

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

PRELIMINARY DECISION

ADL 234311

Chenega Regional Development Group, LLC

Application for Lease

AS 38.05.083

This Preliminary Decision (PD) is the initial determination on a proposed disposal of interest in state land and is subject to comments received during the Public Notice period. The public is invited to comment on this Preliminary Decision. The deadline for commenting is **December 2, 2024**. Please see the Comments Section of this decision for details on how and where to send comments for consideration. Only the applicant and those who comment have the right to appeal the Final Finding and Decision.

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 Chenega Regional Development Group, LLC (CRDG) to lease 0.15 acres more or less, of state-owned tide and submerged lands for 10 years for the installation of up to four floating upweller production systems (FLUPSYs) for the culture of Pacific oysters (*Magallana gigas*). The proposed FLUPSYs would be moored year-round at the Native Village of Chenega's small boat harbor, located within Crab Bay, at the eastern side of Evans Island, in western Prince William Sound. The location of the project area is further described as being within the NW1/4 of Section 25, Township 1 South, Range 8 East, Seward Meridian, Alaska.

SCRO is considering the issuance of a 10-year aquatic farmsite lease to CRDG for the purpose of an aquatic farm lease consisting of two year-round parcels with up to four FLUPSYs for the culture of Pacific oysters.

Scope of Review:

The scope of this decision is to determine if it is in the State's best interest to issue this aquatic farmsite lease.

Authority:

This lease application is being adjudicated pursuant to Alaska Statute (AS) 38.05.035 Delegation of the Powers and Duties of the Director; AS 38.05.070(b) Generally; AS 38.05.083 Aquatic Farming and Hatchery Site Leases; and AS 38.05.945 Public Notice. The authority to execute the

Preliminary Decision, Final Finding and Decision, and the lease has been delegated to the Regional Manager of SCRO.

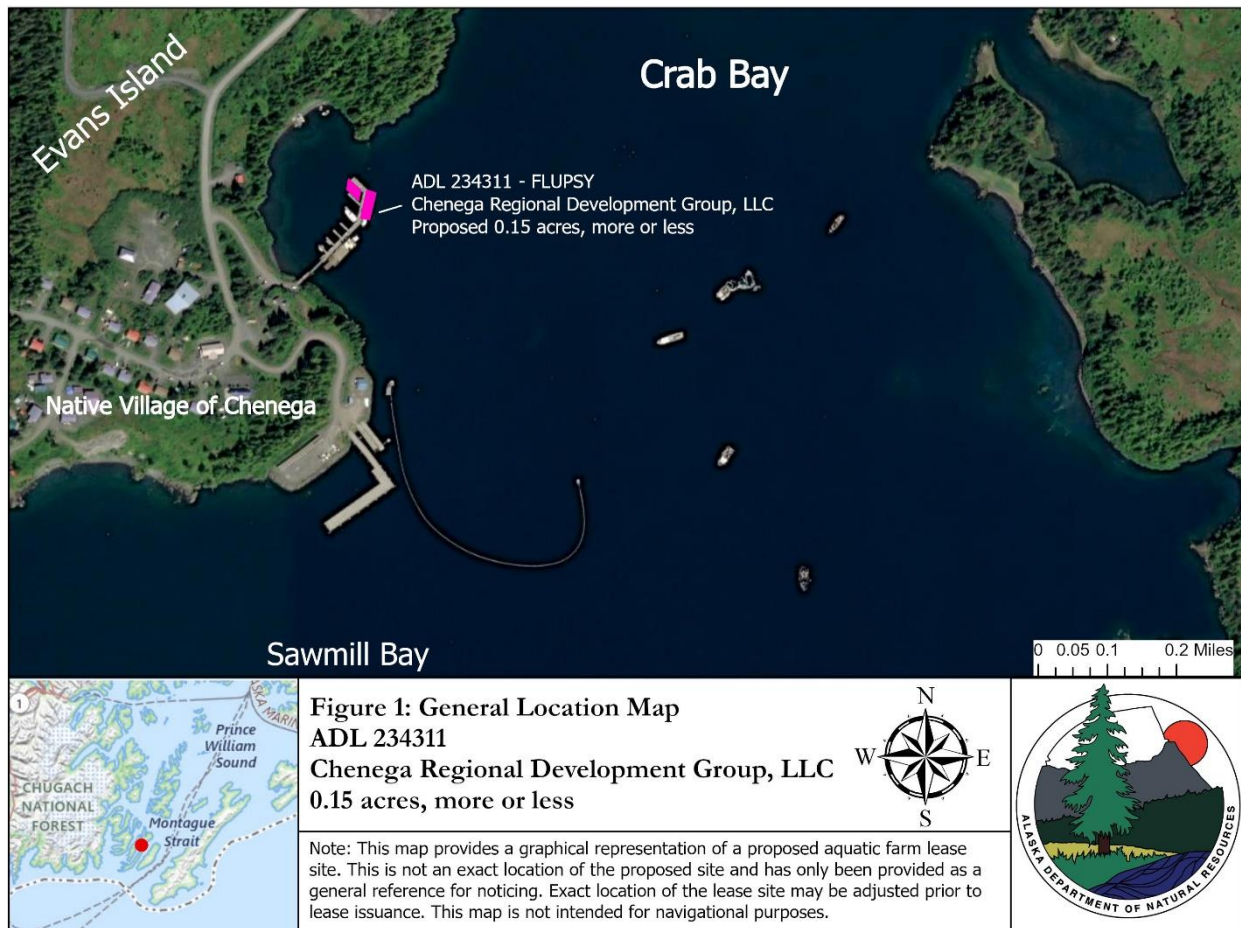
Administrative Record:

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 1988 Prince William Sound Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as ADL 234311.

Legal Description, Location, and Geographical Features:

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

- **Site reference name:** Crab Bay FLUPSY
- **Legal description:** NW1/4 of Section 25, Township 1 South, Range 8 East, Seward Meridian
- **Geographical locations:** Located within Crab Bay, at the eastern side of Evans Island, western Prince William Sound, near Chenega, Alaska



- **Approximate Lat/Longs (NAD 83):**

Parcel 1: Floating Upweller Production System, 46.6 feet by 67.2 feet by 38.3 feet by 59.6 feet, measuring 0.05 acres, more or less.

NE Corner: 60° 04.003'N, 148° 00.518'W

SE Corner: 60° 03.996'N, 148° 00.521'W

SW Corner: 60° 04.003'N, 148° 00.536'W

NW Corner: 60° 04.010'N, 148° 00.534'W

Parcel 2: Floating Upweller Production System, 37.9 feet by 109.8 feet by 40.5 feet by 106.7 feet, measuring 0.10 acres, more or less.

NE Corner: 60° 04.001'N, 148° 00.499'W

SE Corner: 60° 03.984'N, 148° 00.507'W

SW Corner: 60° 03.985'N, 148° 00.519'W

NW Corner: 60° 04.003'N, 148° 00.511'W

- **Existing surveys:** None
- **Municipality/Borough:** None
- **Native Corporations/Federally Recognized Tribes:** Chugach Alaska Corporation, The Chenega Corporation, Native Village of Chenega
- **Size:** 0.15 acres, more or less

Title:

A DNR Title Report (RPT-23726) was requested on September 17, 2024, from DMLW's Realty Services Section. A Title Report issued from DMLW's Realty Services Section will state whether the State of Alaska holds title to the subject tidelands under the Equal Footing Doctrine and the Submerged Lands Act of 1953. SCRO reserves the right to modify the Final Finding and Decision based upon information contained within the Title Report.

Third Party Interests:

The proposed parcels are located within the lease footprint of ADL 226282, issued to Chenega IRA Council. The applicant supplied a Letter of Non-Objection from Chenega IRA Council indicating they have no conditions or restrictions on CRDG's site use. The letter can be found in Attachment A of this PD.

Classification and Planning:

The project area is subject to the Prince William Sound Area Plan (PWSAP), Management Unit 13: Chenega, Subunit 13E: Sawmill and Crab Bays, Map: "Chenega" (3-103). The tideland designations for this site are Habitat and Harvest and Shoreline Development which converts to

the classifications of Wildlife Habitat Land and Settlement Land, described in Chapter 4 of the PWSAP (4-6).

Within Chapter 2 of the PWSAP, Areawide Land Management Policies, Mariculture section, goals are to “provide opportunities to increase income and diversify the state’s economy through the use of state tide and submerged lands for mariculture” as well as “maximize the optimum use of the most suitable mariculture areas” (2-19). Chapter 2 guidelines state that “mariculture may be allowed on state tidelands where there is no significant conflict” (2-19).

As specified within the PWSAP in Chapter 2, Management Intent and Guidelines, “mariculture may be allowed on state tidelands if it can be made consistent” with the primary intent for a particular area (2-21). According to Chapter 2, “the siting of mariculture may be more difficult on tidelands designated for log transfer or storage, mineral transfer or access, commercial activities, crucial fish and wildlife habitat, or recreation. However, these areas will be available for mariculture if it is possible to site, design, and operate mariculture in a manner compatible with the designated use, or if there is no feasible and prudent alternative for mariculture while one exists for the competing use” (2-21).

According to Chapter 3 of the PWSAP, the management intent for tidelands “will emphasize both the community development needs of Chenega Bay (including expansion of the marina, appropriate areas for economic development projects, etc), and maintaining the productivity of the habitat and use of the area for commercial fishing” (3-98). Additionally, the management guidelines in Chapter 3 state, “tideland facilities useful for the community development of Chenega Bay should be located to minimize or avoid significantly affecting the commercial fishing use of the hatchery harvest area” (3-99).

In accordance with the PWSAP, aquatic farming is an allowable use and is therefore consistent with the plan. The proposed operation must be in the best interest of the state before an authorization may be issued. Factors that are to be considered in this decision are identified in 11 AAC 63.050(b).

Traditional Use Findings

The proposed lease is not located within an organized borough. AS 38.05.830 and 11 AAC 63.050(b)(5)(B) require consideration of whether the lease site impacts traditional and existing uses of the site.

Known traditional uses in the area consist of subsistence and recreational hunting and fishing, and include the following areas and species, as regulated by the Alaska Department of Fish & Game (ADF&G) and the U.S. Fish and Wildlife Service (USFWS):

Hunting, Trapping, and Subsistence Hunting: The proposed leasehold falls within the ADF&G Game Management Unit (GMU) 6: North Gulf Coast-Prince William Sound. The hunting regulations for GMU 6 list black bear, brown/grizzly bear, deer, goat, moose, wolf, and wolverine as species that can be hunted. ADF&G trapping regulations for GMU 6 list beaver, coyote, red fox, lynx, marten, mink, weasel, muskrat, river otter, squirrel, marmot, wolf, and wolverine as furbearers that can be taken. USFWS Federal Subsistence Wildlife Hunting Regulations for Unit 6: Cordova-Valdez list black bear, deer, goat, beaver, coyote, hare, lynx, wolf, wolverine, grouse, and ptarmigan as species that can be taken.

Subsistence Fisheries: The proposed leasehold falls within the ADF&G Prince William Sound subsistence finfish fishery, which includes salmon, lingcod, halibut, rockfish, and shark. Depending on the area, salmon can be harvested with set gillnets, drift gillnets, gaffs, spears, beach seines, dip nets, cast nets, and hand purse seines. The Prince William Sound subsistence shellfish fishery species include golden king crab, Tanner crab, and shrimp. Prior to the opening of the commercial fishing season, residents of Prince William Sound harvest the salmon that they require for subsistence. Halibut may also be caught by residents of rural communities through the federal subsistence halibut program. Rural communities within Prince William Sound include Chenega, Cordova, Tatitlek, and Whittier. Although Valdez is located within Prince William Sound, with its larger population and road access it has been deemed a non-subsistence use area.

Commercial Fisheries: The ADF&G Central Region: Prince William Sound Management Area for commercial fishing encompasses all coastal waters and inland drainages entering the Gulf of Alaska between Cape Suckling and Cape Fairfield. This area is home to five salmon hatcheries, including the largest pink salmon and the second largest chum and sockeye salmon enhancement programs in the state. Salmon fisheries are a major economic driver within Prince William Sound, harvesting annually upwards of 74 million fish, according to ADF&G. Beginning in the early 1900s with razor clams, diverse shellfish fisheries including those for shrimp, scallops, king crab, Dungeness crabs, and Tanner crabs sustained area residents through the 1980s. As shellfish resources declined, fisheries developed for groundfish including Pacific cod, sablefish, and pollock.

Sport Fisheries: The proposed leasehold falls within the ADF&G Southcentral: Prince William Sound Management Area for sport fisheries, which targets five species of Pacific salmon, several species of groundfish, shrimp, clams, cutthroat trout, and Dolly Varden. These fisheries depend primarily on wild stocks. However, six private, non-profit hatcheries contribute significantly to salmon fisheries while state hatcheries support the stocking of lakes and king salmon fisheries in Valdez, Cordova, and Whittier.

The proposed FLUPSY site should not interfere with traditional and/or existing uses of the area, including commercial or sport fishing, subsistence activities, boat travel, and recreation. Public

and Agency Notice may reveal more unknown uses. If such information becomes available, any potential or existing conflicts will be addressed in the Final Finding and Decision.

Access:

Access to the FLUPSY is by the Native Village of Chenega's small boat harbor dock.

Access To and Along Navigable and Public Waters:

AS 38.05.127 and 11 AAC 51.045 require that before leasing land, SCRO determines if a body of water is navigable and if it is, that SCRO provides for easements or reservations as necessary to ensure free access to and along the waterbody. The waters of Prince William Sound are tidally influenced and thus navigable. However, the lease is entirely within these waters and located further than 50 feet from Mean High Water, thus a .127 easement is not necessary.

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, and other purposes. These rights must be protected to the maximum extent practicable while allowing for the development of this project. As such, SCRO is reserving the right to grant other authorizations to the subject area consistent with the Public Trust Doctrine.

Lease Discussion:

CRDG submitted an application for a DNR aquatic farm lease for up to four floating upweller production systems (FLUPSYs) for the culture of Pacific oysters on February 22, 2024. In response to a request for additional information from SCRO and ADF&G, CRDG submitted a complete application on August 27, 2024.

The proposed lease will be comprised of two parcels, measuring a total acreage of 0.15, more or less. Parcel 1 will measure 46.6 feet by 67.2 feet by 38.3 feet by 59.6 feet, or 0.05 acres, more or less, containing up to two FLUPSYs. Parcel 2 will measure 37.9 feet by 109.8 feet by 40.5 feet by 106.7 feet, or 0.10 acres, more or less, containing up to two FLUPSYs.

Each of the four FLUPSYs will measure 8 feet wide by 20 feet long, with a 12-foot-tall shed on top. The FLUPSYs will be moored at the Village of Chenega's small boat harbor and remain installed year-round. The FLUPSYs will be moored to the dock with dock lines attached from cleats to D rings on the corners of the FLUPSYs. Each FLUPSY will be manufactured with non-pressure treated wooden decking, aluminum framing, a fiberglass central trough, and fiberglass bins with woven 1-millimeter mesh on the bottom of the bins. Styrofoam-filled hard plastic dock floats will provide floatation and water flow will be powered by an electric IceEater pump. Each FLUPSY will contain up to eight bins which hold the oyster seed at the bottom. The bins planned are expected to measure 24 inches by 24 inches wide by 36 inches tall.

The proposed FLUPSYs will be developed in stages. During the first year, 3-millimeter oysters will be planted in one FLUPSY. Between years two to four another FLUPSY will be added and two additional FLUPSYs by year five. Power to the FLUPSY is from village shore power via the village power plant.

Each FLUPSY will be capable of rearing two million, 2-millimeter oyster seeds to 20- to 25-millimeter. The seed oysters would be planted in May and tended consistently through October. Tending would include grading, washing, and restocking of oyster seed. During the winter months seed will be overwintered in the FLUPSY.

At this time the Commercial Use Requirement (CUR) states a farm must make annual sales of aquatic farm products of at least \$3,000.00 per acre or \$15,000.00 per farm by the fifth year of operation and continue for the rest of the lease term. Failure to meet CUR constitutes a default and may be cause for termination. Annual reports of sales are due January 31 of each year.

Should the proposed lease be approved, the lease will be issued for a 10-year term beginning no later than one year following the effective date of the Final Finding and Decision. The proposed lease will be subject to the terms of DMLW's standard lease document and any Additional Stipulations based, in part, upon the following considerations.

Development Plan:

The Development Plan dated August 27, 2024, is accepted by SCRO as complete but may be subject to change based on agency and public review. Should the proposed lease be granted, it is anticipated that the Development Plan will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by SCRO before any construction, deconstruction, replacement of infrastructure, or change in activity will be permitted. SCRO reserves the right to require additional agency review and/or public notice for changes that are deemed by SCRO to be beyond the scope of this decision.

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

Lease Performance Guaranty (bonding):

In accordance with AS 38.05.083(e) and 11 AAC 63.080, CRDG will be required to submit a performance guaranty for the lease site.

- **\$2,500.00 Performance Bond:** This bond will remain in place for the life 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 the applicant’s compliance with the terms and conditions of the lease issued for their project. This bond amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments, assignments, re-appraisals, changes in the development plan, changes in the activities conducted, changes in the performance of operations conducted on the authorized premises, or as a result of any violations to one or more of the authorizations associated with this project.
- **Reclamation Bond:** SCRO is reserving the right to require a reclamation bond due to non-compliance issues during the term of the lease or near the end of the life of the project.

Insurance:

CRDG will be required to submit proof of liability insurance to SCRO, with the State of Alaska listed as a “NAMED” insured party. CRDG will be responsible for maintaining such insurance throughout the term of the lease.

Survey:

In accordance with AS 38.04.045, this short-term lease does not require a survey. However, the State of Alaska reserves the right to require one in the future, should the need arise due to changes in statutes or increased use of the area. CRDG has submitted GPS coordinate point(s) for the four corners of the proposed leasehold.

Compensation and Appraisal:

DMLW has approved an administrative lease fee schedule for aquatic farmsites that meet the conditions listed within the schedule. The most current lease fee schedule will be used to establish the fair market rental each lessee must pay. Fees are subject to adjustment per AS 38.05.083(c). The current annual rate for a 0.15-acre aquatic farm lease is a base fee of \$450 for the first acre or portion thereof, and \$125 for each additional acre. In accordance with the Aquatic Farmsite Fee Schedule, Report No. 2522-16, a breakdown of the lease fee will be as follows:

0.15 acre (1 acre at \$450) = **\$450 per year**

If the applicant does not agree with the fee schedule amount of \$450, a fair market value determination can be obtained by the applicant. Fair market value is determined by obtaining a DNR approved appraisal of the lease site. If an appraisal is conducted to determine fair market value of the lease site, the applicant will be required to pay the appraised amount and the \$450 annual fee will no longer be an option. The appraisal cost will be borne by the applicant. The parcel

may need to have an approved Alaska Tidelands Survey to accomplish the appraisal. If a survey is required, the cost will be incurred by the applicant.

Assignment of Lease:

The proposed lease, if issued, may be transferred or assigned to another individual or corporation **only** with prior written approval from the DMLW. A lease will not be assigned to an entity if that entity does not meet the statutory requirements of the lease or the lease is not in good standing. DMLW reserves the right to amend the terms of the lease prior to assignment.

Reclamation:

In accordance with AS 38.05.090(b), all lessees must restore their lease sites to a “good and marketable condition” within 120 days after termination of the lease. What level of reclamation constitutes as being “good and marketable” is at the discretion of SCRO. SCRO is reserving the right to require a reclamation bond due to non-compliance issues during the term of the lease or near the end of the life of the project.

Agency Notice:

An Agency Review was conducted starting on September 13, 2024, and ending on October 4, 2024. The following agencies were included in the review:

- DNR DMLW – Land Conveyance Section
- DNR DMLW – Mining Section
- DNR DMLW – Public Access Assertion and Defense Section
- DNR DMLW – Water Resources Section
- DNR DMLW – Resource Assessment and Development
- DNR DMLW – Realty Services
- DNR DMLW – Survey Section
- DNR Southeast Regional Land Office
- DNR Division of Parks and Outdoor Recreation
- DNR DPOR Office of History and Archaeology, State Historic Preservation Office
- DNR Natural Resource Conservation and Development Board
- DNR Division of Oil and Gas
- Alaska Department of Fish and Game
- Alaska Department of Environmental Conservation
- Alaska Department of Transportation and Public Facilities
- Alaska Department of Commerce, Community, and Economic Development
- Alaska Mental Health Trust Land Office
- Alaska Association of Conservation Districts
- U.S. Forest Service
- U.S. Army Corps of Engineers

- U.S. Fish and Wildlife Service
- U.S. National Park Service
- National Oceanic and Atmospheric Administration
- U.S. Environmental Protection Agency
- U.S. Coast Guard

Agency Review Comment(s):

During the Agency Review, SCRO received five comments from five agencies, and “no comment” from one agency.

Alaska Department of Fish & Game (ADF&G) Comment:

ADF&G’s Permit Coordinator submitted a letter on behalf of ADF&G Division of Commercial Fisheries (Management, Gene Conservation Lab and Fish Pathology), Division of Sport Fish, Division of Wildlife Conservation, Subsistence Section and Habitat Section dated October 1, 2024, commenting that ADF&G had no concerns pertaining to an aquatic farm operation permit amendment at the proposed locations. Within the October 1, 2024, letter from ADF&G is a Department Advisory, advising the applicant of general conditions pertaining to ADF&G’s statutory and regulatory provisions for issuance of an Aquatic Farm Operation Permit (AFOP) if the applicant’s project is approved. ADF&G also requests that the October 1, 2024, letter be included in the preliminary decision as an advisory to the applicant and for public reference.

The following concerns and recommendations are noted in the ADF&G letter and may be addressed in the AFOP:

- Marine Mammal Research Program: This application complies with the guidelines set forth with the ADF&G marine mammal mariculture policy updated in April 2024. Advisory or mitigation steps recommunicated by NOAA Fisheries National Marine Fisheries Service (NMFS) or the US Fish and Wildlife Service (FWS) to reduce marine mammal disturbances should be followed. Large whales, especially humpbacks, are highly susceptible to entanglement in lines in the water; Removing all gear from the water during the non-growing season may minimize gear loss, user conflicts, and marine mammal entanglement and habitat exclusion potential. Any marine mammal entanglements should be immediately reported to the NMFS 24 hr. Stranding Hotline.

SCRO Response:

SCRO acknowledges ADF&G’s comment. As one of the resource managers in the area, ADF&G’s input is an important source of information. SCRO relies on input from ADF&G and other stakeholders to advise of any expected impacts and solutions that may fall outside of SCRO’s authority. CRDG was provided a copy of ADF&G’s October 1, 2024, letter. As requested by ADF&G, the PD herein contains ADF&G’s letter, with the full Department Advisory, which will be advertised for a 30-day public comment period.

DNR's statutes and regulations for aquatic farmsite leases do not specify management of aquatic farms relating to relating to fish and game but authorize SCRO to consider issuing a lease on state owned tideland, shoreland, and submerged land to develop aquatic farms. Management of fish and game is within the authority of ADF&G, and as such, SCRO must defer to them and encourages the applicant to work directly with them. ADF&G may include the conditions it deems appropriate regarding fish and game to its operation permit authorization.

DNR DMLW – Public Access Assertion and Defense Section (PAAD) Comment:

PAAD submitted an email on September 16, 2024, stating, “This area is within State of Alaska held tide and submerged lands received under authority of the Submerged Lands Act of 1953 and the Statehood Act. There are no known/identified pre-statehood withdrawals that overlay the proposed project.”

SCRO Response:

SCRO acknowledges PAAD's comment. A DNR Title Report (RPT-23726) was requested on September 17, 2024, from DMLW's Realty Services Section. A Title Report issued from DMLW's Realty Services Section will state whether the State of Alaska holds title to the subject tidelands under the Equal Footing Doctrine and the Submerged Lands Act of 1953.

DNR DMLW – Resource Assessment and Development Section (RADS) Comment:

RADS submitted a letter dated October 3, 2024, stating, “Chenega Regional Development Group, LLC has requested a 10-year lease for the installation of up to four floating upweller production systems (FLUPSYs) for the culture of Pacific oysters (*Magallana gigas*). The proposed lease site would be 0.15 acres total, more or less, split into two parcels. The FLUPSYs would be moored year-round at the Village of Chenega's small boat harbor, located within Crab Bay, at the eastern side of Evans Island, on the western side of Prince William Sound. The proposed lease is located in the Northwest ¼ of Section 25, Township 1 South, Range 8 East, Seward Meridian, in Management Unit 13E: Sawmill & Crab Bays of the Prince William Sound Area Plan with the tidal co-designations Habitat and Harvest, Shoreline Development which convert to the co-classifications Wildlife Habitat Land and Settlement Land.

The management intent states that tideland management will emphasize both the community development needs of Chenega Bay and maintaining the productivity of the habitat and use of the area for commercial fishing. Because of the concentration of hatchery stock, uses with the potential to transmit disease to the concentrated hatchery stock, uses that significantly reduce the productivity of the salmon hatchery by competing with the available food supply or other means, and uses that risk introduction of significant water pollution into areas important for the salmon hatchery or harvest areas not allowed if there is a feasible and prudent alternative. Tideland facilities useful for the community development of Chenega Bay should be located to minimize or avoid significantly affecting the commercial fishing use of the hatchery harvest area. Existing

resources in this unit include the estuary, seal haul out, commercial fishing and hatchery harvest area.

Areawide land management policies state that in addition to existing public notice procedures, public notice of a proposed permit or lease for mariculture facilities will be sent to upland owners, user groups, and communities that may be affected by the activity. In addition, joint DNR notification with the DEC/DGC [Department of Environmental Conservation/Division of Governmental Coordination] public notice is encouraged if practical. Permits or leases will not be given until the U.S. Coast Guard has certified that the proposed facility will not be a significant navigational hazard.

When issuing appropriations for waters providing fish habitat, DNR will require that practical water intake structures be installed that do not result in entrapment or impingement of fish. The simplest and most cost-effective technology may be used to implement this guideline. Floating tideland facilities will not ground at any tide stage unless ADF&G determines there will be no significant impact to the habitat values or DNR determines there is no feasible and prudent alternative. Facilities should be sited where currents are strong enough to disperse organic deposits and in areas with the least productive benthic habitats. Siting should avoid small embayments with sills, areas with natural restrictions to tidal exchange, or areas with existing water quality problems. Because hatchery harvest areas, particularly the nearshore areas, receive dense concentrations of gill net and purse seine commercial fishing activity, any tideland facility (rafts, floats, mooring systems, etc.) that would obstruct the commercial fishing use of the area should not be located in these areas if there is a feasible and prudent alternative. The addition of an aquatic farm lease is in line with areawide mariculture goals for providing opportunities to increase income, diversify the state's economy, and maximize the optimum use of the most suitable mariculture areas.

Taking the above area plan recommendations into account, the Proposed Aquatic Farm Lease for Chenega Regional Development Group LLC. is viable and should move forward.”

SCRO Response:

SCRO acknowledges RADS's comment. SCRO relies on input from RADS and other stakeholders to advise of any expected impacts and solutions that may fall outside of SCRO's authority. Regarding the U.S. Coast Guard (USCG) navigational hazard assessment, SCRO included USCG in the Agency Review, however, USCG did not comment.

U.S. Army Corps of Engineers (USACE) Comment:

The USACE provided an email dated September 16, 2024, stating that the “work would require Department of the Army authorization. Section 10 of the Rivers and Harbors Act of 1899 requires that a DA permit be obtained for structures or work in or affecting navigable waters of the U.S. (33 U.S.C. 403). Section 10 waters are those waters subject to the ebb and flow of the tide

shoreward to the mean high water mark, and/or other waters identified by the Alaska District. Aquaculture structures and work would require Section 10 Authorization.”

SCRO Response:

SCRO acknowledges the USACE’s comment. SCRO provided a copy of the USACE’s September 16, 2024, email to CRDG and notified them to contact the USACE for their specific permit information.

U.S. Forest Service (USFS) Comment:

The USFS submitted a letter dated September 25, 2024, stating, “The fish resources adjacent the proposed area include those of O’Brien Creek. O’Brien Creek drains into Crab Bay and is listed as habitat for anadromous species of Chinook and pink salmon. The United States Forest Service (USFS) concern for this specific project is the location of the project adjacent to a Chinook salmon stream, O’Brien Creek.

With respect to the increasing number of these requests we would ask ADNR’s consideration on the maximum percentage coverage that should be allowed to operate in an area. Some locations may be reaching a high density of mariculture sites. Should these sites continue to be permitted there is an expectation of access issues during certain times of the year.

The USFS will continue to seek to work collaboratively with ADNR and other state agencies for the protection of forest resources.”

SCRO Response:

SCRO acknowledges USFS’s comment. As one of the resource managers in the area, USFS’s input is an important source of information. SCRO relies on input from the USFS and other stakeholders to advise of any expected impacts and solutions that may fall outside of SCRO’s authority.

Pursuant to 11 AAC 63.020(c), the commissioner will, in the commissioner's discretion, set application filing guidelines, such as minimum distances from anchorages or the mouths of anadromous fish streams at which an aquatic farmsite may be located. The current guidelines state that aquatic farmsites must be located a minimum of 300 feet from the mouths of anadromous fish streams. The proposed aquatic farmsite is located more than 300 feet from the mouths of all anadromous fish streams.

Currently, there are only two applications within Crab Bay. Pursuant to 11 AAC 63.050(c), “the commissioner will not grant aquatic farmsite leases that would encumber more than a third of the surface area estimated to exist at mean lower low water of a bay, bight, or cove, unless the commissioner finds that (1) it is in the state's best interest to concentrate leases in one such bay, bight, or cove so as to keep other specified water bodies completely unencumbered, (2) the cumulative impacts will not be excessive, and (3) the upland owner will retain a right of reasonable

access to tidewater”. The proposed aquatic farmsite does not encumber more than a third of the surface area estimated to exist at mean lower low water within Crab Bay.

Public Notice of the Preliminary Decision:

Pursuant to AS 38.05.945, this PD will be advertised for a 30-day public comment period. Notice will be posted on the Alaska Online Public Notice System and at the post offices located in Chenega. Courtesy notices will also be mailed or emailed to neighboring property owners, permit/lease holders, and other interested parties on October 31, 2024, for a 30-day public comment period.

Comment(s):

This decision is subject to both public and agency comments and all comments received by the comment deadline will be considered in the Final Finding and Decision. Only those who comment and the applicant have the right to appeal the Final Finding and Decision.

Written comments about this project must be received in this office no later than December 2, 2024, to be considered.

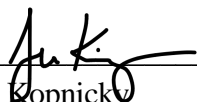
To submit comments, please choose one of the following methods:

Postal: Department of Natural Resources
Southcentral Regional Land Office
ATTN: Jen Kopnicky
550 West 7th Avenue Suite 900C
Anchorage, AK 99501-3577
E-mail: jen.kopnicky@alaska.gov
Fax: (907) 269-8913

If public comments result in significant changes to the Preliminary Decision, additional public notice may be given. To be eligible to appeal the Final Finding and Decision, a person must provide written comments during the Preliminary Decision comment period per AS 38.05.035(i)-(m).

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. SCRO considered three criteria to determine if this project serves the best interest to the State and the development and enjoyment of its natural resources. The criteria include direct economic benefit to the State, indirect economic benefit to the State, and encouragement of the development of the State’s resources. This authorization provides a direct economic benefit to the State with the collection of one-time filing fees and any yearly rent/fees. The authorization of this lease is in the State’s best interest as it furthers economic development of the State’s aquatic farm industry. It is recommended that SCRO issue a 10-year lease to CRDG.



Jen Kopnicko 10/28/2024
Natural Resource Specialist 2 Date

Preliminary Decision:

It is the determination of the Division of Mining, Land, and Water that it may be in the State’s best interest to issue an aquatic farmsite lease to CRDG, as described above. Prior to issuance of this lease, the applicant will be required to pay the annual lease fee of \$450, submit a \$2,500 performance bond, and provide proof of liability insurance. This Preliminary Decision shall now proceed to public notice.

pp 

Joni Sweetman, Regional Manager 10/28/2024
Division of Mining, Land & Water Date
Southcentral Regional Land Office

Attachments

- Attachment A – Development Plan
- Attachment B – ADF&G Letter

Attachment A Development Plan

PROJECT DESCRIPTION

DATE SUBMITTED: _____

Company Name

Chenega Regional Development Group, LLC

Site Location *[Include water body, distance from nearest community, any landmarks, general region of Alaska, and whether on state tidal and/or submerged lands or private. Provide enough information to understand where it is located.]*

The proposed aquatic farmsite is composed of two parcels located within Alaska tidelands survey No. 1523. These two parcels total about .15 acres. The proposed farm site, located in Crab Bay is adjacent to the Native Village of Chenega's small boat harbor on the southern portion of Evans Island. The proposed site is inside of the Native Village of Chenega's permitted tideland survey zone.

Site Dimensions, Acres for Each Parcel

The proposed growing area parcel 1 measures 46.6' wide 67.2' long x 38.3' long x 59.6 wide, totaling .05 acres. Parcel 2 measures 37.9' wide' x 109.8' long x 40.5' wide x 106.7' long, totaling .10 acres.

Total Acres of All Parcels

Total acreage .15

Species You Intend to Farm *[Include scientific and common species name]*

Pacific oyster, *Magallana gigas*

Attachment A Development Plan

Culture Method [Describe operation activities to be done onsite such as outplanting of seedstock, husbandry techniques to be used (culling, sorting, washing, etc.), maintenance and monitoring activities, management of fouling organisms and incidental species, predator control measures, and schedule of activities such as timing of outplanting seeded lines or adding seedstock into trays, etc. Describe what methods you plan to use based on the definition in 5 AAC 41.400(6). "Culture" means to use or the use of methods to manipulate the biology and the physical habitat of a desired species to optimize survival, density, growth rates, uniformity of size, and use of the available habitat, and to efficiently produce a product suitable for a commercial market.]

Oysters will be cultured using a FLUPSY or floating upweller production system. The two parcels will accommodate up to four FLUPSYS each 8' wide by 20' long. Each FLUPSY will be capable of rearing 2 million, 2mm oyster seed to 20-25mm. The seed oysters would be planted in May and tended consistently through October. Tending would include grading, washing, and restocking of oyster seed. During the winter months seed will be overwintered in the FLUPSY.

Culture Gear and Equipment (Type, Size, Number, Configuration, Material, and Anchoring System) [If more than one parcel, indicate what parcel specific gear will be located on. If more than one species, indicate gear to be used for each. Gear includes any structure that holds or protects the organism like trays, tiers of lantern nets, Vexar bags, OysterGro system, grow-out submerged longlines, predator netting, longlines, buoys, depth control systems, etc. Include approximate installation schedule, or if and what gear will remain installed year-round etc.]

The four individual FLUPSYS measure 8' wide by 20' long with a 12' tall shed on top. The FLUPSYS will be moored at the Village of Chenega's small boat harbor and remain installed year-round. The FLUPSYS will be moored to the dock with docklines attached from cleats to D rings on the corners of the FLUPSYS. Each FLUPSY is to be manufactured with non-pressure treated wooden decking, aluminum framing, a fiberglass central trough, fiberglass bins with woven 1 mm mesh on the bottom of the bins. Styrofoam filled hard plastic dock floats will provide floatation and water flow will be powered by an electric IceEater pump. Each FLUPSY will contain up to 8 bins which hold the oyster seed at the bottom. The bins planned are expected to measure 24" x 24" wide by 36" tall. The proposed FLUPSYS would be developed in stages. During the first year, 3mm oysters would be planted in one FLUPSY. Between year 2-4 another FLUPSY will be added and two additional FLUPSYS by year 5. Power to the FLUPSY is from village shore power via the village power plant.

Attachment A Development Plan

Seed Acquisition Plan (Commercially produced and/or wildstock) [Commercially produced juveniles or seed stock must be obtained from an approved seed source. Do you intend to collect wildstock juveniles or natural set organisms for direct culture on your proposed site? Yes/No. If yes, describe collection methods (applicable for indigenous species: i.e. mussels, scallops, abalone, natural set aquatic plants, etc. This does not refer to broodstock collection on behalf of hatcheries for propagation. If increasing number of acquisitions per year, indicate projected amounts per year. Aquatic plant species can be combined into total feet of line per year.)

Seed would be obtained from an approved seed source.

Harvest Equipment and Method [Describe harvest equipment and methods to be used, activities to be done onsite, and schedule of harvest of aquatic farm product. If more than one species, include harvest information for each species or group of species like macroalgae if the harvest information is the same.]

2 mm oysters will be planted from an approved seed source in the FLUPSY in May-June and grown to 20-25 mm before planting on farms for final growout. It is estimated that 50% of the seed planted will reach 20-25 mm by September and be moved onto the final grow out site, while the remaining 50% would remain in the FLUPSY through the following winter and reared in the FLUPSY until it reaches 20-25mm the following summer.

Seed oysters will be counted by volume.

Oysters will be transported in insulated fish totes

Support Facilities (Type, Size, Number, Configuration, Material, and Anchoring) [Support facilities include caretaker facility, storage rafts, work rafts, processing rafts, etc.]

NA

Attachment A Development Plan

Attachment 1

Chenega Regional Development Group, LLC

Crab Bay, Western Prince William Sound, Alaska

Project Description

The proposed aquatic farmsite is composed of two parcels located within Alaska tidelands survey No. 1523. These two parcels total about 0.15 acres. The proposed farm, located in Crab Bay is adjacent to the Village of Chenega's small boat harbor on the southern tip of Evans Island. Crab Bay is a medium sized bay approximately ½ mile wide by ¼ of a mile wide. The area is well protected, providing good anchorage with sand and gravel seafloor. The shoreline is exposed bedrock with intermittent gravel beaches and sedge grass meadows. Upland ownership is maintained by the Chenega Corporation. There are several anadromous pink salmon streams in the area as well as the Armin F Koernig Hatchery, which all exceed over 300' in distance from the proposed site. The larger area supports a commercial fishing fleet during the salmon harvesting season, although the areas selected are out of the main traffic areas and not useable to commercial fishermen due to water depth as well as constraints such as the already established dock infrastructure.

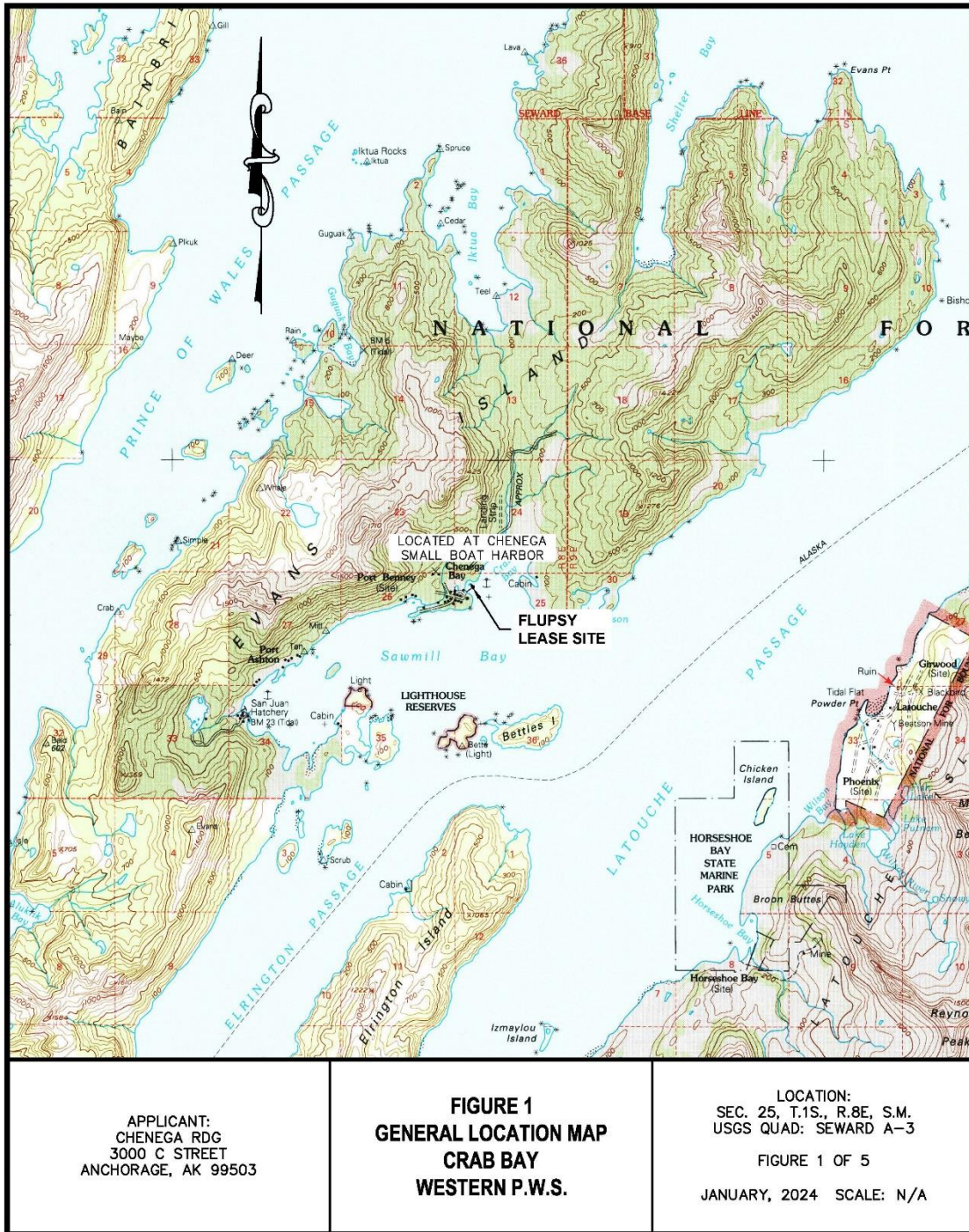
The proposed growing area *Parcel 1* measures 46.6' wide by 67.2' long (northeast boundary) x 38.3' wide by 59.6' long (southwest boundary) or .05 acres. The proposed growing area *Parcel 2* measures 37.9' wide x 109.8' long (eastern boundary) by 40.5' wide x 106.7' long (western boundary) or .10 acres. The two parcels could accommodate up to four FLUPSYs for culture of Pacific oysters, *Magallana gigas*. The dimensions of each FLUPSY being 8' wide by 20' long covered by a 12' tall structure. Each FLUPSY would include 8 bins which are 24" x 24" wide and 36" tall with woven 1mm mesh on the bottom. The FLUPSYs identified would be manufactured of non-pressure treated wooden decking, aluminum framing, aluminum or fiberglass bins and Styrofoam filled hard plastic dock floats. The FLUPSYs would be powered by 3hp electric IceEater pumps. Each FLUPSY could rear up to 2.5 million 3mm oyster seed to 10-15mm. The proposed FLUPSYs would be developed in stages. During the first year, 3mm oysters would be planted in one FLUPSY. Between year 2-4 another FLUPSY will be added and two additional FLUPSYs by year 5. The FLUPSYs would be attached parallel to the Chenega dock using galvanized dock hardware. The FLUPSYs will have galvanized brackets in the middle and at the ends to connect them to the dock. Production capacity is estimated up to 10 million oysters to 10-15mm or 5 million to 20-25mm.

Operational activities at the proposed farmsite would occur year-round with an increase in activity during the summer months (May-October). During the growing months oysters will be graded, tumbled, washed, culled, and restocked. Gear will be kept free of fouling through washing and drying. Planting of oysters (2-3mm) from an approved seed source will occur each year, May through June. These oysters will be kept in the FLUPSY for the first few months to a year dependent on growth rates. Once oysters reach 10-25 mm they will be transferred to the other permitted farmsites operated by Chenega Regional Development Group, LLC and

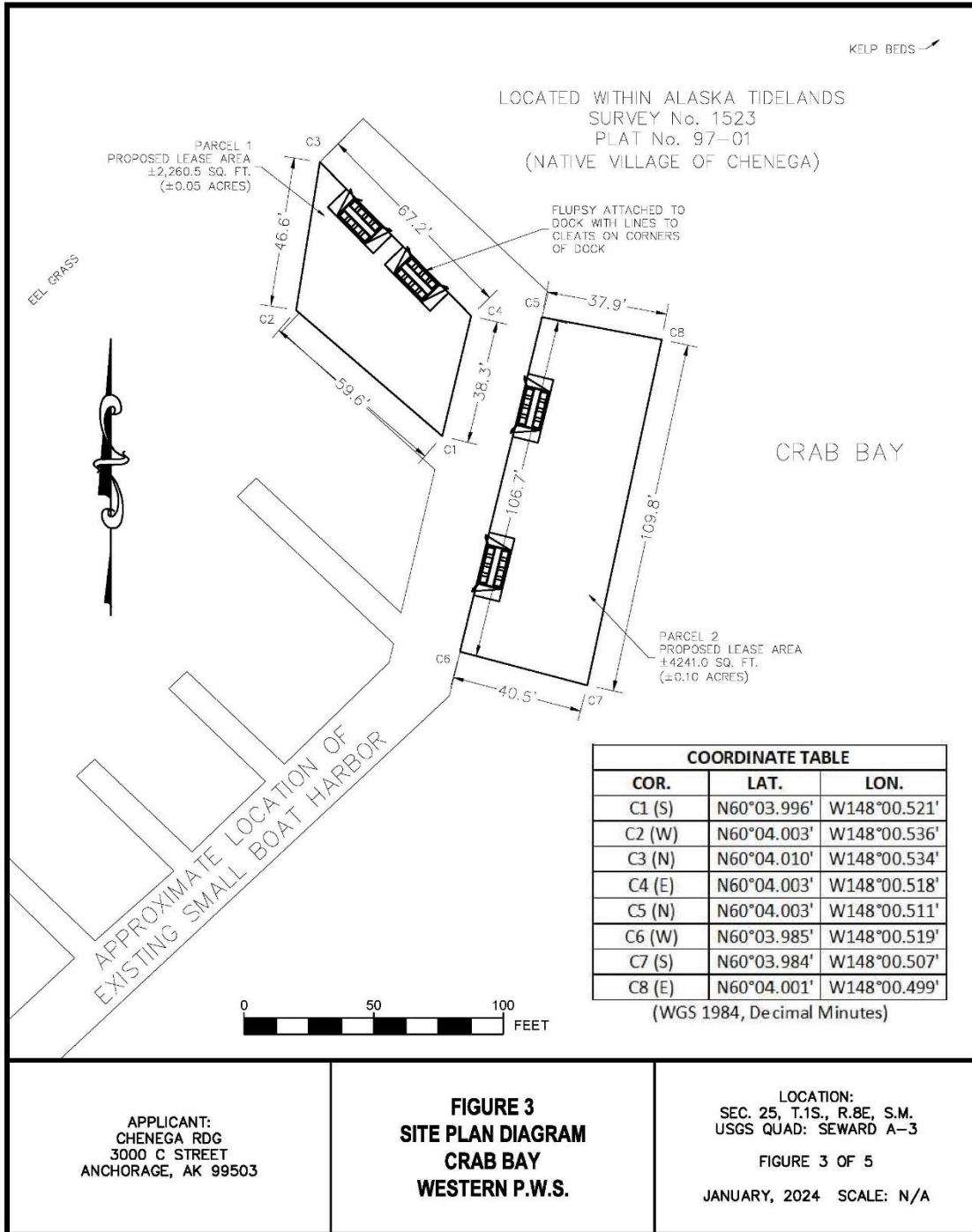
Attachment A Development Plan

restocked into cages with ¼" mesh. Harvesting will not occur at these parcels as it will be used only for juvenile rearing. Support facilities and gear storage will be located on private uplands owned by Chenega Corporation. The FLUPSYs will remain in place year-round. Access to the site is by private uplands or by boat.

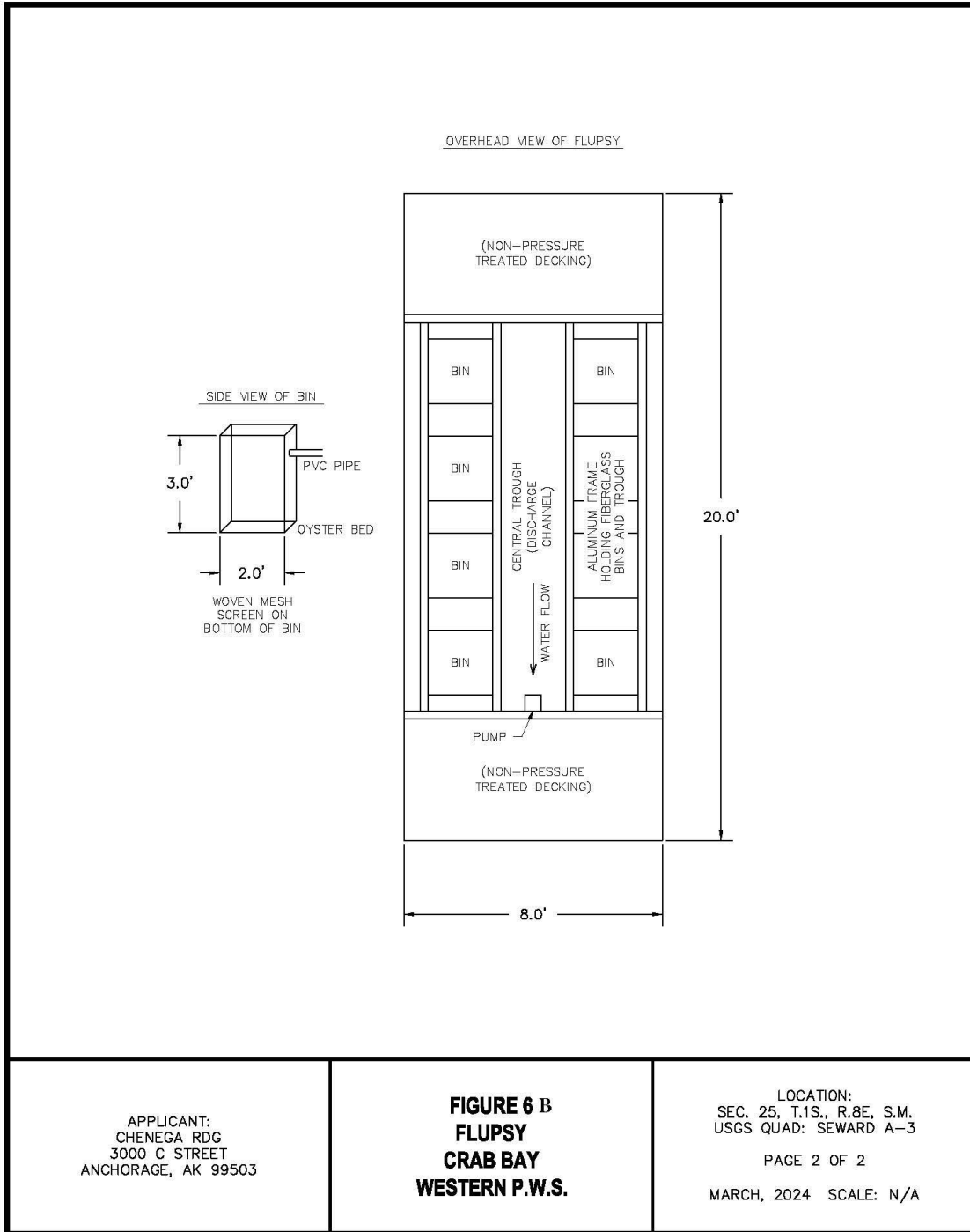
Attachment A Development Plan



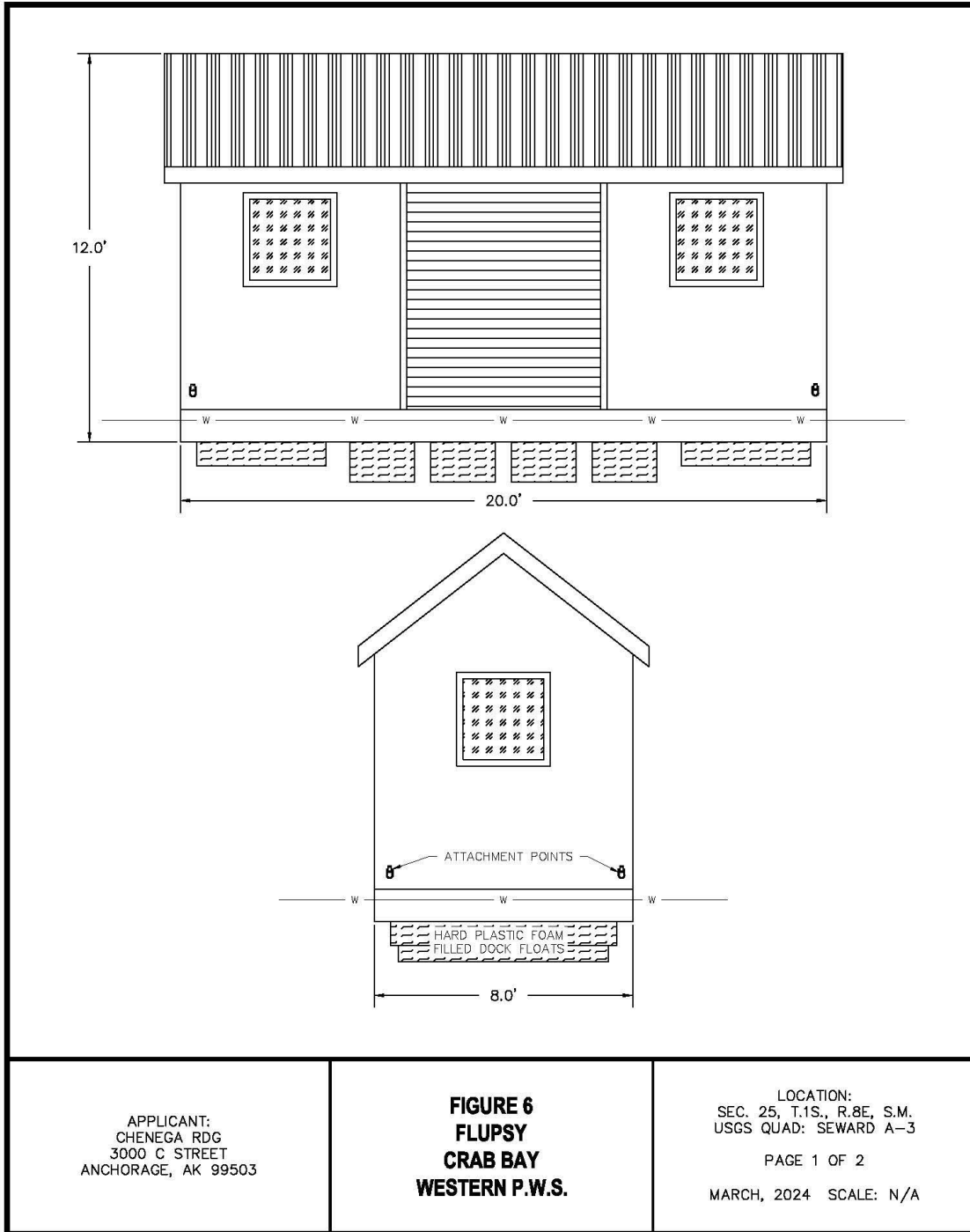
Attachment A Development Plan



Attachment A Development Plan



Attachment A Development Plan



APPLICANT:
 CHENEGA RDG
 3000 C STREET
 ANCHORAGE, AK 99503

LOCATION:
 SEC. 25, T.1S., R.8E, S.M.
 USGS QUAD: SEWARD A-3

PAGE 1 OF 2
 MARCH, 2024 SCALE: N/A

Attachment A Development Plan



Chenega IRA Council

3000 C Street, Suite 301
Anchorage, Alaska 99503-3975

February 13, 2024

To: Alaska Aquatic Farm Program (ADNR, DF&G, ADEC)

Subject: No Objection Letter for Tidelands Lease

Dear Joint Agency,

The Chenega IRA Council is the governing body of the Native Village of Chenega, a federally recognized Tribe. I have been authorized by the Chenega IRA Council to write this Letter of No Objection to accompany Chenega Regional Development Group, LLC's aquatic farm application packet. The Chenega IRA Council certifies that we are the sole entity managing the Tideland Survey permitted site ADL 226282. We have held this lease since 1994.

It is our understanding that Chenega Regional Development Group, LLC, is actively working to lease two areas, approximately 20' x 40' each, within our tideland survey leased site, ADL 226282. These two areas, located towards the end of our small boat harbor, are intended for Chenega Regional Development Group, LLC's FLUPSY storage and operation. Chenega IRA Council has an active interest in the success of this project. We have no conditions or restrictions on this Letter of No Objection.

Thank you,

A handwritten signature in blue ink, appearing to read "Megan Bergene".

Megan Bergene

Tribal Administrator

Native Village of Chenega

O: 907-569-6949 C: 907-600-9036

3000 C Street, Suite 301

Anchorage, AK 99503

Attachment B
ADF&G Letter



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

Department of Fish and Game

Division of Commercial Fisheries
Headquarters Office

1255 West 8th Street
P.O. Box 115526
Juneau, Alaska 99811-5526
Main: 907.465.4210
Fax: 907.465.4168
Permit Coordinator: 907.465.4724

October 1, 2024

Jen Kopnicky
Department of Natural Resources
Southcentral Regional Land Office
Aquatic Farm Leasing Program
550 West 7th Avenue, Suite 900C
Anchorage AK 99501

Re: Alaska Department of Fish and Game Agency Review Comments
Stover / Chenega Regional Development Group Aquatic Farm Site Proposal – Crab Bay
DNR File No.: ADL 234311

Dear Ms. Kopnicky:

The Alaska Department of Fish and Game (ADF&G) has completed a preliminary review of the project proposal, **ADL 234311** relevant to criteria specified in authorizations for Aquatic Farming AS16.40.105 and 5 AAC 41 200-400. ADF&G Division of Commercial Fisheries (Management, Gene Conservation Lab and Fish Pathology Section), Division of Sport Fish, Division of Wildlife Conservation, Subsistence Section and Habitat Section, were part of the initial review. *There are no concerns pertaining to an aquatic farm operation permit at the proposed location.* Any comments from other government agencies or from the public that may impact applicable department provisions will be considered as part of the final department review for an aquatic farm operation permit which will be issued within 30 days of the lease being issued. Recommendations from this preliminary review are summarized below.

Department Advisory

Please advise the applicant that if the project is approved, general conditions pertaining to Alaska Department of Fish and Game statutory and regulatory provisions for issuance of an Aquatic Farm Operation Permit (AFOP) will be included in the operation permit. In addition, site-specific conditions that have been recommended by staff may be included in the AFOP.

Division of Commercial Fisheries has reviewed this request and have no concerns.

Gene Conservation Lab has reviewed this request and have no concerns.
Fish Pathology Section has reviewed this request and have no concerns.

Attachment B ADF&G Letter

Jen Kopnicky
Department of Natural Resources
Aquatic Farm Proposal ADL 234311 ADF&G Review Comments

- 2 -

October 1, 2024

Division of Sport Fish has reviewed this request and have no concerns.

Invasive Species Program Coordinator did not comment at this time.

Division of Wildlife Conservation

Marine Mammal Research Program: This application complies with the guidelines set forth with the ADF&G marine mammal mariculture policy updated in April 2024. Any advisories or mitigation steps recommunicated by NOAA Fisheries National Marine Fisheries Service (NMFS) or the US Fish and Wildlife Service (FWS) to reduce marine mammal disturbances should be followed. Large whales, especially humpbacks, are highly susceptible to entanglement in lines in the water; Removing all gear from the water during the non-growing season may minimize gear loss, user conflicts, and marine mammal entanglement and habitat exclusion potential. Any marine mammal entanglements should be immediately reported to the NMFS 24 hr. Stranding Hotline, phone – (877) 925-7773 and the ADF&G Permit Coordinator (907-465-4724).

Access Defense Program: Has reviewed this request and have no concerns.

Seabird Program: Did not comment at this time.

Habitat Section did not comment at this time.

Subsistence Section has reviewed this request and have no concerns.

Our department requests that the Department of Natural Resources consider providing this in their Preliminary Decision as an advisory to the applicant and for public reference.

Thank you for the opportunity to provide comments on this aquatic farm proposal. If you have any questions, please contact me at (907) 465-4724.

Sincerely,



Michelle Morris
Permit Coordinator

ecc: Garold V. Pryor, Aquaculture Section Chief, ADF&G
Marc Stover, Chenega Regional Development Group