

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

Southeast Regional Land Office

Preliminary Decision ADL 109315 Marble Seafoods, LLC Application for Lease AS 38.05.070

Executive Summary

This Preliminary Decision (PD) is the State's preliminary best interest finding regarding a proposed disposal of interest in state land. The public is invited to comment on this PD. The deadline for commenting is 5:00 pm, March 25^{th} , 2024. Please see the Public Notice section of this decision for requirements related to submitting comments for consideration. Only the applicant and those who comment have the right to appeal the Final Finding and Decision (FFD).

Requested Action

Trevor Sande doing business as (DBA) Marble Seafoods, LLC applied for a 25-year tideland lease of this proposed site to construct, maintain, and operate business within the leasehold boundaries.

Trevor Sande DBA Marble Seafoods, LLC ("applicant") applied for a tideland lease with DMLW on April 11th, 2023, for the use of state shoreland and tidelands located on approximately 0.5 acres within Section 5, Township 74 South, Range 90 East, Copper River Meridian in Ketchikan, Alaska. The purpose of this application is for the site to be used by the applicant for shore-based processing of oysters and kelp operations. The proposed facilities would also house business operations and employee housing for Marble Seafoods, LLC., and Hump Island Oyster Company.

The proposed lease area is comprised of approximately 0.5 acres of state-owned tidelands adjacent to a private lot owned by the Sande's, near Potter Point; adjacent to Betton Island, on the west side of Revillagigedo Island, approximately 9 miles north of Ketchikan International Airport. The proposed site will contain two structures and a parking lot within the lease boundary.

At the present time, the applicant is waiting for authorization from DMLW to move forward with construction and placement of the proposed project. Currently, there are no improvements on state-owned tidelands or Lot 1. Lot 2 currently has improvements, as this is the current residence of Mr. Sande.

There are two main shore-based retail/processing facilities as well as a parking lot proposed within the development plan the applicant submitted with the application.

Preliminary Decision ADL 109315 Page 1 of 13 Structure A is an existing floating structure which consists of a concrete pontoon that holds a 5,500 square foot, two-story wood framed building. Construction and refurbishment work to the lower floor of the building was done prior to moving the structure into the lease boundary on the tidelands. Structure A is currently moored approximately three hundred feet from the lease boundary. The applicant will use a "boom boat" to push Structure A into place on the tidelands adjacent to Lot 1. The lower floor of the facility will house the Marble Seafoods management offices, employee restrooms, seafood retail store, oyster tasting room, and a commercial kitchen for seafood processing. The upper floor has an existing 3-bedroom apartment that will be used for employee housing.

The parking lot will be constructed between Structure A and Structure B.

Structure B will be a two-story wood framed building, encompassing approximately 4,200 square feet, for shipping, processing, and wet storage of oysters. The structure will be constructed on a concrete foundation, placed over fill material on the tidelands.

Proposed Improvements:

- Office/retail/tasting room/gift shop area/housing (Structure A) 80ft x 68ft, ~5,440 square feet.
- Processing shop/wet storage/boxing and shipping (Structure B) 70ft x 60ft, ~4,200 square feet.
- Parking lot 65ft x 60ft, ~3,900 square feet.
- Beginning portion of gangway to proposed processing building (ADL 108094) which is outside of tideland lease (ADL 109315) area- 8ft x 20ft ~160 square feet.

Existing Improvements:

• None

The total area requested by the applicant is approximately 0.5 acres. Final acreage will be determined by an approved survey of the leasehold.

Proposed Action

The Division of Mining, Land & Water (DMLW) proposes to issue a 25-year tideland lease to the applicant for the construction, operation, and maintenance of an oyster and kelp processing facility, and associated structures, to continue the applicants' operations; contingent on comments received during Agency Review and Public Notice.

Scope of Decision

The scope of this decision is limited to the determination of whether it is in the State's best interest to issue a 25-year tideland lease to the applicant. The administrative review for this authorization is defined by AS 38.05.035(e)(1)-(2) and is limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) facts pertaining to the land or resources; and (4) issues that are material to the determination.

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Authority

This lease application is adjudicated pursuant to AS 38.05.035(b)(1) and AS 38.05.035(e), AS 38.05.070, AS 38.05.070-75, and AS 38.05.945. The authority to execute the PD, Final Finding and Decision (FFD), Entry Authorization (EA), 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 *Central/Southern Southeast Area Plan, November 2000* (CSSEAP) and other classification references described herein, and the casefile for the application serialized by DNR as ADL 109315.

Location Information

Geographic Location:

The parcel is located in Ketchikan, Alaska, on the west side of Revillagigedo Island, approximately 9 miles north of Ketchikan International Airport. The proposed site is on state-owned tidelands.

Property Description:

The proposed lease is located adjacent to Lot 1, replat of Lot 1A, Sande Subdivision, Ketchikan Recording District (KRD) 2011-43 and Lot 2B, ASLS 2005-34, KRD Plat 2015-29, and state-owned tidelands within Section 5, Township 74 South, Range 90 East, Copper River Meridian. The proposed leasehold contains approximately 0.5 acres more or less.

Other Land Information:

Municipality: Ketchikan Gateway Borough Regional Corporation: Sealaska Corporation Village Corporation: Cape Fox Corporation, Village of Saxman Federally Recognized Tribe: Ketchikan Indian Corporation Approximate Coordinate Location: 55.4822° N, 131.7760° W (DATUM)

Title

The State of Alaska holds title to lands beneath tidally influenced and navigable waterways within its jurisdiction, including lands underlying Clover Passage in the section(s) referenced above, on the basis of the Equal Footing Doctrine, the Submerged Lands Act of 1953 and AS 38.04.062 (Identification of State Submerged Lands). A DNR Title Report RPT-23347 was requested on October 13th, 2023, from DMLWs Realty Services Section. A Title Report issued from Realty Services Section will state whether the State of Alaska holds title to the subject tidelands under the Equal Footing Doctrine and Submerged Lands Act of 1953. The Southeast Regional Office reserves the right to modify the Final Finding and Decision based upon the information contained in the Title Report upon completion.

Adjacent Landowners

The following landowners will be notified of the proposed project during Public Notice:

Gregory and Theresa Kershaw, Darrell and Rachel Welk, Aaron Schultz, Adam and Sarah Thompson, Jeff and Nancy Schultz, Clark and Lacey Simpson, Paul and Linda Cyr, Carrie Hackman, Steven Hemminger, and Miles Enright.

Third Party Interests

• None

Planning and Classification

The proposed activity is consistent with the *Central/Southern Southeast Area Plan, November 2000* (CSSEAP). The proposed project is located in Management Unit KT-58 - "Tidelands within Clover Passage north of Ketchikan". The designated land unit is Ru (Public Recreation – dispersed use) and Sd (Shoreline Use). "Ru" is designated as "Public Recreation Land", and "Sd" is designated as "Settlement land". (CSSEAP 3-272, 4-6)

Designations Used in This Plan

Ru-Public Recreation and Tourism-Undeveloped. These designations apply to those areas that offer or have a high potential for dispersed recreation or tourism and where desirable recreation conditions are scattered or widespread rather than localized... (CSSEAP 3-4)

Sd-Shoreline Use. These designations apply to areas of state tidelands or submerged lands, generally within 100-feet of shoreline, where water-related or water-dependent facilities for personal use by the owner of an adjacent upland site may be authorized. Facilities may include small docks, boat ramps, mooring buoys, or other facilities for personal, non-commercial use. Development of facilities for commercial or industrial use will be determined on a site-specific basis. An authorized shoreline facility is considered the private property of the owner who built or maintains it, but this private property right does not extend to the surrounding tidelands, submerged lands, or waters... (CSSEAP 3-5)

State Land Classification

11 AAC 55.160 – Public Recreation Land: Land classified public recreation is land that is suitable for recreation uses, waysides, parks, campsites, scenic overlooks, hunting, fishing or boating access sites, trail corridors, or greenbelts along bodies of water or roadways. (CSSEAP 4-2)

Management of State Lands

Areas of waterfront development are recommended along the Revillagigedo and Gravina Island waterfronts where commercial or economic development is permitted and at specific timber transfer site and aquaculture sites...It should be noted that the regional maps of the Clevland Peninsula and the Ketchikan region depict Pacific herring spawning areas as linear, coastal features (unlike the tideland tracts that occupy polygons). Both the tideland tracts and the coastal linear features are to be managed so that their principle resources are protected. In this region, tideland tracts

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Management Intent

Tidelands, Submerged Lands and Shorelands. "DNR will provide reasonable access across state tidelands to upland owners. Upland access across state tidelands, including developed access facilities, may be allowed within all land use designations where DNR determines the proposed facilities are consistent with the management intent and applicable guidelines of the plan. However, state tideland use designations do not give the public access rights to adjacent private uplands." (CSSEAP 3-7)

Tidelands are to be managed to allow limited shoreline development associated with permitted residential uses, but structures should be limited in extent and should minimize impacts to the scenic qualities of Clover Passage...Pacific herring spawning concentrations occur within portions of this tideland parcel; impacts to the resource should be minimized. (CSSEAP 3-317)

Clover Passage is designated as a scenic area in the Comprehensive Plan of the Ketchikan Gateway Borough. This designation attempts to preserve the scenic features of Betton and Grant Islands, adjacent to the main island of Revillagigedo Island as well as the shoreline of Revillagigedo Island. (CSSEAP 3-317)

Per the CSSEAP, the proposed activity is allowed. Tidelands and shoreland will be used for commercial purposes. The project site is in a suitable area to place and maintain the proposed use. The proposed area is within the boundary of the Pacific herring spawning; however, the work being done would most likely have zero to minimal impact on the spawning habitat and activity. According to ADFG Southeast Alaska Herring Surveys Map, ADFG Historical Herring Spawning Locations in Southeast Alaska, and interagency communications, there has not been any spawning activity since 2014 within the area of Clover Passage and within the boundaries of the proposed leasing area.

Traditional Use Finding

This finding is not required since the proposed leasehold is located within an organized borough (AS 38.05.830). The Borough will be notified of this Preliminary Decision.

Access

The physical and legal access to the proposed lease site is through the applicant's upland parcel. Mr. Sande owns the adjacent parcel and will access the lease site via Lot 1.

Access Along Public Waters:

The site is located adjacent to Clover Passage. Pursuant to AS 38.05.126(a), the public has a constitutional right to free access to, and use of, navigable or public waters of the State of Alaska. Under 11 AAC 51.045 and AS 38.05.127, DMLW is required to reserve specific public-

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Public Trust Doctrine

Pursuant to AS 38.05.126, the proposed lease 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 to the maximum extent practicable while allowing for the development of this project. As such, DMLW is reserving the right to grant other authorizations to the subject area consistent with the Public Trust Doctrine.

Mineral Orders

The proposed leasehold does not fall within the areas delineated in an Administrative Mineral Closing Order (MCO). Neither an MCO nor a leasehold location order is necessary or appropriate for this lease.

Hazardous Materials and Potential Contaminants

Hazardous materials, specifically, paint and other solvents, gasoline for small engines and lubricants. All hazardous materials will be stored in OSHA-compliant, explosion-proof containers. Heating fuel for building number one will be stored in 500 and 1000-gallon storage tanks with containment inside the lease area. The propane for building number two will be stored in 100-gallon cylinders which will also be stored within the proposed leasehold. Stipulations will be included in the lease to ensure proper handling and storage. 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 leasehold and disposed of in accordance with state and federal law.

Agency Review

An agency review was conducted on November 13th, 2023. The deadline for agency comments was December 13th, 2023.

The following agencies were included in the review:

- ADF&G Wildlife Conservation
- ADF&G Habitat Section, and Commercial Fisheries Division
- DEC Commissioners Office
- DEC Water Plan Review Section Manager
- DNR DMLW OHA Review & Compliance
- DOT&PF Right-of-Way Agent 6
- DNR DMLW Water
- DNR DMLW Aquatic Farms
- Alaska Association of Conservation Districts

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Trevor Sande DBA Marble Seafoods, LLC

Agency Review Comment and Response:

DNR-DMLW - Water Section

Comment: DMLW – Water Section has no objections. With the information supplied by the applicant in the application and development plan, it appears there will not be any significant water use per AS 46.15.180 and 11 AAC 93.035 associated this application that would require authorization from the Department.

However, if the source of water changes and these is to be any significant use of water directly taken from a surface or groundwater source associated with the activities outlined within the ADL 109315 application, or with the applicant's project(s) in general, then a water use authorization may need to be applied for through the ADNR Water Resources Section.

DMLW Response: Thanked the Water Section for their comment and sent the related information to the applicant.

ADFG – Habitat Section

Comment: ADFG has no objection to the issuance of this lease, however, offers two comments:

1. Marine mammal species listed under the Endangered Species Act (ESA) and protected by the Marine Mammal Protection Act (MMPA) have habitats to the proposed project area, including Steller sea lions (western distinct population segment [DPS]) and humpback whales (Mexico DPS). Additionally, several other species, not listed under the ESA but similarly protected by the MMPA, inhabit the project areas (according to National Marine Fisheries Service [NMFS] and US Fish and Wildlife Service [USFWS] mapping software), including Harbor seal, Pacific white sided dolphin, Dall's porpoise, gray whale, Harbor porpoise, Killer whale, Minke whale, and Northern sea otter. Shoreline construction activities may temporarily displace these marine mammals. To minimize disturbances, it is important to adhere to advisories or mitigation measures provided by the NMFS (for all species except sea otters) or the USFWS (for sea otters).

For NMFS consultation inquiries, email <u>AKR.PRD.Section7@noaa.gov.</u> For questions related to the USFWS Alaska Marine Mammals Management Office, email <u>FW7_AK_Marine_Mammals@fws.gov_or call 800-362-5148</u>.

2. The activity at the facilities should not interfere with public use of state waters for recreation, fishing, or access.

DMLW Response: Thanked ADFG for their comment. DMLW will include this information in the decision and will send the relevant details to the applicant.

Background

The adjacent upland site has been conveyed to Mr. Sande under ADL 106618. An application was received on September 15th, 1999, by DMLW, for the conveyance of a plot adjacent to Mr.

Preliminary Decision ADL 109315 Page 7 of 13 Sande's private residence under ADL 106618. The Final Finding and Decision was signed by DMLW on May 17th, 2002. An amended Final Finding was then signed on May 4th, 2006. On August 12th, 2019, the lot was officially conveyed to the Sande's under State Patent Number 24624.

- September 15th, 1999 DMLW received an application under ADL 106618 from Trevor Sande to purchase land adjacent to and adjoining his property.
- May 17th, 2002 DMLW approved Final Finding and Decision for ADL 106618.
- May 4th, 2006 Amended Final Finding signed for ADL 106618.
- November 27th, 2015 Final Survey recorded in the Official Public Record for ADL 106618 under ASLS 20050034.
- June 13th, 2017 ADL 106618 Land Sale issued and approved under MS 2017-001589-0 Ketchikan Recording District.
- August 12th, 2019 ADL 106618 Lot conveyed to Trevor and Julie Sande. State Patent Number 24624 recorded document in the Official Public Record.
- April 11th, 2023 Application received for ADL 109315 to place two buildings and construct a parking lot for the expansion of Marble Seafoods operations.
- November 28th, 2023 Case File ADL 109315 assigned; adjudication process begins.

Discussion

Structure A is an existing floating structure that was used as the former Gildersleeve Logging Camp School. The concrete pontoon floats a 5,500 square foot, two-story wood framed building. The lower floor will be renovated to house the Marble Seafoods management offices, employee restrooms, seafood retail store, oyster tasting room, and a commercial kitchen for seafood processing. The upper floor has an existing 3-bedroom apartment which will be used for employee housing with projected dates of use for April 1st through October 1st. The intent with Building A is to level the beach at elevation +13.0 feet and slide the pontoon onto land during a high tide (+19.5 feet or higher), which will put the finished floor area at approximately +24.5 feet. The building will be anchored down to prevent any movement. The pontoon will not float during any tide stage once it is anchored on the tidelands. To anchor the structure for stabilization, the applicant proposes to bolt several 6 x 6 x 1/2' galvanized angle(s) against the rock lip on two sides, bolted by 5/8" x 6" wedge anchors, spaced 24-inches apart, on the center base of the pontoon. The proposed area would be backfilled with shot rock. An "anchor threaded rod" would be screwed into shot rock on the third side to ensure a secure anchor point.

A parking lot will be located between Structure A and Structure B. The proposed lot will be approximately 65-feet x 60-feet or approximately 3,900 square feet. The area will be constructed Preliminary Decision ADL 109315 Page 8 of 13 Trevor Sande DBA Marble Seafoods, LLC with shot rock placed over the existing tidelands and surfaced with a D-1 material and bound by a precast concrete block wall on three sides.

Structure B will be a two-story wood framed building, encompassing approximately 4,200 square feet, for shipping, processing, and wet storage of oysters. The structure will be constructed on a concrete foundation. 1,200 cubic yards of fill will be placed on the tidelands to get the slab to subgrade, the area will then be filled with concrete. The lower floor will contain an area to receive live oysters from the Hump Island oyster farm and store in water filled fish totes with recirculating water. The floor will also house a sorting machine and a conventional walk-in cooler and freezer. The upper floor of the facility will be a boxing room with packing materials, shop space and gear storage.

Issuing this authorization and allowing proposed improvements to remain on site provides for appropriate long-term access and support facilities to the Aquatic Farm leasing areas; and will leave future commercial opportunities open for this site and adjacent sites. Given the possibility of environmental impact by placing fill on the tidelands and other proposed activities outlined in the development plan, the applicant must obtain all necessary authorizations from other State and Federal agencies.

The proposed project aligns with the CSSEAP guidelines that are outlined within the relevant chapters to this area. This proposed lease will provide economic benefit to the state in the form of fees and is considered to be in the best interest of the state.

The lease shall be subject to the standard DMLW Lease Agreement, Special Stipulations and the terms and conditions set forth therein (Attachment A). The development plan (Attachment B) shows all proposed structures and dimensions.

Development Plan

The Development Plan (DP) attached to this decision (Attachment B) and dated March 1st, 2023, is under consideration by DMLW. 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 DMLW before any construction, deconstruction, replacement of infrastructure, or change in activity will be authorized. DMLW reserves the right to require additional agency review and/or public notice for changes that are deemed by DMLW to be beyond the scope of this decision.

Entry Authorization

Pursuant to AS 38.05.075(f), DNR-DMLW will authorize the applicant entry onto state land through the issuance of an Entry Authorization (EA) to allow site development and conduct the required survey and appraisal, described below. The proposed EA is for a term of three years and would be issued after the Final Decision becomes effective. Once the conditions of the EA are met, the lease will be issued. The total lease term is inclusive of the term of the EA.

Performance Guaranty

In accordance with AS 38.05.035, AS 38.05.860, and 11 AAC 96.060(a) Performance Guaranty (PG), the applicant will be required to submit performance guaranties for the lease to incentivize performance of the conditions of the EA (if applicable) and the lease. This provides a mechanism for the state to ensure that the lessee shares any financial costs associated with noncompliance of the lease agreement for site cleanup, restoration, and any associated costs after termination or expiration of the leases. The following bonds will be required:

\$67,275.00 Performance Bond:

Performance guaranties provide a means to pay for corrective action if the lessee fails to comply with the lease requirements. In accordance with AS 38.05.035(a)(4), the applicant will be required to submit a performance guaranty. The amount of the performance guaranty is based on the scope and the nature of the activity and the potential cost of restoring the site. Performance guaranties are subject to periodic adjustments during the term of the authorization to address increases or decreases in the costs of rectifying problems and rehabilitating state land due to inflation, changes in the level or nature of development, or other appropriate factors.

The amount of the performance guaranty would previously have been \$134,550.00. However, following recent DMLW guidance on determining a performance guaranty, that figure represents a maximum bonding amount. Other factors may also be considered when determining a performance guaranty. Given the security provided by the applicant's history of compliance, good standing with prior DNR authorizations, the potential economic benefits of the proposed project, and minimal environmental risk, DMLW has decided imposing 50% of the maximum bonding amount is appropriate. Therefore, the applicant will be required to submit a performance guaranty in the <u>amount of \$67,275.00</u>.

Insurance

Consistent with AS 38.05.035 to protect the State from liability associated with the use of the site, the applicant shall provide and maintain a comprehensive general liability insurance policy with the State of Alaska named as an additional insured party per the stipulations of the Lease Agreement. The applicant shall secure or purchase at its own expense and maintain in force at all times during the term of this lease, liability coverage and limits consistent with what is professionally recommended as adequate to protect the applicant and the State, its officers, agents and employees from the liability exposures of all the insured's operations on state land. The insurance requirement may be adjusted periodically.

Survey

In accordance with AS 38.04.045, the applicant must complete an approved survey that meets the standards of DMLW's Surveys Section prior to lease issuance. The measurements identified in the approved survey will be used to accurately calculate the total acreage. The survey must be performed by a registered Land Surveyor under survey instructions issued by the Surveys Section. The applicant is responsible for the cost of the survey. The applicant shall submit an initial draft of the survey at least one year prior to the expiration of the EA.

Preliminary Decision ADL 109315 Page 10 of 13 Before any fill is placed on state tidelands, the line of mean high water must be determined by a survey, consistent with 11 AAC 96.040(d). This pre-construction survey must be conducted in accordance with instructions from DMLW Surveys Section.

Appraisal

In consultation with DMLW Appraisals Unit and in accordance with AS 38.05.840(a), it was determined that an appraisal is required. The applicant must provide a fair market value appraisal of the proposed leasehold prepared by a licensed appraiser approved by the Appraisals Unit. The cost of the appraisal shall be borne by the Applicant.

Compensation

Annual Land Use Fees:

The annual land use fee shall be the minimum lease fee of \$1,000.00 as established in 11 AAC 58.410(b) until a fair market value appraisal has been completed. Once the appraisal has been completed and fair market value rent for the subject parcel has been determined, if the amount is less than \$1,000 per annum the annual fee shall remain at \$1,000 in accordance with 11 AAC 58.410(b). However, if it is determined from the appraisal that the fair market value for the subject parcel is greater than the minimum land use fee, then the annual land use fee will be adjusted to reflect this amount from the effective date of the lease. Additionally, Trevor Sande DBA Marble Seafoods, LLC will be responsible for the payment of any difference from payments made during the term of the Entry Authorization.

For information on general appraisal requirements and acceptable appraisers, contact the Chief Review Appraiser at:

Department of Natural Resources Division of Mining, Land & Water 550 West 7th Ave., Suite 650 Anchorage, AK 99501-3576 Phone: 907-269-8512

Periodic Rate Adjustment:

In accordance with AS 38.05.105, the annual land use fee payment will be subject to adjustment at five-year intervals after the issuance of the lease.

Subleases

Subleasing may be permissible through AS 38.05.095 if the proposed lease is approved. All potential subleases must first be approved in writing by DMLW. DMLW may conduct further agency review and/or public notice before making a determination on the appropriateness of the proposed sublease. The sublease fee will not be less than 25% of the annual fee paid to the lessee by the sublessee.

Reclamation

In accordance with AS 38.05.090, the leasehold must be restored to a "good and marketable condition" as determined by DMLW within 120 days after termination of the lease.

Public Notice

Pursuant to AS 38.05.945, this PD will be noticed for a 30-day public comment period, starting on February 22nd, 2024. In addition, the post office(s) located near the proposed leasehold 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>. In accordance with AS 38.05.946, a municipality or a corporation entitled to receive notice under AS 38.05.945(c) may hold a hearing within 30 days after the receipt of the notice.

Comments

The public is invited to comment on this PD. All comments received during the public comment period will be considered in the FFD. If public comments result in significant changes to the PD, additional public notice may be given. A copy of the FFD, along with instructions on filing an appeal, will be sent to all persons who comment on the PD. To be eligible to appeal, a person affected by the FFD must provide written comments during the public comment period per AS 38.05.035(i).

Written comments about this project must be received in this office no later than 5:00pm on March 25th, 2024, to be considered.

To submit comments please choose one of the following methods:

Mail: Department of Natural Resources Division of Mining, Land and Water Southeast Region Office ATTN: Quinn McClurg 400 Willoughby Avenue, 4th Floor PO Box 111020 Juneau, AK 99811-1020

Email: quinlan.mcclurg@alaska.gov

Questions about the lease portion of this project can be directed to Quinn McClurg at (907) 465-3432.

Signature page follows:

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Adjudicator Recommendation

Based on the information provided by the applicant and other agencies, as well as review of planning documents, statutes, and regulations, I recommend approving a 25-year lease to the applicant authorizing the placement of a shore-based processing facility for oyster and kelp operations, including center management functions for Marble Seafoods, LLC., and Hump Island Oyster Company.

I recommend proceeding to public notice for the purpose of providing the members of the public and those entities identified in AS 38.05.945 with an opportunity to review and submit comments.

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Quinn McClurg, Natural Resources Specialist II

Unit Manager Concurrence

Mason Auger

Mason Auger, Natural Resources Manager II

Preliminary Decision

It is the determination of the Division of Mining, Land & Water that it may be in the State's best interest to issue a 30-year lease to the applicant, as described above. This preliminary decision shall now proceed to public notice.

Kaitlyn Raffier, Southeast Regional Manager

2/21/2024 Date

ATTACHMENTS: Attachment A. Standard Lease Agreement and Special Stipulations Attachment B. Development Diagram Attachment C. Entry Authorization Attachment D. ASLS 2005-34

Date

02/21/2024

2/21/2024

<u>2/21</u> Date

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