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

PRELIMINARY DECISION

ADL 227762 Gary LaRose dba LaRose Guide Service

Application for Lease AS 38.05.070(b)

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 January 8, 2018**. Please see the Comments section on page 7 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 Office (SCRO) has received a request from Gary LaRose dba LaRose Guide Service (LaRose) to lease two acres, more or less, of land for 10 years near Pilot Point, Alaska for a commercial recreational guide camp. The location of the project area is further described as being within the E1/2 NE1/4 NE1/4 of Section 11, Township 35 South, Range 53 West, Seward Meridian. LaRose is proposing to use this site for the continuing operation and maintenance of a commercial recreational hunting and fishing guide camp.

SCRO is considering the issuance of a 10-year lease under AS 38.05.070(b) to LaRose for the continuing operation and maintenance of a commercial recreational hunting and fishing guide camp.

Scope of Review:

The scope of this decision is to determine if it is the State's best interest to issue ADL 227762.

<u>Authority:</u>

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 38.05.070(b) Generally; and AS 38.05.945 Notice. The authority to execute the FFD and the lease has been delegated to the Regional Managers of DMLW.

Administrative Record:

Case file ADL 227762 constitutes the administrative record for the LaRose lease application.

Legal Description, Location, and Geographical Features:

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

- Legal description: E1/2 NE1/4 NE1/4 of Section 11, Township 35 South, Range 53 West, Seward Meridian.
- **Geographical location:** 28 miles south of Pilot Point, Alaska, between Pumice Creek and Old Man Creek.
- Approximate Lat/Long: NE corner: 57°10'37.74"N 157°43'57.0"W. NW corner: 57°10'37.6"N 157°44'8.77"W. SW corner: 57°10'25.9"N 157°44'7.98"W. SE corner: 57°10'25.61"N 157°43'55.96"W.
- Area geographical features: Low-lying terrain with abundant lakes, ponds, and marshes.
- Existing surveys: USS 12156.
- Municipality/Borough: Lake and Peninsula Borough.
- Native Corporations/Federally Recognized Tribes: Bristol Bay Native Corporation.
- Size: Two acres, more or less

Title:

The State of Alaska holds fee title to the subject land under U. S. Patent No. 50-2010-0098 dated January 7, 2010. A DNR Title Report (RPT-9682) issued on June 2, 2017, from DMLW's Realty Services Section, attests that aside from the usual reservations for ditches, canals, railroads, telegraph and telephone lines, and water rights, other reservations within the proposed lease site include Oil & Gas Lease Sale Tract, LST AP0535. There are no active leases within the Oil & Gas Lease Sale Tract as of the date of this decision.

Classification and Planning:

The project area is subject to the Bristol Bay Area Plan, Region 15, Cinder River, King Salmon, Management Unit R15-01A and R15: Wetlands East and South of Cinder River (map number 3-15). The classification for this site is Wildlife Habitat (Ha) and Water Resources (Wr). This unit is to be managed for habitat and wetland values. Appropriate activities within this unit are dispersed recreation with emphasis on avoiding impacts to wetlands, riverine areas, and sensitive caribou and moose habitat.

ADL 227762 poses a low risk to damage of wetlands as the camp is mostly situated on volcanic pumice rock rather than wetlands. There are no current plans to expand beyond the current acreage onto potential wetland areas. Further, dispersed recreation such as commercial recreation guide camps do not conflict with the management intent of the unit, therefore ADL 227762 is consistent with the classifications pursuant to 11 AAC 55.040(c). ADL 227762 is also subject to the Lake & Peninsula Borough's Comprehensive Area Plan.

Access:

Access to ADL 227762 is by aircraft only. A public-use airstrip adjacent to the camp provides access.

Agency Review:

An agency review was conducted on March 16, 2017. The deadline for agency comments was April 14, 2017.

The following agencies were included in the review:

- DNR DMLW Mining
- DNR DMLW Water
- DNR Division of Parks and Outdoor Recreation
- DNR Office of History and Archaeology/State Historic Preservation Office
- DNR Contract Administration
- DNR Division of Oil and Gas
- DNR Natural Resource Conservation and Development Board
- Department of Fish and Game (ADF&G) Habitat
- ADF&G Wildlife Conservation
- Department of Environmental Conservation (DEC)
- Department of Transportation and Public Facilities
- Bristol Bay Borough
- National Oceanic and Atmospheric Administration
- US Army Corps of Engineers
- Environmental Protection Agency

One comment was received by ADF&G during the comment period.

ADF&G Comment:

"ADF&G has no objection to the issuance of this lease provided that the applicant does not block use of the airstrip. Adequate landing and parking areas should be available at all times to the public. Also, the applicant should consider using an electric fence [around leasehold] if problems with bears and other wildlife occur."

SCRO Response:

Applicant shall not block public use of the airstrip and it is recommended that they use an electric fence on the perimeter of the leasehold to mitigate potential problems with wildlife.

Lease Discussion:

LaRose has requested a 10-year lease under AS 38.05.070(b) for the continuing use and maintenance of a commercial recreational hunting and fishing guide camp.

LaRose applied for a lease in 2000 and was issued a 10-year lease in 2005, which expired in 2014. In 2014, prior to lease expiration, SCRO authorized ADL 227762 under a land use permit (LUP) while a lease was adjudicated. Pursuant to the terms of the LUP, LaRose submitted a \$5,000.00 performance guaranty and continued to pay the \$1,200.00 annual fee. The LUP for ADL 227762 will expire in 2018. SCRO requested a lease application from LaRose which was submitted in 2015.

Existing improvements at the two-acre site include a 12-foot by 12-foot generator shed, underground cold storage cellar, 20-foot by 40-foot main lodge, two 3-foot by 3-foot outhouses, 10-foot by 16-foot meat shed, 14-foot-diameter storage igloo, 12-foot by 32-foot Quonset hut, 20-foot by 44-foot bunkhouse, 500-gallon above ground fuel tank, 12-foot by 12-foot shower, and a 12-foot by 32-foot bunkhouse. The main lodge, shower, and bunkhouses are connected by wooden boardwalks. A public airstrip is adjacent to the camp. The proposed lease will be subject to the terms of SCRO's standard lease document (available for review upon request) and any stipulations based, in part, upon the following considerations.

Development Plan:

The Development Plan (DP) attached to this decision (Attachment A) and dated October 28, 2015 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 will be permitted. 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:

Hazardous waste at the site include aviation fuel stored in approved containers within the 14-foot diameter igloo. Petroleum products are stored in an above-ground, 500-gallon capacity fuel tank with a DEC-approved secondary containment pit capable of holding 750 gallons of liquid. The storage of petroleum products below Ordinary High Water or Mean High Water Mark is prohibited. Containers with a total capacity larger than 55-gallons which contain hazardous substances shall not be stored within 100 feet of a water body. The fuel tank and containers are 100-feet from waterbodies. No more than 200-gallons of stove oil is stored in the bunkhouse.

Waste types generated at the camp consist of human waste, shower and kitchen grey water, and kitchen-type garbage. Human waste is disposed of in outhouses and lime is used to break down waste. Flush toilets empty into a 6-barrel underground septic system linked together by a sewer pipe manifold system. Water for the toilets, kitchen, and showers is pumped from a hand dug well which fills 3 buried 50-gallon barrels each containing a sump pump. The sump pump primes the above-ground well pump. Water is sent to other barrels located around the camp by water hoses

and routing faucets. Shower and kitchen grey water is drained into a series of buried 50-gallon drums that are linked together by a sewer pipe.

Burnable kitchen-type garbage is placed in a 50-gallon drum made into an incinerator fueled by stove oil. Cans and glass are separated from burnable trash and flown to Pilot Point for disposal in the landfill.

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 site and disposed of in accordance with state and federal law.

Lease Performance Guaranty (bonding):

In accordance with AS 38.05.035, AS 38.05.860, and 11 AAC 96.060(a) Performance Guaranty, LaRose will be required to submit a performance guaranty for the lease site.

- **\$10,000.00 Performance Bond:** A \$5,000.00 bond was submitted for ADL 227762 on March 8, 2006. Several new improvements were constructed at the camp after the initial performance bond was collected, therefore the performance bond has been increased to \$10,000.00. This bond will remain in place for the life of the proposed lease. The bond amount is based upon the level of development, amounts of hazardous material/substances on site, and the perceived liability to the State. This bond will be used to ensure the applicant's compliance with the terms and conditions of the lease issued for their project. This bond amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments, assignments, reappraisals, changes in the DP, changes in the activities conducted, or changes in the performance of operations conducted on the authorized premises, and as a result of any violations to one or more of the authorizations associated with this project.
- **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:

In accordance with 11 AAC 96.065 Insurance, LaRose will be required to submit proof of liability and worker's compensation insurance to SCRO, with the State of Alaska listed as a "NAMED" insured party. LaRose will be responsible for maintaining such insurance throughout the term of the lease.

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 has submitted the required GPS coordinate points for the leased area.

Compensation/Appraisal:

As this application is for a short-term lease for a two-acre commercial recreational site that is located off the road system and has no public utilities, the proposed lease qualifies under DMLW's Fee Schedule (Report No. 2618-12), which sets the annual fee at \$1,070.00 per acre, plus \$100.00 for each additional acre. The annual fee for ADL 227762 shall be \$1,170.00 due by September 1 of each year. As the Fee Schedule satisfies the requirements of AS 38.05.840, no appraisal will be required from the applicant. Furthermore, in accordance with AS 38.05.105, the proposed lease will be subject to reappraisal at five-year intervals after the issuance of the proposed authorization.

If LaRose does not agree with the fee schedule amount of \$1,170.00, a fair market value determination can be conducted by LaRose. Fair market value is determined by completing a survey and an appraisal of the leasehold. If fair market value of the leasehold is determined by a survey and appraisal, the \$1,170 annual fee from the Fee Schedule will no longer be an option.

Pursuant to 11 AAC 05.010, this lease will also be subject to a **\$2.00 per day Visitor Day Use** Fee for each client present at any time during a calendar day authorized under this lease. Visitor Day fees will be due annually.

Subleasing:

Subleasing is permissible through AS 38.05.095, if the proposed lease is approved. All potential subleases must first be approved in writing by SCRO. Depending on the activity of any potential subleases, SCRO 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 SCRO 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 LaRose by the sub lessee.

Assignment of Lease:

The proposed lease, if issued, may be transferred or assigned to another individual or corporation only with written approval from the State of Alaska. 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.

Reclamation:

In accordance with AS 38.05.090(b), all lessees must restore their leased sites to a "good and marketable condition" within a 120 days after the termination of their leases. 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 a 30-day public comment period, starting on **December 7, 2017**. Courtesy notices will also be mailed or emailed to neighboring property owners, permit/lease holders, and other interested parties on **December 7, 2017**.

In addition, the post offices located near the site (**Pilot Point, Port Heiden, Egegik**) will be requested to post the notice pursuant to AS 38.05.945(b)(3)(C). The notice will also be posted on the State of Alaska Online Public Notice website pursuant to AS 38.05.945(b)(3)(B) located at: <u>https://aws.state.ak.us/OnlinePublicNotices/Default.aspx</u>

Comment(s):

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

Written comments about this project must be received in this office no later than 5:00 PM on January 8, 2018 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: April Parrish
	550 West 7th Avenue, Suite 900C
	Anchorage, AK 99501-3577
Email:	april.parrish@alaska.gov
Fax:	(907) 269-8913

Questions about the lease portion of this project can be directed to April Parrish at (907) 269-8549. 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).

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 is proposing to issue a 10-year lease under AS 38.05.070(b) to LaRose for ADL 227762. This action provides a direct economic benefit to the state, an indirect economic benefit, and the encouragement of developing the State's resources for the maximum benefit to the public. Collection of the one-time filing fees and any yearly rent and/or fees represents the direct economic benefit to the State. The proposed lease also supports outdoor recreation and hunting opportunities to the public, maximizing the use of the State's natural resources and providing an individual economic benefit for residents. It is recommended that SCRO issue a 10-year lease to LaRose for the continuing use and maintenance of a commercial recreational hunting and fishing guide camp.

April Parrish, Natural Resource Specialist II

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 lease under AS 38.05.070(b) for 10 years to Gary LaRose dba LaRose Guide Service, as described above. The annual rent will be \$1,170.00 and the lease will be subject to a \$2.00 per day Visitor Day Use Fee. A performance bond in the amount of \$10,000.00 will be required, as well as proof of insurance. This application shall now proceed to public notice.

12-5-17

12-5-17

Date

Clark Cox, Regional Manager Southcentral Regional Office, Division of Mining, Land and Water

<u>Attachments</u> Attachment A – Development Plan

Attachment B – Location Map



Attachment A Development Plan



PO BOX 172 GIRDWOOD ALASKA 99587 907-350-6841

The purpose of this application is to reapply for a lease (ADL 227762) that was originally taken out in 2005 and inadvertently let expire in August of 2014.

I will begin with the original lease narrative that was originally developed in 2003.

1) Request for state land lease:

I am requesting a land lease permit because the area where my buildings are located and had been leasing from the State of Alaska has been selected and recently awarded to a Native Claimant.

<u>October 28, 2015</u>: The move to the requested state lease is now completed and all structures listed in the development plan are now on the requested lease location.

2) Development plan:

The present buildings that will be moved to the new lease will be a 16'X32' military style Quonset hut, a 20' X 44' bunk house, a 10' X16' meat shed and two out houses. To be built on site will be a 20' X'40' building to be utilized as the "Main Lodge." (for meal preparation and dinning) and a 8' X 12" building to house generators.

A. Added and approved in 2012 were an 8' X 12' flush toilet and shower a 12'X32 duplex that has two guest bedrooms.

3) Legal description:

NE ¼ Section II, Township 35 South, Range 53 West, Seward meridian. The site corners are marked and measures 350' X 275', approximately 2.2 acres

4) Terrain and ground cover:

The area the buildings will set on is covered with various willow bush and native grasses. The top layer of willow and grasses will be removed and building will be set up on these bare areas. Native grasses will be allowed to grow back naturally in most locations and lawn will be planted in other locations

- 5) Access to the area in by air only. This location is adjacent to a large volcanic cinder bed allowing for a runway approximately 2,700 feet long.
- Buildings and structures: This is covered in the development plan number 2)
- 7) Power Source:

Attachment A Development Plan

- The main source of power is a 4 KW generator which will burn stove oil.
- 8) Waste types, waste sources and other disposal methods:

Human waste will be disposed of in common out houses and lime will be used to break down the waste. Shower and kitchen water is drained into a series of buried 50 gallon drums that are linked together by sewer pipe.

All garbage is burned in a 50 gallon drum made into an incinerator. Garbage is burned with the assistance of stove oil. Cans and glass are separated prior to burning and flown to Pilot Point for disposal in their land fill.

- A) With the approval of the flush toilet in 2012, a six barrel septic system was created behind the building. It is linked together by a sewer pipe manifold system
- 9) Aviation fuel is stored in a 500 gallon "Greer" fuel tank with an approved fuel containment pit lined with an approved rubber bladder capable of holding 750 gallons of liquid.
- 10) In addition to the Aviation fuel mentioned above, I would have no more than 200 gallons of stove oil on site at any one time. This would be used in the generator and the oil stove in the bunk house. Though the winter no more than 100 gallons would be on site.
- 11) Water supply is from a well dug to about 14 feet and into water about 2-4 feet deep depending on the time of year. A 50 gallon plastic barrels is drilled with small holes and wrapped with screening material. The barrel in placed in the hole and 3 more 50 gallon barrels with the tops and bottom cut out and tied together are stacked on top. This is all backfilled and a sump pump is placed down the column of barrels into the plastic barrel. A well pump is on the ground near the well top. The sump pump primes the well pump. The well is covered by a plywood top held in place by a 5 gallon bucket of cinders. The power cord and hose exit the plywood top. The exit hole is sealed to keep bugs and rodents out. Water is sent to barrels located around the camp by water hose and routing facets.
- 12) Parking and Storage area:

Parking would be for not more than 3 aircraft at any one time. As these aircraft are properly maintained there are no leaks from them.

13) Number of people using the site:

The site is primarily used for overnight stays or for staging for hunting trips that take the client out to other areas for hunting. When the lease began the location was seeing 30 - 40 fishers per year and 16-20 hunters per year. Due to the decline in King Salmon, I only did 12 fishermen last year. Moose hunting in the area is so bad I have not hunted moose for 2 years. I had a total of 5 bear hunters. I hope to bring these numbers up in the near future.

14) Maintenance and Operation:

Maintenance of the site will be on a year to year Basic work will be done to keep the area and buildings and land scape clean and well-manicured.

The lease will continue to support a lodge base hunting a fishing fly out operation.

Attachment A Development Plan

- 15) Not on the previously approved Development Plan Map but on the Development Plan Map submitted at this time:
 - A. An underground cold storage with a concreate floor, treated plywood walls and roof and a secure door. This was left off of the previous development plan because it was not an above the ground structure and I mistakenly believed it didn't need to be listed.
 - B. Board walks leading to and surrounding the bunk house and leading to the shower and duplex. The board walks were at the previous location but were not listed to be moved to the new location. An over site.
 - C. The additional outhouse was listed on the original Development Plan but was left of the Development Plan map submitted in 2012.
- 16) The above items will be amended on the Development Plan map submitted with this request.

Signed : S

Oct 28, 2015

Gary LaRose

PO Box 172

Girdwood AK 99587

E-mail: garylarose30@gmail.com

Attachment B Location Map



Attachment B Location Map Page 12 of 12