

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

LEASE EXTENSION DECISION

Fox River Cattlemen's Association

ADL 226513

AS 38.05.070(f)

Decision to Extend Lease:

Fox River Cattlemen's Association (FRCA) has applied to the Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW), Southcentral Regional Land Office (SCRO) to renew a current long-term grazing lease in the Fox River area at the head of Kachemak Bay, near Homer, Alaska. The lease is set to expire on April 30, 2025. SCRO has made the decision to extend the lease for a maximum of two years pursuant to AS 38.05.070(f)(2). This will provide additional time for FRCA to submit an updated Grazing Management Plan (GMP) and for DMLW to consider FRCA's lease renewal application.

Scope of Decision:

The scope of this decision is to determine if it is in the State's best interest to extend the lease for ADL 226513 to FRCA for a period of two years to allow additional time for FRCA to submit an updated Grazing Management Plan (GMP) and for SCRO to consider FRCA's lease renewal application.

Authority:

In accordance with AS 38.05.070(f), a lease may be extended once for a period up to two years. This lease extension is being adjudicated pursuant to AS 38.05.070, Generally.

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 2001 Kenai Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as ADL 226513.

Legal Description, Location, and Geographical Features:

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

- **Legal description:**

Within the Seward Meridian

Township 3 South, Range 9 West:

Section 19 - SW1/4 SE1/4, SE1/4 SW1/4

Section 29 - excluding that portion within the Kenai National Wildlife Refuge

Sections 30, 31, and 32 – all;

Township 3 South, Range 10 West:

Section 25 - NE1/4 NE1/4, S1/2 NE1/4, SE1/4, E1/2 SW1/4

Section 36 – all;

Township 4 South, Range 9 West:

Section 4 - W1/2 W1/2

Sections 5, 6, and 7 - all

Section 8 - N1/2, NW1/4 SE1/4, SW1/4

Section 17 - NW1/4 NW1/4

Sections 18 and 19 - all

Section 20 - SW1/4

Section 29 - NW1/4

Section 30 - NE1/4, N1/2 NW1/4

Township 4 South, Range 10 West:

Section 1 - NE1/4, that portion of the SE1/4 and the E1/2 NW1/4 that is not included in USS 3386

Section 11 - that portion of the E1/2 SE1/4 not included in a USS or ASLS 91-265

Section 12 - Those portions of the NE1/4 and the S1/2 that are not included within a USS

Section 13 - all

Section 14 - those portions lying of the NE1/4, S1/2, and the S1/2 of the NW1/4 that are not included within a USS

Section 15 - that portion of the SE1/4 SE1/4 not included within USS 4725

Section 20 - S1/2 SE1/4

Section 21 - those portions of the S1/2, SE1/4 NW1/4 not included within a USS

Section 22 - S1/2, all portions of the N1/2 not included in USS 4725

Sections 23 and 24 - all

Section 25 - that portion north and west of Power Site Classification 436 (Bradley Power Site)

Sections 26, 27, and 28 - all

Section 29 - all excluding those uplands included in USS 3358

Section 30 - the E1/2 excluding those lands included in USS 3358, USS 2756, and ASLS 78-177.

Sections 33 and 34 - all uplands and tidelands

Section 35 - NW1/4 all uplands and tidelands

The above described lands being approximately 15,670 acres. All located in the Homer Recording District.

- **Geographical location:** Approximately 25 miles northeast of Homer at the end of Kachemak Bay
- **Approximate Lat/Long:** 59° 47.8523' N, 151° 3.0873' W
- **Area geographical features:** River delta marsh bottoms and tidal flats with grasses, sedges, and forbs, graduating to several sloping hillsides with thicker, woody vegetation.
- **Existing surveys:** Partial, incidental surveys exist, but a survey of the lease was not required.
- **Municipality/Borough:** Kenai Peninsula Borough
- **Native Corporations/Federally Recognized Tribes:** Cook Inlet Region, Inc. (CIRI)
- **Size:** 15,670 acres, more or less

Title:

SCRO requested a title report from DMLW's Realty Services Section on September 16, 2024, which has not been received at the time of this decision. The lands/tidelands have previously been determined to be state-owned.

Adjacent Landowners, Native Corporations or Borough:

Adjacent landowners include Kenai National Wildlife Refuge, the State of Alaska, and private landowner(s).

The leasehold is within CIRI boundaries, though no corporation lands are impacted.

The leasehold is within the Kenai Peninsula Borough, though no borough lands are impacted.

Third Party Interests:

- Homer Soil and Water Conservation District (HSWCD): LAS 29416, Permit for maintenance on multiple bridges
- Alaska Energy Authority (AEA): ADL 223192 - Public Easement for electrical transmission lines from Bradley Lake Hydroelectric Project
- DMLW: ADL 200568 - Public Access Easement along public waterways
- Buck Jones: LAS 30009 – Permit for winter cross-country travel by dozer and freight sled

Planning and Classification:

The project area is subject to the 2001 Kenai Area Plan, Region 8: Upper Kachemak Bay and Fox River Flats, and the 1993 Alaska Department of Fish and Game (ADF&G) Fox River Flats and Kachemak Bay Management Plan.

Management Units:

- 271A: Fox River Flats, excluding the Critical Habitat Area (CHA) – The primary classification for this unit is grazing land with a secondary classification of wildlife habitat land. Grazing is compatible in this unit and will be managed consistent with the Cooperative Range Management Plan (CRMP). This unit is to be retained in state ownership.
- 271B: Fox, Moose, and Swift Creeks – The classification for this unit is resource management land. Grazing leases may be compatible with the management intent for this unit.
- 559: Fox River Critical Habitat Area - Designated primarily as waterfowl habitat, grazing was also recognized as an important use in the unit. The classification for this unit is wildlife habitat land. The state lands and tidelands in the Fox River Flats Critical Habitat Area will be managed to support wildlife habitat and grazing. Although the Kenai Area Plan applies to lands within this unit, DNR will use the Alaska Department of Fish and Game Fox River Flats and Kachemak Bay Management Plan as additional guidance in implementing its authorities in these areas.
- 562A: Kachemak Bay Critical Habitat Area General Tidelands – The classification for this unit is wildlife habitat land. The management intent for this unit requires maintaining and enhancing fish and wildlife populations and habitat, concurrent with providing opportunities for public use of fish, wildlife, land, and water. Grazing Management Plans should incorporate information provided by DNR, the Natural Resource Conservation Service (NRCS), and other related agencies. Introduction of species other than cattle and horses will not be allowed. Seasonal restrictions, buffer zones, stocking limits, and other grazing management techniques may be required to protect wildlife and habitat. Although the Kenai Area Plan applies to lands within this unit, DNR will use the Alaska Department of Fish and Game Fox River Flats and Kachemak Bay Management Plan as additional guidance in implementing its authorities in these areas.

Access:

The site is accessible from Sterling Highway to East End Road in Homer, then by ATV to the lease site.

Hazardous Materials and Potential Contaminants:

A site inspection was conducted by DMLW personnel on June 27, 2024. The leasehold was well maintained, tidy, and operating within the terms of the current lease agreement.

The use and storage of all hazardous substances must be done in accordance with existing federal, state, and local laws. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance, and must be removed from the lease site and disposed of in accordance with state and federal law.

Lease Performance Guaranty (bonding):

In accordance with the terms of the original lease this lease will not require bonding. SCRO is reserving the right to require a reclamation bond due to noncompliance issues during the term of the lease or near the end of the life of the project.

Insurance:

In accordance with the terms of the original lease, the Lessee will not be required to provide commercial insurance for this lease.

Annual Fee:

Per the terms of the existing lease, the annual fee will remain at \$470.00.

Public Notice:

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

Background:

FRCA is the current lessee for ADL 226513, a 25-year grazing lease set to expire April 30, 2025. On March 22, 2024, FRCA applied to renew the lease for 20 additional years. The lease was first established in a Lease Agreement between DNR and FRCA on May 1, 2000. The lease was amended with a Technical Amendment on April 30, 2002, to restore 370 acres inadvertently omitted from the legal description.

Lease Discussion:

FRCA's grazing activity originated as a federal Bureau of Land Management (BLM) 20-year lease, A-021067, issued January 1, 1955. Amendments were issued in 1960 and 1962, updating the legal description, and another amendment in January, 1964, withdrawing a portion of the lease due to a homestead claim.

By July, 1964, the State had selected the land for Tentative Approval of title, and BLM subsequently canceled FRCA's lease. In 1966, the State issued a retroactive preference right lease to FRCA for the remainder of the BLM lease term, serialized as ADL 24051. At the end of that term, the lease was renewed through December 31, 1994.

Although FRCA applied for a new lease, the State wished to finalize the Kenai Area Plan prior to issuing a new authorization. The case file for ADL 24501 was closed and FRCA's grazing activities were authorized via a one-year Land Use Permit (LAS 19602), followed by a five-year permit serialized as ADL 226513, while the area plan was completed, and other concerns addressed. In 2000, DNR issued a new 25-year grazing lease to FRCA under ADL 226513.

Although FRCA applied to renew the lease in March, 2024, the Grazing Management Plan was still being updated. A lease extension will provide the necessary time for FRCA to submit a final GMP and for DMLW to consider FRCA's lease renewal application.

FRCA utilizes the lease primarily for grazing cattle from April through October, depending on forage availability. This area also receives intensive public ATV use.

No changes in development or infrastructure are proposed at this time. A current listing of infrastructure will be included in the subsequent renewal decision once the updated GMP has been submitted.

This lease is unique in its forage, topography, and accessibility. There are no comparable alternative sites in the area of this size.

Signature page follows

Recommendation:

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

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

- Attachment A – Sample Lease Extension Agreement



04/29/2025

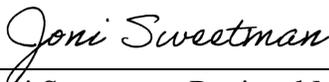
Bren McIver, Natural Resource Specialist 3

Date

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

Extension Decision:

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



04/29/2025

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
Lease Extension Agreement**

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

550 W. 7th Avenue, Suite 900C
Anchorage, Alaska 99501-3579

**LESSEE
ADL No. XXXXXX
EXTENSION TO LEASE AGREEMENT
AS 38.05.XXX**

In accordance with AS 38.05.XXX, the term of Lease Agreement ADL XXXXXX, entered into by LESSEE, effective the X day of MONTH, YEAR, recorded as Document No. XXXX-XXXXXX-X in the OFFICE Recording District and subsequently amended and assigned by the combined Amendment No. 1 and Assignment No. 1 (Document No. XXXX-XXXXXX-X), is hereby extended to 12 o'clock midnight on the XX day of MONTH, YEAR.

This extension effects the following described leasehold:

LEGAL DESCRIPTION

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

Attachment A
Lease Extension Agreement

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

LESSEE:

LESSEE

LESSOR:

FIRST LAST, Regional Manager
Southcentral Regional Land Office

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

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

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

STATE OF ALASKA)
) ss.
Third Judicial District)

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

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

Recorder's Office: Return the recorded document to:
DNR DMLW, SCRO
ATTN: **ADJUDICATOR**
550 W 7th Ave., Suite 900C
Anchorage AK, 99501-3577