and NATAK-SE protocols and have a collective 130-years studying Southeast Alaska's wetlands, is attached to these comments for ease of reference.

SEALT requests that the entirety of the Taashuyee-Chookan.ani Wetland Functional Assessment Report be included in the final JDNC PEL Study Report and that it be made available as reference material for NEPA review.

The table below summarizes the scores from SEALT's report, which differ substantially from the scores in DOWL's report. For example, the "Waterbird Feeding Habitat" function is "High" across the board. Other sub-scores such as for Anadromous Fish, Organic Nutrient Export, and Wetland Sensitivity are also pertinent to a review of potential impacts, and can be found in the Taashuyee-Chookan.ani report.

Crossing Site--	Mendenhall Pen.		Sunny Pt E and W		Vanderbilt		Twin Lakes		Salmon Creek	
Assessment Area--	W River	Scoter Bay	Sunny Pt.	Peatland Pt W	Sit Ku Heen	5 Mile	Twin	Neilson	Salmon Ck	Falls Ck
WESPAK-SE overall	10.98 H	8.36 H	10.17 H	8.56 H	9.99 H	9.31 H	8.30 H	8.69 H	7.13 H	7.61 H
(vegetated tidal)										
waterbird feeding	10 H	10 H	10 H	10 H	10 H	10 H	10 H	10 H	9.71 H	10 H

Questions Regarding the JDNC PEL Study's Wetlands Analysis

1. Knowing that DOWL's wetland assessment report is demonstrably inaccurate, will DOT&PF order new functional wetland assessments during the preparation of an EIS?

2. How will DOT&PF ensure that information about the alternatives' relative impacts to wetlands and waters of the US is prepared accurately by qualified wetland scientists who are trained in the tools they are using?

Public Comment Period

The short time frame of the public comment window undermines and weakens the public process that a PEL study is intended to exemplify. It is ironic that a PEL process that has taken more than three times as long as originally planned - three and a half years rather than one year - would limit the opportunity for both reviewing agency and public input on the final results to three weeks.

Even as a team of professional scientists and natural resource managers with deep involvement in the second crossing process, collective years of expertise and background knowledge, and a direct stake in the outcome of the decision, we are challenged to meaningfully address each point of the 120-page Draft and accompanying literally thousands of pages of appendices in a three-week comment period.

It is doubly challenging given that **DOWL has failed to respond to a single point raised in the technical analyses and detailed comments we have submitted since 2023**, or to have addressed the issues we identified more than a year ago in the current Draft. We are not unique in this: several state and federal agencies who submitted technical analysis and comments since 2023 have also been met with silence and zero follow-through. That is why, with this summary, we are re-submitting our 2024 comments as well as our Taashuyee-Chookan.ani Wetland Assessment Report, which we intend to be published in its entirety with the final JDNC PEL Study Report.

Outstanding Concerns

- The JDNC PEL Study has failed to adequately consult with technical experts from resource agencies on key work products prior to integrating those work products into the screening and analysis for the study. This has been the case for all levels and phases of this preliminary study

over the last three and a half years. **As a preliminary study, the JDNC PEL Study has been a profound waste of time, taxpayer money, and expert resources.**

- "Avoid, minimize, and mitigate negative impacts to the environment" should be a core goal of the PEL Study rather than an "additional goal". **Subjugating the environmental considerations of a second crossing has allowed DOWL to sideline and dismiss practical discussions of the relative impacts of each alternative and the substantial challenges in mitigating those impacts.**

- The JDNC PEL Study has produced sub-standard surveys and reports on regulated subject matter – including impacts to wetlands, impacts to fish habitat, impacts to eelgrass, and impacts to protected species such as eagles and salmon – without thoroughly vetting the survey protocols or explaining how these reports would be "rolled into" a future NEPA process. The fundamental flaws of DOWL's reports have been articulated in hundreds of pages of agency and stakeholder comments from experts in that regulated subject matter. **This PEL Study should not be incorporated by reference into an EIS.**

- The JDNC PEL Study has not adequately addressed the potential mitigation needs for any of the alternatives, either the ones affecting SEALT mitigation sites (requiring re-permitting of the existing permit for the Juneau International Airport and other area 404 permits) or the alternatives simply affecting new special aquatic sites. **SEALT remains available to consult with the PEL Study team or DOT&PF on mitigation options, and encourages DOT&PF to comprehensively analyze the mitigation requirements and expense for each alternative.**