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

Southeast Regional Land Office

Renewal Decision

ADL 106247

Northern Southeast Regional Aquaculture Association

Application for Lease

AS 38.05.810(c)

Requested Action

The Northern Southeast Regional Aquaculture Association (NSRAA) (herein known as "Lessee" or "Applicant") has applied to renew their lease for a 25-year term on April 28th, 2025, with the Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southeast Regional Office (SERO), for the continued use of a seasonal net pen site in Deep Inlet, Sitka, Alaska. The parcel is used for seasonal moorage of a net pen array and associated support barge for NSRAA's remote salmon rearing and release site.

The net pens and barge are on-site in either January or February and removed from the site in May or June every year. Mooring buoys and anchors remain on site year-round; they are not used by the public and are contained within the leasehold boundary. 36 net pens (40-foot x 40-foot pens) are constructed of steel frames with plastic foam-filled floatation. The barge, approximately 40-feet x 110-feet, is constructed of foam-filled concrete float, with a traditional wood-framed warehouse and upstairs living accommodations, approximately 36-feet x 100-feet. Additionally, there is a 20-foot x 20-foot work float constructed with a wood deck and plastic floats.

The mooring system contains eight 2,000-pound anchors, five of which are installed in deeper waters of the inlet (approximately 77-foot depth) and are attached to poly-float buoys at the end of the line and chain. There are four shore ties and five rock anchor lines installed on state-owned tidelands that hold the net pens and barge array in place. An intake begins in an unnavigable, unnamed creek, on US Forest Service (USFS) uplands; a 1.5-inch HDPE waterline leads from USFS uplands and terminates at the floating structure on state-owned submerged lands.

This lease renewal is subject to the Development Plan approved on February 23rd, 2026, including what improvements are already on-site.

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. NSRAA has maintained its leasehold interest with no known compliance issues and is considered to be in good standing with DNR.

DNR-DMLW will renew this lease under the authority of AS 38.05.810(c) and AS 38.05.070(e). The lease term will be renewed for another 25-year term. The lease area will continue to be utilized by the lessee.

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 106247 is the administrative record for this case. Also incorporated by reference is the *Northern Southeast Area Plan – October 2002* (NSEAP).

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 Sitka, Alaska; more specifically, Deep Inlet, approximately 8.7-miles southeast of Sitka Rocky Gutierrez Airport.

Legal Description
C057S065E05&06 Metes and bounds description within Section(s) 5 and 6, Township 57 South, Range 65 East, Copper River Meridian, containing approximately 22.43 acres of state-owned tide and submerged lands. Depicted on ATS 1593 Sitka Recording District.
56.9531 N, 135.2207 W

Other Land Information
Municipality: City and Borough of Sitka
Regional Corporation: Sealaska Corporation
Village Corporation: Shee Atika, Inc.
Federally Recognized Tribe: Central Council of the Tlingit and Haida Indian Tribes of Alaska, Sitka Tribe 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
The leasehold site is subject to the *Northern Southeast Area Plan – October 2002* (NSEAP) and is located within Southern Region: Baranof Island Area, included in the Sitka Sound Tidelands Resource Management Zone. The designated land use is Undeveloped Recreation (also known as Public Recreation – Undeveloped) (Ru). “Ru” converts to land classification “Public recreation land” (NSEAP 2-19 & 4-5).

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.”
Floating Facilities: “Commercial floating facilities require authorization before occupying state tidelands (NSEAP 2-21).”

"Floating facilities may be authorized in these areas by DNR if it is determined that the permitting of a floating facility is in the best interest of the state… (NSEAP 2-23)."

Tidelands: "Certain tidelands are also to be managed for recreational purposes and have been designated Undeveloped Recreation (Ru). Tidelands affected by the Ru designation are to be managed to retain the scenic and recreational features of adjacent upland tracts recommended for inclusion in the state marine park system or are intended to maintain some popular tideland recreational activity. This designation is often used as a co-designation with Habitat. Development authorizations in areas designated Ru are intended to be limited, and the recreation and habitat values of these areas must be retained (NSEAP 3-123)."

"Development authorizations issued on tidelands are to consider impacts to the various forms of harvest, and are to mitigate impacts to this activity (NSEAP 3-123)."

Special Management Zones: Sitka Sound Tidelands Resource Management Zone (SSTRMZ) for Marine Waters and Tidelands: "The management intent for this area is twofold: 1. To protect the 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 concentrations within intertidal areas. 2. To preserve and protect the customary, traditional, recreational, and personal use resources and public access to these resources (NSEAP 3-124)."

"Authorizations issued by the Department within areas designated Undeveloped Recreation or co-designated Undeveloped Recreation and Habitat should ensure that the authorized use does not conflict with the traditional, recreational, personal use activities, or public access to areas where these activities occur (NSEAP 3-125)."

The net pen array is allowable per the NSEAP. The floating facility impacts a minimal amount of state-owned submerged land and is only used seasonally. The floating facility is in place from January through June, and is removed from the submerged lands from July through December, while the anchors and buoys are on-site year-round. The seasonal removal of the floating array allows for recreational activities in the area to continue as normal. ATS 1593 depicts the required 50-foot public access easement along the tidelands within the leasehold and public access will not be restricted in any manner. Seasonal net pens benefit Alaskans by strengthening salmon populations, ensuring healthy returns which support local habitats and Alaskan residents that rely on them.

Mineral Orders

The proposed leasehold does not fall within the areas delineated in Administrative Mineral Closing Order (MCO) No. 770, Appendix B (NSEAP B 3-5). 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 City and Borough of Sitka and is subject to local planning and zoning ordinances. The Borough will be notified of this Preliminary 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

The physical access to the proposed site is via tide and submerged lands associated with Aluetkina Bay and Deep Inlet.

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. Unless comments and other information submitted to DMLW provide justifiable and convincing evidence to do otherwise, this disposal of state interest will be subject to a 50-foot public-access easement seaward and landward of the line of mean high water.

ATS 1593 Sitka Recording District depicts the required 50-foot public access easement.

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 is listed below.

There are three forms of gas on site: diesel fuel, unleaded gasoline and propane. Diesel and unleaded gasoline are stored in 55-gallon drums. Propane is stored in 75-gallon tanks. The total maximum amounts of fuel stored within the leasehold include diesel fuel – 500-gallons; unleaded gasoline – 50-gallons; and propane – 230-gallons. These tanks are stored within the fuel storage room contained on the barge, or on the barge deck outside of the warehouse. The fuel drums are stored on spill-containment pallets.

The barge houses a diesel engine-driven generator for site power with an ancillary battery storage and power inversion system. Generator and battery storage are contained within the warehouse on the barge. Solid waste originating from feed storage materials and general household waste will be transported and disposed of in the City of Sitka.

An intake begins in an unnavigable, unnamed creek, on US Forest Service (USFS) uplands; a 1.5-inch HDPE waterline leads from USFS uplands and terminates at the floating structure on state-owned submerged lands. This waterline supplies water for normal daily use on the housing barge including gray water supply.

The Department of Environmental Conservation (DEC), Division of Water, Wastewater Discharge Permit is authorized under AKG572134, DEC File No.: 1525.45.010, and allows for wastewater from the housing barge to be discharged into Deep Inlet.

Background

- April 11th, 1996 – Application received for a salmon net pen array with support barge in Deep Inlet
- October 13th, 1998 – Appeal received for Final Finding and Decision, request to deny decision by member of the public
- March 23rd, 2000 – Appeal denied by DNR Commissioner

- November 1st, 2001 – Lease Agreement issued, expiration date October 31st, 2026
- April 28th, 2025 – Lease renewal application received for continued use of leasehold in Deep Inlet

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)
- DNR – Land Sales
- Department of Transportation and Public Facilities (DOT&PF) – Design and Engineering Services – Right of Way Office

Agency Review Comment and Response

ADFG – Access Defense Program

Summary: ADFG has no objection to the issuance of this lease; however, it offers the following comments and recommendations:

1. Avoiding Conflict with Wildlife:
    a. All fuel, trash, food, fish waste, gray water, and other potential wildlife attractants (including petroleum-based products) associated with the floating facility and house barge must be securely stored to prevent access by bears and other wildlife. Storage areas should be fully enclosed, constructed of durable materials, and equipped with tight-fitting, latched doors or lids. Containers specifically designed for bear resistance should be used where applicable. Decks, floats, and work areas should remain clean and free of food residues, spills, or waste that could attract wildlife. Failure to properly secure attractants may be considered negligent and could constitute unlawful feeding of wildlife under applicable state regulations.
    b. Bear Safety: Guidance on preventing bear interactions near marine facilities and avoiding wildlife attractants is available on the ADFG website: http://www.adfg.alaska.gov/index.cfm?adfg=livingwithbears.main
    c. Any human-wildlife conflicts or repeated wildlife attraction to the facility should be reported to ADFG – Division of Wildlife Conservation: https://www.adfg.alaska.gov/index.cfm?adfg=reportwildlifeencounter.main
    d. Gray water and other wastewater generated from the house barge or work floats must be managed in accordance with DNR authorization conditions and applicable state water-quality standards. Gray water should not be discharged in a manner that degrades nearshore habitat, accumulates food odors, or increases the likelihood of

wildlife attraction. All disposals must occur in compliance with relevant regulatory requirements.

   e. The presence of unsecured attractants at the facility does not qualify as justification for a Defense of Life or Property (DLP) action. If a bear accesses food or waste that was not properly stored, any subsequent killing of the animal may not qualify as a lawful DLP incident.
   f. Feeding wildlife, intentionally or unintentionally, is illegal in Alaska and creates significant safety risks to both people and animals. This includes attracting wildlife through improper storage of food or waste.

2. Public Use: Activities at the net pen site should not interfere with public use of state waters for recreation, fishing, or access.

3. Marine Mammals:
   a. If the lessee has documented any negative marine mammal interactions, we request to be kept informed. Please direct any relevant information to ADFG – Marine Mammal Program at dfg.dwc.mmcomments@alaska.gov. Report an injured, entangled, or dead marine mammal to NOAA Fisheries Alaska Statewide 24-hour Stranding Hotline: 877-925-7773. For sea otters, contact the USFWS at 1-800-362-7148 or the Alaska SeaLife Center Hotline 1-888-774-7325 for 24-hour assistance.
   b. To reduce risks:
      i. Keep lines used to tether vessels taut and out of the water whenever possible to reduce the risk of entanglement.
      ii. Dispose of food waste and garbage properly to avoid attracting marine mammals to the area.
      iii. Store fuel securely to prevent entry into the marine environment. A spill kit should be kept on-site for any potential spills.

DMLW Response: The applicant will be informed of all information within the comment.

Discussion

ATS 1593 was filed on September 26th, 2001, and has defined the authorized leasehold since its original issuance. During the review of the current survey for the reissuance of ADL 106247, DMLW confirmed that the existing net pen array and floating barge layout differ from what was depicted in the original survey.

The development diagram submitted with the application and approved by DMLW in 2001 showed a total of 17 net pens, five shore ties, six steel/buoy anchor combinations, and one work barge. However, ATS 1593, as filed, documented 11 net pens, four buoys, a work barge and three anchors installed on state-owned tide and submerged lands. Shore ties were not depicted on ATS 1593. Since issuance of ATS 1593 and lease agreement ADL 106247, NSRAA has expanded and modified the infrastructures within the leasehold from what was originally authorized.

Major additions and changes include:

- 2009 – 20-foot x 20-foot work float was installed
- 2010 – Original support barge replaced with the current larger barge
- 2006-2020 – Additional net pens were added, increasing the total from 11 (as depicted in ATS 1593) to 36.

- The mooring system has been modified, including replacement of several anchors due to commercial fishing interactions and the installation of new anchors and shore ties.
- 2024 – Shore tie system was upgraded with rock anchors on state-owned tidelands, replacing the previous tree-based shore ties on USFS uplands.

Under the terms of the authorization, the lessee may not modify, expand, replace, or install infrastructure within the leasehold without prior written approval from SERO-DMLW. Any proposed changes, regardless of scale, must be submitted to DMLW for review and approval before implementation. For all future development, SERO-DMLW must approve all additional structures, mooring components, equipment, or other installations within the leasehold prior to their installation.

Recommendation and Preliminary Decision

Authorization Type and Term

As provided by AS 38.05.810(c), DMLW has determined that it is appropriate to renew the expired lease issued to Northern Southeast Regional Aquaculture Association for a consecutive 25-year term, subject to the terms and conditions of the original lease and the following.

Performance Guaranty

Performance guaranties (PG) 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 PG 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.

The amount of the PG would previously have been $40,208.00, minus the $6,000.00 currently posted for the PG. However, following recent DMLW guidance on determining a PG, that figure represents the maximum bonding amount. Other factors may also be considered when determining a PG. Given the security provided by the applicant's history of compliance, good standing with prior DNR authorizations, the potential economic benefits of the continued use of the lease site, and minimal environmental risk, DMLW has decided that imposing 75% reduction of the maximum bonding amount is appropriate for a Public and Charitable Lease Agreement. The bond amount has been increased to $10,052.00 which is a difference of an additional $4,052.00 from the prior authorization.

Lessee is named as a party on a Blanket Performance Guaranty and Security Agreement backed by a Time Certificate of Deposit. This PG and security agreement was set up to cover all existing NSRAA authorizations with DMLW. PG obligations may be added when new authorizations are issued and deleted as authorizations are properly restored and closed out. This lease is not a new authorization but is a renewal. Upon issuance of a final decision on this proposed lease, this authorization will be added to and continue to be covered on the blanket PG agreement.

Insurance

The lessee is required to furnish insurance during the lifetime of the lease authorization. Per condition #24 of the lease agreement and condition #4 of Attachment A to lease agreement: "If required by the lessor, the lessee shall obtain insurance…"
Certificates of Insurance must be furnished to DMLW prior to the reissuance of this lease and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. The lessee must provide for a 60-day prior notice to the State of

Alaska before they cancel, renew or make material changes to conditions to the policy. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, is a material breach of this lease agreement and shall be grounds, at the option of the State of Alaska, for termination of the lease.

Compensation and Appraisal

Summary

Established in 1977, NSRAA received IRS 501(c)(3) non-profit organization status, based in Sitka, dedicated to managing, enhancing, and sustaining salmon stocks throughout Southeast Alaska. Since then, several hatcheries and net pen sites have opened and operated throughout southeast Alaska. NSRAA hatcheries and net pen sites, including the Deep Inlet site (ADL 106247), support regional fisheries, create harvest opportunities, and provide public benefits to communities from Haines to Petersburg.

According to AS 38.05.810(c), "Eligible applicants under (b) – (d) of this section are limited to nonprofit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare, if the project for which the land is desired conforms to those objectives and not commercial development."

NSRAA is eligible under 501(c)(3) non-profit organization status and provides beneficial services to southeast Alaskans and ensure healthy salmon returns. NSRAA qualifies under this provision and operates exclusively for public benefit through salmon-enhancement. The Deep Inlet net pen site directly serves non-profit and public-driven objectives; following internal guidance from DMLW and the definition of a non-profit from AS 38.05.810(c), a reduction of full fair market value is justified, if determined to be necessary by DMLW.

Annual Land Use Fee

The <u>annual land use fee shall be $1,000.00</u>, as established in 11 AAC 58.410(b) 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 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.

Dependent on the amount included in the appraisal, DMLW reserves the right to reduce the amount received and follows guidance from AS 38.05.810(d): "The director may lease the land to an eligible applicant at a reasonable annual rental, taking into consideration the purposes for which the land is to be used and the financial resources of the applicant. The rental may not be less than one percent of the fair market value on land acquired primarily for development, or less than five percent of the fair market value on acquired land."

Upon receipt of the final approved appraisal establishing fair market value of the 22.43-acre parcel, DMLW may apply an annual use fee equal to five percent of the appraised fair market value. Given the nature of this parcel and any oversight to ensure responsible use, applying the statutory five percent rate provides a clear method for determining appropriate compensation for the use of state-owned tide and submerged lands once fair market value has been established.

Additionally, the applicant will be responsible for the payment of any difference from payments made during the term of the Entry Authorization.

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
DMLW will continue to use the existing survey ATS 1593 Sitka Recording District to delineate the leasehold. Pursuant to 11 AAC 51.045 and AS 38.05.127, a 50-foot public-access easement seaward of the line of mean high water is depicted on ATS 1593.

A development plan diagram (Attachment 1) was provided with the renewal application and delineates the leasehold with additional structures and alternate layout. DMLW approves of 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 7/31/2026

Quinn McClurg, Natural Resource Specialist III 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 8/6/2026

Mason Auger, Natural Resource Manager II 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.