

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
Southeast Regional Land Office
Final Decision
ADL 109312
Glacier Construction, Inc.
Application for Lease
AS 38.05.075(c)

This Final Finding and Decision, and all attachments hereto, supplement the Preliminary Decision (PD) dated May 11, 2026, and comprise the record of decision for this disposal of interest under AS 38.05.075(c).

Summary of Agency and Public Comments Received During the Public Notice Period:

Diana Lapham's Comment: I am writing this to show my full support of this barge landing. The 25 year lease will make this easy to set rates as well as develop a reputation for quality product. This area is well within the waterfront industrial area zone of the Haines Borough. This is another positive step in diversifying our economy. Please issue this permit. Thank you for your consideration.

DMLW Response: No response required.

Kathleen Menke's Comment: DNR is failing to adequately disclose to the public the purpose of this proposed 25-year lease of just over 7 acres to Glacier Construction (Southeast Roadbuilders) to construct a barge landing area in Lutak Inlet between the ferry terminal and land owned by Chilkoot Lumber Company.

However, it's likely this project is for the purpose of export of extracted resources, including sand, gravel, timber, and ore. This is a long-term lease, with far reaching implications to the fish and wildlife resources of the Chilkat and Chilkoot River Valleys and the communities of Haines/Deishu and Klukwan.

Pushing this agenda with such short notice and so little public engagement goes against the intent of Alaska State Law that proposed infrastructure projects must have adequate public notice and community engagement and have no negative impacts on the resources belonging to the people of the State of Alaska.

I oppose granting this lease until such time as there is greater public notice, adequate public engagement on this project, and a demonstration by the State of Alaska that no negative impacts on the public's fish and wildlife resources will occur as a result of this significantly long-term lease.

DMLW Response:

DMLW has based the proposed purpose and use on what was provided in the applicant's application and development plans, which were then included in the PD. The authorization focuses on infrastructure placed on state land, but DMLW also addressed in the executive summary section of the PD that the barge landing is "to improve the transshipment of materials and equipment in Haines, Alaska". Materials are not being stored within the proposed lease area. With the adjacent uplands belonging to the applicant, the proposed lease is solely used for access and transfer.

The Alaska Department of Fish and Game (ADF&G) is the managing agency for all fish and wildlife concerns, and they were consulted during the Agency Review period to determine potential impacts to fish and wildlife resources. ADF&G provided timeline considerations and public access concerns but did not list any adverse impacts on fish and wildlife resources. The construction timing and public access suggestions of ADF&G were documented in the PD and will be required of the applicant through stipulations set in the lease agreement.

DMLW followed all standard practices of notifying the public as required by AS 38.05.945. This included a 30-day public notice that was sent to interested parties, posted to the Online Public Notice System, and sent to the nearest post office for public display. There are no state laws that state or imply that proposed infrastructure projects must have no negative impact on the resources belonging to the people of the State of Alaska. The Alaska Constitution, Article 8 states, "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." Through our adjudication process, DMLW is in line with the constitutional mandate set out for management of the State's natural resources. DMLW is tasked with authorizing uses where allowable and mitigating the potential impacts to the extent possible. It is within the authority of DMLW to authorize this lease. DMLW consulted with relevant agencies during the adjudication process and acknowledged and implemented the mitigation measures recommended by those agencies to reduce impacts where able.

Lynn Canal Conservation (LCC) Comment: Lynn Canal Conservation (LCC) is a 54-year-old nonprofit conservation organization based in the Chilkat Valley. LCC stands firmly in opposition to Glacier Construction's Barge Landing project as currently proposed. Our reasons follow.

Contamination

The property is immediately adjacent to an active Department of Environmental Conservation (DEC) listed Contaminated Site 13 known as the Haines Sawmill, where "Large quantities of various and improperly contained hazardous waste stored at site". The toxic materials at Haines Sawmill were left unsecured, exposed to the elements for decades, and it is likely that contaminants have spread to the immediately adjacent site.

Contaminants at the Haines Sawmill Site are known to bioaccumulate in aquatic organisms and harm human health. DNR cannot make informed conclusions about potential impacts to the environment without good data on the existing conditions and consideration of how the proposed development could compound the existing contamination issue. Soil sampling should be conducted before approving this permit in order to assess the extent and degree of contamination, or otherwise rule it out. Cleanup may be required before the placement of new fill, pile driving, use of the barge ramp, and other proposed activities.

Cumulative Effects

DNR should consider the cumulative effects, not just the construction of the facility – but what type of materials will be stored and traveling over the improved barge landing, the potential for spills resulting from transfer of those materials, and vessel class that the new facility will serve. 100 ft wide vessels are currently unable to dock in Lutak Inlet, so it will bring a whole new class of vessel; the impacts of which need to be evaluated.

Page 9 of the DMLW's Preliminary Decision acknowledges that "Should the proposed lease be granted, it is anticipated that the DP will need to be updated throughout the life of the lease as activities and/or

infrastructure are added or subtracted.' DMLW should assess the potential impacts of the proposed development and all foreseeable impacts.

DMLW should require a new survey. Page 10 of the DMLW's Preliminary Decision says, "In accordance with AS 38.04.045, this lease does not require a new survey. In 1988, DMLW received an approved survey for the previous lease, AOL 104345. The same, approximately 7.041 acres applied for under AOL 109312 are therefore displayed on ATS 1340 and recorded as Plat 88-10 in the Haines Recording District.' The survey in question occurred nearly 40 years ago in a dynamic environment and much has changed. Isostatic rebound is changing the coastline dramatically in Southeast Alaska, and DMLW further acknowledges that there is new fill on the property that has allowed for barge landings. Both natural and industrial activities have changed the shoreline and the property must be subjected to a new survey so that DMLW can accurately track any future changes to the shoreline, above and below the high tideline.

Missing Information

Glacier Construction's permit application is not provided. This leaves the public without the necessary information to evaluate the proposed action. The information provided to the public is insufficient, especially considering the long length of the lease and potential for dramatic cumulative impacts resulting from the proposed activities.

In the ecologically rich and critical Lutak Inlet, the impacts of such a facility would put local subsistence and commercial fishing, tourism, recreation, and the ecological fabric of the upper Lynn Canal at great risk.

Please extend the public comment period, require the surveys and contaminant sampling, and provide this additional information so the public can make an informed evaluation.

DMLW Response:

The potential for spills and possible contamination was considered within the adjudication process. Both DEC Contaminated Sites Program and DMLW Statewide Abatement of Impaired Lands (SAIL) Section were consulted during the agency review period. Comments from DEC were listed on page 6 of the PD and stated that 1) contamination exposure potential for the project is low, 2) approval of a soil or groundwater management plan may be necessary if future excavation or dewatering activities occur, and 3) the DEC Division of Spill Response and Prevention should be notified of any observed contamination. After receiving LCC's comment, DMLW contacted DEC and SAIL again and confirmed that no risks to the proposed lease are evident with existing information, and that no environmental testing is recommended. DMLW includes standard stipulations in the lease agreement that address environmental compliance regarding hazardous materials and outlines liability of the applicant as well as spill reporting procedures. As stated in the PD, a performance guaranty is also required of the applicant to incentivize performance and cover any corrective actions if the applicant fails to comply with requirements.

Regarding cumulative effects, the entirety of DMLW's adjudication process serves to evaluate proposed projects according to the specific development, infrastructure, and use applied for. This includes known or potential risks and impacts likely to be associated with that development, infrastructure, or use. In this case, and as part of the adjudication process, the applicant confirmed to DMLW that no storage of hydrocarbons or other hazardous or toxic materials will occur within the lease area. Because the authorization does not prohibit or limit specific materials, DMLW imposes reporting requirements and remediation stipulations for

any potential contamination or spills that might occur as part of transfer operations. DMLW considers the vessel class or size proposed for operation within the lease area to the extent necessary to determine consistency with applicable Alaska statutes and regulations. The claim that DMLW should evaluate the potential impacts from operation of a new class of vessel in Lutak Inlet goes well beyond the scope of the decision and DMLW's requirements for authorization of the lease. Any additional state, federal, or local permitting processes that may establish such limits or regulations are the responsibility of the applicant.

In response to LCC's claim that a new survey should be required, DMLW survey section verified the existing survey attached to the PD, ATS 1340, properly establishes a lease boundary and meets statutory requirements set in AS 38.04.045. Language in the "Survey" section of the PD does, however, recognize that DMLW reserves the right to require a new survey if the need arises due to changes in statutes or increased use of the area.

During the process of adjudication, changes are expected to be made to final project details either at the request of the applicant or by DMLW to provide mitigation measures, meet statutory requirements, or based on information provided through agency or public notices. In this case, the applicant submitted multiple development plans prior to finalizing dimensions and specifications. Therefore, DMLW determined that the PD consolidated all final proposed details that are necessary both for adjudication and the subsequent public notice.

Chilkat Indian Village (CIV) Comment:

Alaska State Constitutional and Administrative Deficiencies

- Alaska Historic Preservation Act (AHPA): The preliminary decision to issue a state lease for the project represents state involvement in public construction and requires compliance with the Alaska Historic Preservation Act (AHPA) (Alaska Statute [AS] 41.35). Compliance with AS 41.35 for public construction involves review of the Project area and consultation with the Alaska department of Natural Resources ("the department"; i.e., the Alaska Office of History and Archaeology (OHA) and State Historic Preservation Officer (SHPO)) to evaluate whether the area contains "historic, prehistoric, or archaeological sites, locations, or remains [that] will be adversely affected by the public construction" (AS 41.35.070.(b-c)). If so, the public construction "may not be commenced until the department has performed the necessary investigation, recording, and salvage of the site, location, or remains.

CIV notices that in DMLW's preliminary decision document, the agency included the Office of History and Archaeology (OHA) in the September 30 to October 31, 2025 comment period and OHA did not comment. This is unfortunate, because CIV was working with OHA during this time period to record three historic properties (36 CFR 800.16(I)(1)) in OHA's Alaska Heritage Resources Survey (AHRs) database.

These three historic properties (SKG-00586, SKG-00587, and SKG-00588) have the additional significance of being Traditional Cultural Places (TCPs) eligible for the National Register, and are all in the project area. OHA added the three TCPs to the AHRs on November 4, 2025. OHA knew of these TCPs being in the project area during the comment period and failed to notify DMLW. CIV does not know the reasoning for OHA's oversight, but is making DMLW aware of these three historic properties now.

This project has the potential to impact these three TCPs. We wish to consult with DMLW before the agency finalizes their decision on the lease.

- **Article VIII Public Trust Doctrine Deficiencies:** Under Article VIII of the Alaska Constitution, state-owned tide and submerged lands are held in trust for the benefit of the public. This 25-year lease is a disposal of a public interest and the Alaska Constitution under Article VIII requires a “hard look.” The preliminary decision discusses only the pile driving, and omits the facts and issues related to the disposal, such as impacts to TCPs, the impacts from the stated increase in timber activities described by DFFP, loss of subsistence and commercial fishing areas during seasonally important times of year for the Haines-based commercial salmon gillnetting fleet and many subsistence users that use Lutak Inlet for subsistence fishing. Both of these activities have direct economic impact on our communities, and our Tribal citizens. DNR has a strict fiduciary duty to ensure that private leases do not unreasonably impair public rights to navigation, commerce, and fishing. The Preliminary Decision fails to provide a robust analysis of how a 7.041-acre exclusive lease area and a filled barge landing will impact local commercial, subsistence, or recreational access to these tidelands.
- **Inadequate Best Interest Finding (AS 38.05.035(e)):** To alienate or lease state land, the Director must issue a written finding that the interests of the State will be best served. The current analysis lacks substantial evidence demonstrating that alternative, less environmentally damaging sites were fully evaluated, or that the long-term cumulative impacts of filling state tidelands in Haines were properly weighed against the short-term private benefit to the applicant.
- **Deficiencies in the Draft Entry Authorization (EA):** The Draft EA fails to establish a rational connection between the project's description of physical scope (including the structural placement of two 24” steel pilings and a 30’x50’ filled footprint) and the local habitat and significant existing structures and any site details and current uses. The Draft EA only includes a drawing showing an old rendering of the former facilities, without mentioning any of the current barge, freight or ferry activity. The record lacks site specific baseline data concerning how the fill material will alter local currents, sediment transport, or critical fish habitat, rendering the current decision-making process arbitrary and capricious under Alaska administrative law. Without the application, it is impossible for the public to consider the potential impacts of this disposal in relation to current uses of the area.

Federal Law and Overlapping Jurisdiction Inadequacies

Because this project proposes physical fill and structural installation in navigable waters and intertidal zones, it triggers mandatory federal laws that are not addressed in the state's draft documents, but will provide more information for making a Best Interest Determination:

- **Clean Water Act Section 404 & Rivers and Harbors Act Section 10:** The construction of a 30' by 50' *filled* barge landing requires a Section 404 permit from the U.S. Army Corps of Engineers for the discharge of dredged or fill material into Waters of the United States (WOTUS). Additionally, driving 24” steel pilings in navigable waters requires a Section 10 permit. DNR’s authorization must be explicitly conditioned upon the applicant obtaining these federal permits, and the state’s best interest finding must account for federal compliance.

- Endangered Species Act (ESA) & Marine Mammal Protection Act (MMPA)
Compliance: The waters around Haines provide critical habitat and migratory corridors for ESA-listed species, including the Western Distinct Population Segment (DPS) of Steller sea lions and humpback whales. The impact of underwater noise generated by driving 24" steel pilings has not been adequately evaluated. DNR cannot finalize a lease that facilitates a project likely to result in the unauthorized "take" of protected marine species under federal law.
- Essential Fish Habitat (EFH) under the Magnuson-Stevens Act: Tidelands in Southeast Alaska are designated Essential Fish Habitat for various life stages of Pacific salmon and other commercially vital species. The state's preliminary analysis lacks the mandatory coordination or rigorous review required to prove that the fill and barge traffic will not cause adverse impacts to EFH.

Other Missing/Incongruent information

- The barge size is 100 feet wide in text, but in the diagram provided, it is labeled as a "100 foot barge" which seems to refer to length. The size difference could provide some information as to intended use which is not clear because the posted material does not include the application for the lease from the applicant.
- The use is unclear. AS 38.05.075(c)(2) states that the director must also determine the proposed use of tideland "is compatible with the classification of the land." Because the application is not included, nor is any decisional documentation of how the agency came to its determination, it is unclear this has been met. The applicant references both shipping of materials (as export, which is their current activity adjacent to this property) but the determination made by the agency to satisfy AS 38.05.075(c)(2) says that "In this case the applicant proposes to use the leasehold for barging in goods, equipment, and materials to their own adjacent uplands."
- No potential contamination is mentioned, however, this site is adjacent to an area that has been proposed as an ore terminal by the Haines Borough in past years (Lutak Dock) and is currently being redeveloped as a port facility that could transport ore. In addition, this property is near a recent, permitted Log Transfer Facility (LTF) and the DFFP specifically states the intended use of this 25-year lease will allow for expanded use of the facility. "The improvements will allow for expanded use of the facility from a hard rock transfer site to include safe responsible transfer of forest resources to regional, interstate, and international markets."
- The preliminary decision states that this use is in compliance with the area-wide plan, but only considers one part of the area-wide plan, stating "The proposed lease will meet the management intent by providing support structures to improve upland industrial uses in the area." However, the Northern Southeast Area Plan also states "State tidelands are to be managed to protect sensitive habitats and areas important as fisheries, marine mammal concentration sites, wildlife movement corridors, subsistence, and to protect community and commercial harvest" and this proposed decision and the proposed uses of this facility allowed with this lease could harm these characteristics. The plan states that development is only allowed if wildlife resources are protected, and the preliminary decision does nothing to ensure protection of any of these characteristics other than to suggest timing for pile driving, while not making any stipulations or determinations on

the actual uses of the land area to be disposed of for the long-term lease.

We respectfully request that DMLW refrain from issuing a Final Decision on ADL 109312 until the applicant and the agency provides site-specific information, including the original application and materials used to prepare the preliminary decision. CIV believes we need additional information in order to appropriately determine the leases intent (which lasts for 25 years) and to meaningfully take a hard look at the impacts. We also request any sediment, hydrologic, and biological assessments that have been conducted for this permit. We request the state of Alaska begin explicit coordination with the U.S. Army Corps of Engineers and the National Marine Fisheries Service (NMFS) regarding ADL 109312. Additionally, we request that DMLW reach out to set up an immediate consultation on this preliminary decision.

DMLW Response:

- AHPA – As noted in the PD and acknowledged by CIV, DMLW sent agency review to OHA SHPO on September 30, 2025. After receiving CIV’s comment, DMLW requested additional information from OHA SHPO. In their reply, OHA did not provide recommendations or substantive information regarding the three TCPs. Therefore, DMLW is unable to make additional determinations or require other mitigation measures. DMLW will include a standard stipulation in the lease that addresses requirements if cultural resources are found on site. It states:

“Under the Alaska Historic Preservation Act, AS 41.35.200, it is unlawful to appropriate, excavate, remove, injure, or destroy any historic, prehistoric, or archaeological resources of the State without a permit from the DNR Commissioner. Should any such resources or sites be discovered, the lessee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in DNR’s Division of Parks and Recreation.”

The existence of TCPs that may qualify for listing on the NRHP, and the actual listing of a place on the NRHP, does not prohibit the issuance of a DMLW lease.

- Public Trust Doctrine Deficiencies – CIV incorrectly describes what the state is tasked with under Article VIII of the constitution. Article VIII establishes both the guiding principles and the management mandates for state lands. Article VIII, Section 1 (Statement of Policy), of the Alaska Constitution says, “It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.” The statement establishes a guiding principle that state lands and resources must serve broad and diverse interests. Article VIII, Section 2 (General Authority) says, “The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.” This section tasks DNR with overseeing state lands under a multiple-use mandate that looks at balancing settlement, resource development, and public access. By embedding this purpose into the Constitution, the State empowers DNR to issue authorizations that maximize resource utilization while protecting broad public interests. Article VIII, Section 3 (Common Use) says, “Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for

common use.” Article VIII, Section 8 (Leases) says, “The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses. Leases and permits shall provide, among other conditions, for payment by the party at fault for damage or injury arising from noncompliance with terms governing concurrent use, and for forfeiture in the event of breach of conditions.” While Alaska waters and wildlife are reserved to the public and managed for common use, DNR is also empowered to lease state lands and authorize exploration and use of state resources, provided it does not conflict unreasonably with concurrent uses. In this case, authorization of the proposed lease does not infringe upon reservation of those natural resources identified in Section 3 nor does it unduly restrain, limit, or restrict access to area state lands or other resource use types. Together, all of these sections require DNR to evaluate whether a proposed authorization protects public trust uses while allowing resource development. DNR’s adjudication process, including agency review, issuance of the Preliminary Decision, public notice, and now issuance of the Final Decision, constitutes the mechanism through which thorough evaluation occurs.

Under AS 38.05.285, all disposals and uses of state land must comply with both the Constitution and the “principles of multiple-purpose use consistent with the public interest.” In practice, DNR’s mission to, “responsibly develop Alaska’s resources by making them available for maximum use and benefit consistent with the public interest,” echoes Article VIII, Section 1, and AS 38.05.285 by anchoring departmental actions in constitutional authority and ensuring that land is managed not for a single purpose, but for a mix of economic, environmental, and social uses. Through our adjudication process, composed of an agency review, a preliminary decision, public notice, and a final decision, DMLW determines if a proposed project is in line with these mandates.

AS 38.05.127(f) also states that access is ensured “unless the commissioner finds that regulating or limiting access is necessary for other beneficial uses or public purposes.” In the PD, the “Access Along Public Waters” and “Public Trust Doctrine” sections both acknowledge the requirements of reserving access and explain how DMLW will implement only temporary closures of the public access easement because of the potential risk to public safety due to the nature of activity to be conducted on the leasehold.

The PD evaluated the construction and operation of the barge landing and associated infrastructure within a 7.041 acre lease area. Based on that scope, DMLW determined that proposed activities would be in the best interest of the state because there is a minimal impact expected from the proposed improvements, the applicant and agencies recommended mitigation strategies to be implements, and we determined there was full compliance with the management intent of the region to allow for industrial use of the uplands.

In regards to TCPs, the lease will include stipulations requiring the lessee to halt work and notify the State if cultural resources are discovered.

Potential future timber activity that may increase traffic or operational pressures at the site are activities outside the scope of the current lease application. Should additional uses or expansions be

proposed in the future, they would be subject to separate review, additional public notice (if required), and independent Article VIII analysis.

- **Inadequate BIF** – There is no requirement or standard prescribed by AS 38.05.035(e) that a comprehensive written finding should identify and evaluate alternative site-locations in addition to the one proposed by the applicant. Whether there may or may not be other viable site-locations is not a relevant factor for making a determination in this case nor is it a question that falls within the scope of DMLW’s decision process. Moreover, to conduct an evaluation of alternative sites in the manner suggested by the commenter would potentially conflict with an intervening statute that is directly applicable to this case. Under AS 38.05.075(c), the applicant holds a preference right to lease the adjoining state tidelands and submerged lands as the upland owner. In light of the existing preference right and the applicant’s business operations on the adjoining private uplands, it would be unreasonable for DMLW to evaluate alternative sites or require the applicant propose them. The PD explained that the proposed use and structures would improve upland industrial access in the area, which meets the management intent of subunit HT-05, which says to “manage the unit to allow for the intensive use of the uplands, which include commercial and industrial uses” (NSEAP 3, 105). All information provided during the adjudication process indicated that the requested use is allowable.
- **EA Deficiencies** - The Entry Authorization (EA) and the application document serve very different purposes within the adjudication process. The application tells us what the applicant initially requests and does not contain final determinations or reviews of any kind. The EA is not for establishing new information or making connections between project scope, local habitat, or existing structures as CIV’s comment implies. Draft EA’s that are posted with public notices are intended to provide a general idea of what the contract document will look like if the project progresses. These agreements routinely list project location, effective dates, and applicable stipulations. The PD is the documentation of the adjudication process and provides all the necessary information that makes connections between project scope, proposed structures, and potential impacts. Though it is unclear what CIV is referring to as an “old rendering of former facilities,” DMLW noted in the PD that existing survey ATS 1340 was being attached and used as the lease boundary, while the attached development diagram showed the proposed structures within that boundary.
- **Federal Law/Overlapping Jurisdictions** – DMLW is not required to ensure other state, federal, and municipal authorizations are secured prior to issuance of this lease. DMLW conducted agency review and public notice process to the extent required. DMLW relies on this coordination to determine potential impacts and establish appropriate mitigation measures. Along with other applicable agencies, Alaska Department of Fish and Game (ADF&G), U.S. Army Corps of Engineers (USACE), United States Fish & Wildlife Services (USF&W) and the National Marine Fisheries Service (NMFS) were all included in those processes. Out of these agencies, ADF&G provided the only response which included the recommendation that pile driving occur outside of April and May because of juvenile fish sensitivity to underwater noise. In addition to implementing the recommended construction timelines, DMLW will also include a stipulation in the lease agreement that states the grantee shall comply with all federal, state, and local laws, regulations, and

ordinances directly or indirectly related to this authorization. It is the responsibility of the applicant to ensure they are legally operating and in compliance with all necessary agencies.

- **Barge Size** – The PD states that the improvements are intended to accommodate vessels “up to 100 feet in width,” to mean that the applicant is not limited to only one type or size of vessel. The development diagram shows what is being authorized on state land and specifically establishes a boundary to encompass proposed improvements and use. The barge displayed on the diagram is labeled as “approx. 100’ vessel” and is meant to show that even the largest potential vessel will remain within the proposed boundary. The dimensions of the barge, regardless of whether it measures 100 feet in width or length, do not affect the intended or approved use.
- **Site Use** - CIV questions the determination of compatibility with land classification and states there was no decision documentation of compatible use determination provided. AS 38.05.075(c)(2) states “the proposed use of the shoreland, tideland, or submerged land is compatible with the classification of the land and with any applicable land use plan adopted under AS 38.04.065.” The PD documents DMLW’s determination of the proposed use. The “Planning and Classification” section identified applicable land classifications of Waterfront Development Land and Wildlife Habitat Land. The PD determined that the proposed lease is consistent with the classification. Additionally, DMLW will implement agency recommended mitigation measures to further meet area management intent and multiple use requirements. The proposed improvements and action in the PD are the extent of authorization.
- **Potential Contamination** –The possibility of contamination was considered during the adjudication process. As part of agency review, DEC Contaminated Sites Program and DMLW Statewide Abatement of Impaired Lands (SAIL) Section were contacted to request any relevant information on potential contamination concerns. Since nothing of significant concern was provided by either section through that review, DMLW did not determine it necessary to provide additional information throughout the decision. CIV pointed to the agency comment provided by Forestry and Fire Protection, which suggests potential future uses of the site. To address those concerns would be speculative and is not within the scope of this decision.
- **Area Plan Compliance** – The term compliance mischaracterizes the purpose of area management plans and how they are used in DMLW’s decision process. For all state lands within a given planning area, management plans establish the following: land-use designations representing location-specific resources and uses, management intent, and management guidelines. DMLW utilizes the plans when reviewing proposed authorizations to guide decision-making within a multiple use context and in relation to management objectives established by the plans. Their intent is to provide general guidance, along with spatially defined use and resource information, not strict criteria. Area plans do not subordinate the decision-making process for proposed land-use authorizations. DMLW’s responsibility is to seek consistency, not compliance, with area management plans. DMLW respectfully disagrees with the claim that only one part of the area plan is considered. The “Planning and Classification” section of the PD embodies a comprehensive review of the plan, while CIV only

quotes one sentence and implies that is the extent of DMLW's area plan review. The decision addresses not only DMLW's multiple use mandate, but also the area specific land use designations of Waterfront Development and Harvest. Article VIII, Section 1 of the Alaska Constitution directs the State to make its lands and resources available for, "maximum use consistent with the public interest," establishing the principle that state lands must support multiple and diverse uses. This requires DMLW to balance multiple uses when managing state land such as settlement, resource development, public access, environmental values, and recreation. AS 38.05.285 reinforces this by requiring all state land authorizations to follow the Constitution and the principles of multiple-use. Together, these authorities guide DNR's mission to responsibly develop Alaska's resources in a way that maximizes public benefit while ensuring state lands remain available for a mix of economic, environmental, and social purposes. The presence of important habitat and harvest designation does not preclude authorizations for development when the proposed use can be managed in a way that is consistent with multiple-use principles under AS 38.04.005 and AS 38.05.965. DMLW's review focuses on whether impacts can be avoided, minimized, or mitigated through conditions or stipulations, and whether the proposed activity is compatible with other existing or foreseeable uses of state land. Though CIV states that DMLW is not making stipulations or determinations that help protect resources, DMLW is implementing additional mitigation measures recommended by subject matter experts. During public notice, DMLW also provided a copy of our standard lease agreement which includes routine stipulations that address minimizing site disturbance to protect local habitats, compliance with all environmental laws, and ensuring public access even through temporary closures for public safety.

The PD consolidates all site-specific information used by DMLW to make a determination and therefore provides all necessary information for public review. DMLW is not aware of any sediment, hydrologic, or biological assessments conducted at the proposed lease site. DMLW provided notice to the USACE District Regulatory Division, the Regulatory Division's Southeast Section, the United States Fish & Wildlife Service, and the National Marine Fisheries Service during the public notice period. No comments were received from these agencies.

DMLW has re-affirmed that the case file is complete and the requirements of all applicable statutes and regulations have been satisfied. It is the finding of the Commissioner of the Department of Natural Resources that it is in the best interest of the State to proceed with this disposal of interest under the authority of AS 38.05.075(c).¹ 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 31st day after issuance.

Mason Auger
Mason Auger
Natural Resource Manager

10/12/2026
Date

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>.

¹ Authority to sign on behalf of the Commissioner has been delegated by memorandum dated September 30, 1999, to the Director of the Division of Mining, Land and Water, and redelegated from the Director to the Regional Managers.