

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

Southeast Regional Land Office

Renewal Decision

ADL 106062

Fishhawk Charters doing business as Rocky Point Resort

Application for Lease

AS 38.05.070(e)

Requested Action

Fishhawk Charters doing business as (dba) Rocky Point Resort (“applicant” or “lessee”) applied to the Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southeast Regional Office (SERO), to renew the private, non-competitive tideland lease for a continued 25-year term on March 27th, 2025. The renewal authorizes a 7-foot-wide by 400-foot-long dock with (1) 20’ x 20’ gear storage float, (6) 5’ x 16’ finger floats, and (6) standard 8-inch wood pilings, in Petersburg, Alaska. The dock grounds at low tide periods; the majority of the dock only floats during high tide periods. The end section of dock, secured by one piling, at approximately minus 5-foot depth, floats at all times. The maximum number of skiffs moored on the dock at any given time is 20, depending on how many guests are booked at the lodge, this number varies during tourist season.

The applicant has added additional finger floats compared to their development plan depicted on Alaska Tideland Survey (ATS) 1594 Petersburg Recording District. This lease renewal is subject to the Development Plan labeled “Rocky Point” approved on March 12th, 2026, included as Attachment 1, and the terms and conditions of the existing lease.

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. Lessee has maintained its leasehold interest and is considered to be in good standing with DNR.

DNR-DMLW will renew this lease under the authority of AS 38.05.070(e), for a term of 25-years, for the purpose of continued use of a dock used for access to and from the private uplands to state-owned waters, and moorage of fishing vessels for Rocky Point Resort.

Authority

Under AS 38.05.070(e), leases may only be renewed once and for a duration that is not longer than the original lease term.

Administrative Record

Case file ADL 106062 is the administrative record for this case. Also incorporated by reference is the *Central/Southern Southeast Area Plan, November 2000 (CSSEAP)*.

Scope of the Decision

The scope of administrative review for this authorization AS 38.05.070(e) is limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) the

facts pertaining to the land or resources; and (4) issues that are material to the determination that issuing the authorization will best serve the interest of the State of Alaska.

Description

Geographic Location

The leasehold is located in Petersburg, Alaska. The site is on state-owned tide and submerged land on Rock Point, 9.1-miles south of Petersburg James A. Johnson Airport.

Legal Description

C060S079E14; NW ¼ Section 14, Township 60 South, Range 79 East, Copper River Meridian. Alaska Tideland Survey (ATS) 1594 Petersburg Recording District. 56.6733 N, 132.9355 W

Other Land Information

Municipality: Petersburg Borough

Regional Corporation: Sealaska Corporation

Village Corporation: Petersburg Indian Association

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

Title

The State of Alaska owns the tidelands and submerged lands of the leasehold area certified under the Alaska Statehood Act, The Equal Footing Doctrine and The Submerged Lands Act of 1953.

Planning and Classification

Management Intent: "Maintain the high fish and wildlife values and user hunting, fishing and wildlife viewing opportunities while still maintaining public access to private uplands...This area includes a site with deep water access development potential, appropriate for a commercial dock. The Sd designation is intended to support upland development, and corresponds to the City of Petersburg zoning ordinance. The Ha and Hv designations also apply to the areas affected by the Sd designation" (CSSEAP 3-153).

Resources: "This parcel contains an extensive mud flat and the mouths of two anadromous fish streams, Falls Creek and Twin Creeks. Outmigrant juvenile pink and coho salmon rear within this parcel and adult salmon and steelhead school near the mouths of the two anadromous fish streams. Dungeness crab are abundant in seaward portions of this parcel. The parcel receives considerable use by waterfowl including Vancouver Canada geese and puddle ducks...The unit is a community harvest area for waterfowl and coho and king salmon and a commercial and community harvest area for Dungeness crab (CSSEAP 3-153)."

Designations: Habitat (Ha), Harvest (Hv), and Shoreline Development (Sd) – Unit PT-18 – Tidelands on Wrangell Narrows, South of Petersburg (CSSEAP 3-124).

Classification: Ha = Wildlife habitat land; Hv = Wildlife habitat land; Sd = Settlement land (CSSEAP 4-6).

According to 11 AAC 55.040(c), "A classification identifies the primary use for which the land will be managed, subject to valid existing rights and to multiple use."

Fish and Wildlife Habitat and Harvest Areas: Goals – Ensure access to public lands and water; mitigate habitat loss; and contribute to economic diversity (CSSEAP 2-11).

“All land use activities will be conducted with appropriate planning and implementation to avoid or minimize adverse effects on fish, wildlife, or their habitats (CSSEAP 2-11).”

Shorelines, Stream Corridors and Coastal Areas – Goals

Recreation: “Provide opportunities for a variety of recreational activities within publicly owned stream and tideland corridors, including both wilderness and developed recreational activities (CSSEAP 2-45).”

Habitat: “Protect riparian fish and wildlife habitats and harvest (CSSEAP 2-45).”

Shoreline development: “Any water-dependent or water-related structure or facility that is permanent and/or used for private, public, commercial, or industrial purposes... (CSSEAP A-13).”

The renewal is allowable per the CSSEAP under the Ha, Hv, and Sd classifications. The dock has been installed for over 25 years and continues to provide access to recreation opportunities for residents and visitors of Alaska.

Mineral Orders

The proposed leasehold does not fall within the areas delineated in Administrative Mineral Closing Order (MCO) No. 747 (CSSEAP Appendix B). The uplands adjacent to the proposed site are also not subject to an MCO. Neither an MCO nor a leasehold location order is necessary to or appropriate for this proposed leasehold.

Local Planning

The proposed use is within the Petersburg Borough and is subject to local planning and zoning ordinances. The Borough will be notified of this decision.

Traditional Use Finding

This finding is not required since the proposed leasehold is located within an organized borough (AS 38.05.830). The Borough will be notified of this Decision.

Access

Physical and Legal Access

Physical access to the proposed site is via tide and submerged lands in the Wrangell Narrows. Upland access is provided by Rocky Point Lane South, a public road.

Access To and 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. Under 11 AAC 51.045 and AS 38.05.127, DMLW is required to reserve specific public-access easements to and along these waters.

ATS 1594 depicts a 25-foot public access easement across state-owned tidelands.

Environmental Risk

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 lease. Environmental risk associated with this proposed authorization will be minimal.

Unleaded gasoline is transported on the docks to transfer fuel for skiffs in standard 5-gallon gasoline jugs. Fuel spill response kits are on-site and include standard absorbent pads and booms. The dock can moor a maximum of 20 skiffs; however, this limit may vary based on lodging occupancy during the summer season.

Background

- September 26th, 1994 – Application received for commercial fishing lodge dock
- September 1st, 2001 – 25-year tideland lease issued
- March 27th, 2025 – Application received for renewal of tideland lease
- February 24th, 2026 – Adjudication begins

Related Actions

ATS 1594 documents the 25-foot public access easement.

Application Reviews

Agency Review

An Agency Review was conducted from February 26th, 2026, to March 30th, 2026. The following organizations were included in this review:

- Alaska Association of Conservation Districts (AACD)
- Department of Fish and Game (ADFG) – Division of Habitat
- ADFG – Division of Wildlife Conservation – Access Defense Program
- Department of Environmental Conservation (DEC) – Commissioner’s Office
- DEC – Division of Water – Director’s Office and Wastewater Discharge Authorization Program
- Department of Natural Resources (DNR) – Division of Mining, Land and Water (DMLW) – Director’s Office, Public Access Assertion and Defense (PAAD), 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 offers the following comments and recommendations:

1. While commercial and personal use Dungeness fishing does occur in the Wrangell Narrows, this is not an area where a significant amount of gear has been observed during past aerial surveys.
2. The activity at the dock should not interfere with public use of state waters for recreation, fishing or access.
3. Avoiding Conflict with Wildlife:
 - a. All fuel, trash, food, fish waste, gray water, and other potential wildlife attractants (including petroleum-based products) must be secured in bear-resistant containers. These containers must be constructed of durable

materials such as metal or hard-sided plastic and have lids with lockable, secure latches. Only containers specifically designed and approved for bear resistance should be used. Failure to properly secure attractants may be considered negligent and unlawful feeding of wildlife, subject to enforcement under applicable state regulations.

- 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 or concerning encounters should be reported to ADFG's Division of Wildlife Conservation: <https://www.adfg.alaska.gov/index.cfm?adfg=reportwildlifeencounter.main>
- d. Disposing of Fish Remains:
 - i. If cleaning fish on-site, chop remains into small pieces and discard them in fast-moving water.
 - ii. If processing fish elsewhere, dispose of waste at a waste transfer station or landfill (if permitted), or freeze it to eliminate odors and place it out on trash pickup day.
 - iii. Do not dispose of waste in slow-moving or still-water, as it can attract wildlife.
 - iv. Use bear-resistant containers for storage and follow all local waste disposal guidelines.
- e. Shooting bears that access supplies does not qualify as a Defense of Life or Property (DLP) action unless all attractants were properly secured.
- f. Feeding wildlife is illegal in Alaska and poses serious safety risks. Feeding animals to obtain pictures, videos, or for any other reason is strictly prohibited. It can lead to aggressive animal behavior and often results in the animal being killed.
- g. For guidance on responsible wildlife viewing, see ADFG's Wildlife Viewing Ethics page: <https://www.adfg.alaska.gov/index.cfm?adfg=viewing.ethics>

Additionally, the lodge is on private property; only the dock is within the state land lease. However, ADFG defers to DNR regarding relevance to the lease renewal for the following:

- There is publicly reported information regarding previous fishing-related violations associated with the lodge's operations.
- ADFG reviewed publicly available photos and a video posted on social media pages associated with the lodge and visitors. These posts depict eagles gathering near fish-cleaning areas and feeding on what appears to be fish remains, as well as deer accessing grain near a building entrance.

DMLW Response: DMLW thanks ADFG for submitting comments regarding lease renewal ADL 106062. Fisheries regulation and enforcement in Alaska waters falls under the authority of ADFG and the Alaska Wildlife Troopers. DMLW hereby notifies the applicant that compliance with all state and federal statutes and regulations pertaining to fishing in Alaska waters is required. Per 5 AAC 92.230, feeding wildlife in Alaska is strictly prohibited. If the lease is renewed, the following stipulation will be included in the lease agreement – Waste Disposal: “On-

site refuse disposal is prohibited, unless specifically authorized. All waste generated during operation, maintenance, and termination activities under this authorization shall be removed and disposed of at an off-site DEC-approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and discarded equipment.”

The applicant, lodge employees, and lodge guests are required to comply with 5 AAC 92.230, and all related state, federal, and municipal statutes and regulations governing interactions with wildlife.

Discussion

This lease renewal is in the best interest of the State as the land under lease will continue to enhance public recreation and enjoyment of Alaska’s waters for fishing and recreation. The dock continues to provide access to and from private uplands to state-owned tide and submerged lands.

The layout within the leasehold boundary has changed and added additional floats are now included. In the original copy of ATS 1594, a dock with two fingers and six pilings is depicted. The updated development diagram submitted with the renewal application depicts the original dock, fingers, and pilings; however, the applicant has added two additional gear floats and three fingers. Due to the minor nature of changes, DMLW accepted the updated development diagram submitted with the renewal application on March 12th, 2026; and will require an additional Performance Guaranty amount to incorporate additional floats.

Any negative interactions with marine mammal or endangered species should immediately be reported to ADFG or USFWS.

Recommendation and Preliminary Decision

Authorization Type and Term

As provided by AS 38.05.070(e), DMLW has determined that it is appropriate to renew the tideland lease issued to Fishhawk Charters dba Rocky Point Resort for a consecutive 25-year term, subject to the terms and conditions of the original lease and the following:

Performance Guaranty

Performance guaranties are a means to encourage compliance with the terms and conditions of a lease and provide for a way to pay for corrective action should the user of state-owned land fail to meet those requirements. The amount of a performance guaranty should equal the possible costs the state would incur to terminate an agreement authorizing use of state land and return the land to marketable and environmentally sound condition.

Due to adding additional floats and one additional piling to the leasehold, the performance bond amount has been increased to \$6,020.00, which is a difference of an additional \$3,020.00 from the prior authorization.

Insurance

The applicant holds and maintains an insurance policy that meets DNR requirements, as required by Condition #24 of the lease document.

Compensation and Appraisal

Annual Land Use Fee

Minimum Rent Determination: In accordance with AS 38.05.840(a), an acceptable appraisal is required for future rent adjustments if the sites no longer meet the conditions and limitations to apply the remote land fee schedule, or if a periodic market analysis indicates the need for such an appraisal.

The annual land use fee shall be \$1,000.00, equivalent to the fee at the time of lease expiration, until an appraisal to determine fair market value has been completed. Once the appraisal has been completed and fair market value rent for the subject parcel has been determined, if the amount is less than \$1,000.00 per annum the annual fee shall remain at \$1,000.00 in accordance with 11 AAC 58.410(b).

However, if it is determined from the appraisal that the fair market value rent for the subject parcel is greater than the existing amount, then the annual land use fee will be adjusted to reflect this amount from the effective date of the lease, and the applicant will be responsible for the payment of any difference.

Periodic Rate Adjustment

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

Survey

DNR-DMLW will continue to use the existing survey ATS 1594 Petersburg Recording District to delineate the leasehold.

The development plan diagram (Attachment 1) was approved to delineate the original leasehold. DMLW will continue to accept this diagram.

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 the renewed lease.

Quinn McClurg
Quinn McClurg, Natural Resource Specialist III

5/19/2026
Date

Unit Manager Concurrence

The file has been reviewed and found to be complete. It is the finding of the Division of Mining, Land and Water that the renewal of this lease is appropriate. If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the Department on the 21st day after issuance.

Mason Auger
Mason Auger, Natural Resource Manager II

5/19/2026
Date

ATTACHMENTS:

- Attachment 1. Development Plan
- Attachment 2. Standard Lease Agreement
- Attachment 3. Special Lease Stipulations

PUBLIC NOTICE AND APPEAL PROCESS:

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department. Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.