

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

# PRELIMINARY DECISION

**ADL 106998 Ernie and Carol Gladsjo  
dba Jinhi Bay Oysters, LLC**

Amendment No. 1  
AS 38.05.035(e) & AS 38.05.083

This Preliminary Decision 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 Preliminary Decision. The deadline for commenting is **5:00 PM on January 29, 2018**. Please see the Comments Section on page 10 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.

**Requested Action:**

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Office (SCRO) has received a request from Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC to amend aquatic farm lease ADL 106998 by adding an additional 0.19-acre parcel, Parcel 2, as an intertidal hardening beach. SCRO is considering the issuance of an amendment to ADL 106998 for the remaining years of the lease.

A lease renewal for aquatic farming purposes was issued under file no. ADL 106998 to Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC, P.O. Box 402, Craig, AK 99921, effective on December 1, 2015 with an expiration date of November 30, 2025. The legal description for this lease is:

Township 69 South, Range 79 East, Copper River Meridian, and more specifically described as:

SE1/4 Section 14 and NE1/4 Section 23: on the west side of Tuxekan Island, approximately 2 nautical miles northwest of Naukati, Alaska, encompassing an area measuring 218 feet by 128 feet by 165 feet by 148 feet or 0.62 acres for oyster grow-out.

**Scope of Review:**

The scope of this decision is to determine if it is the State's best interest to issue an amendment for this aquatic farm lease by adding an additional 0.19-acre parcel, Parcel 2, as an intertidal hardening beach. The combined proposed lease acreage is 0.81 acres. The northwest corner of Parcel 2 is located approximately 116 feet from the southeast corner of Parcel 1.

**Authority:**

This lease amendment application is being adjudicated pursuant to AS 38.05.035(b)(1) Delegation of the Powers and Duties of the Director; AS 38.05.035(e) Written Findings; AS 38.05.070(b) Generally; AS 38.05.083 Aquatic Farming and Hatchery Site Leases; and AS 38.05.945 Public Notice. The authority to execute the Final Finding and Decision, and the lease amendment, has been delegated to the Regional Managers of DMLW.

**Administrative Record:**

Case file ADL 106998 constitutes the administrative record for the Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC lease amendment application.

**Legal Description, Location, and Geographical Features:**

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

- **Site nickname:** Jinhi Bay
- **Legal description:** Section 23, Township 69 South, Range 79 East, Copper River Meridian
- **Geographical locations:** Jinhi Bay, West Side of Tuxekan Island, Naukati, Alaska
- **Approximate Lat/Longs:**

Hardening Area for Pacific oysters: 66 feet x 128 feet = 0.19 acres

NE Corner Latitude: 55° 52.716' N	Longitude: 133°15.377' W
SE Corner Latitude: 55° 52.702' N	Longitude: 133°15.405' W
SW Corner Latitude: 55° 52.709' N	Longitude: 133°15.420' W
NW Corner Latitude: 55° 52.723' N	Longitude: 133°15.392' W

- **Existing surveys:** None
- **Municipality/Borough:** No organized Municipality or Borough
- **Native Corporations/Federally Recognized Tribes:** Sealaska Corporation

**Title:**

The DNR Title Report #RPT-10180 issued from DNR's Realty Services Section on September 14, 2017, states that the State of Alaska holds title to the subject tidelands under the Equal Footing Doctrine and the Tide and Submerged Lands Act of 1953. As specified in Title Report #RPT-10180, the State of Alaska owns the submerged and tidelands estates and the land and mineral estates of Tract 38, and Government Lots 1 to 5: E1/2 SE1/4 Section 23 and NW1/4 SE1/4 Section 23 of Tuxekan Island in the project area. Government Lot 1 is the upland location of the current leasehold and proposed amendment parcel.

**Third Party Interests:**

No third party interests are known at this time.

**Classification and Planning:**

The project area is subject to the Prince of Wales Area Plan (Area Plan), Southern Region: Unit 7, Subunit Sea Otter Sound 7b. The Area Plan map for the proposed amended lease site is Unit 7 Sea Otter Sound Subunits 7b & 7c, found in Chapter 3 of the Area Plan. The tideland designations for

the proposed leasehold are Shoreline Development (D)<sup>1</sup>, Public Recreation-Anchorage (Ra)<sup>2</sup>, and Recreation-Commercial (Rc)<sup>3</sup>. The tideland classifications for the proposed leasehold are settlement land<sup>4</sup> and public recreation land<sup>5</sup>.

The proposed operation must be in the overall best interest of the State before an authorization may be issued. Factors that are to be considered in this decision are identified in 11 AAC 63.050(b). In Chapter 2 of the Area Plan, Areawide Land Management Policies, goals include providing opportunities to increase income and diversify the State's economy through the use of state tidelands and submerged lands for aquatic farming<sup>6</sup>. As specified in the Area Plan in Chapter 3 under Management Intent and Guidelines<sup>7</sup>, Jinhi Bay in the Subunit 7b-Tuxekan has protected waters where water dependent commercial or industrial activities are both considered appropriate. Marine waters in the Sea Otter Sound Subunits have characteristics favorable for aquatic farming. Because local residents prefer that aquatic farming develop in larger bays with protected waters, rather than small coves, aquatic farming will not be permitted in certain lagoons, small isolated coves, and estuaries specified in Chapter 3 of the Area Plan. Jinhi Bay is not listed as one of those locations where aquatic farming will not be permitted. As described in Chapter 3 of the Area Plan, aquatic farming in Jinhi Bay is allowed. Furthermore, it is specified in Chapter 3 that aquatic farming support facilities may be located on state uplands at Jinhi Bay. In accordance with the Area Plan and classifications, aquatic farming is an allowable use on state owned tidelands<sup>8</sup>. The proposed amendment to add a 0.19-acre parcel for an oyster hardening beach is consistent with the Area Plan specifications for Jinhi Bay.

### **Traditional Use Findings:**

ADL 106998 falls within the boundaries of Alaska Department of Fish & Game (ADF&G) Game Management Unit 2, Prince of Wales Island. Known traditional uses in the area consist of subsistence and recreational hunting, and subsistence and recreational fishing. As described by ADF&G the following game animals are present in the area: black bear including blue or glacier bears, elk, deer, wolf, and wolverine.

Subsistence fishing sustains a way of life for many residents of Southeast Alaska, but commercial, sport, and personal use fisheries also occur within Southeast waters. There are many subsistence salmon fisheries in Southeast Alaska. Halibut may be harvested by residents of rural communities. Other subsistence fisheries include herring spawn-on-kelp, shellfish and groundfish. In addition, eulachon, Dolly Varden, trout, and smelt are all taken for subsistence purposed in Southeast Alaska.

Subsistence use is defined by Alaska Statutes as “noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the State for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption” (AS 16.05.940[32]). Due to the nature of aquatic farming, the proposed site is not

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<sup>1</sup> Prince of Wales Island Area Plan Ch. 3 p. 121

<sup>2</sup> Prince of Wales Island Area Plan Ch. 3 p. 121

<sup>3</sup> Prince of Wales Island Area Plan Ch. 3 p. 121

<sup>4</sup> Prince of Wales Island Area Plan Ch. 4 p. 8

<sup>5</sup> Prince of Wales Island Area Plan Ch. 4 p. 8

<sup>6</sup> Prince of Wales Island Area Plan Ch. 2 p. 2

<sup>7</sup> Prince of Wales Island Area Plan Ch. 3 p. 108

<sup>8</sup> Prince of Wales Island Area Plan Ch. 3 p. 108

expected to impact traditional uses of these areas. Additional traditional uses may be identified during the public notice period. If further traditional uses that may be impacted by the site become evident, they will be discussed in the final finding and decision.

**Access:**

Access to the aquatic farm is by boat from the Naukati Marina or by floatplane.

**Access To and Along Navigable and Public Waters:**

Nearly all shore and tide lands in the State of Alaska are subject to a To and Along Easement under AS 38.05.127 and 11 AAC 51.045. The purpose of this easement is to uphold the constitutional right of the public to have free access to, and use of, the state's waterways. The department has determined that the issuance of this aquatic farm lease will not block reasonable access to state navigable water. The along easement extends 50 feet seaward from the line of mean high water (MHW).

**Public Trust Doctrine:**

Pursuant to AS 38.05.126 all authorizations for this site will be subject to the principals of the Public Trust Doctrine; specifically, the right of the public to use navigable waterways and the land beneath them for: navigation, commerce, fishing, hunting, protection of areas for ecological studies, and other purposes. These rights must be protected to the maximum extent practicable while allowing for the development of this project. As such, SCRO is reserving the right to grant other authorizations to the subject area consistent with the Public Trust Doctrine.

**Management Analysis:**

The scope of this review is to evaluate and determine if a lease amendment for the above-mentioned parcel is in the best interest of the State and supports the overall intent of the Aquatic Farm Act.

In 1988 the legislature adopted statutes referred to collectively as the Aquatic Farm Act. The legislature, through the adoption of the Aquatic Farm Act, established in statute the State could proceed and indeed encourage development of shellfish farming. The two central tenets of the State's aquatic farming policy are:

1. The State should encourage the establishment and responsible growth of an aquatic farming industry; and,
2. Development and siting of aquatic farming operations should be made with full consideration of established and ongoing activities.

With these considerations, aquatic farm leases were designed to achieve commercial production and develop a foundation for an aquatic farming industry in the State of Alaska.

**Management Goals for Aquatic Farms:**

The overall intent of the Aquatic Farm Program is to provide citizens access to public lands and resources with the goal of creating an industry which will foster the State's economic growth through the creation of employment opportunities and development of Alaska-grown shellfish and seaweed products.

Three main state agencies, the ADF&G, DNR, and the Department of Environmental Conservation (DEC) oversee the regulatory responsibilities for the commercial operation of Alaska aquatic farms. These agencies work cooperatively to ensure the State's public lands and resources are

being used in such a manner as to positively contribute and benefit the residents of the State of Alaska through means such as economic growth and the availability of locally grown products.

As part of the lease conditions the applicant/lessee is required to submit two documents which the agencies will use to measure the aquatic farm's viability and determine if it is the State's best use of the land and resources. Evaluative measures are derived from a variety of sources including, but not limited to, current industry standards, comparable farms in the area, and research and technology based trends on both the local and regional scale.

The first document an applicant/lessee is required to submit is a Development and Operations Plan describing a basic business strategy for the aquatic farm site. This includes general information such as, location information and infrastructure (i.e. work rafts, covered processing facilities, flupsys, etc.) to be used on the farm site. It also contains measurable goals established by the applicant/lessee, to include information on startup and projected stocking, species to be cultured, anticipated seeding schedules and production and harvest levels for each 12-month cycle. In addition, it specifies business practices such as methods used to improve the productivity of the species being raised (i.e. predator exclusion controls, seeding schedules, etc.), cultivation and harvesting techniques, equipment used for cultivation and harvesting, number of people on site, projected number of days the site is actively being farmed, and methods of accessing the farm site. As the business market is a fluid entity DNR is under the expectation this Development and Operation Plan will be modified (with prior department approval) over the life of a lease.

Annual reports are the second required document a lessee must submit for an aquatic farm site to remain in compliance with lease terms. These reports are used as an evaluative tool by DNR, ADF&G, and the lessee to measure the productivity of an aquatic farm site, the current feasibility of the Development and Operation Plan, and to identify any problems (i.e. seed shortage, environmental factors, etc.) that have been encountered over the course of a 12-month period. In addition to identifying any difficulties an individual farm may be encountering, these annual reports will provide the regulatory agencies a method of identifying larger scale or industry wide problems and trends.

### **Lease Management Discussion**

This aquatic farm lease has been assigned to numerous parties since it was issued to the original lessee, Robert Smart. Robert Smart was issued a 10-year aquatic farm lease on December 1, 2005 and the lease expiration date was November 30, 2015. The first lease assignment occurred on October 5, 2007 to Brad Thompson. Then on March 21, 2010 the lease was amended to add Eric Wyatt as a lessee. The lease was assigned for the second time on June 3, 2011 to Michael Sheets Jr. and Paul Goodson. The last assignment occurred on November 20, 2012 to Ernie Gladsjo. A renewal application was received by ADF&G and DNR from Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC on August 24, 2015 and the lease was renewed on December 1, 2015.

Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC exceeded the commercial use requirement in 2016, their third full year of aquatic farm operation since their lease was authorized in late 2012. They are in compliance with the Commercial Use Requirement per 11 AAC 63.030(b). All annual fees have been paid and the lease is considered to be in good standing with the department.

### **Development Plan**

The Development Plan for the proposed lease amendment was signed on August 8, 2015 from when the lease agreement was renewed and is accepted by SCRO as complete. Further, the amendment application is for a hardening area, not an additional oyster grow-out area that could require an updated Development Plan. Should the proposed lease amendment be granted, it is anticipated that the Development Plan 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.

### **Compliance with Existing Regulations and Lease Stipulations**

SCRO recognizes there are many challenges faced by aquatic farmers in Alaska. One such challenge is cooler water temperatures which lead to slower growth rates and more time on the farm before the product attains marketable size. In addition, difficulty obtaining seed during portions of the last few years has presented challenges for farmers attempting to maintain their stock at an optimal or projected level. Harvest window closures as a result of Paralytic Shellfish Toxin and Vibrio outbreaks also reduce the overall productivity of aquatic farms.

This said, SCRO still has the responsibility to appropriately manage lands held in trust for the residents of the State of Alaska and to ensure the authorized aquatic farms are operating in accordance with the intent of the Aquatic Farm Act. The primary method used to accomplish this is the adoption of regulations governing how laws are to be implemented.

Key regulations for the management of aquatic farms are identified below:

#### **11 AAC 58.510, Lease Utilization**

This regulation states the land being leased must fall within the scope of what is being proposed by the applicant and approved by DNR. Leases must be developed and utilized consistent with the approved development plan within 5 years or the lease may be terminated.

#### **11 AAC 63.030(b), Commercial Use Requirement (CUR)**

The CUR is one method DNR has available to determine whether or not the aquatic farm is being farmed to a commercial benchmark. The CUR was codified in the 1998 regulations as a quick and quantifiable measurement of productivity by the fifth year of operations (and beyond) and it provides DNR and ADF&G a means of identifying farms that may need closer monitoring. At the time the CUR was adopted, the primary species being farmed was the Pacific Oyster which had an established record of growth data in Alaskan waters available to regulators and industry members. At this time the CUR states a farm needs to be making annual sales in excess of \$3,000.00 per acre or \$15,000.00 per farm by the fifth year of operation of aquatic farm product, as defined in AS 16.40.199. Failure to meet CUR constitutes a default and may be cause for termination, per 11 AAC 63.110(7).

#### **11 AAC 63.110(7), General Lease Provisions, Development and Operations Plan**

The applicant has provided a site description and a project description to DNR and ADF&G with their application. They also provided a projection on how much planting and harvesting they plan to do during the 10-year term. DNR is aware of some of the issues faced by farmers when trying to establish any realistic long term projections. This is why the Development and Operation Plan

is considered a fluid document and subject to change (with DNR approval) over the life of the lease in reaction to unanticipated changes in the basic business plan. Leaseholders are encouraged to communicate changes to plans with DNR frequently to communicate how farming activities are progressing. Failure to develop the lease site in accordance with the approved development plan within five years of lease issuance will result in non-compliance and subject the lease to cancellation.

### **11 AAC 63.110(7), General Lease Provisions, Annual Reports**

Annual Reports (due by January 31st of each year) are valuable documents for both DNR and ADF&G. They are the main tool both agencies use to identify and understand issues the aquatic farmer may be encountering which could inhibit the productivity of an aquatic farm site. Reports also communicate if the site is being utilized in accordance with the Development Plan and if the CUR is being met annually, per 11 AAC 63030(b). By failing to submit complete and timely Annual Reports, the lessee not only falls out of compliance with aquatic farm regulations, but also inhibits DNR's constitutional responsibility to ensure the land is being utilized in accordance with the best interest of the residents of the state.

### **Proposed Action:**

A central tenet of DNR's Mission Statement is to responsibly develop state resources by making them available for maximum use consistent with public interest. In keeping with this statement DNR proposes to issue Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC an amendment to their 10-year lease. The following regulations will be used by DNR to adequately assess Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC's progress as aquatic farmers:

- 11 AAC 63.110 (7) requires compliance with an approved Development and Operation Plan and the timely submission of Annual Reports.
- 11 AAC 63.110 (11)(B) requires the lessee to provide the department with any records it has determined are necessary to verify the lessee's compliance with the lease provisions.
- 11 AAC 63.030(b) requires progress shown toward being able to meet the CUR prior to the end of the lease term (this can be done by supplying ADF&G and DNR annual reports).
- 11 AAC 58.510 requires the lessee to make substantial use of the land within five years of the lease term and develop it in accordance with the approved Development and Operation Plan.

### **Hazardous Materials and Potential Contaminants:**

No hazardous materials or fuel are planned to be stored on the leaseholds.

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 sites and managed and disposed of in accordance with state and federal law.

### **Lease Performance Guaranty (bonding):**

In accordance with 11 AAC 63.080 Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC has submitted a performance guaranty for the original leasehold.

- **\$2,500.00 Performance Bond:** Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC are a member of the Seafood Association bond association and have submitted a \$1,250 bond. A lessee may reduce the bond amount if three or more lessees post an association bond to cover all of their leases. The minimum-security amount is 50% of the amount individually calculated for each lease. Therefore, the bond for Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC was for \$1,250, as an association bond member.

This bond will remain in place for the life the proposed amendment to the 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 insure 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, re-appraisals, changes in the development plan, 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 non-compliance 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, Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC submitted proof of liability insurance to SCRO, with the State of Alaska listed as a "NAMED" insured party. Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC will be responsible for maintaining such insurance throughout the term of the amendment to 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. Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC has submitted GPS coordinate point(s) for the four corners of the proposed amended lease area.

#### **Grant:**

The term for an aquatic farm site is 10 years, per 11 AAC 63.100. The term dates for the amendment to the lease will remain as December 1, 2015 through November 30, 2025, contingent on approval of the Final Finding and Decision.

#### **Compensation/Appraisal:**

DMLW has approved a lease fee schedule for aquatic farm sites that meet the conditions listed within the schedule. The most current lease fee schedule will be used to establish the fair market rental each lessee must pay. Fees are subject to adjustment per AS 38.05.105. At this time the rates for aquatic farms are \$450/acre or partial acre and \$125 for each additional acre or partial acre. In accordance with the Aquatic Farmsite Fee Schedule, Report No. 2522-12, a breakdown of the amendment to the lease fee will be as follows:



0.81 acres (1 x \$450) = **\$450.00 per year**

The applicant has the option to have a site-specific appraisal done for each site, at the applicant's expense, before the amendment to the lease is issued if they do not wish to use the DNR approved fee schedule. If an applicant opts for a site-specific appraisal, the DNR-approved appraisal will establish the rental for the lease and the fee schedule will no longer be an option.

**Assignment of Lease:**

The proposed amendment to the lease, if issued, may be transferred or assigned to another individual or corporation **only** with prior 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 the lease is not in good standing.

**Reclamation:**

In accordance with AS 38.05.090(b), all Lessees must restore their lease sites to a "good and marketable condition" within a minimum of 120 days after the termination of their lease. What level of reclamation constitutes as being "good and marketable" is at the discretion of SCRO. DNR reserves the right to require a reclamation bond at any time.

**Agency Notice:**

An Agency Review was conducted for a 20-day review starting on August 25, 2017. The deadline for agency comments was September 13, 2017.

The following agencies were included in the review:

- DNR DMLW – Mining
- DNR DMLW – Water
- DNR DMLW – Title
- DNR Land Sales
- DNR Office of History and Archaeology/SHPO
- DNR Division of Oil and Gas
- Department of Fish and Game - Habitat
- Department of Fish and Game – Aquatic Farm Coordinator
- Department of Environmental Conservation - Shellfish
- Department of Transportation and Public Facilities
- US Fish and Wildlife Service
- U.S. Army Corp of Engineers
- National Oceanic and Atmospheric Administration
- U.S. Environmental Protection Agency
- U.S. Coast Guard

**Agency Notice Comment(s):**

During the agency review, SCRO received one agency comment.

**Alaska Department of Fish and Game Comment:**

The proposed hardening area is within 1 mile of two recognized harbor seal haulout concentration areas located on Sigh Island and on an unnamed rocky outcrop to east of Sigh Island. The haulouts for these two areas were estimated to be ~0.45 miles and ~0.25 miles to the west of the original

aquaculture parcel and the proposed hardening area. To ensure that the proposed aquatic farm operation activities are compatible with fish and wildlife resources in the area and do not adversely impact seal haulouts as per 5 AAC 41.240(a)(3), a mitigation condition will be added to the ADF&G operation permit amendment to protect recognized harbor seals concentrations nearby the proposed site. The condition follows:

- Two recognized harbor seal haulouts are within 1 mile of the operation area. To maintain compatibility with fish and wildlife resources in the area, the permit holder and other entities associated with the aquatic farm operation activities, must ensure that:
  - a. any vessels used remain a minimum of 100 yards offshore when passing the recognized harbor seal haulout areas;
  - b. any aircraft used remain a minimum of 1500 ft offshore from the recognized harbor seal haulout areas when approaching the aquatic farm without compromising safe navigation; and
  - c. marine mammal viewing guidelines and regulations are followed as detailed in the NOAA Fisheries website at <https://alaskafisheries.noaa.gov/pr/mm-viewing-guide>.

Please provide an advisory to the applicant of the vicinity of the harbor seal haulout locations and the recommended mitigation condition above.

**SCRO Response:**

DNR statutes and regulations do not specify management of aquatic farms relating to marine mammals and management of marine mammals are outside the scope of DNR's authority. However, DNR will add an advisory in the lease as a reminder to Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC. In addition, pursuant to the lease stipulations Section 4 and Section 26, the stipulations require the Lessee to comply with all applicable laws, regulations, ordinances, and order that a public authority has put into effect.

**Public Notice of the Preliminary Decision:**

Pursuant to AS 38.05.945, the notice will be posted on the Alaska Online Public Notice System at <http://aws.state.ak.us/OnlinePublicNotices/Notices/Search.aspx> for at least 30 consecutive days per AS 38.05.945(b)(3). The post offices located in Naukati Bay, Klawock, and Craig will be requested to post the notice of the Preliminary Decision per AS 38.05.945(b)(3)(C). Courtesy notices will also be mailed or e-mailed to neighboring property owners, permit/lease holders, and other interested parties on January 29, 2018 for a 30-day public comment period.

**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 Final Finding and Decision. 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 29, 2018 to be considered.**

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

Postal: Department of Natural Resources  
Southcentral Region Office  
ATTN: Karen Cougan  
550 West 7<sup>TH</sup> Avenue Suite 900C  
Anchorage, AK 99501-3577  
Phone: 907-269-8543  
E-mail: karen.cougan@alaska.gov  
Fax: 907-269-8913

If public comments result in significant changes to the Preliminary Decision, additional public notice may 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:**

SCRO 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. This decision considers the applicant's history and experience with aquatic farming, their existing Development Plan, the existing uses in the area, and the overall benefit to the State's aquatic farm industry. It is the recommendation that the State issue Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC an amendment to their 10-year lease, adding an additional 0.19-acre parcel, Parcel 2, as an intertidal hardening beach; with the understanding that if the lessee fails to comply with the submission of the Annual Reports, Commercial Use Requirements, or with any other information the department requests, this will constitute a violation of the lease terms and steps may be taken to terminate the lease authorization(s).



Karen Cougan, Aquatic Farm Program Coordinator

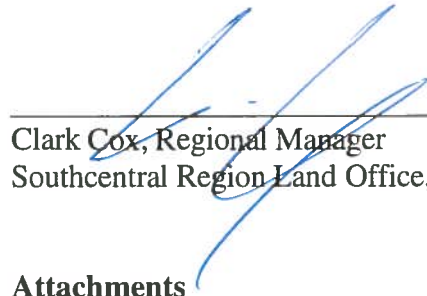
12-19-17

Date

**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 an aquatic farm lease amendment for the remaining eight years of their lease to Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC, as described above. If approved, the lessee will pay the annual lease fee of \$450 per year and the total acreage of the proposed leasehold will be 0.81 acre. The lessee meets, and will continue to be required to meet the State of Alaska liability insurance requirements. Ernie and Carol Gladsjo dba Jinhi Bay Oysters, LLC are a member of the Seafood Association bond association and have submitted a \$1,250 bond.

This amendment application shall now proceed to public notice.



Clark Cox, Regional Manager

Southcentral Region Land Office, Division of Mining, Land & Water

12-19-17

Date

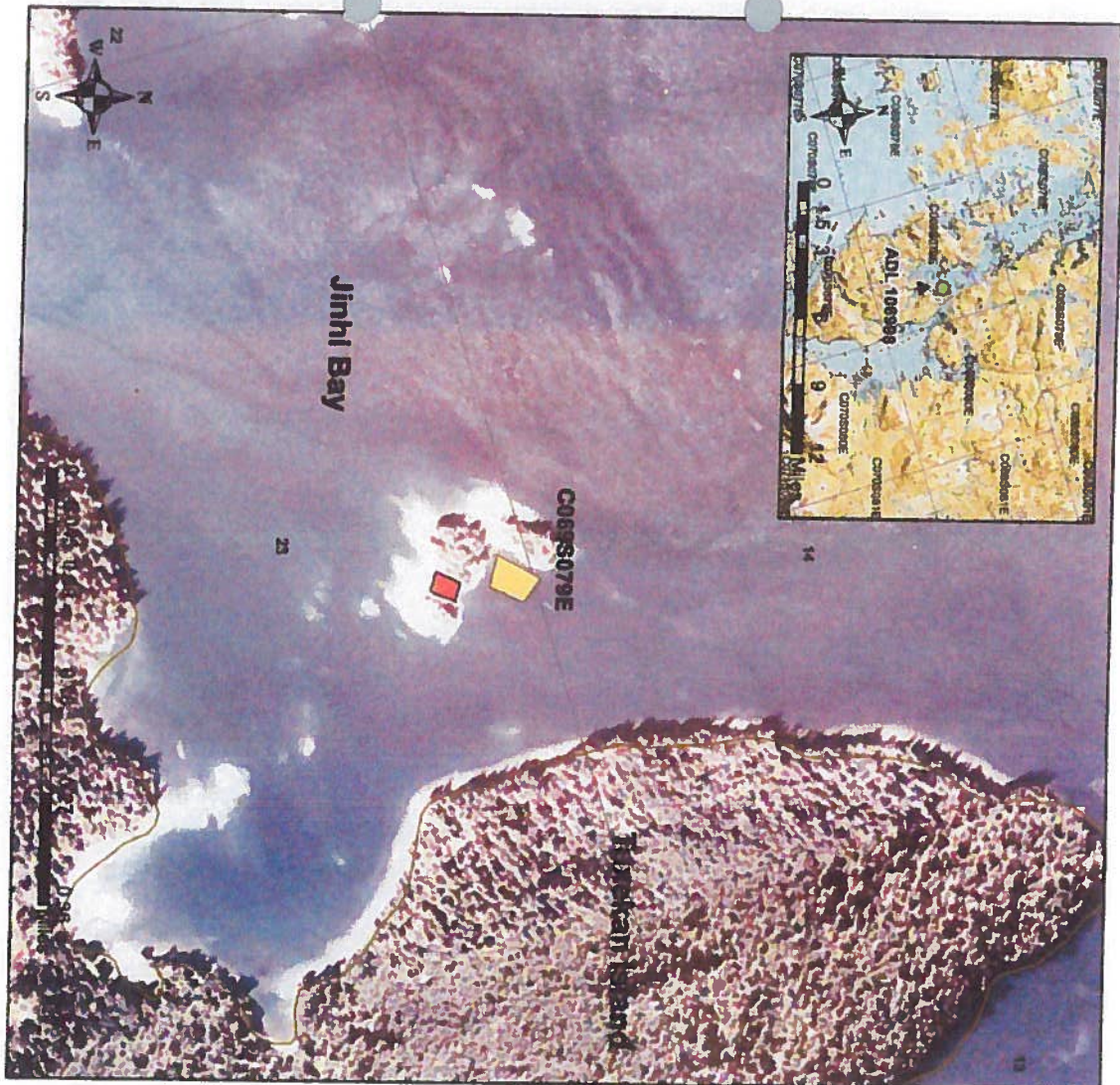
**Attachments**

Attachment A – Development Plan Vicinity Map, Site Plan Map, and Amendment Description  
(The complete Development Plan is available upon request.)





# Attachment A Development Plan




## Ernie Gladsjo ADL 106998

218 ft x 128 ft x 185 ft x 148 ft =  
approximately .62 acres

NE corner 55 52.762 N 133 15.348 W  
SE corner 55 52.742 N 133 15.379 W  
SW corner 55 52.754 N 133 15.416 W  
NW corner 55 52.779 N 133 15.370 W

### Legend

 106998 Gladsjo Application

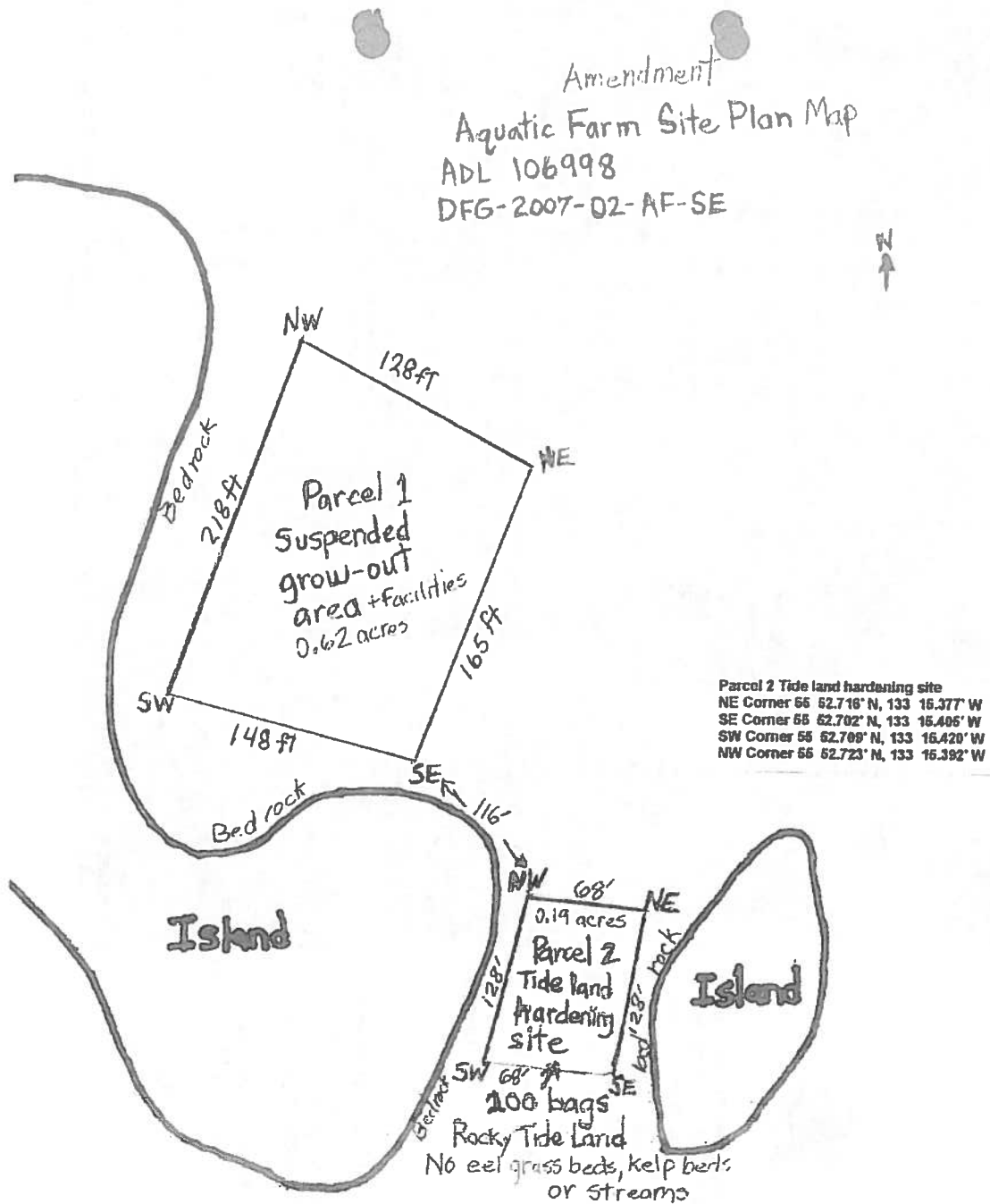
 Parcel 2 Tide land hardening site  
NE Corner 55 52.716 N 133 15.377 W  
SE Corner 55 52.702 N 133 15.405 W  
SW Corner 55 52.709 N 133 15.420 W  
NW Corner 55 52.723 N 133 15.392 W  
128 ft x 66 ft x 128 ft x 66 ft = 0.19 acres  
2017 Amendment 8/21/17 E Gladsjo



Produced: September 2015  
DNR, SCRC, Aquatic Farm Program

NOTE  
This map provides a graphical representation  
of a proposed project and does not constitute  
an official map of the State of Alaska. It is  
only been provided as a general reference for  
informational purposes. (Source: ADL 106998)  
This map is not intended for navigational purposes.

# Attachment A Development Plan



**Figure 1 Amendment Site Plan Map**  
Ernie and Carol Gladsjo dba Jinhi Bay Oysters  
Jinhi Bay  
Southeast Alaska  
4/20/17

Not to scale

## **Attachment A Development Plan**

ADL 106998 and DFG-2007-02-AF-SE

### **AMENDMENT DESCRIPTION**

This amendment would add Parcel 2 to the existing aquatic farm to provide a hardening site. Parcel 2 is 128' x 66' x 128' x 66' and totals 0.19 acres. The oysters will be put in 200 plastic coated ½" mesh wire bags and placed on the tide land within Parcel 2. The bags would be secured to ropes which are tied to large boulders. This intertidal on-bottom culture would provide for continued growth and hardening of the oysters. The northwest corner of Parcel 2 is located about 116 feet from the southeast corner of Parcel 1. The bags of oysters would be taken by skiff from Parcel 1 to Parcel 2 and then back again when ready. The total acres of the amended permit is 0.81 acres.

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