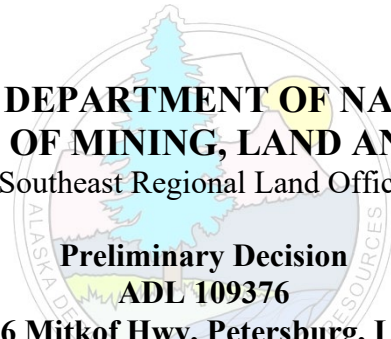


**STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

Southeast Regional Land Office



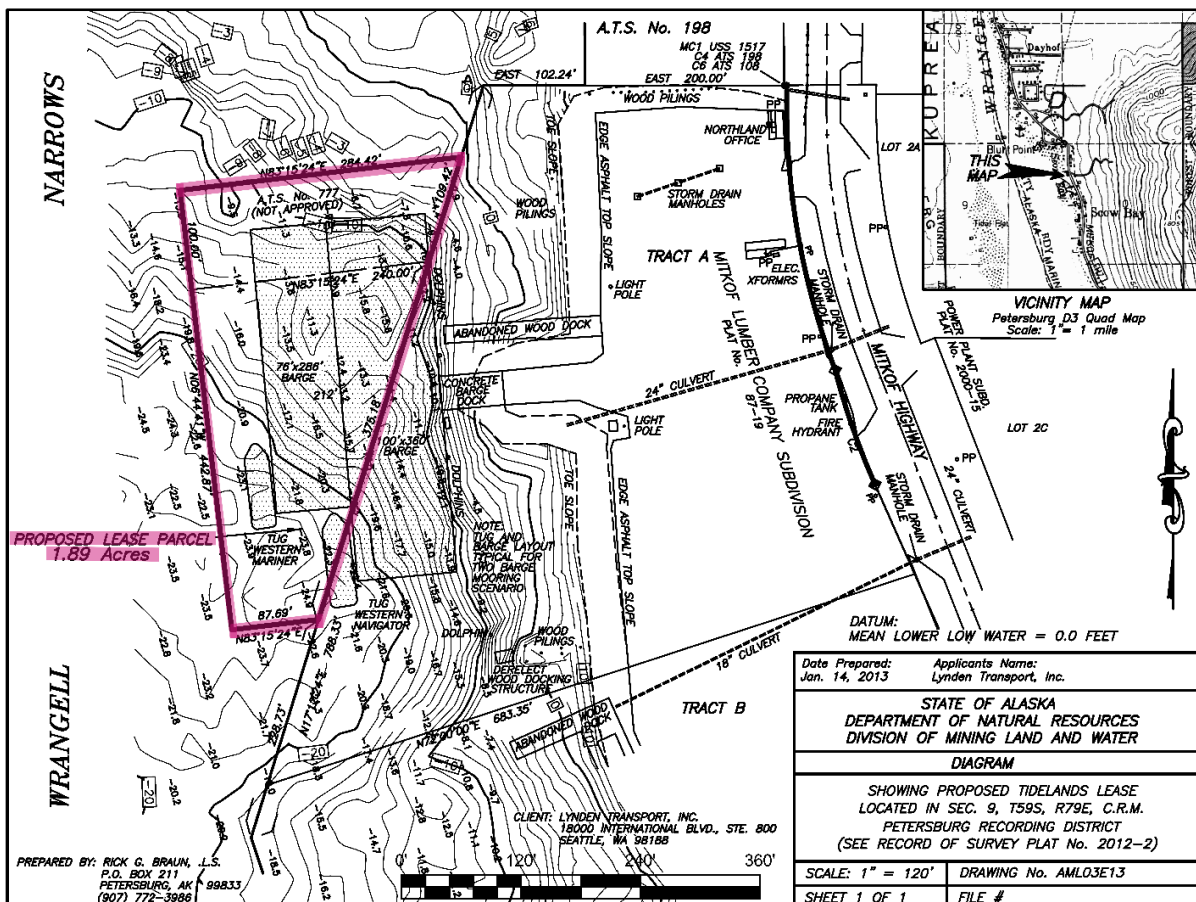
**Preliminary Decision
ADL 109376**

326 Mitkof Hwy, Petersburg, LLC

Application for Lease
AS 38.05.075(c)

Executive Summary

This Preliminary Decision (PD) is the State’s preliminary best interest finding regarding a proposed disposal of interest in State land. The State intends to authorize a 25-year lease to 326 Mitkof Hwy, Petersburg, LLC (“applicant”) for their freight barging operation on State tide and submerged land (“State land”) in Scow Bay, Petersburg, AK. The applicant’s freight barging operation involves mooring cargo barges and tugboats on State land, and transporting cargo between the barges and the applicant’s adjacent parcel. The public is invited to comment on this PD. The deadline for commenting is 5:00 PM on Monday, September 23, 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

The applicant applied for a lease on April 18, 2023, for their freight barging operation on State land in Scow Bay, Petersburg, AK. The applicant's freight barging operation involves mooring cargo barges and tugboats on State land, and transporting cargo between the barges and the applicant's adjacent parcel. A development diagram is included as Attachment 1.

Existing Improvements:

Dredged, 1,500 cubic yards (CY) of material from 0.36 acres of ocean bottom, maintaining the submerged lands surface level at -16 ft. Marine Lower Low Water (MLLW) (ADL 105109, completed in 1988).

Dredged, 2,750 CY of material from 1.51 acres of ocean bottom, lowering the submerged lands surface level from -16 ft. MLLW to -22 ft. MLLW (ADL 108229, completed in 2015).

The total area requested by the applicant is approximately 1.89 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 non-competitive tidelands lease to the applicant for their freight barging operation on State land in Scow Bay, Petersburg, AK, as described within this decision and outlined in the lease development diagram (Attachment 1).

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 non-competitive tidelands 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.

Authority

This lease application is adjudicated pursuant to AS 38.05.035(b)(1) and AS 38.05.035(e) Powers and Duties of the Director, AS 38.05.070 Generally, AS 38.05.075 Leasing Procedures and AS 38.05.945 Notice. The authority to execute the PD, Final Finding and Decision (FFD), 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, 2000 (CSSEAP) and other classification references described herein, the casefile for the application serialized by DNR as ADL 109376, and the previous casefiles associated with this application serialized as ADL 39024, 105109, 108227, and 108229.

Location Information

Geographic Location:

The proposed leasehold is on State tide and submerged land in Scow Bay, a navigable body of water within Wrangell Narrows, 2.5 miles south of Petersburg, Alaska, on Mitkof Island, at Mile 3.3 Mitkof Highway; USGS Quad Petersburg D-3.

Property Description:

The proposed lease is located within Section 9, Township 59 South, Range 79 East, Copper River Meridian and more particularly located seaward and adjacent to Tract C within Section 10, Township 59 South, Range 79 East, Copper River Meridian, filed as Plat No. 2012-2, Document No. 2013-000712-0, Petersburg Recording District. The proposed leasehold contains approximately 1.89 acres more or less.

Other Land Information:

Municipality: Petersburg Borough

Regional Corporation: Sealaska Corporation

Village Corporation: None

Federally Recognized Tribe: Petersburg Indian Association, Central Council of the Tlingit and Haida Indian Tribes of Alaska

Approximate Coordinate Locations (WGS 1984):

NW Corner: 56°46.560' N, 132°58.083' W

NE Corner: 56°46.565' N, 132°58.000' W

SE Corner: 56°46.490' N, 132°58.043' W

SW Corner: 56°46.487' N, 132°58.070' W

Title

The State of Alaska holds title to lands beneath tidally influenced and navigable waterways within its jurisdiction, including lands underlying Scow Bay 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-23586 issued on May 6, 2024, from DMLW's Realty Services Section attests to the state's ownership of the subject parcel.

Adjacent Landowners

- None

Third Party Interests

There are no known third-party interests associated with this authorization.

Planning and Classification

The proposed activity is consistent with the CSSEAP, located in Management Unit PT-16 (CSSEAP 3-111, 3-152), "Industrial tidelands south of City of Petersburg." The management unit's designations are Wd – Waterfront Development (CSSEAP 3-5), Sd – Shoreline Use

(CSSEAP 3-5), Ru – Public Recreation and Tourism – Undeveloped (CSSEAP 3-4), and Ha – Habitat (CSSEAP 3-3). These designations convert to Waterfront development land (11 AAC 55.215), Settlement land (11 AAC 55.202), Public recreation land (11 AAC 55.160), and Wildlife Habitat Land (11 AAC 55.230) as the land classifications. The applicable Chapter 2 guidelines for the management unit are Trail and Public Access Management (CSSEAP 2-53–56); Settlement (CSSEAP 2-40–44); Shorelines (CSSEAP 2-45–49); Recreation, Tourism, and Scenic Resources (CSSEAP 2-36–39); Fish and Wildlife Habitat and Harvest Areas (CSSEAP 2-11–21).

Managed Resources and Management Intent:

Managed Resources/Intent: Maintain the high fish and wildlife values and fishing and wildlife viewing opportunities while still allowing water-dependent uses of tidelands. Protect eel grass beds, waterfowl concentrations.

Resources: This parcel and seaward portions of Wrangell Narrows receive extensive use by several thousand overwintering waterfowl, especially a large population of oldsquaw, three species of scoters and harlequin ducks and bay and puddle ducks in spring and fall. Outmigrant pink, coho and king salmon from streams further up Wrangell Narrows feed in this area during their spring outmigration. The unit includes a bay north of the Alaska Marine Line port facility that includes eelgrass beds and receives particularly high use by waterfowl and shorebirds (CSSEAP 3-152).

DMLW finds the proposed lease is consistent with the designations, classifications, guidelines, and management intent of the CSSEAP. The proposed lease is consistent with the Waterfront Development, Shoreline, and Settlement designations, classifications, guidelines, and management intent because the leasehold is for water-dependent activities (transporting goods and supplies on barges via waterways) that support the community’s private, industrial, and commercial development. The proposed lease is consistent with the Public Access, Recreation, and Habitat designations, classifications, guidelines, and management intent because the leasehold meets the appropriate design, siting, and operation criteria to make it compatible with these designations, classifications, etc. As noted below, the Alaska Department of Fish & Game (ADF&G) expressed no objections regarding the leasehold’s impact on wildlife habitat.

Traditional Use Finding

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

Access

The applicant may access the proposed leasehold over State tide and submerged lands underlying Scow Bay, a navigable body of water within Wrangell Narrows. The applicant may also access the proposed leasehold from the applicant’s adjacent parcel to the east, primarily using the concrete barge dock that adjoins the applicant’s barges.

Access Along Public Waters

The proposed leasehold is located in Scow Bay, a navigable body of water within Wrangell Narrows. 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-access easements to and along these waters. Unless comments and other information submitted to DMLW provide justifiable and convincing evidence to do otherwise, this disposal of state interest will be subject to a 50-foot public access easement seaward of the line of mean high water.

Under AS 38.05.128(a), a person may not obstruct or interfere with the free passage or use by a person of any navigable water unless the obstruction or interference is, (1) authorized by law or regulation or by a permit issued by a state agency; (3) caused by the normal operation of freight barging that is otherwise consistent with law. The proposed leasehold is for the applicant's freight barging operation. Additionally, the applicant's operation is regulated by the Maritime Transportation Security Act of 2002 (MTSA) (Public Law 107-195). MTSA requires operators to develop security plans that contain screening procedures, security protocols, personnel identification procedures, access control measures, and establish restricted areas. All Facility Security Plans (FSP) are submitted and approved by the United States Coast Guard (USCG) and must comply with the requirements found in Title 33 of the Code of Federal Regulations (CFR), parts 104-106.

Considering these factors, public access along public waters at the leasehold may be unsafe during the applicant's freight barging operations. Therefore, DMLW will allow temporary closure of the public access easement. DMLW would establish a stipulation for the lease to state:

“Pursuant to provisions of AS 38.05.127(a)(2), the public access easement may be temporarily closed for short periods when operations are occurring that may pose a risk to public safety. DMLW will defer to the Lessee to determine the appropriate level of notification to be provided to the public should temporary closure occur. If DMLW receives notification of concerns or issues related to public access at this site, DMLW may require alternative measures to address site-specific access issues to ensure that public access can be reasonably provided.”

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.

Reservation of Mineral Estate

In accordance with section 6(i) of the Alaska Statehood Act and AS 38.05.125, the state, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with AS 38.05.130 and other applicable statutes and regulations.

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

The applicant states the barges located within the proposed leasehold are stowed with freight containers loaded with all types of general cargo, including incidental and transient (non-bulk) hazardous substances. Examples of these incidental and transient hazardous substances include fire extinguishers, batteries, propane, welding supplies, household products, and self-propelled vehicles. The hazardous substances are transported between the proposed leasehold and the applicant's adjacent parcel during loading and unloading operations that typically last for two to six hours. Any and all consumable commodities found in 49 CFR have the potential to be shipped and onboard the barges at any time, as long as they are packaged and shipped in accordance with the regulatory requirements. Per USCG regulations, hazardous substances are recorded on a dangerous cargo manifest for each voyage.

The applicant states they have a Shipboard Oil Pollution Emergency Plan (SOPEP) in place, as well as totes of absorbent boom and containment materials on each vessel and on their adjacent parcel. All tug crew personnel are Hazardous Waste Operations and Emergency Response ("Hazwopper") trained to Occupational Safety and Health Administration (OSHA) standards to deal with any type of initial incident or spill that may occur. According to the applicant, the vast majority of cargo transiting the proposed leasehold is stored in containers, minimizing the threat of hazardous substances and contaminants being released.

Stipulations will be included in the lease to ensure proper handling and storage of hazardous substances onboard the vessels. The use, storage, and transport 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 Thursday, June 27, 2024. The deadline for agency comments was Friday, July 26, 2024.

The following agencies were included in the review:

- Alaska Association of Conservation Districts (AACD) – General Projects and Operations Coordinator
- ADF&G – Division of Wildlife Conservation (DWC), Access Defense Program (ADP)
- ADF&G – Division of Commercial Fisheries (DCF), Private Non-Profit (PNP) Hatchery Program
- ADF&G – Habitat Section, Southeast Region
- Department of Environmental Conservation (DEC) – Division of Environmental Health (EH), Solid Waste Program
- DEC – Division of Spill Prevention and Response (SPAR), Contaminated Sites Program (CSP)
- DEC – Division of Water, Wastewater Discharge Authorization Program
- DEC – Division of Water, Water Plan Review Section Manager
- DEC – Office of the Commissioner
- DNR – DMLW, Aquatic Farm Leasing Program
- DNR – DMLW, Public Access Assertion and Defense (PAAD) Section
- DNR – DMLW, Reality Services Section (RSS)
- DNR – DMLW, Statewide Abatement of Impaired Land (SAIL) Section
- DNR – DMLW, Water Section
- DNR – Division of Parks and Outdoor Recreation (DPOR), Office of History and Archeology (OHA), Review & Compliance
- Alaska Department of Transportation and Public Facilities (DOT&PF) – Statewide Design & Engineering Services (D&ES), Design & Construction Standards (D&CS) Section, Statewide Right-of-Way Office

Agency Review Comment and Response:

ADF&G-DWC-ADP Comment:

“ADF&G has no objections to the issuance of this lease.”

DNR-DMLW-Southeast Regional Land Office (SERO) Response:

SERO thanks ADP for their response confirming that they have no objections to this authorization.

DEC-SPAR-CSP Comment:

“Based on the information provided, the Alaska Department of Environmental Conservation (DEC), Contaminated Sites Program (CSP) has no comments related to this information request. If the scope of the project changes, update your research and contact

CSP as needed. Please note that residual contamination may remain at cleanup completed sites, and those sites should also be evaluated.”

DNR-DMLW-SERO Response:

SERO thanks CSP for their response confirming that they have no comment regarding this authorization. If the scope of this authorization changes, SERO will conduct further research and contact CSP as needed. Based on a review of the relevant casefiles and other agencies’ authorizations, there are no known cleanup completed sites within the proposed leasehold.

DNR-DMLW-PAAD Comment:

“These are state held tide and submerged lands. Title to these lands were conveyed at the date of statehood by the public trust doctrine and the Submerged Lands Act of 1953 and verified by the Quite Title Disclaimer from the U.S. in Original 128 (Tongass Marine Waters Disclaimer).”

DNR-DMLW-SERO Response:

As discussed in the Title section of this document and attested to in DNR Title Report RPT-23586, SERO understands the State of Alaska holds title to lands underlying Scow Bay, including the proposed leasehold, in Section 9, Township 59 South, Range 79 East, Copper River Meridian. SERO thanks the PAAD Section for reaffirming the State of Alaska’s title to these lands.

DNR-DMLW-Water Comment:

“Based upon the information available it appears that there will not be any significant water use per AS 46.15.180 and 11 AAC 93.035 associated with this application that would require authorization from the Department. Therefore, the ADNR Water Resources Section has no objection to, or further comments regarding, the ADL 109376 applications.”

DNR-DMLW-SERO Response:

SERO thanks the Water Section for their response, confirming that this application will not require a water use authorization from DNR-DMLW-Water.

Background

On September 26, 1969, the State of Alaska entered into a 55-year lease agreement with the Mitkof Lumber Company, Inc. (MLC), serialized as ADL 39024 (ATS 777 – Attachment 2a). On July 24, 1987, ADL 39024 was assigned from MLC to Alaska Marine Lines, Inc. (AML).

On July 20, 1988, the State entered into a material sale contract with AML, serialized as ADL 105109, to authorize AML’s dredging of 1,500 CY of material (sand and gravel) from State tide and submerged lands, encompassing a portion of ADL 39024 and adjacent State lands (ADL 105109 Development Diagram – Attachment 2b). The dredge work was conducted to maintain the

barge staging area's depth at -16 ft. MLLW. AML reported that they dredged 1,150 CY of material from the State lands described above. The material sale contract, ADL 105109, expired on July 19, 1989.

On June 3, 2013, AML transferred the assignment for ADL 39024 to the applicant. On May 30, 2013, DMLW received a lease application, serialized as ADL 108227, from the applicant to authorize their use of State tide and submerged lands adjacent to ADL 39024 (ADL 108227 Development Diagram – Attachment 2c). On September 10, 2014, the State of Alaska entered into a 10-year lease agreement with the applicant, authorizing their use of these State tide and submerged lands for their freight barging operation.

On March 18, 2014, the State entered into a material sale contract with the applicant, serialized as ADL 108229, to authorize the applicant's dredging of 5,200 CY of material (sand and gravel) from State tide and submerged lands within the leaseholds for ADL 39024 and ADL 108227 (ADL 108229 Development Diagram – Attachment 2d). The dredge work deepened the area's surface level from -16 ft. MLLW to -22 ft. MLLW, allowing the applicant's freight barging operation to accept deeper draft barges. The applicant dredged 2,750 CY of material from the State tide and submerged lands previously described. The material sale contract, ADL 108229, expired on March 17, 2019.

On March 20, 2023, DMLW received the applicant's application to renew ADL 108227. On April 21, 2023, DMLW received the applicant's application to renew ADL 39024. Instead of renewing these two authorizations separately, DMLW has decided to combine these authorizations into a new lease authorization, serialized as ADL 109376. DMLW has decided to combine these two authorizations so the application's adjudication can be simplified and streamlined while the State's management of the proposed leasehold can be managed more efficiently and effectively.

Discussion

DMLW is proposing to issue a 25-year non-competitive tidelands lease to the applicant for their freight barging operation in Scow Bay, Petersburg, AK. The applicant's freight barging operation involves mooring cargo barges and tugboats on State land, and transporting cargo between the barges and the applicant's adjacent parcel. The proposed leasehold is necessary to provide the applicant and its lessee, AML, with an optimal location to moor their cargo barges and transport the barges' cargo to the applicant's adjacent parcel. The goods and commodities transported on these barges are vital for supplying the basic necessities needed for the people of Petersburg. The cargo also provides the community of Petersburg with the supplies and materials needed for its private, commercial, and industrial development. Based on the information provided by the applicant and other state agencies, as well as reviewing the relevant statutes, regulations, land management plans, and environmental considerations, DMLW finds that the proposed lease is 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 3).

Development Plan

The Development Plan (DP) attached to this decision (Attachment 1) and dated April 18, 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 conduct the required survey and appraisal, described below. Site development is not allowed during the term of the EA. The proposed EA is for a term of two 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, the applicant will be required to submit performance guaranties for the lease to incentivize performance of the conditions of the EA 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:

\$54,150.00 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 \$108,301.00. However, DMLW recently withdrew guidance establishing this figure, and has instead made this figure the maximum bonding amount. A review of the relevant casefiles and other agencies' authorizations indicate that the applicant is in a state of

compliance with the terms of its current and previous authorizations. The applicant has extensive safety protocols and training in place to mitigate the risks of damage and contamination to the leasehold. The leasehold's exposure to damage and contamination is minimized by the short period of time hazardous materials and contaminants are stored at the leasehold (typically two to six hours). Future compliance is expected in light of the applicant's history of compliance and established safety record. Additionally, because the leasehold serves an essential function for the applicant and the community of Petersburg, its good condition and continued use is an effective incentive for performance. Given the security provided by the applicant's compliance record, safety protocols, and other mitigating factors, DMLW has decided that imposing 50% of the maximum bonding amount is appropriate. Therefore, the applicant will be required to submit a performance guaranty in the amount of \$54,150.00.

Insurance

Consistent with AS 38.05.035(a) 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. Within 10 business days of the execution of the EA, the applicant shall contact the DNR survey section at (907) 269-8523 to obtain instructions.

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, 326 Mitkof Hwy, Petersburg, 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 1050-A
Anchorage, AK 99501-3579
Phone: 907-269-8512
Fax: 907-269-8914

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 Thursday, August 22, 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:

<https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>. 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 5:00 PM on Monday, September 23, 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 Regional Land Office
ATTN: John Driscoll
PO Box 111020
Juneau, AK 99811-1020

Email: john.driscoll@alaska.gov

Fax: (907) 500-9011

Questions about the lease portion of this project can be directed to John Driscoll at (907) 465-3402.

Signature page follows:

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 applicant to use State tide and submerged lands to moor cargo barges and tugboats, and transport cargo between the barges and the applicant’s adjacent parcel. 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 an opportunity to review and submit comments.

John Henry Driscoll III
John Driscoll, Natural Resource Specialist

08/19/2024
Date

Unit Manager Concurrence

Mason Auger
Mason Auger, Natural Resource Manager

8/19/2024
Date

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 25-year lease to the applicant, as described above. This preliminary decision shall now proceed to public notice.

Kaitlyn Raffier
Kaitlyn Raffier, Southeast Regional Manager

8/20/2024
Date

ATTACHMENTS:

- Attachment 1. ADL 109376 – Development Plan
- Attachment 2. Development Diagrams from Previous Authorizations
 - 2a. ADL 39024 – ATS 777
 - 2b. ADL 105109 – Development Diagram
 - 2c. ADL 108227 – Development Diagram
 - 2d. ADL 108229 – Development Diagram
- Attachment 3. Standard Lease Agreement and Special Stipulations
- Attachment 4. Entry Authorization