

**STATE OF ALASKA**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Southcentral Regional Land Office**

**Regional Manager's Decision**

ADL 234689  
City of Kenai  
Public Easement

**REQUESTED ACTION**

On June 15, 2025, the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Southcentral Regional Land Office (SCRO) received an application for an easement from the City of Kenai (applicant) for a pre-existing waterline on State-owned DMLW managed uplands. The purpose of the proposed easement is to provide for the monitoring, maintenance, and repairs to the existing water main. The applicant has requested a private non-exclusive easement approximately 786 feet in length, 50 feet in width, and 0.9 acres in size, more or less.

**RECOMMENDED ACTION**

Staff recommend an easement be created with the following parameters:

- Width: 50 feet
- Length: 786 feet
- Acreage: 0.9
- Term: Indefinite
- Grantee: City of Kenai
- Type of easement: Change from Private Non-Exclusive Easement to Public Utility Easement

**BACKGROUND**

On June 15, 1970, the City of Kenai was approved for a lease by DNR DMLW for a wellhouse and water line. The wellhouse has since been removed, leaving the water main. This application has been updated to exclude the site of the previous wellhouse. The intent of this easement is to replace the lease granted to the City of Kenai (ADL 51489), which will expire on March 10, 2026. City of Kenai Resolution No. 2025-27 dated May 7, 2025, authorized the Kenai City Manager to enter into an easement agreement with DNR for the remaining water main.

**SCOPE OF DECISION**

The scope of this decision is to determine if it is in the State's interest to create an easement for the proposed use. The scope of administrative review for this authorization 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 that issuing the authorization is in the interest of the State of Alaska. All other aspects of the applicant's project are outside the scope of this decision.

## **STATUTORY AUTHORITY**

This easement application is being adjudicated pursuant to AS 38.05.850 and the Alaska Land Act as amended.

## **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 Kenai Area Plan, adopted August 2001, other classification references described herein, and the casefile for the application serialized by DNR as ADL 234689.

## **LOCATION INFORMATION**

### **Geographic Location**

The applicant has requested that DMLW authorize an easement in Kenai, Alaska near Milepost 7.5 on the Kenai Spur Highway.

### **Meridian Township Range Section**

The applicant has applied to use State-owned, DMLW-managed uplands within the SW1/4 Section 35, Township 6 North, Range 11 West, Seward Meridian, Alaska.

### **Other Land Information**

Municipality: City of Kenai, Kenai Peninsula

Regional Corporation: Cook Inlet Region, Inc. (CIRI)

**FIGURE 1** – A map provided by the applicant that depicts the area, original lease plot, and proposed easement.



## **TITLE**

The State of Alaska holds title to applicable portions of lands within Section 35 of Township 6 North, Range 11 West, Seward Meridian, Alaska, per Patent Number 50-82-106. The associated DNR land acquisition casefile is MH 25.

Subsurface rights beneath the proposed easement have been conveyed out of State ownership. SCRO notes that the proposed issuance of an easement for continued operation of an existing waterline is inherently a use of the surface estate.

The lands underlying the prior lease (ADL 51489) were originally included on the list of lands hypothecated to the Mental Health Trust pursuant to Sec. 56 Ch. 66, SLA 1991. On June 23, 1994, the lands in question were repealed from hypothecation pursuant to Ch. 5, FSSLA 1994.

Any State-owned, DMLW-managed lands, or State-selected lands that may be managed by DMLW in the future that are crossed by the authorization considered herein at the time of this decision, which are omitted from this list, and are subsequently identified, are included in this decision. Navigable and public water determinations are subject to change pursuant to future findings.

## **THIRD PARTY INTERESTS**

The applicant has requested an easement that may impact the following interests. Public notice has been sent to all interest holders noted below.

- CIRI
- Three adjoining landowners

## **PLANNING & CLASSIFICATION**

The area described herein has not been classified under the 2001 Kenai Area Plan but is exempt under 11 AAC 55.040 (i)(6)(B) and (D) as minor access for utilities and waterlines less than 1,500 feet in length.

SCRO finds the issuance of an authorization for the infrastructure to be consistent with the regulation as it aligns with the management intent, land classification, and resource summary.

## **ACCESS**

Functional legal access to the state land discussed herein exists via Kenai Spur Highway near Department of Transportation Centerline Milepost 7.5.

## **PUBLIC NOTICE & AGENCY REVIEW**

### **Public Notice Summary**

Public notice of the application was conducted from December 9, 2025, to January 8, 2026. The notice was posted to the State of Alaska Online Public Notice System and was sent to the Kenai Post Office and Soldotna Post Office for display on their notice boards. The public notice was also sent to the Kenai Public Library. Additionally, notice was provided to three adjacent landowners as identified through the Kenai Peninsula Borough Parcel View and the Cook Inlet Region, Inc. on December 9, 2025.

## **Public Notice Comment & Response**

No comments were received during the public notice period.

## **Agency Review Summary**

Agency review of the application was conducted from December 9, 2025, to January 8, 2026. The notice was sent to the following recipients.

### **State of Alaska Agencies**

- DNR Division of Oil and Gas, State Pipeline Coordinator Section
- DNR Division of Parks and Outdoor Recreation (DPOR); Permitting
- DNR DPOR Office of History and Archaeology
- DNR AK Mental Health Trust Land Office
- Department of Transportation & Public Facilities; Statewide ROW
- Alaska Department of Fish & Game, Wildlife Conservation (ADF&G), Access Defense Program
- Department of Commerce, Community, and Economic Development, Division of
- Community and Regional Affairs
- Department of Environment Conservation (DEC), Division of Environmental Health, Drinking Water Program
- DEC, Division of Water - Alaska Pollutant Discharge Elimination System Program
- DEC, Division of Environmental Health, Solid Waste Program
- DEC, Division of Spill Prevention and Response; Contaminated Sites Program
- DEC, Division of Air Quality; Permitting
- DEC, Division of Air Quality; Air Non-Point and Mobile Sources

### **Federal Agencies**

- U.S. Army Corps of Engineers

### **Local Agencies**

- The City of Kenai

## **Agency Review Comment & Response**

Comment: The DEC CSP states that they have found no sites within 1500 feet of the proposed project and does not have any comments. They remind the applicant to notify DEC if contamination is encountered.

Response: SCRO acknowledges the comment.

Comment: ADF&G Habitat has no comments.

Response: SCRO acknowledges the comment.

Comment: ADF&G Access Defense has no comments.

Response: SCRO acknowledges the comment.

Comment: DOT&PF advises that no new access to Kenai Spur Highway will be granted. However, continued use of existing shared access is acceptable at this time.

Response: SCRO acknowledges the comment.

### **ENVIRONMENTAL CONSIDERATIONS**

Environmental contamination risk associated with this proposed easement is minimal. SCRO recommends that fuel, lubricants, and other hazardous materials be restricted to those necessary and be contained within tools and vehicles when equipment is used for maintenance activities. There are no other known environmental considerations or constraints in this location.

### **ECONOMIC BENEFIT & DEVELOPMENT OF STATE RESOURCES**

DMLW assesses the economic benefits of the proposed authorization and whether it encourages the development of the State's resources. The proposed easement facilitates the expansion of the public utility system, which will promote conditions for economic development, thus providing an indirect benefit to the state. There are no known competing projects for use of these lands, therefore issuance of this easement provides for the greatest economic benefit to the State and is consistent with the legislative intent expressed in AS 38.05.850.

### **DISCUSSION**

The area described for the proposed easement has not been classified under the 2001 Kenai Area Plan but is exempt under 11 AAC 55.040 (i)(6)(B) and (D) as minor access for utilities and waterlines less than 1,500 feet in length.

11 AAC 55.040. Classification.

(i) Until land has been classified, a disposal or transfer of state land or an interest in state land, including timber and materials, will not be allowed except for

(6) the granting of a right-of-way or easement for a use that, as part of the determination required by AS 38.05.850(c), the department determines to be minor access for purposes of AS 38.04.065(f), based on the use's insignificant effect on the land and resources; uses that the department may find to constitute minor access include

(B) a telephone, electric, or other utility line less than 1,500 feet in length;

(D) a waterline less than 1,500 feet in length;

The applicant has requested a private non-exclusive easement, however, SCRO recommends that KPB be issued a perpetual public utility easement as this is the more appropriate authorization type as the need for this easement can be expected to exist as long as the adjoining land requires public utility. Though 11 AAC 51.015(d)(1)(A) recommends a minimum width of 30 feet for utility easements, the easement will be granted at a width of 50 feet to match the pre-existing water main.

There is a second easement application (ADL 74913) associated with a segment of the same waterline to the west, which is located on lands located outside of the leasehold associated with ADL 51489. When DMLW received the easement application on April 26, 1976, the lands were DMLW-managed but later transferred to the Mental Health Land Trust Office (MHTLO) on

September 20, 1996, before the easement could be issued. Any potential future action regarding ADL 74913 will be coordinated with the MHTLO and is outside the scope of this decision.

### **PERFORMANCE GUARANTY**

A performance guaranty is intended to incentivize compliance with the terms and conditions of the entry authorization and easement. It also provides a mechanism for the State to ensure that the applicant shares in the financial burden in the event of noncompliance (including fee payment, survey, etc.), restoration (interim and final), and any associated costs after termination or expiration of the easement. In consideration of the low risk associated with the proposed authorization and the City of Kenai's known history of compliance, SCRO recommends that a performance guaranty not be required at this time. DMLW reserves the right to require a performance guaranty during the terms of either the entry authorization (EA) and the easement.

#### **History of Compliance**

DNR Land Administration System records indicate that the applicant is in a state of compliance with the terms of other DMLW-issued authorizations.

### **INSURANCE**

In consideration of the low risk associated with the proposed authorization and the applicant's known history of compliance, staff recommend that insurance not be required at this time. DMLW reserves the right to require insurance during the term of the easement.

### **SURVEY**

The DNR DMLW Director Policy File 2015-02 states a survey is only required if specific criteria are met. The criteria include factors such as health or safety risks, encroachment, avulsive changes to a riparian boundary, whether the improvement is permanent, the distance from the easement to a non-DMLW boundary or parcel of land, commercial versus non-commercial improvements, and whether the boundary of the easement must be locatable on the state searchable GIS database for good land management of the impacted area. The waterline discussed herein does not meet the criteria used to determine whether a survey requirement would be in the best interest of the State.

The City of Kenai has provided a written legal description for ADL 234689 sufficient for issuance of the easement. No boundary changes are authorized by this document and additional infrastructure has not been proposed. The legal description delivered by the City of Kenai is locatable and associated with ASLS 84-157 Tract A, a survey previously produced by the City of Kenai for the lease parcel in 1986.

### **FEES**

Per 11 AAC 05.020(b), staff recommend that interim and one-time issuance fee(s) for this authorization are waived as the request is in the public interest. However, the applicant will be required to pay the appropriate recording fees to have the easement recorded by DMLW.

### **ENTRY AUTHORIZATION**

The entry authorization is an interim authorization issued when a survey is necessary prior to easement issuance. SCRO recommends waiving the entry authorization as the DMLW Survey Section approved an as-built recorded on April 25, 1986.

**RECOMMENDATION**

Based upon the information provided by the applicant, as well as review of relevant planning documents, statutes, and regulations related to this application, it is the recommendation of staff to issue an easement as described above, on the condition that all stipulations are followed as described in the attached authorization.



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Channing Buckmaster, Natural Resource  
Specialist 1  
DMLW Southcentral Regional Land Office

4/29/2026

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Date

## REGIONAL MANAGER'S DECISION

When adjudicating an easement authorization pursuant to AS 38.05.850, DMLW seeks to responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with public interest. In consideration of all events and criteria listed above, I hereby determine that the authorizations to be granted by this decision are consistent with DMLW's mission, that this project is consistent with the overall classification and management intent for this land, and that issuance of an authorization as described above is in the interest of the State of Alaska. The Department assumes no responsibility for maintenance or liability for injury or damages attributable to this authorization.

This decision may be rescinded by written notification if, after 60 days from the effective date of this decision, the applicant has not completed all requirements outlined in this decision for issuance of the authorization. Additional time may be allotted to complete these requirements; however, this will not extend the total term of the authorizations issued under this decision. This decision goes into effect and becomes a final administrative order and decision of the department on the first business day after the twentieth calendar day after signature.

*Brent Reynolds*

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Brent Reynolds, Natural Resource Manager 2  
DMLW Southcentral Regional Land Office

4/29/2026

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Date

## ATTACHMENTS

- Easement document

## APPEAL

An eligible person affected by this decision may appeal to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department.

Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.