

**STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
Southeast Regional Land Office**

**Preliminary Decision
ADL 108541**

Red Oak Valley, LLC dba Calder Mountain Lodge
Application for Lease
AS 38.05.075(c)

Executive Summary

This Preliminary Decision (PD) is the State's preliminary best interest finding regarding a proposed disposal of interest in state land. The purpose of this application is for the continued use of a dock and ramp used by the applicant and his fishing charter/lodge operations. The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), intends to authorize this lease.

The public is invited to comment on this PD. The deadline for commenting is 5:00pm, November 20th, 2025. Please see the Public Notice section of this decision for requirements related to submitting comments for consideration. Only the applicant and those who comment have the right to appeal the Final Finding and Decision (FFD).

Requested Action

Red Oak Valley, LLC doing business as (dba) Calder Mountain Lodge ("applicant") applied for a tideland lease with the Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW) on April 16th, 2025, for the use of state tide and submerged lands located on approximately 0.30 acres within NW ¼ Section 6, Township 64 South, Range 76 East, Copper River Meridian, Point Baker, Alaska. The purpose of this application is for the continued use of a dock and ramp used by the applicant and his fishing charter/lodge operations.

The leasehold area is comprised of approximately 0.30 acres of state-owned tide and submerged land adjacent to private Lot 13 depicted on US Survey (USS) 2827 Petersburg Recording District, in Point Baker, Alaska, approximately 81-miles southeast of Sitka, Alaska. The site contains a dock with seven finger floats and two pilings, along with a ramp leading from the dock on state-owned submerged lands to the private uplands.

Proposed Improvements:

- None

Existing Improvements:

- 5-foot x 78-foot aluminum ramp leading from private uplands to tidelands
- 8-foot x 160-foot floating wooden dock with seven "fingers"
- (6) 4-foot x 18-foot floating fingers attached to dock
- (1) 20-foot x 18-foot main finger

- (2) 12-inch diameter ACQ-treated wood pilings

The total leasehold area requested by the applicant is approximately one acre. Final acreage will be determined by a DMLW-approved As-built survey of the leasehold.

Proposed Action

The Division of Mining, Land and Water (DMLW) proposes to issue a 25-year tideland lease to the applicant for the operation and maintenance of a ramp and floating dock for the continued lodge and charter business; contingent on comments received during Agency Review and Public Notice.

Scope of Decision

The scope of this decision is limited to the determination of whether it is in the State's best interest to issue a 25-year tideland lease to the applicant. The administrative review for this authorization is defined by AS 38.05.035(e)(1)–(2) and is limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) facts pertaining to the land or resources; and (4) issues that are material to the determination.

Authority

This lease application is adjudicated pursuant to AS 38.05.035(b)(1) and AS 38.05.035(e) Powers and Duties of the Director, AS 38.05.070 Generally, AS 38.05.075 Leasing Procedures and AS 38.05.945 Notice. The authority to execute the PD, Final Finding and Decision (FFD), Entry Authorization (EA), and the lease has been delegated to the Regional Managers of DMLW.

Administrative Record

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced here-in, the *Prince of Wales Island Area Plan (October 1998)* (POWAP), and other classification references described herein, and the case file for the application serialized by DNR as ADL 108541.

Location Information

Geographic Location:

The parcel is located in Point Baker, Alaska; approximately 81-miles southeast of Sitka, Alaska.

Property Description:

The proposed lease is located within NW ¼ Section 6, Township 64 South, Range 76 East, Copper River Meridian and more particularly located seaward and adjacent to Lot 13 depicted on US Survey (USS) 2827 Petersburg Recording District. The proposed leasehold contains approximately 0.30 acres more or less.

Other Land Information:

Municipality: Census Designated Place in Prince of Wales-Hyder Census Area – Point Baker, Alaska

Regional Corporation: Sealaska Corporation

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

Approximate Coordinate Location: 56.3541° N, 133.6185° W (WGS84)

Title

The State of Alaska holds title to lands beneath tidally influenced and navigable waterways within its jurisdiction, including lands underlying Point Baker Anchorage in the section(s) referenced above, on the basis of the Equal Footing Doctrine, the Submerged Lands Act of 1953 and AS 38.04.062 (Identification of State Submerged Lands). A DNR Title Report RPT-24095 was requested on September 11th, 2025, from DMLW Realty Services Section. A Title Report issued from Realty Services Section will state whether the State of Alaska holds title to the subject tidelands under the Equal Footing Doctrine and Submerged Lands Act of 1953. The Southeast Regional Office reserves the right to modify the Final Finding and Decision based upon the information contained in the Title Report upon completion.

Adjacent Landowners

The following landowners will be notified of the proposed lease during Public Notice:

- Troy Brockway

Third Party Interests

- None

Planning and Classification

The proposed activity is consistent with the *Prince of Wales Island Area Plan (October 1998)* (POWAP). The leasehold is located in Management Unit 2 – Baker/Protection and Subunit 2b – Baker/Protection. The designated land unit is Ra, Public Recreation – Anchorage; Rc, Commercial Recreation; and Rd, Public Recreation – Developed (POWAP 3-27 & 3-35).

These designations convert to land classifications; two designations (Ra and Rd) convert to “Public recreation land” classification, and (Rc) converts to “Settlement” (POWAP 4-8).

Recreation, Tourism, and Scenic Resources

Recreation Opportunities: “Alaska’s residents and increasing numbers of out-of-state visitors desire and expect a variety of outdoor recreation opportunities with different levels of accessibility. Areas with unmodified natural landscapes, conveniently located public recreation areas; well designed, maintained, and safe recreation facilities; and opportunities to appreciate Alaska’s history and diverse cultures should be provided to:

- Develop, through cooperation with other agencies, nonprofit groups and landowners, and the management of other state lands and tidelands, a system of parks, recreation areas, trails, historic parks, rivers, and areas of unchanged

scenic landscape, that provide a wide range of year-round outdoor recreation opportunities for all ages, abilities, and use preferences near population centers and major travel routes.

- Provide recreation opportunities on land and water areas that serve multiple purposes such as habitat protection, timber management, and mineral resource extraction.
- Assist communities through cooperative planning, conveyance of state lands, and grants-in-aid for parks and trails within population centers.
- Encourage commercial development of recreational facilities and services through concession contracts, land sales, leases, loans and technical assistance where public recreation needs can most effectively be provided by private enterprise while minimizing environmental impacts.

Recreation Resource Protection: Alaska's natural and cultural resources are the foundation of Alaska outdoor recreation and they must be protected. Soil, forests, prehistoric and historic sites and objects, fish and wildlife habitat and populations, scenic areas and access to open space must be preserved if Alaska's scenic and recreation values are to be maintained for future generations. Long-term public appreciation of Alaska's natural and human history and perpetuation of Alaska's distinctive identity can be accomplished through the following actions:

- Protect the recreation resources that the public comes to see and use including public access, visual resources, and, where appropriate, the isolation and unique wilderness characteristics of Prince of Wales Island (POWAP 2-17 & 18)."

Management Guidelines

Coordination with other Landowners: "Recreation management, including the location and management of recreation facilities, will take into account the current and likely management by the USFS and private landowners (POWAP 2-18)."

Commercial Recreation Facilities on State Land: "Lodges, (including floating lodges), tent camps, or other private facilities designed to be run as private recreation facilities may be authorized if the facility meets the management intent and guidelines outlined in Chapter 3, fulfills the conditions outlined in this section, is consistent with the requirements of AS 38.05.070 and .075 or AS 38.05.073... (POWAP 2-19)"

Subunit 2b Baker/Protection – Recreation – Management Intent: "Joe Mace Island and adjacent tidelands and submerged lands will be managed for community and area-wide recreation values. State uplands between the communities of Point Baker and Port Protection will be managed for recreation and scenic values. State tidelands and submerged lands that area access points for upland recreation activities or facilities are designated for recreation. State tidelands and submerged lands designated for recreation will be managed to preserve or improve the identified recreational activities and values (POWAP 3-28)."

Per the POWAP, the activity conforms with area plan management guidance and is an allowable use. The dock and ramp are used for access to and from the private uplands to the waters of Point Baker Anchorage. The leasehold is in a suitable area for a dock and is allowable within the POWAP, per the Management Intent and land designations (Ra, Rc, Rd).

Traditional Use Finding

Pursuant to AS 38.05.830, and after due consideration, DMLW finds that renewal of this lease is likely to have little or no effect on the density of the population in the immediate vicinity and there is little potential for conflict with the known traditional uses of the land. If we are provided with information that clearly demonstrates the lease and the associated development and use have the potential to adversely impact traditional uses, we will, in the Final Finding and Decision, address the potential impacts and present mitigation measures that will either minimize or avoid impacts to traditional uses.

Access

Physical access to the leasehold is via tide and submerged lands in Point Baker Anchorage. Additional access to the leasehold is through applicant's private Lot 13 depicted on USS 2827 Petersburg Recording District.

Access Along Public Waters

Pursuant to AS 38.05.126(a), the public has a constitutional right to free access to, and use of, navigable or public waters of the State of Alaska, specifically within Point Baker Anchorage. Under 11 AAC 51.045 and AS 38.05.127, DMLW is required to reserve specific public-access easement to and along these waters. Unless comments and other relevant information submitted to DMLW provide justifiable and convincing evidence to do otherwise, this disposal of state interest will be subject to a 50-foot public access easement seaward and landward of the line of mean high water.

Public Trust Doctrine

Pursuant to AS 38.05.126, the proposed lease will be subject to the principles of the Public Trust Doctrine; specifically, the right of the public to use navigable waterways and the land beneath them for: navigation, commerce, fishing, hunting, protection of areas for ecological studies, and other purposes. These rights must be protected to the maximum extent practicable while allowing for the development of this project. As such, DMLW is reserving the right to grant other authorizations to the subject area consistent with the Public Trust Doctrine.

Mineral Orders

The proposed leasehold does not fall within the areas delineated in an Administrative Mineral Closing Order (MCO). Neither an MCO nor a leasehold location order is necessary or appropriate for this lease.

Hazardous Materials and Potential Contaminants

It is our management responsibility to protect the overall public interest if there is a reasonable expectation that a hazardous condition, or hazardous, toxic or radiological material or

contamination from such material exists or is known to exist on the land being disposed of. No hazardous material or contamination from hazardous material is known to exist on the land proposed for the lease. Environmental risk associated with this proposed authorization and mitigation measures will be included within the stipulations of the lease.

Gasoline is transported to and from private uplands to the submerged lands on the ramp and dock to refuel charter boats with a 5-gallon gasoline jug. No gasoline or oil is stored within the leasehold.

Agency Review

An Agency Review was conducted on September 12th, 2025. The deadline for Agency Review comments was October 13th, 2025.

The following agencies were included in the review:

- Alaska Association of Conservation Districts (AACD)
- Alaska Department of Fish and Game (ADFG), Division of Wildlife Conservation
- Department of Environmental Conservation (DEC), Directors Office, Division of Water
- Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Director's Office, Public Access Assertion and Defense, and Water Resources Section
- DNR – Parks and Outdoor Recreation (DPOR), Office of History and Archaeology (OHA)
- Department of Transportation and Public Facilities (DOT&PF), Design and Engineering Services, Right of Way Office

Agency Review Comment and Response

ADFG – Access Defense Program

Summary: ADFG has no objection to the authorization of this lease; however, offer the following comments:

1. Marine Mammal Considerations:
 - a. There is no marine mammal critical habitat designated within the project area. Several marine mammals have ranges that overlap within the area, including humpback whale, Steller sea lion, Dall's porpoise, gray whale, harbor porpoise, harbor seal, killer whale, minke whale, Pacific white-sided dolphin, and northern sea otter.
 - b. As soon as possible please report any injured, entangled, or dead marine mammal to the NOAA Fisheries Alaska Statewide 24-hour Stranding Hotline: 877-925-7773. If a sea otter is stranded, please call USFWS 1-800-362-5148 (business hours) or Alaska SeaLife Center Hotline 1-888-774-7325 (24-hours).
 - c. Please contact ADFG Marine Mammal Program at dfg.dwc.mmcomments@alaska.gov for any negative marine mammal interactions.

- d. Keep lines used to tether vessels taut and out of the water to reduce entanglement; dispose of food waste and garbage properly; store fuel securely to prevent entry into the marine environment, a spill kit should be kept on-site.
2. Avoiding Conflict with Wildlife:
- a. All fuel, trash, food, fish waste, gray water, and other potential wildlife attractants (including petroleum-based products) must be securely stored in bear-resistant containers. These containers should be made of durable materials such as metal or hard-sided plastic and have tight-fitting lids with secure latches. Only containers specifically designed and approved for bear resistance should be used.
 - b. Guidance on staying safe in bear country and avoiding negative interactions, including the use of bear-resistant containers and electric fences is available on the ADFG website:
<http://www.adfg.alaska.gov/index.cfm?adfg=livingwithbears.main>
 - c. Any human-wildlife conflicts should be reported to ADFGs Division of Wildlife Conservation:
<https://www.adfg.alaska.gov/index.cfm?adfg=reportwildlifeencounter.main>
 - d. If cleaning fish on-site, chop remains into small pieces and discard in fast-moving water; do not dispose in slow-moving or still water; and use bear-resistant containers.
 - e. Dispose of gray water responsibly to protect fish habitat and reduce wildlife encounters. Gray water should never be dumped into or near waterbodies as it can degrade water quality and harm sensitive aquatic ecosystems. Improper disposal can also attract wildlife, including bears, increasing the risk of dangerous encounters. To minimize impacts, manage gray water away from cabins or campsites and follow all Alaska DNR stipulations for wastewater disposal in remote areas.
 - f. Shooting bears that access camp supplies does not qualify as a Defense of Life or Property (DLP) action unless all attractants were properly secured.
 - g. Feeding wildlife is illegal in Alaska and poses serious safety risks. Doing so is strictly prohibited. It can lead to aggressive animal behavior and often results in the animal being killed.
 - h. For guidance on responsible wildlife viewing, see ADFGs Wildlife Viewing Ethics page: <https://www.adfg.alaska.gov/index.cfm?adfg=viewing.ethics>

DMLW Response: This information will be shared with the applicant. No known negative animal interactions have occurred at this site in previous years of operation.

Background

- **February 25th, 2007** – Application submitted to DMLW under Robert Searing, serialized as ADL 107541 to resolve trespass on state tide and submerged lands.
- **July 1st, 2008** – Trespass case, serialized as ADL 108408, initiated after adjudication of ADL 107541 ceased. Applicant Robert Searing dba Woxof Lodge was non-responsive, and lodge owner's changed multiple times, DMLW was not contacted by any new buyers.

- **April 22nd, 2016** – Application submitted to DMLW by Bill Miller, serialized as ADL 108541, to resolve trespass and add additional finger onto the dock.
- **August 16th, 2018** – Applicant ceased commercial activity. Application for ADL 108541 suspended.
- **August 3rd, 2021** – Business was sold, continued application adjudication under Brittany Ford dba Point Baker Lodge.
- **February 11th, 2022** – Lodge sold again, updated dock configuration, DMLW requested new application and development plan from applicant Bill Miller.
- **November 8th, 2022** – Application suspended, applicant unresponsive.
- **April 16th, 2025** – Application submitted to DMLW by Red Oak Valley, LLC dba Calder Mountain Lodge for a commercial dock and ramp on state tide and submerged lands.
- **September 11th, 2025** – Active adjudication begins.

Discussion

The applicant runs one of the few fishing lodges in Point Baker, Alaska. The ramp and dock provide access to and from the private uplands to state-owned tide and submerged lands and the waters of Point Baker Anchorage.

The ramp and dock provide necessary transportation to and from the state-owned waters to private uplands for the use and enjoyment of guests and employees of the lodge operation. A 5-foot-wide by 78-foot-long aluminum ramp leads from private upland Lot 13 depicted on USS 2827 Petersburg Recording District, to the state-owned tide and submerged lands of Point Baker Anchorage. The ramp leads to an 8-foot-wide by a 160-foot-long floating wooden dock with seven “fingers”. Six fingers measure 4-feet-wide by 18-feet-long. The main finger measures 20-feet-wide by 18-feet-long. Two pilings, 12-inches in diameter, comprised of ACQ-treated wood, are pile-driven into submerged lands at approximately minus 20-foot-depth, which secure the floating dock and fingers within the leasehold.

Issuing this authorization and allowing the continued use of ramp and dock to remain on site provides for appropriate long-term access and will leave future commercial opportunities open for this leasehold site. The proposed project aligns with the POWAP guidelines that are outlined within the relevant chapters to this area. This lease will provide economic benefit to the state in the form of fees, an indirect benefit allowing residents and visitors the enjoyment of recreating on state waters; and is considered to be in the best interest of the state.

The lease shall be subject to the standard DMLW Lease Agreement, Special Stipulations and the terms and conditions set forth therein (Attachment A). The development plan (Attachment B) shows all proposed structures and dimensions.

Development Plan

The Development Plan (DP) attached to this decision (Attachment B) and dated September 12th, 2025, is under consideration by DMLW. Should the proposed lease be granted, it is anticipated that the DP will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by DMLW

Preliminary Decision ADL 108541

before any construction, deconstruction, replacement of infrastructure, or change in activity will be authorized. DMLW reserves the right to require additional agency review and/or public notice for changes that are deemed by DMLW to be beyond the scope of this decision.

Entry Authorization

Pursuant to AS 38.05.075(f), DNR-DMLW will authorize the applicant entry onto state land through the issuance of an Entry Authorization (EA) to conduct the required survey described below. The proposed EA is for a term of three years and would be issued after the Final Decision becomes effective. Once the conditions of the EA are met, the lease will be issued. The total lease term is inclusive of the term of the EA.

Performance Guaranty

In accordance with AS 38.05.035, AS 38.05.860, and 11 AAC 96.060(a) Performance Guaranty (PG), the applicant will be required to submit a PG for the lease to incentivize performance of the conditions of the EA and the lease. This provides a mechanism for the state to ensure that the lessee shares any financial costs associated with noncompliance of the lease agreement for site cleanup, restoration, and any associated costs after termination or expiration of the leases. The following bonds will be required:

\$8,637.00 Performance Bond:

Performance guaranties provide a means to pay for corrective action if the lessee fails to comply with the lease requirements. In accordance with AS 38.05.035(a)(4), the applicant will be required to submit a performance guaranty. The amount of the performance guaranty is based on the scope and the nature of the activity and the potential cost of restoring the site. Performance guaranties are subject to periodic adjustments during the term of the authorization to address increases or decreases in the costs of rectifying problems and rehabilitating state land due to inflation, changes in the level or nature of development, or other appropriate factors.

Insurance

Consistent with AS 38.05.035 to protect the State from liability associated with the use of the site, the applicant shall provide and maintain a comprehensive general liability insurance policy with the State of Alaska named as an additional insured party per the stipulations of the Lease Agreement. The applicant shall secure or purchase at its own expense and maintain in force at all times during the term of this lease, liability coverage and limits consistent with what is professionally recommended as adequate to protect the applicant and the State, its officers, agents and employees from the liability exposures of all the insured's operations on state land. The insurance requirement may be adjusted periodically.

Survey

In accordance with AS 38.04.045, the applicant must complete an approved survey that meets the standards of DMLW's Surveys Section prior to lease issuance. The measurements identified in the approved survey will be used to accurately calculate the total acreage. The survey must be performed by a registered Land Surveyor under survey instructions issued by the Survey Section.

The applicant is responsible for the cost of the survey. The applicant shall submit an initial draft of the survey at least one year prior to the expiration of the EA. The applicant shall contact the DNR – Survey Section at 907-269-8523 or waterboundaries@alaska.gov to obtain survey instructions, within 10 business days of the execution of the EA.

Appraisal

As provided by AS 38.05.840(b), the applicant is not required to provide a fair market value appraisal to determine the initial lease compensation. Based on a Minimum Rent Determination Appraisal from the DMLW Appraisals Unit, the compensation will be the minimum required by 11 AAC 58.410.

Compensation

Annual Land Use Fees:

Pursuant to 11 AAC 58.410(b), AS 38.05.075(f) and AS 38.05.840(b), the annual land use fee will be \$1,000.00.

Periodic Rate Adjustment:

In accordance with AS 38.05.105, the annual land use fee payment will be subject to adjustment at five-year intervals after the issuance of the lease.

Payment for Land Use without Authorization:

The applicant used state tide and submerged land to operate the commercial lodge which included the dock and ramp prior to securing authorization. If it is decided that a lease will be issued, the annual land use fee will be charged for the duration of unauthorized activity and payment of these fees will be due as a deliverable for Entry Authorization issuance.

- 2021-2025 annual use fees = \$5,000.00

Subleases

Subleasing may be permissible through AS 38.05.095, if the proposed lease is approved. All potential subleases must first be approved in writing by DMLW. DMLW may conduct further agency review and/or public notice before making a determination on the appropriateness of the proposed sublease. The sublease fee will not be less than 25% of the annual fee paid to the lessee by the sublessee.

Reclamation

In accordance with AS 38.05.090, the leasehold must be restored to a “good and marketable condition” as determined by DMLW within 120 days after termination of the lease.

Public Notice

Pursuant to AS 38.05.945, this PD will be noticed for a 30-day public comment period, starting on October 21st, 2025. In addition, the post office located near the proposed leasehold will be requested to post the notice pursuant to AS 38.05.945(b)(3)(C). The notice will also be posted on

the State of Alaska Online Public Notice website pursuant to AS 38.05.945(b)(3)(B) located at:
<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=221437>

In accordance with AS 38.05.946, a municipality or a corporation entitled to receive notice under AS 38.05.945(c) may hold a hearing within 30 days after the receipt of the notice.

Comments

The public is invited to comment on this PD. All comments received during the public comment period will be considered in the FFD. If public comments result in significant changes to the PD, additional public notice may be given. A copy of the FFD, along with instructions on filing an appeal, will be sent to all persons who comment on the PD. To be eligible to appeal, a person affected by the FFD must provide written comments during the public comment period per AS 38.05.035(i).

**Written comments about this project must be received in this office no later than
5:00 PM on November 20th, 2025, to be considered.**

To submit comments please choose one of the following methods:

Mail: Department of Natural Resources
Division of Mining, Land and Water
Southeast Region Office
ATTN: *Quinn McClurg*
PO Box 111020
Juneau, AK 99811-1020
Email: quinlan.mcclurg@alaska.gov

Questions about the lease portion of this project can be directed to *Quinn McClurg* at (907-465-3432).

Adjudicator Recommendation

Based on the information provided by the applicant and other agencies, as well as review of planning documents, statutes, and regulations, I recommend approving a 25-year lease authorizing the applicant to maintain a ramp and floating dock secured with pilings on state-owned tide and submerged lands of Point Baker, Alaska. I recommend proceeding to public notice for the purpose of providing the members of the public and those entities identified in AS 38.05.945 an opportunity to review and submit comments.

Quinn McClurg
Quinn McClurg, Natural Resource Specialist III

10/21/2025

Date

Unit Manager Concurrence

Mason Auger
Mason Auger, Natural Resource Manager II

10/21/2025

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

Kaitlyn Raffier
Kaitlyn Raffier, Southeast Regional Manager

10/21/2025
Date

ATTACHMENTS:

- Attachment 1. Development Plan
- Attachment 2. Standard Lease Agreement and Special Stipulations draft
- Attachment 3. Entry Authorization