

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

RENEWAL DECISION

ADL 37321

Kitty B. Mill Site LLP

Lease Agreement

AS 38.05.070(e) and AS 38.05.070(b)

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 Kitty B Mill Site LLP (KML; the lessee) to renew a current lease for approximately 2.71 acres of land for 10 years, located in Jakolof Bay. The location of the project area is further described as being within Section 20, Township 8 South, Range 13 West, Seward Meridian, Alaska.

History:

The lease agreement and amendments are collectively referred to herein as “the lease.” On November 29, 1967 the lease between DNR and Allan B. Billings was issued. The lease was assigned on June 28, 1972, from Allan B. Billings to James D. Milne. It was assigned again on March 5, 1973, from James D. Milne to Lloyd Schade. Finally, Lloyd Schade assigned the lease to KML, the current lessee for ADL 37321, on May 20, 1996. The lease’s original November 28, 2022, expiration date was modified via a 2-year lease extension on October 25, 2022 through November 28, 2024.

On April 6, 1992, managing authority of the lease was conveyed from DMLW to the Mental Health Trust Land Office (TLO). On June 15, 2005, it was determined that the lease was conveyed in error and responsibility was transferred back to DMLW.

Existing Infrastructure:

There is currently no existing infrastructure within the requested lease footprint.

Proposed Infrastructure:

With lease renewal, KML has proposed to build three structures within the lease. The proposed infrastructure consists of the following:

- One 12-foot x 16-foot cabin to be located in the southwest corner of lease.

- One 12-foot x 16-foot cabin to be located in the northwest corner of lease.
- One gazebo, 12 feet in diameter to be located in the northwest corner of lease.

Lease Renewal Authority:

In 1967 the original lease had been adjudicated pursuant to AS 38.05. Upon lease expiration, subsection AS 38.05.070(e) allows the Director to renew a lease previously issued under AS 38.05.070 if the lease is in good standing and the lease renewal is determined to be in the best interest of the State.

Lease Renewal Qualifications:

In order to qualify for a renewal per AS 38.05.070(e), a lessee must be in “good standing”. Good standing refers to the fact that the lessee’s accounts are current, that there are no outstanding compliance issues, and that the lessee maintains a healthy business relationship with the lessor. A review of the case file has shown that the lessee is in good standing.

Lease Renewal Discussion:

Renewing the lease under AS 38.05.070(e) will allow the lessee and the lessor to reenter into a lease contract with minimal delays or disruptions. This lease renewal is in the best interest of the State as it will allow the lessee to further utilize their lease for recreational activities, as was the intent of the original lease. This renewal will also provide the time needed for DMLW to process the Preference Right to Purchase application that was received at the culmination of the original long-term lease. The renewal is consistent with the State’s Constitution as the lease provides for the utilization, development, and conservation of the natural resources belonging to the State.

Additionally, a portion of the original lease has been utilized for years as a makeshift parking area for those using the City of Seldovia’s tideland lease, ADL 232203. The City of Seldovia has expressed interest in acquiring and utilizing a portion of the existing KML lease to create an authorized parking area to be used in conjunction with their tideland lease. In response to this need, KML has agreed to reduce their lease footprint from the original 4.61 acres, to approximately 2.71 acres as depicted in the attached development plan.

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, 2000 Kenai Area Plan and other classification references described herein, and the case file for the application serialized by DNR as ADL 37321.

Legal Description, Location, and Geographical Features:

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

- **Legal description:** Section 20, Township 8 South, Range 13 West, Seward Meridian
- **Geographical location:** Jakolof Bay
- **Approximate Lat/Long:** 59° 27' 56" N, 151° 32' 16" W
- **Area geographical features:** Uplands
- **Existing surveys:** US Mineral Survey 2162
- **Municipality/Borough:** Kenai Peninsula Borough
- **Native Corporations/Federally Recognized Tribes:** Cook Inlet Region, Inc./Seldovia Native Association Inc.
- **Size:** 2.71 acres

Title and Third-Party Interest:

The State of Alaska holds fee title to the subject land under Quitclaim Deed No. 324, dated July 1, 2005, accepted July 29, 2005 which was acquired through State Acquisition OSL 1335. A DNR Title Report (RPT-22844) issued on January 16, 2024, from DMLW’s Realty Services Section attests that aside from the usual reservations for ditches, canals, railroads, telegraph and telephone lines, and water rights, there are no other reservations for the proposed site.

Third-Party Interests:

- ADL 66805, Public Easement, Access, Issued, DOTPF Design and Construction ROW Central Region
- ADL 37929, Public Easement, Access, Issued, DNR DMLW SCRO Easements
 - Right-of-Way Permit, approved 7/16/1974, recorded in Book 35, Page 175
- Right-of-Way Easement, dated 4/28/1972, recorded in Book 17, Page 374 in the Seldovia Recording District.
- Right-of-Way Easement, dated 5/30/1973, recorded in Book 18, Page 265 in the Seldovia Recording District.

Planning and Classification:

The project area is subject to the 2000 Kenai Area Plan, Region 9: South Side Kachemak Bay and Chugach Islands, map number 9A. A classification error has been found during adjudication of this extension. The parcel is mistakenly identified as Mental Health Trust land in the area plan. As noted above, the lease was being actively managed by TLO when the Kenai Area Plan was implemented in 2000. However, also noted above the State of Alaska holds fee title to the subject land under Quitclaim Deed No. 324, dated July 1, 2005, accepted July 29, 2005 which was acquired through State Acquisition OSL 1335.

Access:

Access to the lease site is via Jakolof Bay Road or watercraft in Kachemak Bay.

Public Access:

No public access restrictions apply.

Authorization and Term Length:

The original lease authorization for ADL 37321 was issued for a term of 55 years. Pursuant to AS 38.05.070(e) leases may only be renewed once and for a duration no longer than the original lease term. In their renewal application, KML requested a 10-year renewal. As such, this lease renewal will be issued for 10-year term. Unless an appeal is received, the lease term will begin on November 28, 2024.

Compensation and Appraisal:

A Minimum Rent Determination for the reduced footprint was completed on November 1, 2024. In accordance with AS 38.05.840(b), KML will be required to provide an appraisal for this lease site. KML's intent is to move forward with their Preference Right to purchase application that was submitted January 5, 2022, which will also require an appraisal. Therefore, the lease compensation will be based on the formal appraisal conducted for the preference right purchase. Once the appraisal is received, lease compensation will be changed to reflect this amount. Until a formal appraisal is completed, the annual fee will be set at \$1,000.00. Furthermore, in accordance with AS 38.05.105, the lease will be subject to reappraisal at five-year intervals after the issuance of the authorization.

Survey:

A survey is not required for the issuance of a 10-year lease. The reduced lease footprint is well defined by the existing US Mineral Survey No. 2162.

Lease Performance Guaranty (bonding):

In accordance with AS 38.05.035 and AS 38.05.860, KML will be required to submit a performance guaranty for the lease site.

- **\$3,000.00 Performance Bond:** This bond will remain in place for the life of the proposed lease. The bond amount is based upon the level of development, amounts of hazardous material 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 reserves the right to require a reclamation bond in the event of noncompliance issues during the term of the lease or near the end of the life of the project.

Insurance:

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

Public Trust Doctrine:

Pursuant to AS 38.05.126 all authorizations for this site will be subject to the principles of the Public Trust Doctrine; specifically, the right of the public to use navigable waterways and the land beneath them for navigation, commerce, fishing, hunting, protection of areas for ecological studies, and other purposes. These rights must be protected 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.

Signature page follows

Recommendation:

SCRO has completed a review of the information provided by the applicant, examined the relevant land management documents, and has found the proposed lease is consistent with all applicable statutes and regulations. SCRO recommends the issuance of a 10-year lease renewal to support Applicant’s recreational activities. This lease renewal will also provide the time needed for DMLW to process the Preference Right to Purchase application that was received at the culmination of the original long-term lease.

Attachment A: Development Plan



11/20/2024

Todd Derks, Natural Resource Specialist 4

Date

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

Decision:

The findings presented above have been reviewed and considered. The case file has been found to be complete and the requirements of all applicable statutes and regulations have been satisfied. SCRO finds that it is in the best interests of the State to renew this lease as described under the authority of AS 38.05.070(e).



11/20/24

Joni Sweetman, Regional Manager

Date

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

Appeal:

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

Attachment A

Development Plan

Kitty B Mill Site Limited Partnership
35250 Schade Drive
Homer, Alaska 99603
907-235-8949

October 8, 2024

Development Plan Narrative #3

Lease ADL 37321

The property has been leased in the past for recreational purposes. We have been planning on building two self-contained small cabin like structures for camping as well a small gazebo. These will be approximately 12' x 16' cabins probably build out of logs so that they can be moved off sight if necessary. The gazebo will be approximately 12' in diameter.

*Legal Description: Mineral Survey 2162, Seward Meridian, Township 8S, Range 13W, Section 20, Acres 3. Geographic Location 6263 Jakalof Bay Road

*Terrain/ground cover: The upper portion located to the South side of Jakalof Bay Road is tree covered with a slope leading to the road. The lower portion to the North side of the road and directly off the beach is also tree cover with a more level terrain. We are planning on cleaning the dead fall trees and creating two level locations to place our cabins on both sides of Jakalof Bay Road.

*Access: Existing access is by boat through Seldovia's Jackalof Bay dock. Or by vehicle from the City of Seldovia and the ferry.

*Buildings and other Structures: We are planning on building self-contained cabins. These will be semi-permanent. The cabin will be built on trailers or built on skids so that they can be placed on trailer to be moved. Plans are to have them on sight in 2025 and they will be for camping.

*Power Source: Homer Electric Association has power on sight.

*Waste Types, waste sources and disposal methods: We are planning on a composting toilet system and a grey water tank for regular water use.

Attachment A

Development Plan

*Hazardous substance: N/A

D.E.C approved septic tank for waste water (Grey water only).

*Parking areas and storage areas: On the portion on the beach side. No vehicles should be parked long term. No plans on in place for a need for storage.

*Number of people using the site: Family members

*Maintenance and Operations: These units should be relatively maintenance free. When maintenance is requires we will do it.

*Closure/reclamation plan: The main reason we are using mobile self- contained united is so that we can remove them when the lease has ended. Any property put in place by Kitty B Mill Partnership will be removed.

Attachment A Development Plan

Application for Lease of State Land

Kitty B. Mill Site ADL #37321

Additional Information

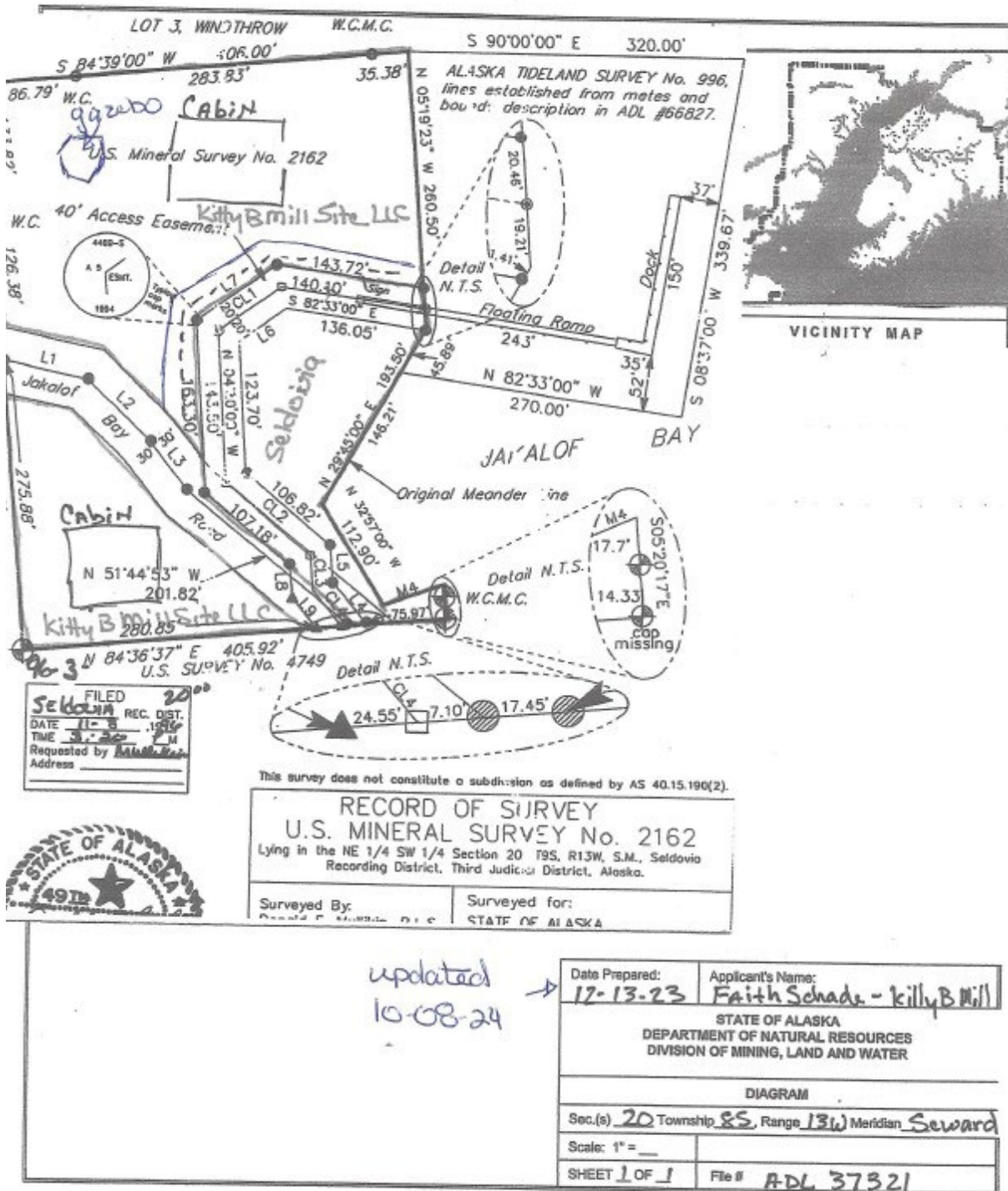
Names and Addresses of Adjacent Land Owners:

Seldovia Native Corporation
800 E Diamond Blvd, Suite 3-640
Anchorage, AK 99515

Step1 A L Revocable Trust
P.O. Box 873671
Wasilla, AK 99687

Stanley Community Property Trust
40891 Morning Star Road
Homer, AK 99603

Attachment B Location Maps



Attachment B Location Maps

