

Coordination & Public Notice

A. Upland Owner Participation. For activities on tidelands or submerged lands, this guideline provides a degree of deference to adjacent upland owners' preferences without delegating control over state land-use decisions. It also places the burden of responsibility for evaluating alternative sites on the applicant.

An application for tideland facilities (including floathomes) adjacent to private, CBJ, or federal land may be approved if the application meets the other guidelines of this plan, and the department receives no objection from the upland owner.

If the upland owner objects, the applicant must demonstrate to the satisfaction of the department that there is no feasible and prudent alternative site. A feasible and prudent alternative site is one that the department, in consultation with the applicant, finds physically suitable, that meets the guidelines of this plan and other permit requirements, and has no objection from the upland owner. If no feasible and prudent alternative site has been identified, the department will adjudicate the application considering at least the following:

1. the effectiveness of site design and operating stipulations to minimize or eliminate the objection; and
2. the magnitude of the impacts, including but not limited to monetary cost, changes to present or expected land management, and trespass. Conviction for trespass or unauthorized use of adjacent land related to the activity authorized on state land may be cause for revocation of the permit or lease.

B. Permission of Upland Owner. Tideland authorizations will not be approved for activities that use the uplands, including for shoreties, until the applicant has applied for the upland owner's permission. Copies of the applicant's request to the upland owner must be submitted to DNR. Alternatively, the applicant may show how all necessary housing, warehousing, processing, and other uses will be accommodated on the tidelands.

1. If Upland Support is Essential. If upland support is essential to the project's success, and DNR is ready to authorize the activity before the upland owner's permission is obtained, DNR should hold the authorization pending that permission.

2. If Upland Support is not Essential. Where upland support is not essential to the project's success, DNR may authorize the use with the stipulation that activities requiring upland support will not begin until the applicant notifies DNR that the upland owner's permission has been obtained. For example, where a facility can use either anchors or shoreties, it may be authorized with the provision that shoreties will not be used without the upland owner's permission.

If the upland owner denies or cancels an authorization for upland support, the permittee will notify DNR and DNR may modify or cancel the tideland authorization, based on an evaluation of the circumstances. DNR will notify the upland owner if DNR cancels the authorization.