

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LAND AND WATER MANAGEMENT
POLICY AND PROCEDURE MANUAL

CHAPTER 5121 Management Planning

SECTION 09 Interagency Land Management Assignments

6/12/84

- 1.1 This section addresses interagency land management assignments (ILMA's) to other state agencies. Authority for ILMA's is found in AS 38.05.020(b)(4), .020(2), .027(a) and .030(b). Authority for periodic review of ILMA's is found in AS 38.04.060(b). 11 AAC 71.015 discusses material requested by other state agencies.
- 1.2 This section reflects a significant departure in the way the division regards ILMA's; therefore it applies only to those ILMA's for which final findings have not been signed by January 9, 1984. Other ILMA's will be integrated into this system or reissued as "315" leases or other management documents at the next five year review.

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- 2.1 An "interagency land management assignment" (ILMA) is the document used to assign management authority on state lands from this division to other state agencies authorized to hold and manage lands and other divisions of DNR. An ILMA is issued in order to further a specific management objective, usually one that requires the expenditure of state funds for intense management practices or the physical improvement of the land. An ILMA can be considered a grant or dedication of state lands for a specific purpose, to be managed by another state agency for a definite or indefinite time frame. Typical uses of an ILMA are for airports, improved public recreation sites with appropriate buffers and screening areas, public buildings (including DLWM facilities), and other real property needs of state agencies authorized to hold and manage lands. Interagency land management transfer (ILMT) is an obsolete term now replaced by ILMA.
- 2.2 An "OSL" designation on a plat indicates "Other State Land." This land was acquired by the state through some means other than statehood entitlement, such as gift, purchase or reversion. OSL lands used by state agencies shall be covered by an ILMA, lease, permit or other conveyance document.
- 2.3 A "management right" casefile is routinely created whenever the department is notified that another state agency has acquired land through the exercise of its statutory authority. LSH (Limited State Holding) or OSL may be used as a status plat designation. Pursuant to AS 38.05.030(c), every state agency (including the University of Alaska) is required to give written notice to DNR within three months after it enters into the lease, acquisition, or exchange. ILMA's, leases, and permits are not normally issued on lands within a management right casefile. DOTPF may acquire and dispose of property under AS 02.15.060 and .070; AS 19.05.040(2), .080 through .120; AS 35.05.040; and AS 35.20 (except where AS 35.20.070 applies) without OSL designation, management right casefile creation or other DNR participation.
- 2.4 "Lease" in this section refers to a lease under AS 38.05.315 to a state agency.
- 2.5 "Assignee" refers to the agency to which an ILMA is issued.

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- 3.1 An ILMA assigns (see paragraph 3.5) the authority to another state agency to manage a parcel under their statutory and regulatory authorities. Therefore, an ILMA may only be issued if a state agency has the authority to hold title to and manage land. A broad definition of this authority shall be used.
- 3.2 If an agency has acquired land through the exercise of its statutory authority and no OSL designation is used, it has the primary management responsibility for the parcel. That authority is noted on the status plat by the management rights designation. No ILMA is issued. However, subject to AS 38.05.030(d) and AS 35.20.070, once the parcel is no longer needed for its intended use, jurisdiction is transferred to DNR, except when the acquisition authority or title conveyance document reverter causes different procedures to apply.
- 3.3 This division, subject to the terms and stipulations of the ILMA document, does not retain management authority over the parcel for any activity not noted in the document until the assignee notifies us that the parcel is no longer needed for its intended use, the ILMA is cancelled for non-use, violation of stipulations, reservations or terms, or expiration of the ILMA. ILMA land descriptions may contain reservations (with cancellation clauses) and the ILMA document may contain stipulations which limit the authority of the assignee or grant specific authority to DNR or others.
- 3.4 This division may reduce the size of the parcel under assignment if review of the development plan indicates that the parcel is not being fully utilized (AS 38.04.060(b)). The development plan and document stipulations will be used to determine the extent of the assignee's land needs. Open space, buffers and areas that are included in the development plan that support the use of the ILMA are considered as "fully utilized". The assignment may also be revoked if the funds for intensive management practices or physical improvement to the land are not appropriated within a specified period (usually 10 years) of time after the ILMA is executed.
- 3.5 Public Notice Requirements:
 - A. An ILMA only assigns management authority over state land. However, because an ILMA is a long-term commitment of state resources under AS 39.05 to some other statutory authority, findings under AS 38.05.035(a)(14) and public notice pursuant to AS 38.05.345 are generally necessary.
 - B. Public notice and any necessary public hearings shall be accomplished by the applicant or assignee. The applicant's notice includes specific reference to the use of an ILMA issued by DNR. The district provides sample notice formats, upon request, and provides necessary assistance to the applicant.
 - C. If the management or area plan, classification order, or other anticipated management action recommending ILMA has had public notice; then no further notice is required.

- D. The review and notice requirements are waived if the ILMA is for facilities constructed or funded under the federal lease or permit before the state acquired TA.
 - E. After issuance, any substantive amendment to the ILMA should be publically noticed.
 - F. Additional notice may be conducted at the discretion of the district manager.
- 3.6 As a part of the application, the requesting agency must cite its statutory and regulatory authority to hold and manage state land.
- 3.7 If an agency does not have the necessary authority to hold title to and manage state land, a lease under AS 38.05.315, not an ILMA, must be issued. A Department of Fish & Game temporary site, not to be covered by a permit, is routinely issued a lease. A "315" lease may also be issued to the Department of Transportation and Public Facilities or other agencies if requested by the applicant or if the district manager finds it necessary that the land continue to be managed under AS 38.05.
- 3.8 During the construction phase of a road, airport or other public facility; agency land and resource requirements are met with material sales, public use permits, or ILMA for the lands occupied by the facility. An ILMA is used for any long-term on-site maintenance material needs incidental to the use of the facilities. The ILMA must be amended upon completion of the as-built survey and determination of long-term land requirements. The stipulations of the ILMA will control the specific requirements and deadlines for the case.
- 3.9 ILMA Purposes:
- A. The applicant agency must submit a plan describing the intended use of the parcel; the types of activities expected to take place; and the provisions for, or restrictions to public access. The plan also includes a schedule of when development or intensive management is expected to occur. A mining and site restoration plan should be prepared for material sites. No specific format is specified for the plan. The plan is issued to assist this division in making its decision about compatibility of the proposed use with other existing and proposed land uses and shall be attached to and made a part of the ILMA document. The plan must be kept up to date (see paragraph 4.3C).
 - B. An ILMA may be issued in anticipation of construction fund receipt or for buffers and open space (such as islands and greenbelts) when justified or recommended by an approved management or area plan or a land planning report written for a classification order. When all other uses are not to be

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excluded or when intensive management or development is not anticipated, then classification (habitat, public recreation, reserved use, green belt, material, etc.) may be more appropriate than an ILMA.

- C. An ILMA must not be used to "hold" lands for possible exchange or other purposes, particularly when other methods of getting status plat notations (exchange application, etc.) are more appropriate.
- 3.10 If AS 38.95.160 applies to the improvements authorized by the ILMA, a survey plat filed in the appropriate recording district is required. If AS 38.95 does not apply, the district manager may require a survey if the area is congested with other land uses or if survey is required to accurately locate the parcel in question. Any survey costs are borne by the applicant or assignee.
- 3.11 It is not necessary that land under ILMA be classified. However, if the land is classified, the proposed use of the parcel must be compatible with the classification or any adopted land use plan.
- 3.12 All ILMA's contain a cancellation clause for non-use and a reference to the review of ILMA's required under AS 38.04.060(b). The cancellation clause requires cancellation for non-use or abandonment within 60 days of notification to the commissioner by the appropriate office of the agency to which the ILMA is issued.
- 3.13 In order to clarify the application of the ILMA, the following guidelines apply:
- A. If the ILMA application specifically requests use of the land for a materials source, the ILMA document remains unaltered. Note: Most material sites require a material sale, not an ILMA.
- B. If the ILMA application is for anything other than a material site, the underlined portion of Attachment A is deleted (x'd out) on the form and a clause prohibiting use of the subsurface estate or any materials on the site unless specifically authorized is included as part of Exhibit "A" to the ILMA document. This attachment also includes other standard terms of the ILMA.
- C. If clearing timber on the site is required, a clause, stating that any useable or merchantable timber shall be made available to the public and that the Division of Forestry must be consulted in the matter, is included in the attachment.
- 3.14 With the district manager's approval, the agency may enter on the land for construction purposes after the preliminary decision (with agency review) has been signed. Procedures similar to PPM 5120.00-3.19 apply.

3.15 ILMA Transfers:

- A. ILMA's are not transferable or assignable. Subleases and other assignment of property interest is not permitted, unless specifically authorized by the ILMA document. Some anticipation of the future needs of the assignee must be considered, such as cooperative agreements with other agencies, the private sector, or with non-profit groups to further the purposes for which the ILMA was issued. Specific mention of the acceptability of special contracts, concession agreements, or other types of service agreements affecting the ILMA should be included in the development plan, the special stipulations, or otherwise made a part of the ILMA document. The other state agency (assignee) may not convey material to a third party from an ILMA, pursuant to 11 AAC 71.015. ILMA's may be amended upon application and appropriate notice, survey, and processing.
- B. If transfer of an ILMA is requested by the assignee, a new ILMA or other document is applied for and the old existing ILMA closed. Similarly, the creation of third-party interests is not authorized unless specifically stated in the ILMA document.

3.16 ILMA's are issued for a specific term:

- A. If no specific development plan, construction schedule, or project funding is available; a 5-10 year term is appropriate.
- B. A 25 year term is appropriate if no major capital development/facilities construction is anticipated, such as in public recreation areas.
- C. A 55 year term is merited for lands involving major capital expenditure, such as airports and buildings. Consideration may be made of an ILMA with an indefinite term, with a reverter in the stipulations.
- D. ILMA's may be extended for a like term without public notice upon review by the district manager. Extension is accomplished by an amendment to the ILMA signed by the director, approved by the Commissioner, and sent to the assignee by certified mail. ILMA's are not limited to a one time only extension, unless otherwise provided in the ILMA itself.
- E. Assignees may be required to file periodic Notices of Continued Use with the Division of Land and Water Management. When required, a specific stipulation outlining what must be done is included in the ILMA attachment (see General Stipulation samples).

4.1 ILMA Decision Table

<u>Activity</u>	<u>Preferred Action</u>
State primary-secondary highway right-of-way	Easement
Airport runway and supporting facilities	ILMA or "315" lease ¹
Building sites	ILMA ²
Material sites (gravel, sand, etc.)	Sale ³
Public access ⁴	Easement
Right-of-way and facilities	Easement ⁵
APA hydroelectric structural facilities	ILMA ²
Hydroelectric project impoundment area	Easement, classification ⁵
State agency temporary research sites	ILMA or "315" lease
Non-state agency research sites	Lease issued by DLWM
Game refuges & sanctuaries - less than 640 acres, not legislatively designated	Classification ⁶
Public recreation areas (improved), not legislatively designated, including open space and buffers	ILMA ⁷
Possible exchange lands	Exchange application
School site not leased to others	Lease
REAA or local school district school site	Lease or sale
State public facilities and institutions: jails, hospitals, etc., not leased to others	ILMA
Municipal public facilities and institutions	Lease or sale
State constructed project with eventual ownership or management by others - hospital, port or terminal facility, etc.	Lease or sale
Watershed lands	Classification ⁸

1. Airport ILMA is used for the actual surface land needs for the facility. The avigation easement is an easement. The ILMA specifies what authority is granted to sublease or partially assign interest in airport property. **All third party interests are strictly defined.**
2. State-owned office buildings, shops, warehouses, fish hatcheries and other permanent ADF&G sites, dam powerhouses, etc., including short-distance access roads and drive-ways. A "315" lease may also be used for these sites. Long-distance public access provided by easement.
3. ILMA when long-term need for highway, airport, or public facility maintenance purposes or when a scarce material source justifies an ILMA.
4. ADF&G stream easements, facility access, etc.
5. ILMA for facilities, if needed.
6. ILMA when all other uses excluded (rare).
7. Recreation interest only, subject to development plan.
8. "315" lease when intensive management is needed; municipalities should consider municipal entitlement selection of watershed lands if classification unacceptable.

4.2 The following procedures are used to issue an ILMA:

- A. The requesting agency initiates the process by sending a letter application signed by its commissioner or designee to the appropriate district. At a minimum, the application must contain:
1. A legal description of the property and the total number of acres.
 2. Identification of the specific objective and agency needs for which management is requested.
 3. A scale drawing of the parcel showing the approximate location of existing and proposed improvements including gravel pads, utility lines, trails, and fences.
 4. A management plan of the parcel, stating how the agency proposes to manage the site. A development, design, or project plan with graphic depiction of proposed land use should be submitted. A mining plan or site restoration and reclamation plan may be necessary too. No specific form of plan is specified.
 5. The specific statutory and regulatory authority held by the agency to hold title and manage land.
- B. The district adjudicator reviews the application for completeness and confirms that the parcel is unencumbered state land. An ADL/LAS number is assigned, LAS forms are sent to DTS for status plat notation, and necessary computer data entry is accomplished. A Title Report should be requested from DTS.
- C. The district adjudicator thoroughly researches the status of the parcel. If appropriate, plans or classifications are amended. If the application is a part of a public facility capital construction project, all relevant aspects of the project should be adjudicated as a package.
- D. Interagency review is initiated. The clearing of large amounts of timber are coordinated with the Division of Forestry.
- E. The district adjudicator and a representative of the applicant agency field inspect the site to identify any unauthorized improvements and to ascertain its suitability for the proposed use. Anticipated future property requirements and restoration plans should be discussed and verified at the site.
- F. A preliminary decision is reached. The preliminary decision should recommend the term of the ILMA and any reservations or stipulations. It should also discuss other aspects of the total project, such as construction and long-term maintenance material requirements.

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- G. The public is notified by the applicant, if possible, of the proposed assignment as described in AS 38.05.345. (See non-competitive sale, lease or other disposal, PPM 5800.06-4.1.) If public notice was accomplished by the applicant, documentary evidence is evaluated to determine if substantial compliance of "345" was accomplished.
 - H. If it is necessary to survey prior to the assignment, survey instructions are sent to the requesting agency or its contract surveyor.
 - I. The final finding pursuant to AS 38.05.035(a)(14) is signed by the District Manager and the district prepares an original and one carbon copy of the ILMA document and any attachments. District sends the documents to the central office for review prior to signature by the director or delegate. The documents and file are then routed to the Contract Administration Unit (CAU). CAU obtains the assignee's, director's, and Commissioner's signatures.
 - J. The case file with both copies of the ILMA are returned to the district. District sends the original copy of the executed document to the assignee by certified mail and enters LAS computer data information. The case file is retained by the district.
- 4.3 When an application is received for land assigned to an agency under an ILMA, the applicant is referred to the assignee unless the stipulations of the ILMA allow DLWM the specific authority to act.
- 4.4 When it is time for the periodic review or renewal of the ILMA, the district proceeds as follows:
- A. The assignee is informed of the review and is asked to review its use of the ILMA.
 - B. The district also reviews the ILMA to determine whether the development or management practices are proceeding on schedule, whether the changing land use patterns indicate that the site is no longer needed, or whether the parcel is being fully utilized.
 - C. The site is jointly inspected by representatives of the district and the assignee.
 - D. The representatives of the district and the assignee meet to resolve any conflicts.
 - E. The district sends the assignee copies of the filed report and the summary of the meeting held under D. Copies of these documents are also retained in the case file. LAS computer entry of field inspection should occur using "Comments" Transaction.

- 4.5 Section 906(1)(2) of ANILCA (PL 96-487) provides that "Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the U.S. ... except those reserved in the TA". The following procedure is used when the ILMA is used to authorize improvements funded or constructed when the land was under federal permit or lease before the land was TA'd to the state:
- A. Thirty days before tentatively approving state land selections, BLM routinely sends a package of documents to DNR and to other state agencies of record. This package includes the draft tentative approval, the administrative record decision, and copies of federal grants that will be merged with the state's title.
 - B. At least ten days before the date set for tentative approval, the state agencies of record notify the Chief, Land Management Section, of any tracts which they desire to segregate by ILMA. The state agencies involved must present a legal description of the land, a statement that public funds have been spent or have been committed for improvements, and a citation of their statutory and regulatory authority to hold title to and manage land.
 - C. The Chief, Land Management Section, requests an ADL/LAS number from the appropriate district and requests that the ILMA application be added to the DTS land record. Priority assistance may be requested from a district if necessary to confirm the presence of improvements.
 - D. The Chief, Land Management Section prepares a finding that the state agency has complied with paragraph 4.4B. One original and one carbon copy of the ILMA document is prepared.
 - E. The director and commissioner execute the ILMA on the date of the (final) tentative approval.
 - F. The carbon copy of the ILMA is retained in the casefile and the original copy is forwarded to the assignee by certified mail. The central office Land Management Section then completes necessary LAS forms and computer entry and routes the completed file to the appropriate district for case file maintenance.
 - G. The district adds the information to its tickler system.
 - H. Other federal permits or grants which are merged with title at the time of tentative approval may be continued as ILMA's or as leases under AS 38.05.315 upon application by the agency and processing through normal channels.

Example: 'Attachment "A"' (General Stipulation samples)

**(Example for illustrative purposes only, do not reproduce.
Not all stipulations will apply in each case.)**

ATTACHMENT "A"
INTERAGENCY LAND MANAGEMENT ASSIGNMENT, ADL _____
STIPULATIONS

1. The term of this assignment will expire at midnight _____, unless extended by the Director, Division of Land and Water Management or his delegate.
2. This assignment is subject to all platted easements, rights-of-way and reservations of record; further, this assignment is subject to _____ ADL _____, Right of Way Permit ADL _____, and _____ ADL _____. Additional easements may be dedicated or granted by the Division of Land and Water Management with the written concurrence of the assignee.
3. This assignment is subject to cancellation in whole or any part within sixty days upon written notice to the assignee for non-use, abandonment or use in nonconformance with the development plan, attached as Attachment B.
4. The assigned lands are subject to review or inspection by the Division of Land and Water Management during the term of this assignment for possible utilization other than for the purpose assigned when considered in the best interest of the state, or to determine compliance of the assignment stipulations and conformance with the development plan.
5. This assignment does not authorize the use of the subsurface estate or any materials on the site unless specifically authorized by these stipulations, included in the development plan, attached hereto and made a part of this document, or authorized in writing by the Division of land and Water Management.
6. If clearing timber on the site is required, clearing will be conducted only in accordance with the development plan and any useable timber shall be made available to the public. Coordination with the Division of Forestry, DNR, must be made prior to any clearing of timber.
7. The assignee is granted the authority, consistent with state law and the development/project plan (attachment B), to create third party interests in the form of leases, permits and agreements for (insert appropriate descriptive terminology such as "highway," "airport and direct aviation related," etc.) purposes within the term of this assignment, without the written concurrence of the Division of Land and Water Management. Said leases, permits, and agreements shall not survive the expiration, relinquishment, or termination of the ILMA herein granted.

Example: Specific stipulations

(Example for illustrative purposes only, do not reproduce)

- Only the recreational interest of the subject property is hereby assigned. All development and management of the subject property will be for park and public recreation purposes as prescribed by the development plan, attached to and made a part of this assignment. Any changes to the development plan; and any leases, long-term permits; or assignments of interest in whole or any part by the assignee; will be authorized by the Director, Division of Land and Water Management, or delegate.
- The purpose of this assignment is to authorize construction of the public facility and appurtenant improvements described by the project plan, Attachment "B". Upon completion of construction, but not later than _____, an acceptable as-built survey will be completed by the assignee and submitted to _____. The assignment will be amended to include those lands actually utilized by the project and needed for permanent maintenance.
- Pursuant to A.S. 38.04.060(b), this assignment is subject to review every five years by the Division of Land and Water Management for possible utilization other than for the purposes assigned when considered in the best interest of the state. The assignee must file by certified mail, return receipt requested, or equivalent, a Notice of Continued Use with the Division of Land and Water Management not later than December 31st of every fifth year that this assignment is in force. Failure to file the notice shall be construed as non-use/abandonment and cause immediate cancellation of the assignment.
- This assignment is issued in anticipation of eventual tentative approval of the subject lands and merger of title for all permits and grants authorized or issued by the federal government. Upon receipt of tentative approval or title conveyance, this assignment will continue to be effective between this division and the assignee until expiration.
- Pursuant to 11 AAC 71.015, the assignee shall not sell; transfer; or donate material including gravel, sand, rock, or peat; to a third party except as necessary to construct and maintain the facility when materials are used within the confines of this assignment.