

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

Extension Decision

Tom Carruth dba Alaska Shellfish

ADL 107092

AS 38.05.070(f)

Decision to Extend Lease:

Tom Carruth dba Alaska Shellfish has requested that the Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW), Southcentral Regional Land Office (SCRO) renew a current 10-year lease within an unnamed cove south of Point Sykes in Revillagigedo Channel, Alaska. The lease is set to expire on May 9, 2025. SCRO has made the decision to extend the lease for a maximum of two years pursuant to AS 38.05.070(f)(2). This will allow SCRO time to consider the application to renew the lease.

Scope of Decision:

The scope of this decision is to determine if it is in the State's best interest to extend the lease for ADL 107092 to Alaska Shellfish for a period of two years to allow time to consider the application for renewal.

Authority:

In accordance with AS 38.05.070(f), a lease may be extended once for a period up to two years. This lease extension is being adjudicated pursuant to AS 38.05.070, Generally; AS 38.05.070(g), the director shall provide public notice of the decision to extend the lease.

Administrative Record:

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced here-in, the 2000 Central/Southern Southeast Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as ADL 107092.

Legal Description, Location, and Geographical Features:

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

- **Legal description:** Located in the SW1/4 of Section 15 and NW1/4 of Section 22, Township 77 South, Range 95 East, Copper River Meridian, Alaska
- **Geographical location:** Located within an unnamed cove south of Point Sykes in Revillagigedo Channel, approximately 25 miles southeast of Ketchikan, Alaska.

- **Approximate Lat/Long:**

Parcel 1: Intertidal growing area, 400 feet by 500 feet, approximately 4.6 acres

NE Corner: Latitude: 55° 11.135' N Longitude: 131° 05.105' W

SE Corner: Latitude: 55° 11.085' N Longitude: 131° 05.180' W

SW Corner: Latitude: 55° 11.150' N Longitude: 131° 05.285' W

NW Corner: Latitude: 55° 11.200' N Longitude: 131° 05.200' W

- **Existing surveys:** None
- **Municipality/Borough:** Ketchikan Gateway Borough
- **Native Corporations/Federally Recognized Tribes:** Sealaska Corporation, Metlakatla Indian Community, Ketchikan Indian Community, Ketchikan Indian Corporation, Organized Village of Saxman, Central Council of the Tlingit and Haida Indian Tribes of Alaska, Cape Fox Corporation
- **Size:** 4.6 acres, more or less

Title:

A DNR Title Report (RPT-8099) issued on August 11, 2015, from DMLW's Realty Services Section, attests 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.

Third Party Interests:

No third-party interests are known at this time.

Planning and Classification:

The project area is subject to the Central/Southern Southeast Area Plan (CSSAP), Region 5: Ketchikan, General Use Tidelands, Map 3-26: Ketchikan – South. The designation for this site is General Use which converts to the classification of Resource Management Land. In accordance with the CSSAP, aquatic farming is an allowable use and is therefore consistent with the plan.

Access:

Access to the site is via boat.

Hazardous Materials and Potential Contaminants:

No hazardous materials or fuel will be stored on the proposed lease. The use and storage of all hazardous substances must be done in accordance with existing federal, state and local laws. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the lease site and disposed of in accordance with state and federal law.

Lease Performance Guaranty (bonding):

In accordance with AS 38.05.035, AS 38.05.860, and 11 AAC 96.060(a) Performance Guaranty, Alaska Shellfish will be required to maintain a performance guaranty for the lease site. Alaska Shellfish submitted a \$2,500.00 cash bond to DNR on January 11, 2024.

- **\$2,500.00 Performance Bond:** This existing bond will remain in place for the life of the extension. The bond amount is based upon the level of development, amounts of hazardous material and/or 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:

Alaska Shellfish 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. Alaska Shellfish will be responsible for maintaining such insurance throughout the term of the lease.

Public Notice:

Pursuant to AS 38.05.070(g) the department shall provide public notice of the extension decision. Public notice describing this proposed action will be posted on the State of Alaska Online Public Notice System for 30 days.

Background:

Alaska Shellfish is the current lessee for ADL 107092, which is set to expire May 9, 2025. The Lease Agreement was first established between SCRO and Kurt Morin for a 10-year term from July 1, 2004, through June 30, 2014, and then was amended on July 22, 2005, to revise the term dates to May 10, 2005, through May 9, 2015. The lease was renewed to Kurt Morin for another 10-year term from May 10, 2015, through May 9, 2025. The lease was assigned to Tom Carruth dba Alaska Shellfish on April 3, 2024.

Lease Discussion:

The lease is for the purpose of the commercial growth and harvest of Pacific geoduck (*Panopea generosa*) and occupies an area of 4.6 acres, more or less. Planting the geoduck seed is done by hand

at low tide or by a diver at other tidal stages. Vexar mesh is placed before the planting and then the seed is broadcast onto the mesh. Once the seed digs itself into the substrate for 1 to 2 weeks, the Vexar is removed to prevent fouling. The 2024 Assignment Project Description states that the seed is planted at 12mm and can take 8 to 10 years to reach market size.

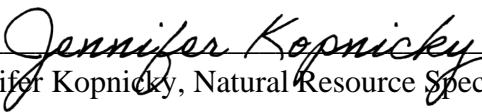
Alaska Shellfish sent a cover letter with their Assignment of Lease Information Sheet which was received by SCRO on November 27, 2023. The letter mentioned the need for a lease extension and included a check to pay the extension fee of \$160. The lease extension for ADL 107092 will provide additional time for SCRO to consider the renewal application when it is submitted by Alaska Shellfish.

Signature page follows

Recommendation:

It has been determined that the lease extension for a term of two years is in the best interest of the State. Issuance of the lease extension for a limited term will allow for continued use while DNR adjudicates the lease renewal. It will allow the lessee and the lessor to continue a lease agreement without a lapse in authorizations that will result in unauthorized use.

In consideration of all the information and facts listed above, it is my recommendation that a lease extension with a limited term is consistent with the overall classification and management intent for this land and would be a benefit to the State of Alaska. It is recommended that DNR extend this lease for a term of 2 years as shown in Attachment A.

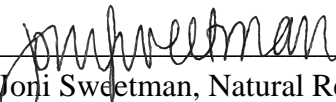


Jennifer Kopnick, Natural Resource Specialist 2
Southcentral Regional Land Office
Division of Mining, Land and Water

04/24/2024
Date

Extension Decision:

The casefile has been found to be complete and the requirements of all applicable statutes have been satisfied. I find that it is in the best interest of the State to proceed with the lease extension pursuant to AS 38.05.070(f) as recommended above.



Joni Sweetman, Natural Resource Manager 2
Division of Mining, Land & Water
Southcentral Regional Land Office

4/26/24
Date

Attachments:

Attachment A – Sample Lease Extension

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
Sample Lease Extension

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

EXTENSION TO LEASE AGREEMENT
AS 38.05.070

In accordance with AS 38.05.070(f), the term of Lease Agreement ADL XXXXXX entered into by “**lessee**”, effective the day of , is hereby extended to 12 o’clock midnight on the day of .

This extension effects the following described leasehold:

Located within “Cove” south of “Landmark” in “Bay,” approximately 15 miles southeast of “Town”, Alaska.

Parcel 1: Intertidal growing area, XXX feet by XXX feet, approximately XX acres

NE Corner:	Latitude: 00° 00.000' N	Longitude: 000° 00.000' W
SE Corner:	Latitude: 00° 00.000' N	Longitude: 000° 00.000' W
SW Corner:	Latitude: 00° 00.000' N	Longitude: 000° 00.000' W
NW Corner:	Latitude: 00° 00.000' N	Longitude: 000° 00.000' W

All other terms and conditions of the lease agreement remain unchanged.

Attachment A Sample Lease Extension

By signing this lease extension, the lessor and the lessee agree to be bound by its provisions.

LESSEE:

LESSOR:

**XXX XXXXXXX, Natural Resource Manager
Southcentral Regional Land Office**

STATE OF ALASKA)
) ss.
_____, Judicial District)

THIS IS TO CERTIFY THAT ON THIS _____ day of _____, before me personally appeared _____, known to me to be the person named and who signed the foregoing lease and acknowledged voluntarily signing the same.

Notary Public in and for the State of Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
_____, Third Judicial District)

THIS IS TO CERTIFY THAT ON THIS _____ day of _____, before me personally appeared _____, of the Division of Mining, Land and Water of the Department of Natural Resources of the State of Alaska, who executed the foregoing lease on behalf of the State of Alaska, and who is fully authorized by the State to do so.

Notary Public in and for the State of Alaska
My commission expires: _____