



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

OFFICE OF THE COMMISSIONER

550 West 7th Avenue, Suite 1400
Anchorage, AK 99501-3561
Main: 907.269.8431

April 25, 2022

Susanne Fleck-Green
Superintendent, Lake Clark National Park and Preserve
National Park Service
240 West 5th Avenue, Suite 236
Anchorage, AK 99501

Re: Notice of Trespass and Order to Quit
Crescent Lake Ranger Station Dock, Lake Clark National Park and Preserve
Dock Located (Approximate) at 60.3593 N, 152.8595 W

Ms. Fleck-Green:

The submerged lands below the ordinary-high-water mark of Crescent Lake that are located within the borders of Lake Clark National Park and Preserve (LCNPP) belong to the State of Alaska pursuant to the Equal Footing Doctrine of the United States Constitution, *U.S. Const. art. IV, § 3, cl. 1*, the Federal Submerged Lands Act, *43 U.S.C. § 1301 et seq.*, and the Alaska Statehood Act, *72 Stat. 339, Pub. Law 85-508 (1958)*. Any use of state-owned submerged lands and/or waters flowing over them that exceeds generally allowable uses defined by 11 AAC 96.020 requires the Alaska Department of Natural Resources to permit or authorize such use pursuant to constitutional, statutory and administrative mandates. *See, e.g., AS 38.05.020 & 38.05.035*. Construction of a dock on state-owned submerged lands is not a generally allowable use and requires a permit pursuant to state law.

Failure to comply with such permitting requirements constitutes a violation of 11 AAC 96.145, and DNR is authorized to proceed with any action available for enforcement and remedies, including a civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The damages available under a civil action include compensatory and treble damages, and DNR is authorized to require remediation of any violation as a condition of any new authorization under AS 38.05.035 or 38.05.850, or to begin remediation and provide security under 11 AAC 96.060 to complete the remediation before any new authorization. If a person who applies for a new authorization under AS 38.05.035 or 38.05.850 has previously been responsible for a violation of this chapter, whether remedied or unremedied, that resulted in substantial damage to the environment or to the public, DNR will consider that violation in determining the amount of the security to be furnished under 11 AAC 96.060 and may require the applicant to furnish three times the security that would otherwise be required.

The National Park Service (NPS) or its agents have constructed a dock on the submerged lands of Crescent Lake in proximity to its NPS Ranger Station. The approximate location of this dock is 60.3593 N, 152.8595 W. DNR has reviewed casefiles in the area and has not received an application or issued a permit or other authorization allowing the construction or use of this dock.

You are hereby notified that this dock is unauthorized; constitutes trespass; and has been officially placed in trespass status to initiate proceedings for its removal from state land. You are hereby ordered to quit use of this dock and to remove it and any associated personal property within 30 days following receipt of this notice served by certified mail. All unauthorized property or other items not properly removed may be disposed of at the discretion of DNR, and NPS may be charged for the removal of any of abandoned property or litter on state lands. See 11 AAC 96.145.

Approximately one year ago, we reached out to you via written correspondence along with all other NPS Superintendents in Alaska and national leadership of the Department of the Interior seeking your cooperation in identifying infrastructure that has been built on state submerged lands within the borders of NPS areas statewide. We indicated our willingness to work with NPS to bring all unauthorized infrastructure on state submerged lands into compliance with state law. Since that date, we have received no applications or inventory of unauthorized structures and have seen no effort whatsoever to comply with state law by NPS regarding structures and infrastructure built on state submerged lands. Sadly, this lack of cooperation and consultation and this lack of respect for state law has led us to this notice of trespass.

Even at this late hour, however, we remain willing to work with NPS to bring unauthorized infrastructure on state submerged lands into compliance with state law. Please contact me to discuss the contents of this letter and further actions needed to achieve compliance. Please also contact the Southcentral Region Office of DNR's Division of Mining, Land and Water to begin the process to remove the dock at issue from trespass status:

Southcentral Region Office
550 W. 7th Ave., Suite 900C
Anchorage, AK 99501
(907) 269-8503

The State of Alaska shall view any failure by NPS to remove its encroaching infrastructure or obtain a state permit as an assertion of federal ownership of the state's submerged lands; accordingly, this Notice of Trespass and Order to Quit will serve as a 180-day notice of the state's intent to file suit under the Quiet Title Act.

Sincerely Yours,

A handwritten signature in blue ink, appearing to read "Corri Feige".

Corri Feige, Commissioner
Alaska Department of Natural Resources