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

RENEWAL DECISION

ADL 32750 Alaska General Seafoods Tideland Lease Renewal AS 38.05.070(e)

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 Alaska General Seafoods (AGS; lessee) to renew a current lease for 1.648 acres of tidelands for 55 years located along the Naknek River, near Bristol Bay. The location of the project area is further described as Tract A of Alaska Tideland Survey (ATS) 654 within the SWI/4 of Section 2, Township 17 South, Range 47 West, Seward Meridian. AGS currently uses this site as a commercial dock that serves as an outdoor work and storage space, along with four seafood processing and storage buildings built directly on the dock.

History:

A lease was first issued to Allen Nelson on November 22, 1966 for a term of 55 years. On December 3, 1968, the lease was assigned from Allen Nelson to the Nelbro Packing Company (Nelbro). The lease was first amended on December 3, 1968, to delete a right of way prescribed as a special stipulation of the lease. It was amended a second time on February 6, 1979, for a Conversion of Lease, adjusting the annual lease rental adjustment schedule to a 25-year initial period followed by 10-year intervals. In 2000, Nelbro Packing Company changed their name to Alaska General Seafoods, a subsidiary of Kanaway Seafoods, Inc.

On January 8, 2018, AGS submitted an updated development plan to expand their existing dock by 2,160 square feet to increase usable space and increase production. The expansion construction is within the leasehold boundaries and has been completed.

On February 1, 2021, AGS applied to renew the lease, which was due to expire on November 21, 2021. However, since the original ATS 654 was never approved nor filed with the State Recorder's

Office, a new survey was required by DMLW's Survey Section prior to renewing the lease. AGS was unable to have a new survey completed prior to lease expiration and requested a lease extension. SCRO issued a 2-year lease extension to allow additional time to complete a survey, with an expiration date of November 21, 2023.

On May 18, 2023, AGS started the survey process by requesting survey instructions from the State. At the time of this decision, AGS is currently waiting for those instructions to be issued due to a backlog. AGS is also in the process of providing an updated, comprehensive development plan.

Existing Infrastructure:

The lease site is used for a commercial dock that serves as an outdoor work and storage space, along with four seafood processing and storage buildings built directly on the dock. Dock construction consists of wood and steel pilings with concrete floors on a tidal riverbed consisting of sand, small rock, and mud. The buildings have been on-site for more than 50 years and have been constructed and renovated over that time. The site has an electrical supply as well as water lines. Operations occur during the spring and summer months from April through August with the peak periods occurring between June and July.

Lease Renewal Authority:

In 1966 the original lease was adjudicated pursuant to Chapter 169, SLA 1959, and extended in 2021 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(f)(2); and AS 38.05.945 Public Notice. Upon lease expiration, subsection AS 38.05.070(e) allows the Director to renew a lease previously issued under section AS 38.05.070 if the lease is in good standing and the lease renewal is determined to be in the best interest of the State.

Lease Renewal Qualifications:

In order to qualify for a renewal, a lessee must be in "good standing". Good standing refers to the fact that the lessee's accounts are current, that there are no outstanding compliance issues, and that the lessee maintains a healthy business relationship with the lessor. A review of the case file has shown that the lessee is in good standing.

Lease Renewal Discussion:

A new ATS is required for a lease renewal, since the original ATS 654 was never approved nor filed with the State Recorder's Office. As AGS is currently in the process of obtaining survey instructions from the State, the survey requirement will be included as a stipulation in the lease renewal agreement.

Renewing the lease under AS 38.05.070(e) will allow the lessee and the lessor to reenter into a lease contract with minimal delays or disruptions. This lease renewal is in the best interest of the

State as the land under lease will allow continued use of a commercial dock that supports seafood processing and distribution for export, while providing economic benefit to the Bristol Bay fishing industry, the State, and Alaskans. The renewal is consistent with the State's Constitution as the lease provides for the utilization, development, and conservation of the natural resources belonging to the State for the maximum benefit of its people.

The original lease was issued for a term of 55 years. The renewal application submitted by AGS did not request a specific lease term. SCRO recommends the issuance of a 30-year tideland lease renewal to AGS for the operation and maintenance of AGS's existing commercial dock while AGS completes a new tideland survey and appraisal. Requirements for lease renewal, such as survey, appraisal, performance guaranty (bonding), and insurance will be incorporated as stipulations in the lease renewal agreement and are further described in this decision. This shorter lease term will allow SCRO an opportunity to assess the adherence to stipulations, reevaluate if there is a higher and better use for the lands, and determine what is in the State's best interest.

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 herein, the 2013 Bristol Bay Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as ADL 32750.

Legal Description:

Unapproved ATS 654, Tract A, within the SWl/4 of Section 2, Township 17 South, Range 47 West, Seward Meridian, commencing at the BLM monument, US Survey No. 3513 inscribed WCMC Lot 21, Lot 22; Thence South 21°16' East, a distance of 118.80 feet to Meander Corner No. 2 of Lot 21 US Survey No. 3513, being common to Meander Corner No. 3 of Lot 22 US Survey No. 3513, which is Corner No. 1 and the True Point of Beginning for this description. Thence North 75°20' East, coincident with the meander line of Lot 22 US Survey No. 3513, a distance of 241.60 feet, more or less, to the westerly boundary of Alaska Tidelands Survey No. 292, which is Corner No. 2 for this description; Thence South 14°40' East, coincident with the westerly boundary of Alaska Tidelands Survey No. 392, a distance of 322.00 feet to Corner No. 3 of Alaska Tidelands Survey No. 292, which is Corner No. 4 for this description; Thence North 21°16' West, a distance of 322.21 feet, more or less, to Corner No. 1 and the True Point of Beginning 1.648 acres of tideland, more or less.

Title and Third Party Interests:

SCRO requested an updated title report from DMLW's Realty Services Section on July 18, 2023, which has not been received at the time of this decision. The tidelands have previously been determined to be state-owned in the 2021 Lease Extension Decision.

No third party interests are known.

Planning and Classification:

The project area is subject to the Bristol Bay Area Plan, Region 11, Management Unit R11T-01: Naknek. The classification for the proposed lease is Waterfront Development Land. This designation applies to areas of tidelands, submerged lands, or shorelands for water-dependent or water-related facilities, usually for industrial or commercial purposes. State tidelands adjacent to communities will be managed to accommodate that development considered appropriate in local land use plans or zoning maps. Waterfront Development includes piers, wharves, harbors, seafood processing facilities, and other uses, and is applied in tidelands are adjacent to uplands with a residential land use pattern, or where such uses can be anticipated (3-30). The Resource Allocation Table for R11T-01 (3-176) notes how this unit is to be managed to support commercial and industrial uses and structures, and further notes that these structures are often associated with the seafood industry in the area.

The lease site also falls within the Bristol Bay Fisheries Reserve (AS 38.05.142), however statute only places development restrictions on oil and gas.

The lease is consistent with the waterfront development classification which includes commercial purposes, seafood processing facilities, and docks.

Access:

The site is accessible by boat from the Naknek River and from the Alaska Peninsula Highway, across private property owned by AGS.

Access Along Navigable and Public Waters:

Shore and tidelands in the State of Alaska that are determined by SCRO to be subject to AS 38.05.127 and 11 AAC 51.045 uphold the constitutional right of the public to have free access to, and use of, the State's navigable or public waterways.

The lease site is located on the Naknek River, which is classified as a navigable waterbody. In accordance with AS 38.05.127 and 11 AAC 51.045, an easement along the length of the lease parcel will be reserved at this location extending 50 feet waterward of the preconstruction MHW, since the uplands are not state-owned.

Authorization and Term Length:

Pursuant to AS 38.05.070(e) leases may only be renewed once and for a duration no longer than the original lease term. As such, this renewal lease will be issued for an additional 30-year term. Unless an appeal is received, the lease term will begin November 22, 2023.

Survey:

The original 1966 lease is based on the unapproved 1967 ATS 654, Tract A. As a condition of lease renewal, AGS will be required to provide a current, approved ATS of the lease site.

<u>Appraisal:</u>

The current annual compensation for the lease tract is set at \$289.92. As a condition of lease renewal, AGS will be required to submit a formal appraisal of the lease site once a new ATS is complete and approved.

Periodic Rate Adjustment:

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.

Bonding:

The original 1966 lease did not require a performance guaranty (bond). As a condition of lease renewal, and in accordance with AS 38.05.035 and AS 38.05.860, AGS will be required to submit a performance bond of \$113,000 to satisfy 11 AAC 96.060 for this tideland lease. 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 AGS'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 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 in the event of noncompliance issues during the term of the lease or near the end of the life of the project.

Insurance:

The original 1966 lease did not require insurance. As a condition of lease renewal, AGS will be required to submit proof of liability insurance to SCRO, with the State of Alaska listed as a "NAMED" insured party. AGS will be responsible for maintaining such insurance throughout the term of the lease.

Public Trust Doctrine:

Pursuant to AS 38.05.126, all authorizations for this site will be subject to the principles 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.

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. This lease provides direct economic benefit to the State through the collection of lease fees and indirect benefit in support of the commercial fishing industry through use and development of the State's natural resources. It is recommended that SCRO renew this lease to AGS for a term of 30 years under AS 38.05.070(e).

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11/17/2023

Bren McIver, Natural Resource Specialist 3 Division of Mining, Land and Water, Southcentral Regional Land Office Date

Renewal Decision:

The findings presented above have been reviewed and considered. The case file has been found to be complete and the requirements of all applicable statutes and regulations have been satisfied. The annual fee of \$289.92 will remain pending the outcome of a formal appraisal. The renewal of this lease will require AGS to provide a \$113,000.00 performance bond, obtain an approved Alaska Tideland Survey, and provide proof of liability insurance. I find that it is in the best interests of the State to renew this lease as described under the authority of AS 38.05.070(e).

pmpreetman	Joni Sweetman for	11/17/23
Samantha Carroll, Regional Manager		Date

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

Appeal:

An eligible person affected by this decision may appeal to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department. Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf.

Attachment A Development Plan



ALASKA GENERAL SEAFOODS

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JAN 08 2018

DIVISION OF MINING, LAND & WATER SOUTHCENTRAL REGIGN LAND OFFICE

Site Development Plan ADL 32750

January 8, 2018

Alaska General Seafoods (AGS) would like to use tidal land at lease ADL 32750 to extend our existing dock 18'x120'. The sight is located in section 3, township 17, and range 47 west, Seward Meridian; on the northern bank of the Naknek River. The site is for commercials use and the extension will serve as work and storage space outside of our production buildings located on the downriver end of our facility. The site is a tidal river bed consisting of sand, small rock, and mud.

Access to the site will be made from existing roads and docks on AGS property and will have no impact on public road systems. The dock is shared by 4 processing and storage buildings built directly on the dock on wood and steel piling with concrete floors. The buildings have been on site for 50+ years and were constructed and renovated throughout different periods during this time. Operations occur during the spring and summer months from April-August with the peak periods occurring between June and July.

The site is powered by the local Co-Op NEA and AGS has the ability to self-generate if needed. The construction of a dock will require and fuel powered air compressor and Vulcan hammer to drive piling. While driving pile and complete construction the only waste generated will be wood scraps from piles and decking. This non-treated would will be collected and donated to local residents as firewood. No water will be used during construction but existing waterlines will remain charged to serve as fire protection. Our pile driver will be suspended in the air by our mobile crane which remain parked in the vicinity of the project for the entire duration. This vehicle is equipped with an oversized drip pan in order to catch any potential drops of oil that may come from the undercarriage.

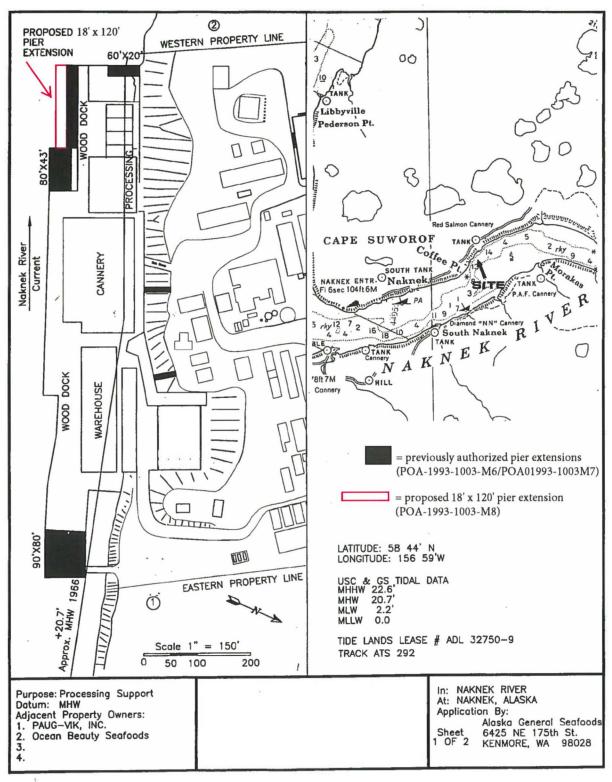
Our construction crew size will be minimal. 8-10 employees will be assigned to the project. This will include a foreman and one lead supervisor who will serve as the crane operator when driving pile. During the construction period the site will be closed off to all clients and non-essential staff that may be on site. The long term maintenance of the dock will be conducted by AGS. This work will consist of piling, joist, cap, and decking replacement as needed.

This project will not require any dredging, excavation, and no material will be moved and no reclamation or closure plans are needed.



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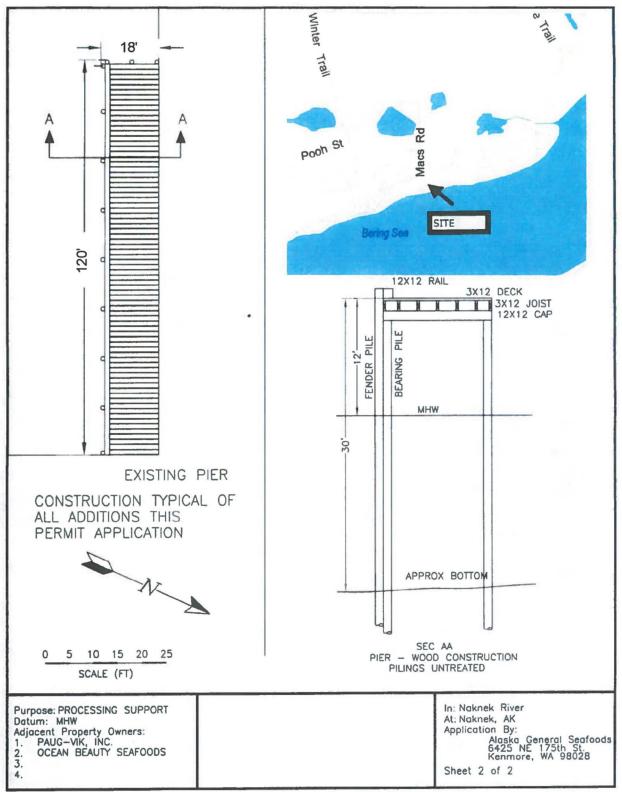
Attachment A Development Plan



POA-1993-1003-M8, Naknek River December 2017

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Attachment A Development Plan



POA-1993-1003-M8, Naknek River December 2017

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Attachment B Location Maps



ADL 32750 Alaska General Seafoods Naknek, Alaska SWI/4 of Section 2, Township 17 South, Range 47 West, Seward Meridian

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