

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTHCENTRAL REGIONAL LAND OFFICE

PRELIMINARY DECISION

ADL 233747

Alaska Department of Military and Veterans Affairs

Application for Lease

AS 38.05.810(a)

This Preliminary Decision (PD) is the initial determination on a proposed disposal of interest in state land and is subject to comments received during the public notice period. The public is invited to comment on this PD. The deadline for commenting is **5:00 PM February 8, 2021**. Please see the Comments section of this decision for details on how and where to send comments for consideration. Only the applicant and those who comment have the right to appeal the Final Finding and Decision (FFD).

Proposed Action:

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) has received a request from the Alaska Department of Military and Veterans Affairs (DMVA) to lease 0.041 acres of land, more or less, for 10 years for the purpose of a communication site located in Soldotna, Alaska. The location of the project area is further described as being within the SE1/4 of Section 31, Township 5 North, Range 10 West, Seward Meridian, Alaska. DMVA is proposing to use this site for the continued operation, and maintenance of a communications tower and associated structure.

SCRO is considering the issuance of a 10-year lease to DMVA for the operation and maintenance of a communications tower and associated structure.

Scope of Review:

The scope of this decision is to determine if it is the State's best interest to issue ADL 233747.

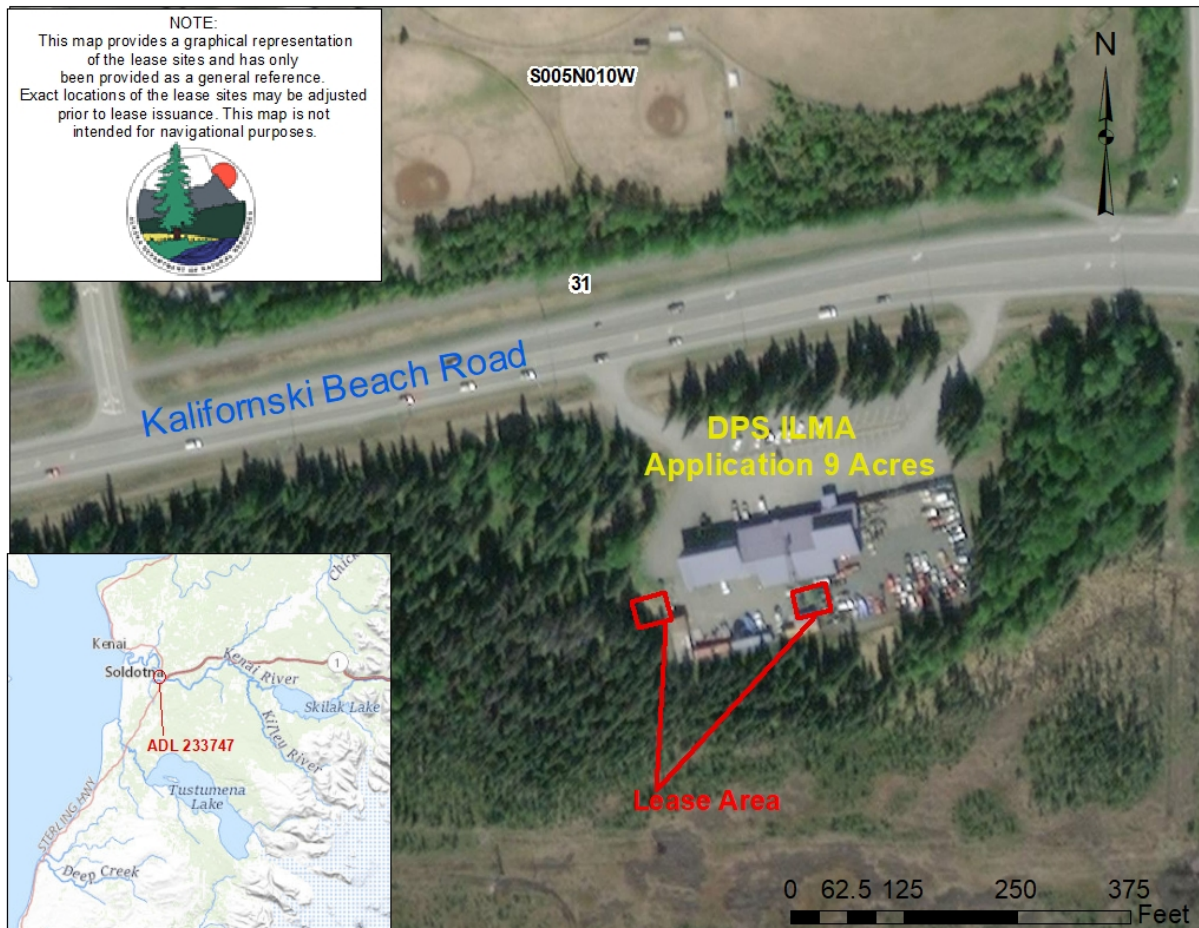


Figure 1: Overview Map of Project Area

Authority:

This lease application is being adjudicated pursuant to AS 38.05.035(b)(1) and AS 38.05.035(e) Powers and Duties of the Director; AS 38.05.810(a) Public and Charitable Use; and AS 38.05.945 Notice.

The authority to execute the PD, FFD, and the lease has been delegated to the Regional Managers of DMLW.

Administrative Record:

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced here-in, the 2000 Kenai Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as ADL 233747.

Legal Description, Location, and Geographical Features:

The state land where this proposed lease is located is described as follows:

- **Legal description:** SE1/4 of Section 31, Township 5 North, Range 10 West, Seward Meridian, Alaska
- **Geographical location:** Soldotna Alaska
- **Approximate Lat/Long:** 60° 28' 26.41" N, 151° 5' 24.68" W
- **Area geographical features:** Developed/Pavement
- **Existing surveys:** Lot 2, Plat 80-61, City of Soldotna Property No. 2
- **Municipality/Borough:** City of Soldotna/Kenai Peninsula Borough
- **Native Corporations/Federally Recognized Tribes:** Cook Inlet Region
- **Size:** 0.041 acres, more or less
- **Area Plan:** 2000 Kenai Area Plan, Region 5

Title:

The State of Alaska holds fee title to the subject land under U. S. Patent No. 50-65-0096 dated August 13, 1964. A DNR Title Report (RPT-21041) issued on July 22, 2020 from DMLW's Realty Services Section attests that aside from the usual reservations for ditches, canals, railroads, telegraph and telephone lines, and water rights.

Third Party Interests:

The lease area falls within a nine-acre parcel of State land, currently used by the Alaska Department of Public Safety (DPS) for the Soldotna Trooper Station. This area is being considered for authorization under ADL 204216, an application for an Interagency Land Management Agreement (ILMA) to DPS.

Classification and Planning:

The project area is subject to the 2000 Kenai Area Plan, Region 5, Unit 485: Soldotna State Trooper Office on Kalifornsky Beach Road, designated as Public Facilities – Retain, which converts to the classification of Reserved Use Land. The land use designation is further described in the area plan as “sites that are reserved for a specific infrastructure to serve state interests. Units designated Public Facilities-Retain will be retained in state ownership.”

This project is consistent with the classification in that it promotes development of state land in a manner that serves state interests and will be retained in state ownership.

Traditional Use Findings:

The proposed site is located within the Kenai Peninsula Borough. Pursuant to AS 38.05.830 a traditional use finding is not required.

Access:

Access to the proposed leasehold is via Kalifornsky Beach Road.

Agency Review:

An agency review was conducted on October 30, 2020. The deadline for agency comments was November 19, 2020.

The following agencies were included in the review:

- DNR DMLW - Mining
- DNR DMLW - Water
- DNR DMLW- Land Sales
- DNR DMLW Realty Services
- DNR Division of Oil and Gas
- DNR Division of Oil and Gas, State Pipeline Coordinator Section
- DNR Natural Resource Conservation and Development Board
- DNR Office of History and Archaeology
- DNR Parks & Outdoor Recreation
- Alaska Department of Commerce, Community, and Economic Development
- Alaska Department of Environmental Conservation
- Alaska Department of Fish and Game - Habitat
- Alaska Department of Fish and Game - Wildlife Conservation
- Alaska Department of Transportation and Public Facilities
- National Oceanic and Atmospheric Administration
- U.S. Army Corps of Engineers
- U.S. Coast Guard
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- Kenai Soil and Water Conservation District

DMLW received no comments on the proposed action during the 20-day agency review.

Lease Discussion:

On September 22, 2020, DMVA applied for a land lease, serialized as ADL 233747, for the purpose of operating and maintaining a communications tower and support structure to help provide emergency communication services to the Soldotna area.

The lease area falls within a nine-acre parcel of State land, currently used by DPS for the Soldotna Trooper Station. This area is being considered for authorization under ADL 204216, an application for an ILMA to DPS. This ILMA application is outside the scope of this decision.

DMVA plans to use infrastructure that is already in place on the proposed lease site. This includes a 100-foot-tall self-supporting tower and a nonpermanent 10-foot by 12-foot support shelter. DMVA applied for a 10-year lease under statutory authority AS 38.05.810(a). As a state agency, DMVA qualifies under statutory authority AS 38.05.810(a) and DMLW is considering the issuance of a 10-year lease to DMVA for the operation and maintenance of a communications tower. Issuance of a 10-year lease means a survey of the leasehold will not be required at this time in order to issue the lease, and this lease term will allow a reasonable timeframe for DMLW to review the lease in the event of future changes to the use or management of this state land.

The proposed lease will be subject to the terms of SCRO's standard lease document (available for review upon request) and any additional stipulations based, in part, upon the following consideration. The effective date of the lease will begin after the 31st day of the FFD and after any required deliverables have been received by DMLW.

Development Plan:

The Development Plan (DP) attached to this decision (Attachment A) and dated September 28, 2020 is under consideration by SCRO. Should the proposed lease be granted, it is anticipated that the DP will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by SCRO before any construction, deconstruction, replacement of infrastructure, or change in activity. SCRO reserves the right to require additional agency review and/or public notice for changes that are deemed by SCRO to be beyond the scope of this decision.

Hazardous Materials and Potential Contaminants:

A 48-volt sealed valve regulated lead acid (VRLA) battery will be located in the support shelter. This type of battery can be operated in any position and will not spill. This battery does not produce fumes and will not require any special ventilation. These batteries will not be opened during servicing and no water or acid is handled during maintenance checks of the batteries.

The use and storage of all hazardous substances must be done in accordance with existing federal, state, and local laws. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the lease site and disposed of in accordance with state and federal law.

Lease Performance Guaranty (bonding):

At this time, as a state agency, DMVA will not be required to submit a performance guaranty.

- **Reclamation Bond:** SCRO is reserving the right to require a reclamation bond due to noncompliance issues during the term of the lease or near the end of the life of the project.

Insurance:

At this time, as a state agency, DMVA will not be required to submit proof of insurance.

Survey:

In accordance with AS 38.04.045, this short-term land lease does not require a survey. However, the State of Alaska reserves the right to require one in the future, should the need arise due to changes in statutes or increased use of the area. The applicant will be required to submit GPS coordinate points for the leased area.

Compensation and Appraisal:

Because DMVA is a state agency, no lease fee will be charged. Additionally, the lease will serve to bolster the emergency communication services in the area which is in the state's best

Subleasing:

Subleasing is permissible through AS 38.05.095, if the proposed lease is approved. A sublease is defined as improvements not owned by the lessee that are located within the leasehold on the land or located on structures owned by the lessee. A sublease pertaining to the proposed lease includes but is not limited to, user agreements, license agreements, communication site agreements, or any contracts between the lessee and other commercial entities. All potential subleases must first be approved in writing by DMLW. Depending on the activity of any potential subleases, DMLW is reserving the right to reevaluate the need for further agency review and/or public notice before making a determination on the appropriateness of the proposed sublease. Sublease compensation to the State will be determined by DMLW according to AS 38.05.073(m), under the authority of AS 38.05.075(a) Leasing Procedures. In any case, the sublease fee for commercial activities will not be less than 25% of the annual fee paid to leaseholder by the sublessee.

Assignment of Lease:

The proposed lease, if issued, may be transferred or assigned to another entity that qualifies under 38.05.810(a) only with written approval from the DNR DMLW. A lease will not be assigned to an entity if that entity does not meet the statutory requirements of the lease, or if the lessee is considered not to be in "good standing" with this or any other agency authorization. DMLW reserves the right to amend the terms of the lease prior to assignment.

Reclamation:

In accordance with AS 38.05.090(b), all lessees must restore their lease site to a “good and marketable condition” within 120 days after termination of the lease. What level of reclamation constitutes as being “good and marketable” is at the discretion of SCRO.

Public Notice of the Preliminary Decision:

Pursuant to AS 38.05.945, this PD will be advertised for 30-day public comment period. Notice will be posted on the Alaska Online Public Notice System at <http://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and the post offices located in Soldotna and Kenai. Courtesy notices will also be mailed or emailed to neighboring property owners, permit/lease holders, and other interested parties on January 8, 2021 for a 30-day public comment period.

Comment(s):

This decision is subject to both public and agency comments, and all written comments received by the comment deadline will be considered in the FFD. Only those who timely provide written comment, and the applicant have the right to appeal the FFD.

**Written comments about this project must be received in this office no later than
5:00 PM on February 8, 2021 to be considered.**

To submit comments, please choose one of the following methods:

Postal: Department of Natural Resources
Division of Mining, Land and Water
Southcentral Region Office
ATTN: Todd Derks
550 West 7th Avenue, Suite 900C
Anchorage, AK 99501-3577
Email: todd.derks@alaska.gov
Fax: (907) 269-8913

Questions about the lease portion of this project can be directed to Todd Derks at (907) 269-8479.

If public comments result in significant changes to the Preliminary Decision, additional public notice will be given. To be eligible to appeal the Final Finding and Decision, a person must provide written comments during the Preliminary Decision comment period per AS 38.05.035(i)-(m).

Signature page follows

Recommendation:

DMLW has completed a review of the information provided by the applicant, examined the relevant land management documents, and has found that this project is consistent with all applicable statutes and regulations. SCRO considered three criteria to determine if this project provided the best interest to the State and the development and enjoyment of its natural resources. The criteria include direct economic benefit to the State, indirect economic benefit to the State, and encouragement of the development of the State's resources. This authorization provides a direct and indirect economic benefit to the State and the development of the State's resources as it will use state land to provide emergency communication services. It is recommended that SCRO issue a 10-year lease to DMVA.



1/7/2021

Todd Derks, Natural Resource Specialist II

Date

Southcentral Regional Land Office, Division of Mining, Land and Water

Preliminary Decision:

It is the determination of the Division of Mining, Land and Water that it may be in the State's best interest to issue a land lease under AS 38.05.810(a) for 10 years to DMVA, as described above. This Preliminary Decision shall now proceed to public notice.



1/7/2021

Samantha Carroll, Regional Manager

Date

Southcentral Regional Land Office, Division of Mining, Land and Water

Attachments

Attachment A – Development Plan

Attachment A Development Plan

Soldotna AST Telecommunication Site Development Plan

Legal Description – Lot 2, Block 80-6, Meridian Seward, Township 5 North, Range 10 West, Section 31

Acres SE 1/4 , Municipality City of Soldotna.

The location is 46333 Kalifornsky Beach Rd. Soldotna Alaska 99669.

Google earth coordinates: Lat: 60°28'26.71"N Long: 151° 5'21.97"W

Google earth elevation: 93 ft

Soldotna AST operates in the big building next to our site.

Terrain/Ground cover – The terrain is flat with gravel and light brush and few vegetation.

Access – The site is inside a fenced Yard with gated access. The yard can be access by in a vehicle in summer and winter.

Buildings and other structures – The shelter currently on site is a communication shelter (10x12) is nonpermanent in that the foundation is integral with the shelter and the unit is just placed on the ground. There is a 100' tall self-supporting tower. Under the tower is a concrete slab foundation.

Power Source – Electrical power is from Homer Electric Association at the site; Plus, the backup generator owned by Soldotna AST that starts automatically during a power failure.

Waste type, waste sources and disposal methods – The only waste from the sites is a small amount of

trash. All waste is removed from the sites as it is created.

Hazard substances – There is a 48-volt sealed valve regulated lead acid “VRLA” battery plant in the telecommunications shelter. This type of battery can be operated in any position and will not spill. They

do not produce fumes and do not have any special ventilation requirements. These batteries are not

opened during servicing and no water or acid is handled during maintenance checks of the batteries.

Water supply – No water supply is required for operation of the site.

Parking area and storage areas – At this site there is a parking lot next to the site that is used by AST we

can short-term park a vehicle there while doing work and no storage areas are required.

Number of people using the site – This site is serviced 24 times a year by a staff of one to five employees. No clients are physically present at the site.

Maintenance and operations – This site is unmanned and all of the equipment is automatic. This site

has remote alarm monitoring operation. The microwave radio at the site carries voice and data circuits

for many state agencies. Several remotely controlled 2-way radios at the site support State agencies including Troopers, Forestry (Fire Fighting) and DOT (Highways).

Closure/Reclamation Plan – When services provided by the facilities at this location are no longer required, the equipment will be removed from the location.

