

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

PRELIMINARY DECISION

ADL 106834 Merrick Shellfish LLC
Application for Lease Amendment
AS 38.05.083

This Preliminary Decision (PD) is the State's preliminary best interest finding regarding a proposed disposal of interest in state land. The public is invited to comment on this PD. The deadline for commenting is **11:59 pm on November 21, 2025**. Please see the Public Notice section of this decision for requirements related to submitting comments for consideration.

Requested Action:

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) has received a request from Merrick Shellfish LLC to amend aquatic farmsite lease ADL 106834 to add 4.18 acres, more or less, of state-owned tide and submerged lands to the existing 2 acres for the continued intertidal commercial cultivation and harvest of geoduck clams (*Panopea generosa*) and suspended culture of Pacific oysters (*Magallana gigas*) located near Sitka, Alaska. The location of the project area is further described as being within the SW1/4 of Section 3, Township 54 South, Range 62 East, Copper River Meridian, Alaska.

Requested Improvements:

- Expand Parcel 1 from 225 feet by 192 feet (0.99 acres) to an L-shaped parcel measuring 220 feet by 500 feet by 330 feet by 200 feet by 590 feet by 700 feet (5 acres)
- Expand Parcel 3 from 24 feet by 16 feet (0.01 acres) to 100 feet by 80 feet (0.18 acres)
- Relocate Parcel 3 approximately 600 feet southeast of the current location
- Add Gear to Parcel 3: enlarge current authorized 12-foot by 24-foot work raft to a 20-foot by 40-foot floating work raft

Proposed Action:

SCRO is proposing the issuance of an amendment to ADL 106834 for the remaining term of the lease. The proposed amended farmsite will consist of three parcels encompassing an area measuring 6.18-acres, more or less, for the purpose of intertidal farming and commercial growth and harvest of geoduck clams (*Panopea generosa*) and suspended culture of Pacific oysters

(*Magallana gigas*). The proposed amended gear will include a 20-foot by 40-foot floating work raft located within the relocated “Parcel 3” boundary. The relocated “Parcel 3” boundary will be moved approximately 600-feet southeast of the current location.

Scope of Review:

The scope of this decision is to determine if it is in the State’s best interest to issue this aquatic farmsite lease amendment to add an additional 4.18 acres for the proposed combined lease acreage of 6.18 acres, relocate Parcel 3, and add a floating work raft to Parcel 3.

Authority:

This lease amendment application is being adjudicated pursuant to Alaska Statute (AS) 38.05.035(e) Delegation of the Powers and Duties of the Director, AS 38.05.070(b) Leases Generally, and AS 38.05.083 Aquatic Farming and Hatchery Site Leases.

The authority to execute the Preliminary Decision, Final Finding and Decision, and the lease has been delegated to the Regional Manager of SCRO under AS 38.05.035(b)(1).

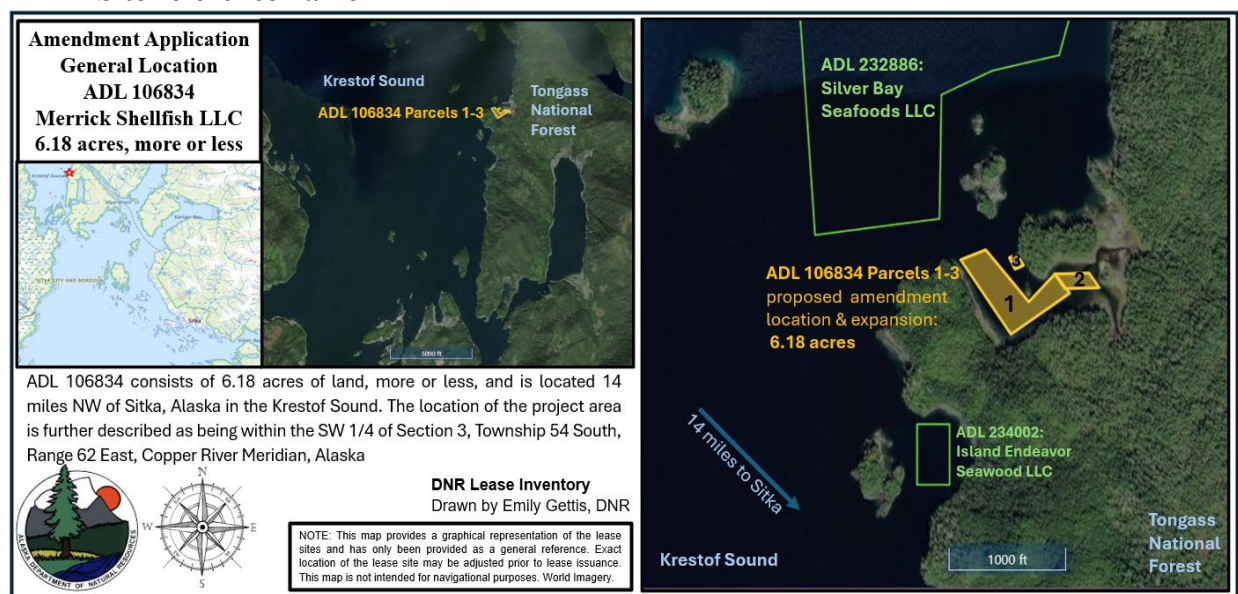
Administrative Record:

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 2002 Northern Southeast Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as 106834.

Legal Description, Location, and Geographical Features:

The state land where the proposed amendments to the lease site are described as follows:

- **Site reference name:** Krestof Sound



- **Geographical location:** Located within Krestof Sound on the northwest side of Krestof Island, approximately 14 nautical miles northwest of Sitka, Alaska
- **Approximate Lat/Longs (NAD 83):**

Parcel 1: Pacific Oyster suspended grow-out and Pacific geoduck subtidal growout area, 220 feet by 500 feet by 330 feet by 200 feet by 590 feet by 700 feet (5 acres, more or less)

Corner 1: 57° 12.662'N, 135° 32.571'W

Corner 2: 57° 12.637'N, 135° 32.533'W

Corner 3: 57° 12.584'N, 135° 32.685'W

Corner 4: 57° 12.680'N, 135° 32.815'W

Corner 5: 57° 12.693'N, 135° 32.750'W

Corner 6: 57° 12.626'N, 135° 32.638'W

Parcel 2: Pacific Oyster and Pacific geoduck intertidal growout area, 300 feet by 145 feet (1 acre, more or less)

NE Corner: 57°12.663' N, 135°32.483' W

SE Corner: 57°12.644' N, 135°32.456' W

SW Corner: 57°12.643' N, 135°32.545' W

NW Corner: 57°12.662' N, 135°32.572' W

Parcel 3: Pacific geoduck and Pacific oyster nursery, 100 feet by 80 feet (0.18 acres, more or less)

NE Corner: 57° 12.687'N, 135° 32.668'W

SE Corner: 57° 12.673'N, 135° 32.652'W

SW Corner: 57° 12.668'N, 135° 32.674'W

NW Corner: 57° 12.683'N, 135° 32.689'W

- **Legal description:** SW1/4 of Section 3, Township 54 South, Range 62 East, Copper River Meridian, Alaska
- **Recording District:** Sitka Recording District
- **Existing parcel survey, if applicable:** None
- **Municipality/Borough:** City and Borough of Sitka
- **Native Corporations/Federally Recognized Tribes:** Sealaska Corporation, Sitka Tribe of Alaska, Shee Atika Incorporated, Central Council of the Tlingit and Haida Indian Tribes of Alaska
- **Size:** 6.18 acres, more or less (2 acres authorized prior to lease amendment)

Title:

A DNR Title Report (RPT-23324) issued on September 16, 2025, from DMLW's Realty Services Section attests that the State of Alaska holds title to the subject tide and submerged lands under the Equal Footing Doctrine and the Submerged Lands Act of 1953.

Third Party Interests:

No third-party interests are known at this time.

Classification and Planning:

The proposed project area is subject to the Northern Southeast Area Plan (NSEAP), Sitka Sound Tidelands Resource Management Zone (SSTRMZ), shown on Map 2-1. The site is designated as High Value: Habitat (Ha), and Public Recreation (Pr); areas with these dual designations are further identified as co-designated Habitat (Ha) and Undeveloped Recreation (Ru). These designations convert to the classification of Resource Management Land, as described in Chapter 4 of the NSEAP. Resource Management Land is characterized by the presence of multiple significant resources but does not contain a single more dominant resource to warrant a more specific designation (4-3). The land is managed for a variety of uses.

The lease is situated within the SSTRMZ, one of three special management areas in the Southern Region. This zone is widely used by Sitka residents for traditional, recreational, and personal purposes. As outlined in Chapter 3 of the NSEAP Management Summary for the SSTRMZ, management guidelines for this zone prioritize the protection of significant habitat and wildlife that concentrate in this area and to uphold customary, traditional, recreational, personal, or public access to the area's resources (3-124, 125).

The proposed lease amendment is consistent with the SSTRMZ guidelines and will not impede the management intent for the area. Access to resources will not be restricted, and no adverse impacts are anticipated to sensitive resources, including "sensitive fisheries, marine mammal concentration areas, shorebird and waterfowl concentration areas, anadromous streams and areas of estuarine wetlands, as well as brown bear and deer winter concentration within intertidal areas" (3-124). Vessel traffic within the cove is minimal, and adjacent uplands are managed as Tongass National Forest Lands. Although habitat values are abundant in this area, the standards and protective measures defined by NSEAP have been considered to ensure that management intent and goals are upheld. As such, no substantial conflict or controversy is anticipated.

Further, Chapter 2 of the NSEAP, under Areawide Land Management Policies for Aquatic Farming, identifies the goal to "provide opportunities to increase income and diversify the state's economy" as consistent to the classifications designated in the area (2-5). Aquatic farming is recognized and supported as allowable use under the NSEAP; the lease intent and activity uphold this objective. In managing State tidelands and submerged lands adjacent to federal conservation

units, specifically the Tongass National Forest (TNF), DNR will take into consideration the management intent for the uplands identified in the Tongass Land and Resource Management Preliminary Decision Plan (TLRMP). Activities, including aquatic farming operations, that are incompatible with the management intent will generally not be authorized unless the conditions of other local, state, and federal permits or authorities are met and unless there is an overriding state interest and there is no feasible and prudent alternative (2-4,5). The TNF uplands surrounding the proposed location are found on Krestof Island. Within the TLRMP the TNF uplands on Krestof Island are within the Semi-Remote Recreation Land Use Designation (LUD). The Semi-Remote LUD goals are to provide predominately natural or natural-appearing settings for semi-primitive types of recreation and tourism and occasional enclaves of concentrated recreation and tourism facilities. Semi-Remote LUD goals also seek to provide opportunities for a moderate degree of independence, closeness to nature, and self-reliance in environments where motorized or non-motorized forms of transportation is challenging. Chapter 4 of the TLRMP mentions aquatic farming, stating cooperation between state and federal agencies is called for to meet industry and public needs for aquatic farming programs (4-29).

Chapter 2 of the NSEAP further states that DNR must make a best interest finding before issuing a lease. The proposed operation must be in the overall best interest of the state before an authorization may be issued (2-4). The NSEAP states areas will be available for aquatic farming if DNR determines in the “best interest” finding that: 1) it is practicable to operate an aquatic farming operation so that it is consistent with the other uses of the immediate area; and 2) the proposed activity is consistent with the management intent of the statute and this management plan (2-6).

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

Traditional Use Findings

Traditional use findings will not be discussed in this Preliminary Decision because the proposed lease site is located within the City and Borough of Sitka, an organized borough. Pursuant to AS 38.05.830 a traditional use finding is not required. However, 11 AAC 63.050(b)(5)(B) requires consideration of whether the lease site impacts traditional and existing uses of the site. Known traditional and existing uses of the area include, but are not limited to, residential use, sightseeing, recreation, tourism, sport fishing, salmon hatcheries, and upland access. The proposed aquatic farm should not interfere with traditional and/or existing uses of the area, including commercial or sport fishing, subsistence activities, navigation, and recreation. Public and Agency Notice may reveal more unknown uses. If such information becomes available, any potential or existing conflicts will be addressed in a final best interest finding.

Access:

Access to the aquatic farm is by boat from Sitka, Alaska.

Access To and Along Navigable and Public Waters:

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

Public Trust Doctrine:

Pursuant to AS 38.05.126 all authorizations for this site will be subject to the principles of the Public Trust Doctrine; specifically, the right of the public to use navigable waterways and the land beneath them for: navigation, commerce, fishing, hunting, 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.

Lease Discussion:

The Lease Agreement was first established between SCRO and Krestof Clam Company from January 1, 2003, through December 31, 2012, for 1-acre to culture Pacific geoduck and littleneck clams (*Protothaca staminea*). The lease was amended August 25, 2006, to add 0.01 acres and to include an intertidal culture method for Pacific geoduck and a geoduck nursery system. The lease was reissued to Krestof Clam Company for 10 years from January 1, 2013, through December 31, 2022, for 3 parcels totaling 2 acres to facilitate the commercial culture and harvest of Pacific geoduck seed, Pacific geoduck, and Pacific oyster. The lease was renewed for 10 years to Krestof Clam Company for January 1, 2023, through December 31, 2032, and then assigned to Merrick Shellfish LLC on May 30, 2025. The 2023 lease is for the purpose of the commercial growth and harvest of Pacific geoduck (*Panopea generosa*) and Pacific oysters (*Magallana gigas*). The leasehold currently contains 3 parcels totaling 2 acres.

Merrick Shellfish LLC submitted an amendment application to SCRO and Alaska Department of Fish & Game (ADF&G) on July 17, 2025, requesting parcel expansion, relocation, and the addition of a 20-foot by 40-foot work raft located in Parcel 3 of the geoduck and oyster farm site. In response to a request for additional information from SCRO and ADF&G, Merrick Shellfish submitted a complete amendment application on September 8, 2025.

The amendment proposes to expand Parcel 1 from its current one acre size to a five acre area. The expanded parcel will take the shape of a six-sided polygon, designed to conform to the cove's

natural shoreline and provide improved access throughout the site. The purpose of this expansion is to create adequate subtidal space that supports viable oyster cultivation using a floating longline system.

Within Parcel 1, eight longlines will be installed, each measuring approximately 360 feet in length. These longlines will support FlipFarm floating cages, with a maximum of 300 cages per line. Each end of the lines will be secured by helix anchors rated to 16,000 pounds and marked with 25-gallon buoys for visibility and navigation, for a total of 16 anchors. The lines will be spaced 36 feet apart. The line layout will consist of two lines, oriented northeast to southwest, with the remaining six lines positioned perpendicular to them, running northwest to southeast.

This proposed amendment will relocate and expand Parcel 3, which is currently located in an intertidal area unsuitable for successful oyster culturing. The proposed action will relocate Parcel 3 approximately 600 feet southeast of the current intertidal location to a more favorable subtidal location. Parcel 3 gear will be fully floating and does not touch the seafloor, other than the anchors. The new configuration will expand Parcel 3 to approximately 0.18 acres.

In addition, a floating work raft will be installed on Parcel 3 to facilitate oyster culturing. The raft will measure 20 feet by 40 feet and will be secured with four helix anchors rated at 16,000 pounds each. It will be constructed using fully encapsulated polystyrene floatation in the form of foam-filled polyethylene dock floats. The raft will serve as the primary workspace for tumbling and grading oysters and will be equipped with an enclosed 3-kilowatt generator, oyster trays and baskets, an aluminum sorting table, and a rotary tumbler and grader measuring eight feet in length. This work platform will be used regularly to support routine oyster care and handling.

The intent, location, and gear for Parcel 2 will remain the same as described in the 2023 decision: as an intertidal Pacific geoduck and oyster grow out area. Pacific geoduck is grown in the intertidal area using PVC tubes, plastic buckets, and predator exclusion netting year-round. Oyster seed is moved from Parcel 1 and planted underneath predator exclusion netting. Further information pertaining to what ADL 106834 is currently authorized for can be found in this documents Attachment C: “2023 Renewal Decision.”

At this time the Commercial Use Requirement (CUR) states a farm must make annual sales of aquatic farm products of at least \$3,000.00 per acre or \$15,000.00 per farm by the fifth year of operation and continue for the rest of the lease term. Failure to meet CUR constitutes a default and may be cause for termination. Annual reports on sales are due January 31 of each year. CUR and annual reports for Merrick Shellfish LLC will be evaluated in 2026 due to the lessee being newly assigned to ADL 106834.

Should the proposed lease amendment be approved, the lease will be subject to the terms of DMLW's standard lease document and any Additional Stipulations based, in part, upon the following considerations.

Development Plan:

The Amended Development Plan dated September 8, 2025, is accepted by SCRO as complete but may be subject to change based on agency and public review. Should the proposed lease be granted, it is anticipated that the Development Plan will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by SCRO before any construction, deconstruction, replacement of infrastructure, or change in activity will be permitted. SCRO reserves the right to require additional agency review and/or public notice for changes that are deemed by SCRO to be beyond the scope of this decision.

Hazardous Materials and Potential Contaminants:

No hazardous materials or fuel will be stored on the proposed lease. The use and storage of all hazardous substances must be done in accordance with existing federal, state and local laws. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the sites and managed and disposed of in accordance with state and federal law.

Lease Performance Guaranty (bonding):

In accordance with AS 38.05.083(e) and 11 AAC 63.080, Merrick Shellfish LLC will be required to submit a performance guaranty for the lease site to cover the costs to the department of restoring the leased site in the event the lessee abandons the site for site cleanup, restoration, and any associated costs after termination or expiration of the lease. Merrick Shellfish LLC submitted a \$2,500.00 performance guaranty on May 9, 2025, but due to the increase in acreage in this amendment request, an additional \$3,500.00 will be required upon issuance to fulfill the \$6,000.00 bond requirement.

\$6,000.00 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/substances on site, and the perceived liability to the State. This bond will be used to ensure the applicant's compliance with the terms and conditions of the lease issued for their project. This bond amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments, assignments, re-appraisals, changes in the development plan, changes in the activities conducted, changes in the performance of operations conducted on the authorized premises, or as a result of any violations to one or more of the authorizations associated with this project. The following stipulations shall be included in any authorization pursuant to this decision.

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

The lessee must post a performance guaranty in the amount of **\$6,000.00** to secure faithful performance with all terms and conditions of the Lease and to insure site restoration of the leasehold. This performance guaranty must remain in effect for the duration of the Lease term or until released in writing by the Authorized Officer (AO). The AO for the State of Alaska, DNR, DMLW, is the Regional Manager or designee. Failure by the lessee to provide replacement security shall be grounds for the AO to make a claim upon the existing security to protect the lessor's interests.

If three or more lessees post an association bond to cover all of their leases, the minimum security amount is 50 percent of the amount individually calculated for each lease. The association must designate an agent for notification purposes. The association has the right to be notified of the termination of a lease covered by its association bond. If neither the former lessee nor the association completes the site restoration as required by AS 38.05.090, the department will use the association bond for this purpose, up to 100 percent of the amount individually calculated for that lease. The association may remove a lease in good standing from the coverage of its association bond after 60 days' notice to the department, during which time the affected lessee must make other arrangements to comply with this section. A lease that is in default or that has been terminated with site restoration still pending may not be removed from the coverage of the association bond.

The guaranty amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments to the Lease, assignments, reappraisals, changes in the Development Plan, approval of a reclamation plan, any change in the activities conducted, or performance of operations conducted on the leasehold and as a result of any violations to the Lease agreement.

The guaranty may be utilized by the AO to cover actual costs incurred by the State of Alaska to pay for any necessary corrective actions in the event the lessee does not comply with the site utilization, restoration requirements and/or other stipulations contained in the Lease agreement. If the lessee fails to perform the obligations under the Lease agreement within a reasonable timeframe, the AO may perform the lessee's obligations at the lessee's expense. The lessee agrees to pay within 60 days following notice, all costs and expenses reasonably incurred by the State of Alaska as a result of the failure of the lessee to comply with the terms and conditions of the Lease agreement. The provisions of this authorization shall not prejudice the State's right to obtain a remedy under any applicable law or regulation. The performance guaranty will be released upon expiration of the Lease provided that all terms and conditions of the Lease have been met, including restoration of the leasehold to a safe and clean condition found acceptable by the AO.

Insurance:

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

Compensation and Appraisal:

DMLW has approved an administrative lease fee schedule for aquatic farmsites that meet the conditions listed within the schedule. The most current lease fee schedule will be used to establish the fair market rental each lessee must pay. Fees are subject to adjustment per AS 38.05.083(c). The current annual rate for a 6.18-acre aquatic farmsite lease is a base fee of \$450 for the first acre or portion thereof and \$125 per additional acre. In accordance with the Aquatic Farmsite Fee Schedule, Report No. 2522-16, a breakdown of the lease fee will be as follows:

6.18 acres; $(1 \times \$450) + (6 \times \$125) = \mathbf{\$1,200.00 \text{ per year}}$

If the applicant does not agree with the fee schedule amount of \$1,200.00, a fair market value determination can be obtained by the applicant. Fair market value is determined by obtaining a DNR-approved appraisal of the lease site. If an appraisal is conducted to determine fair market value of the lease site, the applicant will be required to pay the appraised amount, and the \$1,200.00 annual fee will no longer be an option. The appraisal cost will be borne by the applicant. The parcel may need to have an approved Alaska State Tideland Survey to accomplish the appraisal. If a survey is required, the cost will be incurred by the applicant.

Assignment of Lease:

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

Reclamation:

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

Agency Notice:

An Agency Review was conducted starting on September 9, 2025, and ending on September 29, 2025. The following agencies were included in the review:

- DNR Division of Parks and Outdoor Recreation (DPOR)
- DNR DPOR Office of History and Archaeology, State Historic Preservation Office
- DNR Natural Resource Conservation and Development Board
- DNR Division of Oil and Gas
- Alaska Department of Fish and Game
- Alaska Department of Environmental Conservation
- Alaska Department of Transportation and Public Facilities
- Alaska Department of Commerce, Community, and Economic Development
- Alaska Mental Health Trust Land Office
- Alaska Association of Conservation Districts
- U.S. Forest Service
- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- U.S. National Park Service
- National Oceanic and Atmospheric Administration
- U.S. Environmental Protection Agency
- U.S. Coast Guard
- Armstrong-Keta Inc.
- USFS Tongass Sitka Ranger District

Agency Review Comment(s):

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. During the Agency Review, SCRO received two comments.

Comment: On September 25, 2025, the U.S. Army Corps of Engineers (USACE) provided this comment:

The U.S. Army Corps of Engineers Regulatory Division is in receipt of your September 9, 2025, ADL amendment for agency review. Department of the Army (DA) authorization is required if anyone proposes to place dredged and/or fill material into waters of the U.S., including wetlands and/or perform work in navigable waters of the U.S. Section 10 of the Rivers and Harbors Act of 1899 requires that a DA permit be obtained for structures or work in or affecting navigable waters of the U.S. (33 U.S.C. 403). Section 10 waters are those waters subject to the ebb and flow of the tide shoreward to the mean high-water mark, and/or other waters identified by the Alaska District. Aquaculture structures and work would require Section 10 Authorization.

Based on the information provided, it does not appear that there is currently a permit application submitted to our office for the proposed work. Oyster farming can typically be authorized under a Nationwide Permit (NWP) 48, Commercial Shellfish Mariculture Activities, as long as the proposed project meets the terms and conditions of the NWP. The applicant is encouraged to submit a Preconstruction Notification application to our office if they have not done so already. Please note that Alaska District Regional Condition I requires the Alaska Department of Natural Resources preliminary decision to be submitted with the Preconstruction Notification.

SCRO Response:

SCRO acknowledges the USACE's comment. SCRO provided a copy of the email from the USACE to Merrick Shellfish LLC on October 6, 2025, and notified Merrick Shellfish LLC to contact the USACE for their specific permit information.

Comment: On October 6, 2025, the Alaska Department of Fish and Game (ADF&G) permit coordinator provided this letter:

The Alaska Department of Fish and Game (ADF&G) has completed a preliminary review of the project proposal, ADL 106834 relevant to criteria specified in authorizations for Aquatic Farming AS16.40.105 and 5 AAC 41 200-400. ADF&G Division of Commercial Fisheries (Management, Gene Conservation Lab and Fish Pathology Section), Division of Sport Fish, Division of Wildlife Conservation, Subsistence Section and Habitat Section, were part of the initial review. There are no concerns pertaining to an aquatic farm operation permit at the proposed location. Any comments from other government agencies or from the public that may impact applicable department provisions will be considered as part of the final department review for an aquatic farm operation permit which will be issued within 30 days of the lease being issued. Recommendations from this preliminary review are summarized below.

SCRO Response:

SCRO acknowledges ADF&G's comment. As one of the resource managers in the area, ADF&G's input is an important source of information. SCRO relies on input from ADF&G and other stakeholders to advise of any expected impacts and solutions that may fall outside of SCRO's authority. SCRO has provided a copy of ADF&G's October 6, 2025, letter to the applicant. As requested by ADF&G, the PD herein contains ADF&G's letter, with the full Department Advisory, which will be advertised for a 30-day public comment period.

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

Public Notice of the Preliminary Decision:

Pursuant to AS 38.05.945, this PD will be noticed for a 30-day public comment period starting on **October 23, 2025**. The Sitka 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 be posted on the Alaska Online Public Notice website pursuant to AS 38.05.945(b)(3)(B) located at: <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>. Additionally, Public Notice will be sent to all interested parties, including Sealaska Corporation, Sitka Tribe of Alaska, Shee Atika Incorporated, Central Council of the Tlingit and Haida Indian Tribes of Alaska, City and Borough of Sitka, neighboring property owners, and DMLW authorization holders.

The public is invited to comment on this PD. All comments received during the public comment period will be considered in the Final Finding and Decision (FFD). A copy of the FFD, along with instructions on filing an appeal, will be sent to all persons who comment on the PD. If public comments result in significant changes to the PD, additional public notice may be given.

To be eligible to appeal the FFD, a person must provide written comments during the PD comment period.

Written comments about this project must be received in this office no later than 11:59 PM on November 21, 2025, to be considered.

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

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

DNR-DMLW complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services, or special modifications to comment should contact Alaska Relay at 711 or 1-800-770-8973 for assistance at no cost.

Signature Page Follows

Recommendation:

DMLW has completed a review of the information provided by the applicant, examined the relevant land management documents, agency comments, and land ownership, and has found that this project is consistent with all applicable statutes and regulations. DMLW considered both direct and indirect benefits to the State. DNR finds granting of the proposed lease amendment provides the greatest benefit to the State. 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 with an opportunity to review and submit comments.



10/23/2025

Emily Gettis
Natural Resource Specialist 3

Date

Preliminary Decision:

It is the determination of the Division of Mining, Land, and Water that it may be in the State's best interest to issue an aquatic farmsite lease amendment to Merrick Shellfish LLC as described above. This Preliminary Decision shall now proceed to public notice.



10/23/2025

Jarrod Yelton, Natural Resource Manager 2
Aquatic Farm Program
Division of Mining, Land & Water
Southcentral Regional Land Office

Date

Attachments

Attachment A – Amendment Development Plan
Attachment B – ADF&G Letter
Attachment C – 2023 Renewal Decision

Attachment A Amendment Development Plan

☒ Add or significantly¹ modify support facility

☐ Section E (If floating facility)

☐ Sections E & F (If upland facility)

☒ Section D-3 c (Site Plan Map with facility)

☒ Section D-3 d (Cross Sectional Diagram of facility)

☒ Section D-3 e (Detailed Drawing of facility)

☐ Other² _____

Dependent on amendment request

¹Significant modifications include changes that increase obstructions to navigation or to other public uses.

²Other includes production changes or species added if associated with changes to farm site boundary/location.

C. Amendment Description

In the space provided below, please provide a general description of your proposed changes to your aquatic farm site and operations. This should be a narrative of your amendment request that includes changes to your project location or size, new overall size including any hardening areas, all species you intend to culture, type of farm gear, equipment, support facilities, and associated housing to be used including size, number, and construction materials. Your narrative should match the rest of the application information you provide. If a section does not apply to your proposed amendment, please state so. If additional space is necessary, please attach a separate document labeled "AMENDMENT DESCRIPTION". Example information for project narrative can be found in Attachment I.

Company Name (if being changed)

Site Location Modifications

This amendment requests an expansion of Parcel 1 from one (1) acre to five (5) acres, allowing sufficient subtidal area for a viable oyster culture in floating longline systems (FlipFarm).

It also requests a relocation of Parcel 3 to remove it from a difficult and environmental detrimental intertidal site to a fully floating location that will never touch the seafloor. A larger footprint is also being requested, partially to allow for a slightly larger work platform (20' x40'), but primarily to provide for sufficient space for proper anchor scope.

New Site Dimensions. Acres for Each Parcel (New Dimensions and calculated area in acres for each parcel being amended and total area in acres of farm after amendment)

Parcel 1 expansion results in a six-sided shape that works around natural features and allows continued access into the cove. The sides of this shape are of the following lengths: 220ft, 500ft, 330ft, 200ft, 590ft and 700ft, resulting in a total area of five acres.

The Parcel 3 location results in a 100ft x 80ft rectangle, resulting in a total area of 0.18 acres.

See "Other" section for coordinates of each parcel.

Attachment A

Amendment Development Plan

New Support Facilities *(List any new support facilities, i.e. caretaker, storage, processing facilities, work rafts, etc.)*

The support facility on relocated Parcel 3 will be a 20ft x 40ft work raft, with up to 75% of the total float covered with a roof. This float will carry an 8ft rotary oyster tumbler/grader, an aluminum sorting table, housing for a 2-3kw generator, and storage space for several hundred oyster baskets/trays. The work raft will be used for regular (~2-3 week intervals) tumbling and grading of oysters.

Construction Materials of New Support Facilities and Equipment *(Note: All floating raft structures should use non-treated wood supported by closed cell expanded polystyrene or equivalent material)*

The 20' x 40' raft structure will be constructed using fully encapsulated polystyrene flotation, an aluminum or untreated lumber frame, untreated wood or composite decking, and an aluminum or untreated lumber superstructure with metal roofing.

Flotation will consist of foam-filled polyethylene dock floats like those produced by Permafloat or equivalent (see attached product information).

Species You Intend to Farm (for New Parcels or Changes to Species) *(Include scientific and common species name)*

Pacific Oyster (*Crassostrea gigas*)

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

Attachment A

Amendment Development Plan

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

Expanded Parcel 1 will contain up to eight (8) 360ft longlines of FlipFarm floating cages (275-300 cages per line). Two (2) longlines will run approximately NE-SW, and an additional six (6) perpendicular to those (NW-SE). Each longline will be anchored at each end by a helix anchor (deployed by diver) rated to 16,000#.

New seed will be planted 1-2 times per year during summer months. Biofouling will be controlled by flipping cages at least once per week during growing season (May-September). After an initial year of growth (beginning summer 2026), oysters will be graded and tumbled every 2-3 weeks as needed. This will be conducted at a work float on Parcel 3.

Parcel 3 will be comprised of a 20' x 40' work float anchored by four (4) 16,000# helix anchors in a crisscross formation (see diagrams 6-8). This work float will be used for regular tumbling and grading of oysters at 2-3 week intervals. Large, cumbersome equipment not suitable for frequent boat transport—namely a rotary tumbler/grader, sorting table, oyster baskets/trays, and 3000w enclosed generator — will be stored on the work float.

Other *(Anything else that may change from the original project due to the amendment request proposal)*

Parcel 1 coordinates:

The coordinates of the six (6) points that bound the expanded Parcel 1 are as follows:

No. 1: 57°12.662'N, 135°32.571'W
No. 2: 57°12.637'N, 135°32.533'W
No. 3: 57°12.584'N, 135°32.685'W
No. 4: 57°12.680'N, 135°32.815'W
No. 5: 57°12.693'N, 135°32.750'W
No. 6: 57°12.626'N, 135°32.638'W

Parcel 3 coordinates:

The Parcel 3 location results in a 100ft x 80ft rectangle, resulting in a total area of 0.18 acres. The coordinates of each corner of the parcel are as follows:

Corner 1: 57°12.687' N, 135°32.668' W
Corner 2: 57°12.673' N, 135°32.652' W
Corner 3: 57°12.668' N, 135°32.674' W
Corner 4: 57°12.683' N, 135°32.689' W

Attachment A

Amendment Development Plan

D. REQUEST FOR SITE BOUNDARY/LOCATION MODIFICATIONS (if applicable)

1. Coordinates

If this amendment request involves modifying the farm site boundaries, please provide new latitude and longitude coordinates for each corner of each parcel at the farm site you are requesting to modify. Parcel designations (number and name) must be the same as in the original lease/permit if modifying existing parcels. Identify each parcel to be used. For example, Parcel 1 - growing area, Parcel 2 - hardening area, etc. Latitude and longitude coordinates must be in NAD83 datum using degrees and decimal minutes format to the nearest .001 minute (Example: Longitude -133° 17.345), obtained using a Global Positioning System (GPS). If you are applying for more than three parcels or your proposed parcels have other than four corners, please provide those coordinates in your project description or on a separate sheet.

Parcel 1:	NE Corner	No. 1: Latitude _____	Longitude _____
_____	SE Corner	No. 2: Latitude _____	Longitude _____
(e.g. Grow-out Area)	SW Corner	No. 3: Latitude _____	Longitude _____
	NW Corner	No. 4: Latitude _____	Longitude _____
Parcel 2:	NE Corner	No. 1: Latitude _____	Longitude _____
_____	SE Corner	No. 2: Latitude _____	Longitude _____
(e.g. Hardening Area)	SW Corner	No. 3: Latitude _____	Longitude _____
	NW Corner	No. 4: Latitude _____	Longitude _____
Parcel 3:	NE Corner	No. 1: Latitude _____	Longitude _____
_____	SE Corner	No. 2: Latitude _____	Longitude _____
(e.g. Support Facility Area)	SW Corner	No. 3: Latitude _____	Longitude _____
	NW Corner	No. 4: Latitude _____	Longitude _____

See "Other" Section (Page 4)

2. Site Size

Please use the following formula to compute area. For more complex parcel shapes, you may wish to use the Measure Area tool in Alaska Mapper found at <https://mapper.dnr.alaska.gov/>. If you are applying for more than three parcels or your parcels are not rectangular, you may provide this information in the project description or on a separate sheet.

1. To compute the total area (sq. ft), multiply the width (ft) by the length (ft) of Parcel 1. The outside length and width of the Parcel must include your anchors and anchoring system plus any scope.
2. Divide the area (sq. ft) of Parcel 1 by 43,560, to convert the area from sq. ft to acres.
3. Repeat for each separate Parcel of your proposed amended farm site.
4. Add the acreage of each Parcel to get the total tideland acreage for your proposed amended farm site.
5. Write the Total Acreage on the line where indicated.
6. Note that the number of acres must correspond to your farm site maps and drawings.

Parcel 1: _____ feet (x) _____ feet = _____ square feet (÷) 43,560 = _____ 5 _____
(Width of Parcel 1) (Length of Parcel 1) (Area) (Acres)
Parcel 2: _____ feet (x) _____ feet = _____ square feet (÷) 43,560 = _____ 1 _____
(Width of Parcel 2) (Length of Parcel 2) (Area) (Acres)
Parcel 3: _____ feet (x) _____ feet = _____ square feet (÷) 43,560 = _____ 0.18 _____
(Width of Parcel 3) (Length of Parcel 3) (Area) (Acres)

Alaska Aquatic Farm Program – Amendment Application
Rev. 02/2022 (ADNR, ADF&G, ADEC)

See "New Site Dimensions"
Section (page 2)

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Attachment A Amendment Development Plan

How many total acres of state-owned tidelands are you applying for (add all parcel acres): 6.18
(Total Acreage)

If you are also applying for state owned uplands for support facilities, how many total upland acres? _____
(Total Upland Acreage)

3. Maps and Diagrams

Provide copies of maps and diagrams including general and detailed location maps, site plan map (an overview), cross-sectional diagram and detailed drawings. If the project has multiple parcels, you must provide maps of each parcel. Copies of the maps and drawings should be no larger than 8½" x 11" (standard letter size). Examples are provided at the end of the application.

A list of mapping resources is provided below:

Alaska Mapper	https://mapper.dnr.alaska.gov/
Alaska Ocean Observing System Mariculture Map	https://mariculture.portal.aocs.org/
NOAA Nautical Charts	www.charts.noaa.gov
ShoreZone Mapping System	https://www.fisheries.noaa.gov/alaska/habitat-conservation/alaska-shorezone
Catalog of Anadromous Streams	https://www.adfg.alaska.gov/sf/sarr/awc/

*Be sure to include a legend box on all maps and diagrams you provide with your application with the following information:

FORMATTING

Figure No. and Title
Applicant Name (Business Name)
Waterbody
Area/Region
Today's Date

LEGEND BOX EXAMPLE

Figure 1 Detailed Location Map
Alaska's Best Oysters
Jerryton Bay
East of Prince of Wales Island, Southeast AK
March 30, 2012

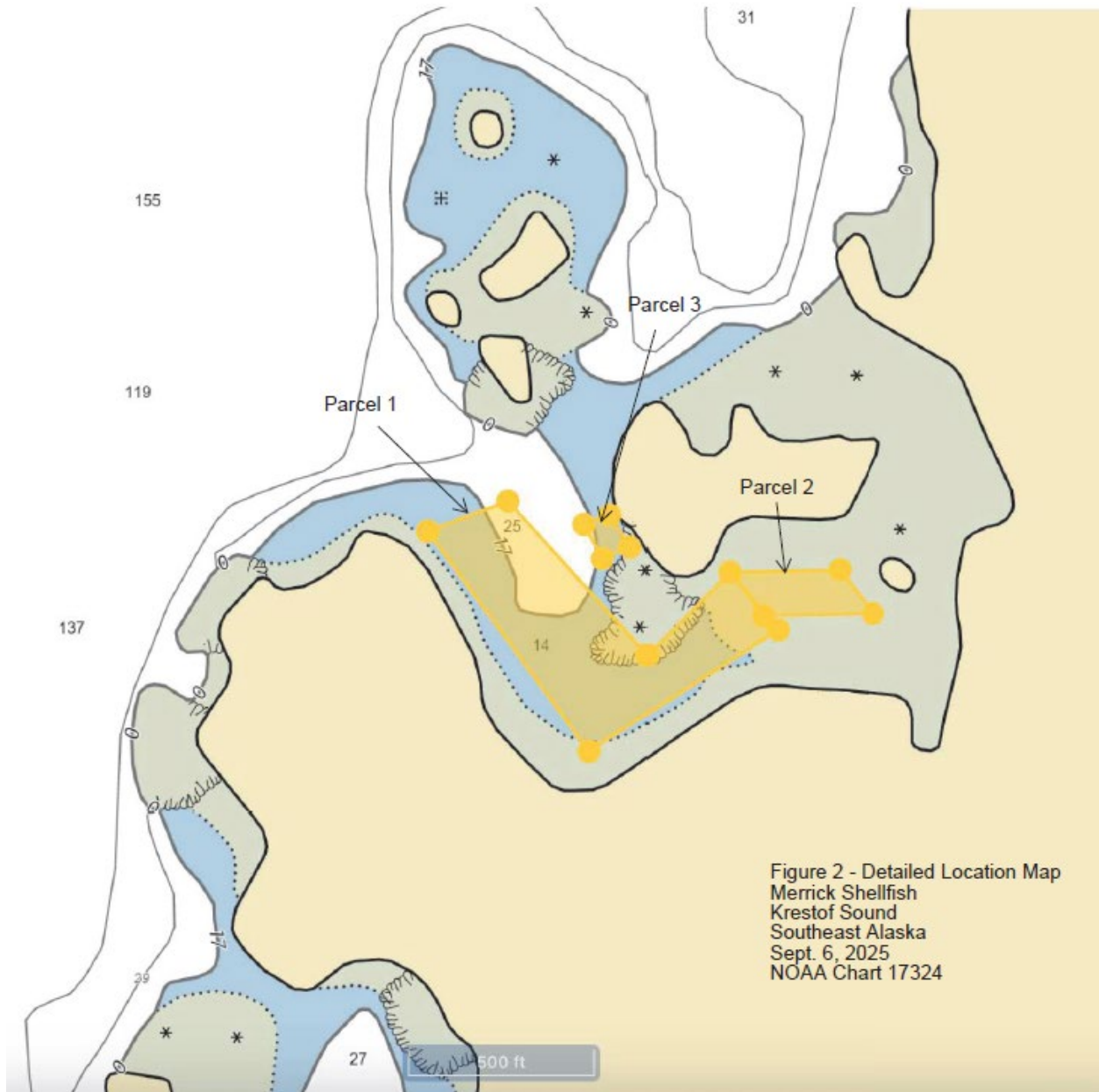
- a. **General Location Map** - This map is a larger scaled map showing larger surrounding area with less detail (See Attachment 2, Figure 1). Use a USGS Topographic quadrangle map (scale: 1" = one mile (1:63,360)) and label it "Figure 1" and show the following information:
- ☐ USGS Map Name (e.g. Craig B-4) _____
 - ☐ General location of the farm site
 - ☐ Distance (in nautical miles), and direction (arrow) of the site from the nearest community
 - ☐ A directional arrow identifying North
 - ☐ Scale
 - ☐ Legend box (example on previous page)
- b. **Detailed Location Map** - This map is a smaller scaled map showing more detail. Use a National Oceanic and Atmospheric Administration (NOAA) navigational chart and label it "Detailed Location Map" and show the following information:
- ☐ NOAA Chart No. _____
 - ☐ Boundaries of each farm area parcel and clearly label all corners (NE, SE, SW, and NW)
 - ☐ Directional arrow identifying North
 - ☐ Scale on map
 - ☐ Legend box (example on previous page)
- If uplands area is proposed:
- ☐ Location and type of use (e.g. housing, storage shed, etc.)

Attachment A
Amendment Development Plan

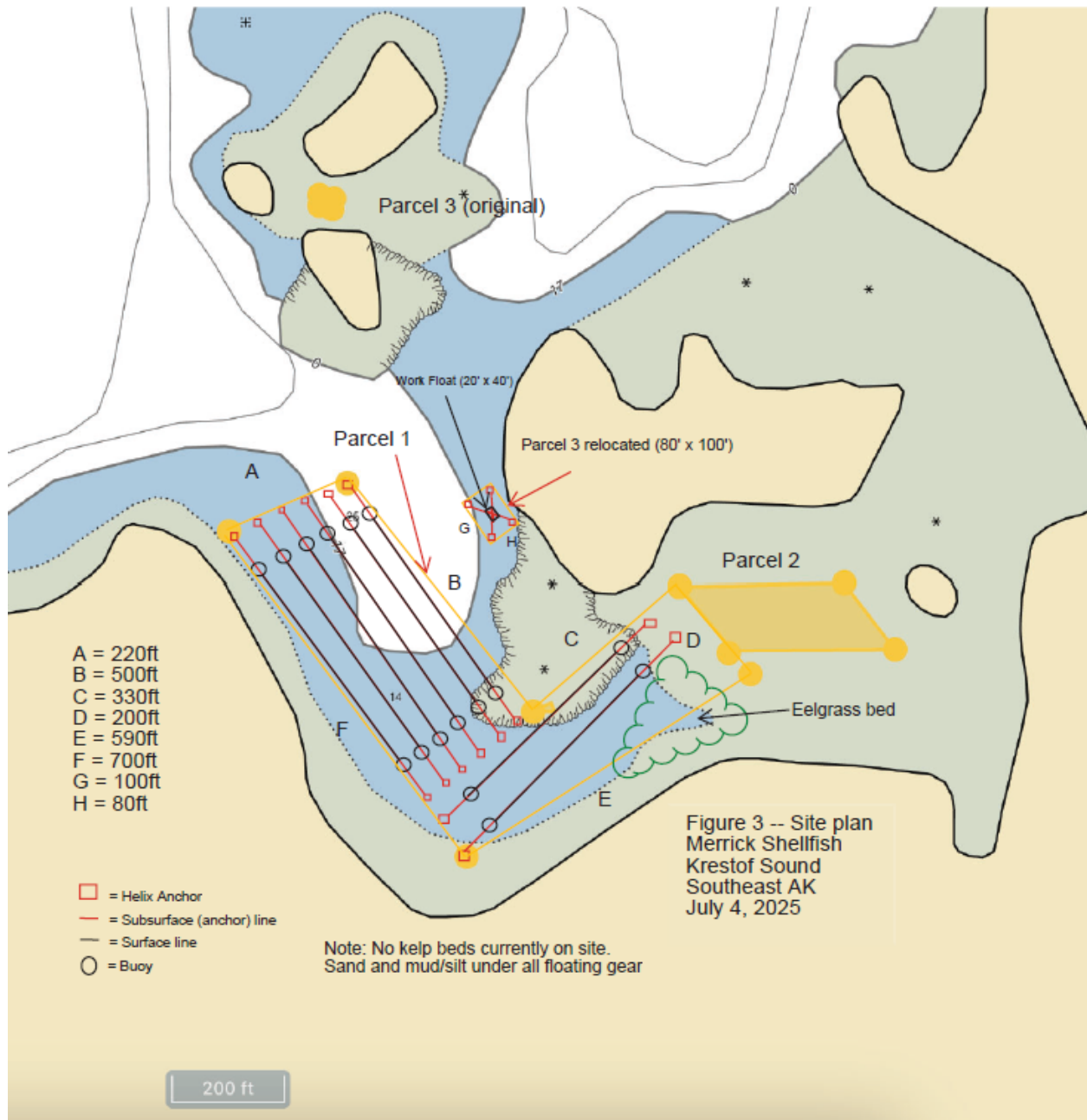


Alaska Department of Fish & Game
Aquatic Farm Operation Permit No.: DFG-2001-25A-AF-SE
ATTACHMENT NO.: 1

Attachment A
Amendment Development Plan

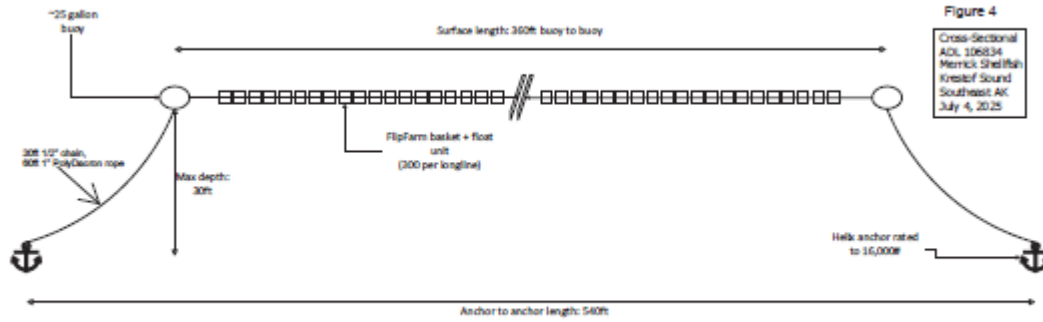


Attachment A Amendment Development Plan



Attachment A

Amendment Development Plan



Attachment A
Amendment Development Plan

Note: Diagram shows 6 longlines for the purpose of displaying layout of parallel lines (e.g. distance between lines). Actual proposed site includes 2 additional lines perpendicular to these, for a total of 8 longlines. See Fig. 3 Site Plan

360ft surface line length

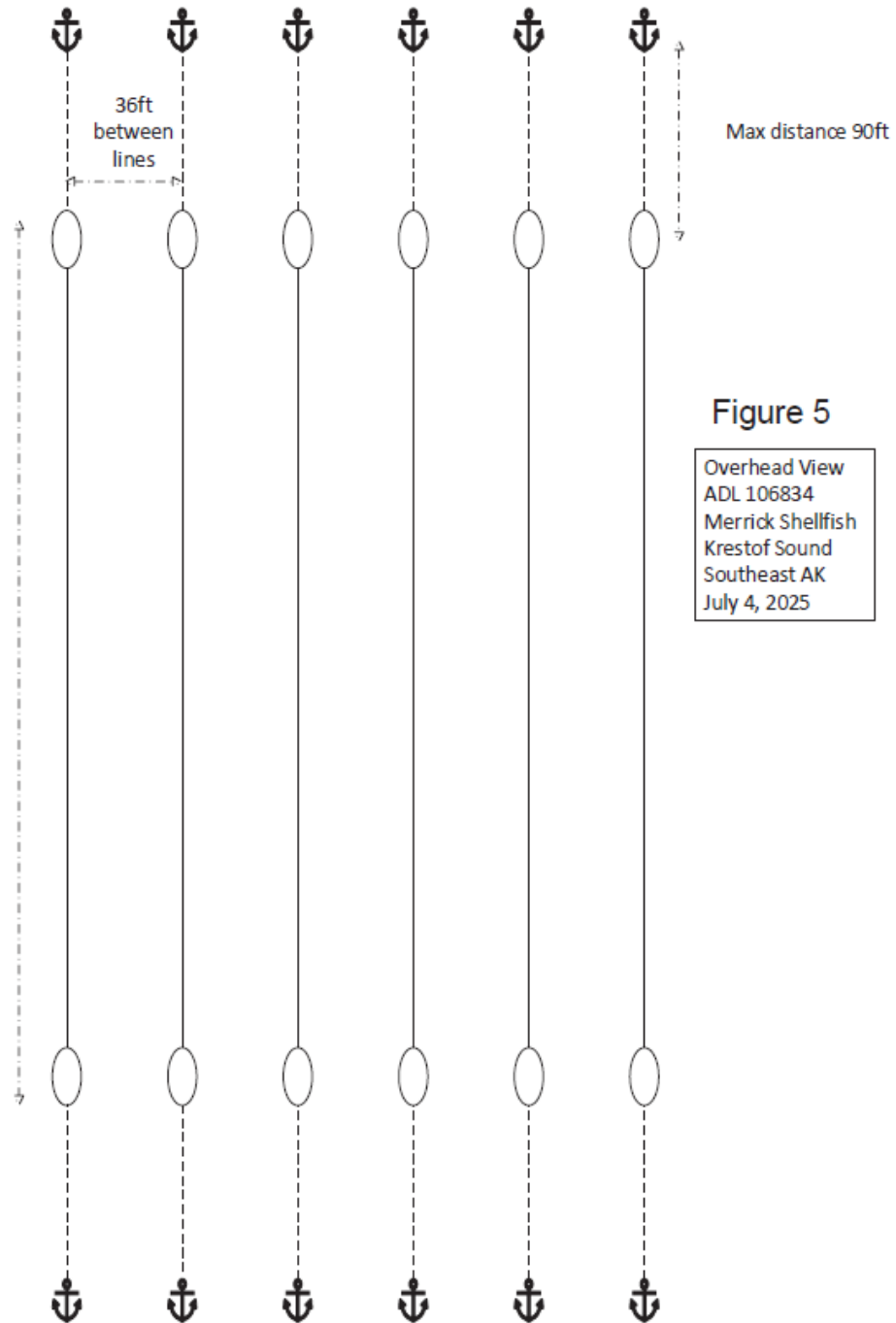


Figure 5

Overhead View
ADL 106834
Merrick Shellfish
Krestof Sound
Southeast AK
July 4, 2025

Attachment B
ADF&G Letter



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

Department of Fish and Game

Division of Commercial Fisheries
Headquarters Office

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

October 6, 2025

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

Re: Alaska Department of Fish and Game Agency Review Comments
Merrick / Merrick Shellfish Aquatic Farm Site Amendment Proposal – Krestof Sound
DNR File No: ADL 106834

Dear Ms. Gettis:

The Alaska Department of Fish and Game (ADF&G) has completed a preliminary review of the project proposal, **ADL 106834** relevant to criteria specified in authorizations for Aquatic Farming AS16.40.105 and 5 AAC 41 200-400. ADF&G Division of Commercial Fisheries (Management, Gene Conservation Lab and Fish Pathology Section), Division of Sport Fish, Division of Wildlife Conservation, Subsistence Section and Habitat Section, were part of the initial review. *There are no concerns pertaining to an aquatic farm operation permit amendment at the proposed location.* Any comments from other government agencies or from the public that may impact applicable department provisions will be considered as part of the final department review for an aquatic farm operation permit amendment which will be issued within 30 days of the lease being issued. Recommendations from this preliminary review are summarized below.

Department Advisory

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

Division of Commercial Fisheries has reviewed this request and has no concerns. The permit holder must maintain access to existing subsistence and commercial fisheries to the extent practicable. The operator should take measures to avoid negative impacts to existing eel grass beds located within the proposed expansion area.

Attachment B ADF&G Letter

Emily Gettis
Department of Natural Resources
Aquatic Farm Amendment ADL 106834 ADF&G Review Comments

- 2 -

October 6, 2025

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

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

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

Invasive Species Program Coordinator has reviewed this request and have no concerns.

Best practices should be maintained to prevent the spread of invasive species.

Division of Wildlife Conservation

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

Access Defense Program: Has reviewed this request and have no concerns. Access to existing fisheries must be maintained.

Seabird Program: Did not comment at this time.

Habitat Section did not comment at this time.

Subsistence Section has reviewed this request and have no concerns. Access to existing subsistence fisheries must be maintained.

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

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

Sincerely,



Michelle Morris
Permit Coordinator

ecc: Garold V. Pryor, Aquaculture Section Chief, ADF&G
Evan Merrick, Merrick Shellfish

Attachment C
2023 Renewal Decision

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

AQUATIC FARM RENEWAL DECISION

ADL 106834 Thomas Manning
dba Krestof Clam Company
Aquatic Farm Lease Renewal
AS 38.05.070(e), AS 38.05.083

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 Thomas Manning dba Krestof Clam Company (KCC) to renew a current lease for 2.0 acres of state-owned tide and submerged lands, more or less, for 10 years for the purpose of the commercial growth and harvest of Pacific geoduck (*Panopea generosa*) seed, Pacific geoduck, Pacific oyster (*Magallana gigas*) seed, and Pacific oyster in Krestof Sound approximately 14 nautical miles northwest of Sitka, Alaska. The location of the project area is further described as being within SW1/4 of Section 3, Township 54 South, Range 62 East, Copper River Meridian, Alaska.

History:

A lease authorization for ADL 106834 was issued to KCC on January 1, 2003, for a period of 10 years, for 1.0 acres, more or less, to culture Pacific geoduck and littleneck clams (*Protothaca staminea*). A lease amendment was authorized on August 25, 2006 for 0.01 acres to add another Pacific geoduck intertidal culture method and a geoduck nursery system. The lease was reissued on January 1, 2013, for a period of 10 years for three parcels totaling 2 acres, more or less, for the culturing of Pacific geoduck seed, Pacific geoduck, and Pacific oyster. On January 1, 2014, the Alaska Department of Fish and Game (ADF&G) issued ADF&G Aquatic Farm Operation Permit DFG-2001-25A-AF-SE (Renewal 1) which also authorized Pacific oyster culture in a nursery system. The lessee has made all the annual fee payments on time.

Existing Infrastructure:

This aquatic farm is an operation to grow and harvest Pacific geoduck and Pacific oyster seed, Pacific geoduck, and Pacific oyster on three parcels.

Renewal Decision
ADL 106834
Page 1 of 33

Attachment C 2023 Renewal Decision

Culture Method Description:

Pacific oyster infrastructure involves two stages:

- Stage 1: Seed from a State of Alaska permitted seed source (hatchery or nursery) is transported and pumped onto the nursery table/platform on Parcel 3 for initial feed/acclimation for approximately 1 to 2 weeks.
- Stage 2: Seed is moved from the Parcel 3 nursery to a suspended grow out system (Parcel 1) for approximately 2 to 3 years. Oyster seed is also moved to Parcel 2 and planted on bottom under predator exclusion netting above the + 1 tide line.

Pacific geoduck infrastructure involves two stages:

- Stage 1: Geoduck seed from a State of Alaska permitted seed source is pumped onto a nursery table/platform in Parcel 3 for initial feed saltwater pumping/acclimating. The seed stays here for approximately 1 week.
- Stage 2: Geoduck seed is moved to submerged nursery containers until they reach 2 to 3 inches in size. They overwinter in this location for approximately 1 year. After this time, the geoduck juveniles are distributed to the farm intertidal area (Parcel 1 or 2) and permitted aquatic farms.

Culture Gear and Equipment Description:

Parcel 1 – Oyster Suspended Grow out and Geoduck Intertidal Grow out (Separate Sections of Parcel 1):

- Oyster seed and geoduck juveniles from the Parcel 3 nursery location are brought to the oyster suspended grow out and geoduck intertidal grow out area on Parcel 1. Parcel 1 is divided in separate sections:
 - Section A: Up to 20 100-foot longlines attached to one floating log boom (float log) with suspended oyster trays and Seapa® tray systems. Additional buoys are used for floatation.
 - Section B: Up to 10 OysterGro® floating systems and 200 floating Vexar bags containing oysters are attached to longlines and buoys between a float log on the west side and a float log in the middle of the parcel.
 - Section C: Up to 4, 24-feet by 24-feet rafts with oyster trays. The rafts are composed of wood frames with 2-feet by 3-feet plastic floats with stacks of oyster

Attachment C 2023 Renewal Decision

trays suspended within and below each bay. Rafts are secured to a 700-pound anchor block.

- Sections D and E contain geoduck tubes/buckets in subtidal frames. Up to 32 5-gallon plastic buckets (12 inch by 20 inch) will be used as growth chambers and will be secured in a box frame (8 feet by 10 feet) made of rebar. The geoduck tubes/buckets and frames are subtidal and not floating.
- Three 40-foot HDPE float logs are used to contain and secure equipment. They are located on the east and west sides, and in the middle of Parcel 1. The float logs are secured with a 700-pound anchor in the middle of the east and west sides of Parcel 1.

Parcel 2 – Geoduck and oyster intertidal grow out:

- Pacific geoduck will be grown in the intertidal area using PVC tubes, plastic buckets and predator exclusion netting year-round. Pacific geoduck under predator exclusion netting are placed above the + 1 tide line. Pacific oyster is placed above the + 1 tide line under predator exclusion netting.

Parcel 3 - Oyster and Geoduck Nursery:

- Stage 1 (oyster and geoduck): The nursery platform/table is composed of a 12-foot by 24-foot raised wooden deck/platform, holding 10 connected 18-inch by 24-inch plastic trays, for pumped feed and acclimation. A temporary tent or wood frame enclosure is to prevent rain/freshwater dilution. The nursery platform will be used seasonally in spring/summer for Pacific geoduck & oysters. Juveniles will be transferred to grow out locations once they have reached adequate size.
- Stage 2 (geoduck only): On-bottom submerged nursery system. Up to 20, 4 feet by 4 feet or 4, 4 feet by 8 feet rebar frames containing 16 12-inch by 20-inch sand filled plastic tube bucket containers can be submerged at low intertidal areas. This system will be covered with predator exclusion netting.

Harvest Equipment and Method:

Parcel 1: Pacific oysters in the suspended grow out areas are harvested with a skiff working along longlines and rafts. The schedule is dependent on growth rate.

Parcel 2: Pacific geoduck in the intertidal grow out areas are to be harvested with a shovel and blower gun once per year, after 5 to 7 years of growth.

Attachment C 2023 Renewal Decision

Lease Renewal Authority:

In 2013 the original lease had been adjudicated pursuant to AS 38.05.035(b)(1) Delegation of the Powers and Duties of the Director; AS 38.05.035(e) Written Findings; AS 38.05.070(a) Generally; AS 38.05.083 Aquatic Farm and Hatchery Site Leases; and AS 38.05.945 Public Notice. Upon lease expiration, subsection AS 38.05.070(e) allows the Director to renew a lease previously issued under section AS 38.05.083 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, 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.

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 the lease will continue to create a direct economic benefit to the State, indirect economic benefit to the State, and encouragement of the development of the State’s resources. The renewal is consistent with the State’s Constitution as the lease provides for the utilization, development, or conservation of the natural resources belonging to the State for the maximum benefit of its people.

Lease Renewal Discussion:

Annual reports have been submitted for the duration of the authorized lease. All annual fees have been paid and the lease is considered to be in good standing with the department. ADL 106834 has not met the Commercial Use Requirement (CUR) per 11 AAC 63.030(b) since the lease was authorized on January 1, 2013.

The aquatic farmsite lease stipulation No. 5 includes “Failure to comply with the commercial-use requirement set out in 11 AAC 63.030(b) is a default and cause for termination, unless the lessee shows to the AO’s (Regional Manager) satisfaction that the failure is due to circumstances beyond the lessee’s reasonable ability to foresee or control”. The lease stipulation also includes, “The commercial use requirement for this 2 acre lease is \$6,000 in annual sales and must be met by the commencement of the fifth (5th) year of the term and continued annually for the remaining lease term”.

SCRO manager memo dated December 10, 2015 stated, in summary “Due to the delay in the leases being issued and changes to the development plan the Commercial Use Requirement will not begin until January 1, 2016. This memorandum serves as an agreement between the Southcentral Region Office, Aquatic Farm Program and Thomas Manning that both of his sites, ADL 106834 and 106835 will meet the CUR, for the amount stipulated in the lease, by January 1, 2021”.

Renewal Decision
ADL 106834
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Attachment C 2023 Renewal Decision

KCC provided the information below as to why the commercial use requirement was not met during the 10-year lease term by January 1, 2021. The leaseholder indicated that there was seldom geoduck seed or juveniles available from Alaska's only certified source and every time there was, they participated. When it became obvious that it was unlikely that the certified hatchery could supply a developing, commercial aquatic farm industry in Alaska the leaseholder tried to get an exception (2017, 2018, and 2019) through ADF&G and the Alaska Board of Fish to allow Alaska geoduck spat to be propagated in certified, out of state, successful shellfish hatcheries. KCC stated that this exception was supported by ADF&G Mariculture but was never brought before the Board of Fish. KCC intends to continue to pursue this needed option.

KCC realized that the geoduck culture process would take a while in Alaska and amended both 106834 and ADL 108089 with the ADF&G to include Pacific oyster in ADF&G Aquatic Farm Operation Permit DFG-2001-25A-AF-SE (Amendment No. 3) dated November 17, 2015. Pacific oyster was included in the reissued lease for ADL 106835 dated by SCRO on March 7, 2016. The leaseholder endured the unexpected loss of his wife and aquatic farm partner in 2017.

KCC was expecting juvenile geoduck clams from the Ketchikan hatchery in 2018 to 2019. No geoduck juvenile clams were provided to the participants outside of Ketchikan. The leaseholder obtained transfer permits to both sites and prepared the Krestof farm site, but the promised 2,500 geoduck clams were transported/sold to the on-bottom, Ketchikan geoduck farms.

Through 2022 no geoduck clam seed or juveniles were available from the Ketchikan hatchery and the Coronavirus pandemic affected farming as well.

Due to these reasons, the CUR was not met during the 10-year term.

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 reference herein, the 2002 Northern Southeast Area Plan, and the casefile for the application serialized by DNR as ADL 106834.

Legal Description:

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

- **Site reference name:** Krestof Sound
- **Legal description:** SW1/4 of Section 3, Township 54 South, Range 62 East, Copper River Meridian, Alaska

Attachment C 2023 Renewal Decision

- **Geographical location:** The aquatic farmsite is located within Krestof Sound on the northwest side of Krestof Island, approximately 14 miles, northwest of Sitka, Alaska
- **Approximate Lat/Longs:**

Parcel #1: Pacific oyster suspended grow out and Pacific geoduck subtidal grow out, 225 feet by 192 feet, 0.99 acre

NE Corner: 57°12.662'N, 135°32.572'W
SE Corner: 57°12.637'N, 135°32.533'W
SW Corner: 57°12.616'N, 135°32.587'W
NW Corner: 57°12.637'N, 135°32.619'W

Parcel #2: Pacific geoduck intertidal grow out, 300 feet by 145 feet, 1.0 acre

NE Corner: 57°12.663'N, 135°32.483'W
SE Corner: 57°12.644'N, 135°32.456'W
SW Corner: 57°12.643'N, 135°32.545'W
NW Corner: 57°12.662'N, 135°32.572'W

Parcel #3: Pacific geoduck and Pacific oyster nursery, 24 feet by 16 feet, 0.01 acre

NE Corner: 57°12.774'N, 135°32.757'W
SE Corner: 57°12.771'N, 135°32.758'W
SW Corner: 57°12.772'N, 135°32.765'W
NW Corner: 57°12.775'N, 135°32.764'W

Title:

The DNR Title Report issued from DNR's Realty Services states that the State of Alaska holds title to the subject tidelands under the Equal Footing Doctrine, Tide and Submerged Lands Act of 1953, and the 1/23/2006 Decree (Disclaimer). The Title Report # 7605 dated March 6, 2015 advised that aside from the usual reservations for valid existing rights, there are no other reservations within the lease site. Uplands are owned by the State of Alaska; Patent 50-2009-0128.

Updated Title Reports have been requested but were not available at the time of issuance of this Renewal Decision. SCRO reserves the right to modify the lease based upon information contained within the updated Title Report.

Planning and Classification:

The project area is subject to the Northern Southeast Area Plan (NSAP), Southern Region, Baranof Island Area, Sitka Sound Tidelands Resource Management Zone, Map 2-1. The tideland

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designation for the proposed site is Resource Management – High Value (Habitat and Public Recreation) which converts to the classification of Resource Management Land. In accordance with the area plan (and any other plans for this site), aquatic farming is an allowable use for this site.

Access:

Access to the aquatic farm is by boat from Sitka, Alaska.

Access To and Along Navigable and Public Waters:

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

Public Trust Doctrine:

Pursuant to AS 38.05.126 all authorizations for this site will be subject to the principles of the Public Trust Doctrine; specifically, the right of the public to use navigable waterways and the land beneath them for: navigation, commerce, fishing, hunting, 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.

Term:

Pursuant to AS 38.05.070(e) leases may only be renewed once and for a duration no longer than the original lease term. As such, this renewal lease will be issued for an additional 10-year term. Unless an appeal is received, the lease term will begin upon the expiration of the original lease.

Compensation and Appraisal:

DMLW has approved an administrative lease fee schedule for aquatic farmsites that meet the conditions listed within the schedule. The most current lease fee schedule will be used to establish the fair market rental each lessee must pay. Fees are subject to adjustment per AS 38.05.083(c). The current annual rate for a 2.0 acre aquatic farm lease is a base fee of \$450 for the first acre or portion thereof and \$125.00 per additional acre or portion thereof. In accordance with the Aquatic Farmsite Fee Schedule, Report No. 2522-15, a breakdown of the lease fee will be as follows:

$$(1.0 \text{ acre at } \$450) + (1 \text{ acre at } \$125) = \$575.00 \text{ per year}$$

If the applicant does not agree with the fee schedule amount of \$575.00, a fair market value determination can be obtained by the applicant. Fair market value is determined by obtaining a

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DNR approved appraisal of the lease site. If an appraisal is conducted to determine fair market value of the lease site, the applicant will be required to pay the appraised amount and the \$575.00 annual fee will no longer be an option. The appraisal cost will be borne by the applicant. The parcel may need to have an approved Alaska Tidelands Survey to accomplish the appraisal. If a survey is required, the cost will be incurred by the applicant.

Bonding:

In accordance with the terms of the original lease, the existing performance bond of \$2,500 will be sufficient to satisfy AS 38.05.083(e) and 11 AAC 63.080. 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/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 development plan, 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 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, KCC will be required to submit proof of liability insurance to SCRO, with the State of Alaska listed as a "NAMED" insured party. KCC will be responsible for maintaining such insurance throughout the term of the renewed lease.

Signature page follows

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Recommendation:

DMLW has completed a review of the information provided by the applicant, examined the relevant land management documents, and has found that this project is consistent with all applicable statutes and regulations. This decision considers the applicant's history and experience with aquatic farming, their proposed Development Plan, the existing uses in the area, and the overall benefit to the state's aquatic farm industry. I recommend the issuance of a 10-year aquatic farm lease renewal to Thomas Manning dba Krestof Clam Company. Failure of the lessee to comply with all stipulated terms of the lease, including the CUR, will constitute a violation of the lease terms and steps may be taken to terminate the lease authorization.



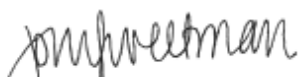
Karen Cougan
Natural Resource Specialist 3

12/14/23

Date

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. I find 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). Thomas Manning dba Krestof Clam Company will be required to provide insurance, bonding, annual fees, the submission of the Annual Reports, and compliance with the CUR. If the applicant does not submit the required deliverables within 90 days from the date of this decision, DMLW may choose to rescind this decision.



Joni Sweetman, Natural Resource Manager 2
Southcentral Regional Land Office
Division of Mining, Land and Water

12/14/23

Date

Attachments

Attachment A – Development Plan

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