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

# **PRELIMINARY DECISION**

ADL 234086 City of Seldovia Application for Lease AS 38.05.810(a)

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 PD. The deadline for commenting is **11:59 PM August 7, 2025**. 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 (FFD).

#### **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 the City of Seldovia (Seldovia) to lease 1.2 acres of land, more or less, for 55 years for the purpose of authorizing access to the city's public facility at Jakolof Bay Dock, dock maintenance and potential future construction, and parking located near Seldovia, Alaska. The location of the project area is further described as being within the SW1/4 of Section 20, Township 8 South, Range 13 West, Seward Meridian. Seldovia is proposing to use this site for the construction, use, operation, and maintenance of their public facilities at Jakolof Bay Dock.

SCRO is considering the issuance of a 30-year non-competitive land lease to Seldovia for the operation, and maintenance of various public facilities, including the dock access, public parking lot, signage, non-permanent site host structure, and potential public campsites. SCRO would issue an Entry Authorization (EA) for completing required survey and appraisal site prior to lease issuance.

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#### Scope of Review:

The scope of this decision is to determine if it is in the State's best interest to issue Seldovia a 30year lease for a public dock, parking area, campground, and related infrastructure.



#### Figure 1: Overview Map of Project Area

#### **Authority:**

This lease application is being 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(b) Generally; and AS 38.05.945 Notice.

The authority to execute the PD, Final Finding and Decision (FFD), Entry Authorization (EA), and the lease has been delegated to the Regional Managers of DMLW.

#### Administrative Record:

Case file ADL 234086 constitutes the administrative record for Seldovia's lease application.

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 2000 Kenai Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as ADL 234086.

#### Legal Description, Location, and Geographical Features:

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

- Legal description: SW1/4 of Section 20, Township 8 South, Range 13 West, Seward Meridian
- **Geographical location:** Immediately to the west and adjacent to the Jakolof Bay dock in Seldovia, AK
- Approximate Lat/Long: 59° 27.9419' N, 151° 32.2658' W
- Area geographical features: Adjacent to tidelands to the east, ranging from no vegetation, to minimal vegetation, to undisturbed with significant vegetation.
- Existing surveys: US Mineral Survey 2162
- Municipality/Borough: Kenai Peninsula Borough
- Native Corporations/Federally Recognized Tribes: Cook Inlet Region, Inc. (CIRI); Seldovia Native Association, Inc.; The Port Graham Corporation; The English Bay Corporation.
- Size: 1.2 acres, more or less

## Title:

SCRO requested a title report from DMLW's Realty Services Section on March 4, 2025, which has not been received at the time of this decision. The lands have previously been determined to be state-owned in the Title Report No. 22844, dated January 16, 2024, as part of a land lease case file ADL 37321, Kitty B. Mill Site. ADL 37321 has since reduced its original footprint, that portion of which is now being applied for by Seldovia for ADL 234086.

#### 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.

#### **Classification and Planning:**

The Kenai Area Plan (KEAP) and Land Classification Order SC-99-002 (LCO) were adopted on January 7, 2000. At the time the plan was prepared, the subject parcel was owned by the Alaska Mental Health Trust Authority (AMHTA), having been conveyed to the Trust via Quitclaim Deed (QCD) 8000049, recorded September 25th, 1996, in Book 35, Page 415, Seldovia Recording District. In July of 2005, The Alaska Department of Natural Resources (ADNR) and the AMHTA determined the subject parcel was conveyed to AMHTA in error and agreed to return the subject

parcel in accordance with Section III of the Settlement Agreement and Stipulation to Terms of Dismissal, dated June 10, 1994. The AMHTA conveyed the subject parcel back to the state via QCD No. 324, recorded July 29th, 2005, Seldovia Recording District. Per 11 AAC 55.040(i), State land must be classified prior to disposal or transfer. At the request of the Southcentral Region Land Office, on December 24, 2024, the Resource Assessment and Development Section (RADS) issued a Determination of Plan Designation and Land Classification for the subject parcel, SC-99-002 D03.

The lease area is subject to the KEAP, Region 9 (South Side Kachemak Bay and Chugach Islands), Sub-Unit 223 (map number 9A), designated as Settlement which converts to the classification of Settlement Land. The KEAP's second stated goal for settlement land is coordination with local governments (p. 2-49), which speaks to DNR's objective to closely work with local governments for land use planning, development, and disposals. Similarly, the KEAP's primary stated management guideline for shorelines, stream corridors, and wetlands is to retain public access adjacent to waterbodies (p. 2-51). As ADL 234086 represents direct coordination and cooperation between DNR and the City of Seldovia regarding state lands within its organized borders, and similarly serves to enable continued, and improved public access and facilities along the shoreline of Jakolof Bay to the City of Seldovia's adjacent dock lease, ADL 232203, it is SCRO's determination that ADL 234086 is consistent with the intent, guidelines, and goals outlined in the KEAP.

#### **Traditional Use Findings:**

The proposed site is located within the Kenai Peninsula Borough. Pursuant to AS 38.05.830 a traditional use finding is not required.

#### Access:

Access to the site is accomplished via Jakolof Bay Rd. from the south, via the Jakolof Bay dock serialized as ADL 232203 from the east, and through the site via public access easement serialized as ADL 66085.

#### Agency Review:

Information and comments received from sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. An agency review was conducted on March 25, 2025. The deadline for agency comments was April 14, 2025.

The following agencies were included in the review:

• DNR Division of Agriculture

- DNR Division of Forestry & Fire Protection
- DNR Division of Geological & Geophysical Surveys
- DNR Division of Oil and Gas / State Pipeline Coordinator Service
- DNR Division of Parks and Outdoor Recreation / Office of History and Archaeology State Historic Preservation Office
- Department of Environmental Conservation
- Department of Fish & Game
- Department of Transportation & Public Facilities
- U.S. Army Corps of Engineers
- U.S. Bureau of Land Management
- U.S. Coast Guard
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- U.S. National Park Service
- U.S. National Oceanic and Atmospheric Administration National Marine Fisheries Service
- Homer Soil and Water Conservation District
- Kenai Peninsula Borough

A total of three agency comments were received during the review period and are included below:

**Comment:** On April 10, 2025, the Alaska Department of Fish & Game (ADF&G) responded that they have no objection to the issuance of this lease. However, they also made the following four recommendations:

- "The project location is an important access point for Seldovia residents to harvest a variety of subsistence resources. For a list of resources, see Technical Paper 420, page 135: <u>https://www.adfg.alaska.gov/techpap/TP420.pdf</u>.
- 2. "Any activity associated with this land lease that falls beneath the mean high tide line, and therefore within Kachemak Bay Critical Habitat Area may require a Special Area permit from ADF&G, Habitat Section. Please contact ADF&G, Habitat Section at dfg.hab.infosxq@alaska.gov or (907)714-2475 to address ADF&G permitting requirements if needed.
- 3. "Marine Mammal advisory:
  - a. There is critical habitat designated within the project area for the Cook Inlet beluga whale Distinct Population Segment (DPS), listed as endangered under the Endangered Species Act (ESA). There are also several marine mammals

with ranges that overlap with the project area, including fin whale, humpback whale, Steller sea lion western DPS (endangered under ESA), Steller sea lion eastern DPS, gray whale, harbor porpoise, harbor seal, killer whale, minke whale, northern fur seal, Pacific white-sided dolphin, and northern sea otter. We suggest consulting with the National Marine Fisheries Service and U.S. Fish and Wildlife Service about marine mammal presence in the area and how to mitigate for potential disturbances. For inquiries regarding the NMFS consultation process, email AKR.PRD.Section7@noaa.gov. For information about sea otters in the project area. email FW7 AK Marine Mammals@fws.gov or call 800-362-5148.

- b. If the lessee has documented any negative marine mammal interactions, we request to be kept informed about them. Please direct any relevant information to Alaska Department of Fish and Game Marine Mammal Program at dfg.dwc.mmcomments@alaska.gov. As soon as possible, please report an injured, entangled, or dead marine mammal to the NOAA Fisheries Alaska Statewide 24-hour Stranding Hotline: (877) 925-7773. If the stranded animal is a sea otter, please call the U.S. Fish and Wildlife Service (1-800-362-5148, business hours) or the Alaska SeaLife Center Hotline (1-888-774-7325, 24-hours).
- c. To reduce risks:
  - i. Keep lines for tethering vessels taut and out of the water whenever possible to reduce the risk of entanglement.
  - ii. Dispose of food waste and garbage properly to avoid attracting marine mammals to the area.
  - iii. Store fuel securely to prevent entry into the marine environment. A spill kit should be kept on-site for any potential spills.
- 4. "Project activities may affect Endangered Species Act (ESA)-listed species and other sensitive resources, such as migratory birds, which are managed by the U.S. Fish and Wildlife Service (USFWS). We recommend utilizing the Information for Planning and Consultation (IPaC) tool (https://ipac.ecosphere.fws.gov/) to identify USFWS trust resources that may be present within the project boundary, including determining the probability of presence during project activities. For further details, contact the Southern Alaska Fish & Wildlife Field Office at 907-271-2888 (phone) or 907-271-2786 (fax)."

**Response:** SCRO acknowledges the comment, will inform Seldovia of and recommend that Seldovia adhere to all ADF&G comments, which will be accomplished through publication of this

decision document. Further, SCRO has already communicated with the USFWS regarding this proposal, and that organization's input follows.

Comment: On April 10, 2025, USFWS responded with the following:

"Thank you for the opportunity to provide U.S. Fish and Wildlife Service (Service) comments as they pertain to the Alaska Department of Natural Resources review of the proposed City of Seldovia Land Lease ADL 234086. The Marine Mammals Management office of the US Fish and Wildlife Service, Alaska Region has reviewed the Application for Purchase or Lease of State Land and noted that the City of Seldovia (City) has plans to replace the Jakolof Bay dock. We would like to inform the City that dock construction activities in Jakolof Bay have the potential to result in harassment of northern sea otters. Under the Marine Mammal Protection Act (MMPA), harassment includes any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or has the potential to disturb a marine mammal by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering. Unauthorized incidental harassment of northern sea otters is unlawful under the MMPA.

"The Service considers sea otters to be harassed if they are exposed to in-water noise levels above 160 db re 1  $\mu$ Pa SPL<sub>RMS</sub>. Noise at this level may be produced by in-water construction activities including pile driving and drilling. Sea otters may also experience harassment if other visual and auditory stimuli cause a disruption in their behavioral patterns. Interrupting important sea otter behaviors like resting or feeding can be harmful to sea otters, especially because they have very high metabolic rates and energy requirements compared to other marine mammals.

"If dock construction activities will include pile driving or drilling, we urge the City contact the Marine Mammals Management Regulatory program at <u>r7mmmregulatory@fws.gov</u> to discuss construction plans and appropriate specific mitigation measures, such as using protected species observers to ensure no sea otters are exposed to in-water noise levels exceeding 160 dB. The City may consider applying for an MMPA incidental harassment authorization. Our website has more information on these authorizations (<u>https://www.fws.gov/ITA-general-info</u>) and the authorization application process (<u>https://www.fws.gov/ITA-applicant-instructions</u>).

"We are also sharing a non-exhaustive list of general mitigation measures for in-water construction that can reduce the risk of harassment to sea otters:

- Use vibratory pile driving vs. impact pile driving whenever possible.
- Consider using bubble curtains around loud in-water noise sources. USFWS generally assumes bubble curtains lower the sound source level by 5 dB.

- If pile driving will occur in water that is 2 meters or shallower, conduct noise-producing activities during low tidal conditions.
- Implement a 30-minute monitoring period to look for sea otters before initiating activities for the day and following periods of inactivity for more than 30 minutes.
- Implement "ramp-up" protocols before initiating activities for the day and following periods of inactivity for more than 30 minutes so that sound levels in the environment increase gradually.
  - For impact pile driving, operators should provide an initial set of three strikes from the hammer at reduced energy, followed by a 1-minute waiting period, then the procedure should be repeated two additional times.
  - For vibratory pile driving, noise should be initiated for fifteen seconds at reduced energy, followed by a 1-minute waiting period, then the procedure should be repeated two additional times.
  - For other noise-producing activities, consider how to gradually increase noise intensity so animals have an opportunity to move to quieter areas if desired.

"Additionally, if project plans associated with the proposed lease will include external lighting or construction of overhead transmission lines, we recommend the City reach out to the Southern Alaska Ecological Services (ES) Branch of the Service at <u>ak\_fisheries@fws.gov</u>. ES Biologists would be happy to help identify opportunities to avoid impacts to migratory birds, including Steller's eiders that are listed as threatened under the Endangered Species Act."

**Response:** SCRO acknowledges the comments. While Seldovia's plans to replace the Jakolof Bay dock are tangentially related to the application for ADL 234086, the dock's replacement is outside the scope of this decision document. Regardless, SCRO will inform Seldovia of USFWS's comments and recommendations through publication of this document, and urges Seldovia to adhere to all regulatory requirements and coordinate with both ADF&G and USFWS for the dock replacement associated with the adjacent tideland authorization serialized as ADL 232203.

**Comment:** On April 14, 2025, the Alaska Division of Geological and Geophysical Surveys (DGGS) responded with the following:

"The Seldovia land lease review area is situated within the Kenai-Chugach Mountains Physiographic Province, a rugged mountain range located along the north coast of the Gulf of Alaska. The range features an abundance of erosional and depositional glacial landforms and features (Wahrhaftig, 1965). The southern part of the physiographic province is characterized by fjords, sounds, and ridges that extend southward as chains of islands. "The review area is along the coast and has been mapped, through photointerpretation, as beach deposits consisting of pebbles, cobbles, and sand (Riehle, 1977). These areas have potential for sand and gravel (construction material resources), but their proximity to the coast may present constraints on extraction because of groundwater or potential inundation.

"Higher elevation areas inland of the area being reviewed are mapped as thin deposits of till, described as poorly sorted glacial debris consisting of sand and angular pebbles, cobbles, and boulders with minor amounts of stratified sand and gravel. Locally, there are bedrock outcrops, swamp, colluvial, and alluvial deposits. Surficial deposits are generally less than 2-3 meters thick but may be locally thicker. These deposits have low potential for sand and gravel, but local areas at low elevation may have more potential.

"Jorgenson and others (2008) map the area as free of permafrost. However, there is potential for frost instability, especially in areas with high silt content.

"Numerous faults exist in the greater Cook Inlet region, including the Falls Creek Ninilchik Anticline, ~ 90 miles to the north (Koehler and others, 2022). The region's general seismic hazard potential is high (e.g., 1964 Alaska earthquake, Shumway 2019). Of particular concern is the potential for intra-slab earthquakes (with no associated mapped fault traces). Maximum magnitude estimates for these types of earthquakes were recently updated by the USGS to the M5-7 range and occur in any given area of the subduction zone every ~100 years or so. The damaging variety are shallow and would cause peak ground accelerations of ~40% g (about twice as strong as the average shaking in the 2018 Anchorage earthquake), with potential for triggering submarine landslides. Standard best building practices should be used to accommodate the regional seismic hazard.

"This area has been subject to ash fall from erupting Cook Inlet and Alaska Peninsula volcanoes. Past ash events include Spurr 1992, Redoubt 1989 and 2009, Augustine 1976, Aniakchak 1931, Novarupta (Katmai) 1912, and multiple older tephras (Mulliken and others, 2018; Worden and others, 2018).

"This area is also subject to a tsunami hazard, as delineated by Suleimani and others (2022; see the far right side of sheet 7 for the area of the dock). However, barring a submarine landslide, people on the dock or shore should have time and ability to evacuate after a long-duration earthquake. It may be useful to place some of Seldovia's tsunami brochures (Seldovia\_tsunami\_brochure\_FINAL\_8-21-24.pdf) at the campground or to print the information on an info board. If tsunami evacuation signage is not already in place, Seldovia could consider

putting some in place, potentially with assistance from the Division of Homeland Security & Emergency Management or the Division of Geological & Geophysical Surveys.

"Radon, a naturally occurring cancer-causing radioactive gas, is modeled as moderate in this area, with limited testing (https://maps.dggs.alaska.gov/radon/). The Environmental Protection Agency's (EPA) Action Level for radon is 4 pCi/L; the EPA suggests homeowners consider radon mitigation for test results of 2–4 pCi/L. Any home, school, or building can have high levels of radon and should be tested.

"Based on current knowledge, there is some potential for material resources, such as sand and gravel, but this would require further investigation. From a geologic perspective, with proper considerations for seismic and tsunami hazards, there are no apparent reasons to oppose the land conveyance."

**Response:** SCRO acknowledges the comments, will inform Seldovia of DGGS's analysis and recommendations through publication of this decision document, and recommends that Seldovia comply with DGGS suggestions.

#### Lease Discussion:

The original authorization at this site was a lease agreement serialized as ADL 37321, identified as U.S. Mineral Survey No. 2162, according to the survey plat accepted by the United States Department of The Interior, General Land Office, Public Survey Office in Juneau, Alaska on October 17, 1945, containing 4.61 acres, more or less, issued on November 29, 1967, between DNR and Allan B. Billings. 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 Kitty B. Mill Site LLP, the current lessee for ADL 37321, on May 20, 1996. On April 6, 1992, managing authority of the lease was conveyed from DMLW to the Alaska Mental Health Trust Authority (AMHTA). On June 15, 2005, it was determined that the lease was conveyed in error and the parcel was transferred back to DMLW. The original lease term was modified via a 2-year Lease Extension Decision issued on October 25, 2022, which extended the lease, per AS 38.05.070(f), through November 28, 2024. On December 26, 2024, SCRO issued a Lease Renewal Decision, authorizing an additional 10-year term to Kitty B. Mill Site LLP for a footprint which was reduced from its original acreage to approximately 2.71 acres. The City of Seldovia has applied to lease 1.2 acres, that portion of ADL 37321 which is now disassociated from Kitty B. Mill Site LLP's authorization.

The City of Seldovia maintains the public Jakolof Bay dock facility under a tideland lease, serialized as ADL 232203, which is immediately adjacent to the east of the proposed leasehold for

ADL 234086. Seldovia proposes to use ADL 234086 to maintain public access to the Jakolof Bay dock. Relatedly, that dock has been assessed as being at the end of its useful life. A 2022 Ports and Infrastructure Development Program grant has enabled Seldovia to replace the dock, with construction anticipated to occur in fall of 2025. As such, ADL 234086 would serve to support the dock's forthcoming maintenance and construction activities. Seldovia also proposes to work with its citizens and community partners to establish public parking and related policies to govern a managed public parking lot on ADL 234086, to include recreational vehicle parking and snow storage.

The dock facility (ADL 232203) serves as a primary point of entry and exit for many Seldovia residents and visitors while remaining approximately nine road miles away from the center of the small community, limiting direct management and oversight of the critical dock. As such, Seldovia proposes to install a non-permanent structure on the upland leasehold (ADL 234086) for either City of Seldovia employees or a volunteer host to directly manage the dock as well as additional proposed public activities on both leaseholds.

As a political subdivision, the City of Seldovia qualifies under AS 38.05.810(a) for a noncompetitive lease of state land. SCRO is considering whether to issue a long-term, noncompetitive, 30-year land lease to the City of Seldovia. A reduced 30-year term, though less than Seldovia's requested 55-year term, would allow the State greater flexibility and adaptability to any changing environmental conditions or factors which might influence the lease and the public's best interests. The lease itself would provide for enhanced public access, and better oversight of activities which occur at a major community port of entry and exit, thereby also providing additional security to the community and its public facilities.

The proposed lease will be subject to the terms of SCRO's standard lease document (available for review upon request) and any stipulations based, in part, upon the following considerations.

#### **Development Plan:**

The Development Plan (DP) attached to this decision (Attachment A) and dated December 4, 2024, is under consideration by SCRO. 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 SCRO before any construction, deconstruction, replacement of infrastructure, or change in activity. 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:

Although the City of Seldovia does not plan to store any hazardous materials or potential contaminants on the site, the proposed leasehold currently has an amount of abandoned vehicles and other miscellaneous rubbish which may pose hazards. The site must be cleared of trash and abandoned vehicles by the City of Seldovia, prior to lease issuance. With the proposed public parking use, it is reasonable to assume that typical automobile fluids and components would be temporarily stored or staged on the site.

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):

While 11 AAC 96.060 authorizes DNR to require a performance guaranty for land use authorizations, SCRO is waiving that requirement in this instance, given that Seldovia has agreed to fully clean the leasehold, removing all abandoned vehicles and other debris, thus creating an orderly, usable, public space for its residents and visitors.

• **Reclamation Bond:** SCRO is reserving the right to require a reclamation bond due to noncompliance issues during the term of the lease or near the end of the life of the project.

#### Insurance:

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

#### Survey:

In accordance with AS 38.04.045, Seldovia must complete an approved survey according to the requirements and standards of DMLW's Survey Section prior to lease issuance. The draft survey must be submitted for review to the Survey Section within <u>one vear</u> of issuance of the survey instructions. If the submitted survey is accepted by DMLW, the measurements identified will be used to accurately calculate the total acreage. The survey must depict the leased boundaries and all known third-party interests, including rights of way and easements.

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#### **Entry Authorization:**

SCRO is proposing to authorize Seldovia entry onto state land through the issuance of an EA while they are completing the required survey and appraisal for the lease site. The proposed EA would be issued after the FFD goes into effect. The effective date of the EA will be the start of the lease term length.

The estimated annual fee for the proposed EA is \$1,000.00. Should the report indicate that the value of the land is greater than anticipated, the shortfall must be remedied before the lease will be issued.

#### **Compensation and Appraisal:**

In accordance with AS 38.05.840, state-owned land may only be leased if it has been appraised within two years before lease issuance. SCRO has coordinated with DMLW's Appraisal Unit, and Seldovia will be required to provide an appraisal of the lease site before the proposed lease will be issued. Once the appraisal has been approved by DMLW, the annual lease fee will be set at the fair market value of the proposed lease site. Furthermore, in accordance with AS 38.05.105, the proposed EA and lease will be subject to reappraisal at five-year intervals after the issuance of the proposed authorization.

#### Subleasing:

Subleasing is permissible through AS 38.05.095, if the proposed lease is approved. A sublease is defined as improvements not owned by the lessee that are located within the leasehold on the land or located on structures owned by the lessee. A sublease pertaining to the proposed lease includes but is not limited to, user agreements, license agreements, communication site agreements, or any contracts between the lessee and other commercial entities. All potential subleases must first be approved in writing by SCRO, and must qualify for a lease under AS 38.05.810. Depending on the activity of any potential subleases, SCRO is reserving the right to reevaluate the need for further agency review and/or public notice before making a determination on the appropriateness of the proposed sublease. Sublease compensation to the State will be determined by SCRO according to AS 38.05.073(m), under the authority of AS 38.05.075(a) Leasing Procedures. In any case, the sublease fee for commercial activities will not be less than 25% of the annual fee paid to leaseholder by the sublessee.

#### Assignment of Lease:

The proposed lease, if issued, may be transferred or assigned to another entity that qualifies under 38.05.810(a) only with written approval from the DNR DMLW. A lease will not be assigned to an entity if that entity does not meet the statutory requirements of the lease, or if the lessee is

considered not to be in "good standing" with this or any other agency authorization. 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 site 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.

#### 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 at <u>http://aws.state.ak.us/OnlinePublicNotices/Default.aspx</u> and the post offices located in Seldovia, Port Craham Narwelak Halibut Cava Arabar Paint, and Haman Courteev nations will also be

Port Graham, Nanwalek, Halibut Cove, Anchor Point, and Homer. Courtesy notices will also be mailed or emailed to neighboring property owners, permit/lease holders, and other interested parties on July 8, 2025, 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 FFD. Only those who comment and the applicant have the right to appeal the FFD.

# Written comments about this project must be received in this office no later than 11:59 PM on August 7, 2025 to be considered.

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

Postal:	Department of Natural Resources
	Division of Mining, Land and Water
	Southcentral Region Office
	ATTN: Ben Powell
	550 West 7th Avenue, Suite 900C
	Anchorage, AK 99501-3577
Email:	ben.powell@alaska.gov
Fax:	(907) 269-8913

Questions about the lease portion of this project can be directed to Ben Powell at (907) 269-8549.

If public comments result in significant changes to the Preliminary Decision, additional public notice will 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).

Signature page follows

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#### **Recommendation:**

SCRO 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 provided 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 fees for ADL 234086 and an indirect economic benefit through the encouragement and development of the State's resources. The authorization of this lease is in the State's best interest as it will continue to provide development and enjoyment of the City of Seldovia. It is recommended that SCRO issue a 30-year lease to the City of Seldovia.

Benjamin J. Powell Ben Powell, Natural Resource Specialist 3

#### **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 a negotiated land lease for 30 years to the City of Seldovia, as described above. Upon authorization of the lease, the applicant will be required to pay the annual entry authorization fee of \$1,000.00, and provide proof of liability insurance. This Preliminary Decision shall now proceed to public notice.

Kate Dufault	7/8/2025
Kate Dufault, Leasing Unit Manager	Date
Division of Mining, Land and Water, Southcentral Regional Office	

Attachments Attachment A – Development Plan Attachment B – Location Map



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Date

7/8/2025



P.O. Box B Seldovia, Alaska 99663 Phone: (907) 234-7643 email: citymanager@cityofseldovia.com

#### Development Plan

#### Written Project Description:

The City of Seldovia is seeking 55-year lease from the State of Alaska Department of Natural Resources for approximately 1.2 acres of Mineral Survey 2162, Seward Meridan, Township 8S, Range 13W, Section 20, Geographic Location 6263, Jakolof Bay Road, for the following uses:

- 1. Maintaining the City of Seldovia's port of entry, Jakolof Bay Dock, for public use;
- 2. Management of public parking with potential for a parking fee to be established;
- Exploration of public recreation opportunities and partnerships including public campsites;
- 4. Welcome sign; and
- 5. Nonpermanent structure for City personnel or volunteer host to manage the site.

Uses #1 – 4 already occur on the state property (ADL 234086) with #5 being the only new proposed use detailed in the City's Application for Purchase or Lease of State Land.

#### Development Plan Map (see attached):

 Public parking, will continue to occur in areas highlighted in purple and numbered 1-2. Area 1 currently serves as parking for approximately 20 - 25 vehicles. Area 2 is currently used for parking including recreational vehicles.

If the lease is granted to the City, the City will work with its citizens and community partners through a public discussion and review process to set the policies and procedures for public parking, and recreation related activities to occur on Areas 1 and 2. This also includes snow storage.

The City of Seldovia assumed ownership of the 45-year-old Jakolof Bay Dock from the State of Alaska in 2008. Jakolof Bay Dock was constructed by the State of Alaska, Dept. of Public Works Division of Water & Harbors, in 1977. The State's intent as provided to the US Army Corps in their 1975 permit was to "construct a public float facility." The Dock is mainly contained within the adjacent area, Alaska Tidelands Survey 996, with the access ramp (#5) located within ADL 234086. A 2021 Condition Assessment of the Dock stated it has reached the end of its useful life and will need to be removed from service in the next three to five years given the safety hazards it poses. The City of Seldovia received a 2022 Ports and Infrastructure Development Program grant for the replacement of this essential infrastructure; construction is anticipated to occur in the fall of 2025. The area being requested for lease would be beneficial for and may be used by the City for Jakolof Bay Dock related maintenance and construction activities.

A nonpermanent structure for City personnel or a volunteer host to manage the site
will occur in the area highlighted in white. For many Seldovia residents, the Jakolof Bay
Dock is a primary port of entry to and from Seldovia. It also serves as a primary port
used by water taxis to bring residents, visitors, medical or prisoner transports, and
materials including groceries, fuel, and building supplies in and out of Seldovia. The dock

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and this site support recreational and subsistence activities that occur within the Kachemak Bay Critical Habitat Area and surrounding areas. The City of Seldovia is located approximately nine miles away from Jakolof Bay Dock, limiting management of the site and making the future collection of user fees of the dock difficult. Therefore, the City proposes the installation of a nonpermanent structure to serve as an office space for a City Employee or volunteer host to assist in site management, including the collection of fees for dock use, public parking, and camping.

Future phases of the City's Jakolof Bay Port of Entry and Recreation (Phase I) Development Plan may include activities such as the installation of infrastructure to provide electricity to recreational vehicles; however, at this time the City wishes the State only to consider the activities listed given: 1) this is how ADL 234086 is currently being used, 2) these activities and uses involve nonpermanent improvements, and 3) these uses can be implemented immediately.

#### Narrative Portion of the Development Plan

- Legal Description: T 8S R 13W SEC 20 SEWARD MERIDIAN SL 0002162 US MINERAL SURVEY 2162
- Terrain/ground cover: Area 1 has been previously improved and has minimal vegetation (alders, grass). Area 2 has minimal to no vegetation present. Area 3 to the City's knowledge remains undisturbed and has significant vegetation.
- Access: Access to the site is made possible through a 40' Department of Transportation access easement (ADL 66805). Access would remain public; however, a fee structure will be established to charge for use of the dock, parking, and camping.
- Buildings and structures: The City proposes the inclusion of a prefabricated 8 x 12 lofted barn or similar structure to be placed in Area 2, raised with blocks in a manner that protects the structure from inundation during the highest tides and connected to electricity. Use by personnel is weather dependent and may occur April – September each year. Estimated date for structure to be placed is April 2025. Structure will be used as an office space for City personnel or volunteer host to collect user fees. Please see 'Lofted Barns' enclosure for more details on this structure. The City also proposes the continued use of the access ramp to the Jakolof Bay Dock on the site (Area #5). The float section perpendicular to the coastline extends approximately 225 feet seaward of the high tideline, with another float section connected to the end of the perpendicular section and extending 150 feet north. The 225-foot float system is six feet wide, and the 150-foot section is ten feet wide.

Both the nonpermanent structure and the dock will be used for commercial purposes.

- Power Source: Please see enclosure, Power Source Map.
- Waste types, waste sources, and disposal methods: The Porta Potty currently on site
  will be used to collect human waste. No other wastes will be permitted to occur on the
  site except City-created wastes from Jakolof Bay Dock maintenance and constructionrelated activities. Any wastes created by the City's dock maintenance will be collected
  and removed from the site.

- Hazardous Substances: The proposed site currently has a number of abandoned vehicles, an RV, engine parts, and other materials in unknown volumes/amounts that may pose hazards to the site. Hazardous substances that may be present on the site include fuel from vehicles and recreational vehicles using the site.
- Water Supply: There is currently no potable water supply at the site. If leased, the City
  will manage the site as if it were remote, i. e. "bring your own drinking water." This
  practice aligns with how the City currently manages its Wilderness RV Park and
  Campground.
- Parking areas and storage areas: If the lease is granted to the City, the City will work
  with its citizens and community partners through a public discussion and review process
  to set the policies and procedures for public parking and camping to occur on areas 1-2.
  If a vehicle or piece of equipment is to be stored on the site, each user will be required
  to sign a user agreement, stating they are the responsible party for any drips or spills
  onto the site.
- Number of people using the site: The potential number of people to be employed and working on the parcel include one City staff member or one volunteer host, or a subcontractor managing the site on the City's behalf. The number of clients using the site can range anywhere from 10 – 75 at any one time as there will be dock users, those potentially camping or parking, and those storing their equipment on the site.
- Maintenance and operations: The City of Seldovia (or its sublessee) will be responsible for site maintenance and operations. Site operations includes ensuring each user type (dock user, camper, parking user) has an agreement on file with the City, is making required payments, and is using the site as agreed upon. Site maintenance will include activities such as pumping out the Porta Potty, removing abandoned vehicles or equipment, dock maintenance, and snow removal.
- Closure/reclamation plan: N/A.



T 85 R 13W SEC 20 SEWARD MERIDIAN SL 0002162 US MINERAL SURVEY 2162

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# **Lofted Barns**

The Lofted Barn has up to three lofts that are positioned where you want them and can store your yard ornaments, yard sale items, Christmas decorations, etc... This is the perfect storage building for bikes, snow-machines, and sports equipment of all kinds if you don't want them in your garage.

#### CLICK HERE TO DESIGN YOUR LOFTED BARN!

# **Standard Features**

- 7'9" Sidewalls
- 3" Overhangs
- 1 color Urethane or Paint
- 25 year shingle roof
- 8' wide will have a single wooden door
- · 10', 12', 14' widths will have double wooden doors
- 50 year Duratemp siding
- · Features Gambrel roof design, and two lofts where additional items can be stored
- 10', 12' and 14' wide buildings are measured eave to eave. Actual floor width will be less.
- An optional metal roof is an additional 5% on top of the base price.
- Standard floors are 3/4 inch CDX plywood. Floor joists are spaced 16 inches O.C.

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· We custom build to suit your needs as much as possible. The sizes we have listed are the most popular but we can



# **Available Sizes**

Deduct 3% for Cash/Check

Size	Sale Price
8 x 8	\$5,710
8 x 12	\$7,565
8 x 16	\$9,025
10 x 12	\$8,595
10 x 16	\$10,290
10 x 20	\$12,375
12 x 16	\$11,525
12 x 20	\$13,960
12 x 24	\$15,700

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Note: Map provided by HEA on 7/7/2022. Per HEA, "HEA has a primary overhead line located within the parcel to the north. An overhead service line runs from the last pole and can supply electricity to parcel 19109107. Right now it is an idle service so it is not being used. There is also a light pole at the top of the dock that is powered...the locations of the service poles are approximate."

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Note: 'General Guidelines' request a USGS map of the proposed project area. This map is provided to meet that requirement however Kenai Peninsula Borough Parcel Viewer imagery is used to demonstrate the proposed project area as well given the image quality.

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Attachment A Development Plan



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# Attachment B Location Map



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