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

PRELIMINARY DECISION

ADL 232885
Premium Aquatics, LLC
Application for Lease
AS 38.05.083

This Preliminary Decision is the initial determination on a proposed disposal of interest in state land and is subject to comments received during the Public Notice period. The public is invited to comment on this Preliminary Decision. The deadline for commenting is 5:00 PM on August 15, 2018. Please see the Comments Section of this decision for details on how and where to send comments for consideration. Only the applicant and those who comment have the right to appeal the Final Finding and Decision.

Requested Action:
The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Office (SCRO) has received a request from Premium Aquatics, LLC (PA) to lease approximately 127 acres, more or less, of tidelands located in the northwest corner of Doyle Bay, approximately six nautical miles south-southwest of Craig, Alaska.

Scope of Review:
The scope of this decision is to determine if it is the State’s best interest to issue a 10-year aquatic farm lease to PA for 127 acres, more or less, for use of state tidelands for the commercial growth and harvest of Pacific oysters (Magallana gigas) and one local species of kelp, bull kelp (Nereocystis luetkeana).

Authority:
This lease application is being adjudicated pursuant to AS 38.05.035(b)(1) Delegation of the Powers and Duties of the Director; AS 38.05.035(e) Written Findings; AS 38.05.070(b)
Generally; AS 38.05.083 Aquatic Farming and Hatchery Site Leases; and AS 38.05.945 Public Notice. The authority to execute the Final Finding and Decision, and the lease, has been delegated to the Regional Manager of SCRO.

Administrative Record:
Case file ADL 232885 constitutes the administrative record for the PA lease application.
Legal Description, Location, and Geographical Features:
The state land where this proposed amended lease site is located is described as follows:

- **Site reference name:** Doyle Bay
- **Legal description:** SW1/4 of Section 26, SE1/4 of Section 27, and NE1/4 of Section 35, Township 74 South, Range 81 East, Copper River Meridian
- **Geographical locations:** Northwest corner of Doyle Bay, approximately six nautical miles south-southwest of the community of Craig, Alaska
- **Approximate Lat/Longs:**
  Grow-out area for Pacific oyster and submerged longline system for culture of bull kelp:
  4,600-feet by 1,200-feet = 127 acres
  NE Corner Latitude: 55°25.034’N  Longitude: 133°03.137’W
  SE Corner Latitude: 55°24.848’N  Longitude: 133°03.251’W
  SW Corner Latitude: 55°25.096’N  Longitude: 133°04.506’W
  NW Corner Latitude: 55°25.282’N  Longitude: 133°04.392’W
- **Existing surveys:** None
- **Municipality/Borough:** Unorganized Borough
- **Native Corporations/Federally Recognized Tribes:** Sealaska Corporation, Shaan-Seet, Incorporated (SSI), Craig Tribal Association
- **Size:** 127 acres, more or less

Title:
The DNR Title Report issued from DNR’s Realty Services on April 5, 2018, states that the State of Alaska holds title to the subject tidelands under the Equal Footing Doctrine and the Tide and Submerged Lands Act of 1953. Uplands closest to the subject tidelands are not owned by the State of Alaska.

Third Party Interests:
No third party interests are known at this time.

Classification and Planning:
The project area is subject to the Prince of Wales Island Area Plan Amendment (Area Plan), Map 3: Regional Management Unit 17: Craig/Klawock (C), found in Part 2 of the Area Plan. The tideland unit for the site is CT-30 and the tideland designation for the site is General Use (Gu). The tideland classification for the site is Resource Management Land. The closest uplands to the proposed leasehold are owned by SSI.

The proposed operation must be in the best interest of the State before an authorization may be issued. Factors that are to be considered in this decision are identified in 11 AAC 63.050(b). In Part 1 of the Area Plan, the General Use designation for tidelands is considered for a wide variety of uses including mariculture facilities. When the General Use designation is applied to tidelands, this would include

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1 Prince of Wales Area Plan Amendment Part 2 p. 2-37
2 Prince of Wales Area Plan Amendment Part 2 p. 2-37
3 Prince of Wales Area Plan Amendment Part 1 p. 1-12

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tidelands, shorelands, and submerged lands not designated in specific tideland units for specific habitat, harvest, economic, or recreation functions. In Part 2 of the Area Plan, the Management Intent further indicates that the General Use designation is for the tidelands to be managed for multiple uses while protecting important habitats and resources through consultation with the Alaska Department of Fish and Game (ADF&G). Heritage sites, estuarine wetlands, dense kelp and eelgrass beds, waterfowl/shorebird concentration areas, herring spawning areas, anadromous streams, and anchorage are to be protected. Harvest opportunities are to be maintained.

**Traditional Use Findings:**
The proposed lease is not located within an organized borough. An additional consideration is required under AS 38.05.830. ADL 232885 falls within the boundaries of ADF&G Game Management Unit (GMU) 2, Prince of Wales Island (POW). Known traditional uses in the area consist of subsistence and recreational hunting, and subsistence and recreational fishing. As described by ADF&G, the following game animals are present in the area: black bear including blue or glacier bears, elk, deer, wolf, and wolverine. Trapping regulations for this GMU list beaver, coyote, fisher, red fox, lynx, marten, and several other furbearers.

Subsistence fishing sustains a way of life for many residents of Southeast Alaska, but commercial, sport, and personal use fisheries also occur within Southeast waters. There are many subsistence salmon fisheries in Southeast Alaska. Halibut may be harvested by residents of rural communities. Other subsistence fisheries include herring spawn-on-kelp, shellfish, and groundfish. In addition, eulachon, Dolly Varden, trout, and smelt are all taken for subsistence purposes in Southeast Alaska.

Subsistence use is defined by AS 16.05.940[32] as “noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the State for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption”. Personal use in Alaska is defined as the “taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries.”

Personal use fishing is open to Alaskan residents only, and a valid resident Sport Fishing License must be held to participate in personal use fisheries. It is unlawful to buy, sell, trade or barter personal use finfish, shellfish, aquatic plants, or their parts.

Salmon are commercially harvested in this region of Southeast Alaska with purse seines and drift gillnets and with hand and power troll gear. Herring are harvested in winter using bait, sac roe, spawn-on-kelp, and bait pound fisheries. Miscellaneous shellfish (sea cucumber, sea urchins, and

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4 Prince of Wales Area Plan Amendment Part 1 p. 1-3
5 Prince of Wales Area Plan Amendment Part 2 p. 2-35
geoduck clams) are harvested in dive fisheries in the region. ADF&G has management jurisdiction over all groundfish resources within state waters in this region. In addition, the State has management authority for Demersal Shelf Rockfish, ling cod, and black and blue rock fish in both state and federal waters. There are several commercially important shellfish species in Southeast Alaska, which include golden and red king crab, Dungeness crab, Tanner crab, and pandalid shrimp.

Most sport fishing efforts in the Prince of Wales Management Area usually occurs from late May through early September. Chinook fishing usually peaks in June with both May and July being very good. Coho peaks in August with good catches in both July and September. Halibut fishing also peaks during the summer months. Most of the chinook and halibut fishing occurs on the 'outside' coast (the west coast of the island). One of the most popular freshwater fisheries with anglers every year is the Coho fishing found on POW. Most of the steelhead runs on the island are small, with an annual return of less than 200 adults.

Due to the nature of aquatic farming the proposed site is not expected to impact other traditional uses of the area. Additional traditional uses may be identified during the public notice period. If further traditional uses that may be impacted by the site become evident, they will be discussed in the Final Finding and Decision.

**Access:**
Access to the proposed aquatic farm leasehold is by boat.

**Access To and Along Navigable and Public Waters:**
Nearly all shore and tide lands in the State of Alaska are subject to a To and Along Easement under AS 38.05.127 and 11 AAC 51.045. The purpose of this easement is to uphold the constitutional right of the public to have free access to, and use of, the State’s waterways. DNR has determined that the issuance of this aquatic farm lease will not block reasonable access to state navigable water. The along easement extends 50-feet seaward from the line of mean high water (MHW).

**Public Trust Doctrine:**
Pursuant to AS 38.05.126 all authorizations for this site will be subject to the principals of the Public Trust Doctrine; specifically, the right of the public to use navigable waterways and the land beneath them for: navigation, commerce, fishing, hunting, protection of areas for ecological studies, and other purposes. These rights must be protected to the maximum extent practicable while allowing for the development of this project. As such, SCRO is reserving the right to grant other authorizations to the subject area consistent with the Public Trust Doctrine.

**Management Analysis:**
The scope of this review is to evaluate and determine if a lease for the above-mentioned parcel is in the best interest of the State and supports the overall intent of the Aquatic Farm Act.
In 1988, the legislature adopted statutes referred to collectively as the Aquatic Farm Act. The legislature, through the adoption of the Aquatic Farm Act, established in statute the State could proceed and indeed encourage development of shellfish farming. The two central tenets of the State’s aquatic farming policy are:

1. The State should encourage the establishment and responsible growth of an aquatic farming industry; and

2. Development and siting of aquatic farming operations should be made with full consideration of established and ongoing activities.

With these considerations, aquatic farm leases were designed to achieve commercial production and develop a foundation for an aquatic farming industry in the State of Alaska.

**Management Goals for Aquatic Farms:**

The overall intent of the Aquatic Farm Program is to provide citizens access to public lands and resources with the goal of creating an industry which will foster the State’s economic growth through the creation of employment opportunities and development of Alaska-grown shellfish and seaweed products.

Three main state agencies, ADP&G, DNR, and the Department of Environmental Conservation (DEC) oversee the regulatory responsibilities for the commercial operation of Alaska aquatic farms. These agencies work cooperatively to ensure the State’s public lands and resources are being used in such a manner as to positively contribute and benefit the residents of the State of Alaska through means such as economic growth and the availability of locally grown products.

As part of the lease conditions, the applicant/lessee is required to submit two documents which the agencies will use to measure the aquatic farm’s viability and determine if it is the State’s best use of the land and resources. Evaluative measures are derived from a variety of sources including, but not limited to, current industry standards, comparable farms in the area, and research and technology based trends on both the local and regional scale.

The first document an applicant/lessee is required to submit is an Operation and Development Plan (ODP) describing a basic business strategy for the aquatic farm site. This includes general information such as location information and infrastructure (i.e. work rafts, covered processing facilities, Floating Upweller Systems (flupsys), etc.) to be used on the farm site. The ODP also contains measurable goals established by the applicant/lessee, to include information on startup and projected stocking, species to be cultured, anticipated seeding schedules, and production and harvest levels for each 12-month cycle. In addition, it specifies business practices such as methods used to improve the productivity of the species being raised (i.e. predator exclusion controls, seeding schedules, etc.), cultivation and harvesting techniques, equipment used for cultivation and
harvesting, number of people on site, projected number of days the site is actively being farmed, and methods of accessing the farm site. As the business market is a fluid entity, DNR is under the expectation the ODP will be modified (with prior department approval) over the life of a lease.

Annual reports are the second required document a lessee must submit for an aquatic farm site to remain in compliance with lease terms. These reports are used as an evaluative tool by DNR, ADF&G, and the lessee to measure the productivity of an aquatic farm site, the current feasibility of the ODP, and to identify any problems (i.e. seed shortage, environmental factors, etc.) that have been encountered over the course of a 12-month period. In addition to identifying any difficulties an individual farm may be encountering, these Annual Reports will provide the regulatory agencies a method of identifying larger scale or industry wide problems and trends.

**Lease Discussion:**

PA submitted a revised aquatic farm application for a DNR aquatic farm lease to cultivate Pacific oysters and bull kelp on February 1, 2018. PA submitted an initial aquatic farm application on April 27, 2017 for a location in Bucareli Bay, between Madre de Dios Island and the Landrones Islands. During the Agency Review for the initial application, ADF&G submitted a preliminary determination recommending that the project not be issued an ADF&G aquatic farm operation permit for that location. ADF&G determined that the proposed project would be incompatible with fisheries and wildlife resources in the area. As a result, PA identified a new location in Doyle Bay which ADF&G was amenable to, and the new location is being considered in this Preliminary Decision.

The revised proposed leasehold is located on state-owned tide and submerged lands within Doyle Bay, approximately six nautical miles south-southwest of Craig, Alaska. The proposed leasehold will be one parcel (Parcel 1), totaling 127 acres, more or less, measuring 4,600-feet long by 1,200-feet wide.

Parcel 1 will be used to cultivate Pacific oysters using raft and tray culture system, consisting of up to 32 grow-out rafts (24.5-feet by 56-feet), configured in arrays or convoys, or individually, with suspended trays/cages. Each raft will suspend 160 stacks of 10-tiered trays/cages. The anchoring systems for the rafts will include two buoys, anchor lines, and a 3,000-pound concrete anchor and 6,000-pound Danforth anchor, set between each raft in the array line. The oyster raft systems will be installed and kept in place year-round. Parcel 1 will also hold a work raft barge (130-feet by 30-feet), constructed of steel and with a building erected on a deck. The work raft anchoring system will include two lines with two 6,000-pound Danforth anchors, one on each side of the raft.

Parcel 1 will also be used to cultivate bull kelp and hold up to 162, 190-feet submerged longlines, spaced 10 to 20-feet apart, placed seven-feet below the water surface, and configured in an array of longlines with a 350-foot breakwater at each end of the array. Nine longline arrays sections will
be onsite measuring 900-feet by 350-feet. The anchoring system for the longlines will consist of 2,000 intermittent, 25-pound anchors, 12-inch buoy floats for depth control, and the breakwater will use two 1,000-pound concrete anchors at each end. Longlines will be removed after harvest in the spring and reinstalled in the fall. The breakwaters and associated anchors will remain in the water all year-round.

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

**Operation and Development Plan:**
The proposed lease ODP dated January 12, 2018, is accepted by SCRO as complete. Should the proposed lease be granted, it is anticipated that the ODP will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by SCRO before any construction, deconstruction, replacement of infrastructure, or change in activity will be permitted. SCRO reserves the right to require additional agency review and/or public notice for changes that are deemed by SCRO to be beyond the scope of this decision.

**Compliance with Existing Regulations and Lease Stipulations:**
SCRO recognizes there are many challenges faced by aquatic farmers in Alaska with growing kelp. Such challenges include survival of seedstock to harvestable size, localized water quality issues, fouling organisms such as bryozoans that diminish quality of product, and weather issues that damage product or culture gear. Harvesting, processing, and marketing logistics must all be considered.

In consideration of these challenges, SCRO still has the responsibility to appropriately manage lands held in trust for the residents of the State of Alaska, and to ensure the authorized aquatic farms are operating in accordance with the intent of the Aquatic Farm Act. The primary method used to accomplish this is the adoption of regulations governing how laws are to be implemented.

**Key regulations for the management of aquatic farms are identified below:**

11 AAC 58.510, Lease Utilization
This regulation states the land being leased must fall within the scope of what is being proposed by the applicant and approved by DNR. Leases must be developed and utilized consistent with the approved ODP within five years or the lease may be terminated.

11 AAC 63.030(b), Commercial Use Requirement (CUR)
The CUR is one method DNR has available to determine whether or not the aquatic farm is being farmed to a commercial benchmark. The CUR was codified in the 1998 regulations as a quick and quantifiable measurement of productivity by the fifth year of operations (and beyond) and it
provides DNR and ADF&G a means of identifying farms that may need closer monitoring. At the
time the CUR was adopted, the primary species being farmed was the Pacific Oyster which had an
established record of growth data in Alaskan waters available to regulators and industry members.
At this time, the CUR states a farm needs to be making annual sales in excess of $3,000.00 per
acre or $15,000.00 per farm by the fifth year of operation of aquatic farm product, as defined in
AS 16.40.199. Failure to meet CUR constitutes a default and may be cause for termination, per 11
AAC 63.110(7).

11 AAC 63.110(7), General Lease Provisions, Operation and Development Plan, and Annual
Reports
The applicant has provided a site description and a project description to DNR and ADF&G with
their application. They also provided a projection on how much planting and harvesting they plan
to do during the 10-year term. DNR is aware of some of the issues faced by farmers when trying
to establish any realistic long-term projections. This is why the ODP is considered a fluid document
and subject to change (with DNR approval) over the life of the lease in reaction to unanticipated
changes in the basic business plan. Leaseholders are encouraged to communicate changes to plans
with DNR frequently to communicate how farming activities are progressing. Failure to develop
the lease site in accordance with the approved ODP within five years of lease issuance will result
in non-compliance and subject the lease to cancellation.

Annual Reports (due by January 31st of each year) are valuable documents for both DNR and
ADF&G. They are the main tool both agencies use to identify and understand issues the aquatic
farmer may be encountering which could inhibit the productivity of an aquatic farm site. Reports
also communicate if the site is being utilized in accordance with the ODP and if the CUR is being
met annually, per 11 AAC 63.030(b). By failing to submit complete and timely Annual Reports,
the lessee not only falls out of compliance with aquatic farm regulations, but also inhibits DNR’s
constitutional responsibility to ensure the land is being utilized in accordance with the best interest
of the residents of the State.

11 AAC 63.110(11)(b), Lease Compliance
This regulation requires the lessee to provide the department with any records it has determined
are necessary to verify the lessee’s compliance with the lease provisions.

Hazardous Materials and Potential Contaminants:
No hazardous materials or fuel are planned to be stored on the leasehold.

The use and storage of all hazardous substances must be done in accordance with existing federal,
state and local laws. Debris (such as soil) contaminated with used motor oil, solvents, or other
chemicals may be classified as a hazardous substance and must be removed from the sites and
managed and disposed of in accordance with state and federal law.
**Lease Performance Guaranty (bonding):**
In accordance with 11 AAC 63.080, PA will be required to submit a performance guaranty for the leasehold.

- **$27,000.00 Performance Bond:** This bond will remain in place for the life of the lease. The bond amount is based upon the level of development, amounts of hazardous material/substances on site, and the perceived liability to the state. This bond will be used to insure the applicant’s compliance with the terms and conditions of the lease issued for their project. This bond amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments, assignments, re-appraisals, changes in the ODP, changes in the activities conducted, or changes in the performance of operations conducted on the authorized premises, and as a result of any violations to one or more of the authorizations associated with this project.

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

**Insurance:**
PA will be required to submit proof of liability insurance to SCRO, with the State of Alaska listed as a “NAMED” insured party. PA will be responsible for maintaining such insurance throughout the term of the lease.

**Survey:**
In accordance with AS 38.04.045, this short-term lease does not require a survey. However, the State of Alaska reserves the right to require one in the future, should the need arise due to changes in statutes or increased use of the area. PA has submitted GPS coordinate points for the four corners of the proposed leasehold.

**Compensation and Appraisal:**
DMLW has approved a lease fee schedule for aquatic farm sites that meet the conditions listed within the schedule. The most current lease fee schedule will be used to establish the fair market rental each lessee must pay. Fees are subject to adjustment per AS 38.05.105. The current annual rate for a 127-acre aquatic farm lease is a base fee of $11,681.00 for the first 120 acres, and $62.00 for each additional acre or partial acre. In accordance with the Aquatic Farmsite Fee Schedule, Report No. 2522-13, a breakdown of the lease fee will be as follows:

127 acres (1 x $11,247) + (7 x $62) = **$11,681.00 per year**

The applicant has the option to have an appraisal done, at the applicant’s expense, before the lease is issued if they do not wish to use the DNR approved fee schedule. If an applicant opts for an
appraisal, the DNR approved appraisal will establish the rental for the lease and the fee schedule will no longer be an option.

**Assignment of Lease:**
The proposed lease, if issued, may be transferred or assigned to another individual or corporation only with prior written approval from the State of Alaska. A lease will not be assigned to an entity if that entity does not meet the statutory requirements of the lease or the lease is not in good standing.

**Reclamation:**
In accordance with AS 38.05.090(b), all lessees must restore their lease sites to a “good and marketable condition” within 120 days after the termination of their lease. What level of reclamation constitutes as being “good and marketable” is at the discretion of SCRO. DNR reserves the right to require a reclamation bond at any time.

**Agency Notice:**
An Agency Review was conducted for a 20-day period starting on November 29, 2017. The deadline for agency comments was December 18, 2017.

The following agencies were included in the review:
- DNR DMLW – Mining
- DNR DMLW – Water
- DNR DMLW – Title
- DNR DMLW – Land Sales
- DNR Office of History and Archaeology/SHPO
- DNR Division of Oil and Gas
- DNR Division of Parks and Outdoor Recreation (DPOR)
- ADF&G - Habitat
- ADF&G – Aquatic Farm Coordinator
- DEC - Shellfish
- Department of Transportation and Public Facilities
- U.S. Fish and Wildlife Service
- U.S. Army Corp of Engineers (USACE)
- National Oceanic and Atmospheric Administration
- U.S. Environmental Protection Agency
- U.S. Coast Guard
- USDA Forest Service
- Alaska Association of Conservation Districts
- City of Craig
- City of Klawock
Agency Notice Comment(s):
During the Agency Review, SCRO received comments from four agencies.

City of Craig Comments:
• "The project continues to expand oyster mariculture on the west coast of Prince of Wales Island, adding to a growing mariculture economy.

• Kelp farming at the site generally expands mariculture in the area and is the first kelp farm near Craig. Kelp farming provides opportunity for employment and additional value added processing facilities in or near Craig.

• Placement and operation of the lease facilities should not interfere with existing boat traffic or anchorages in the area. PA told city representatives that they will facilitate anchorages in the area and would facilitate vessels crossing lease areas to adequately and safely access anchorages in the area.

• The City of Craig is prepared to work with the applicant regarding staging personnel and equipment for transport to the proposed farm site, waste disposal, and other logistical matters."

SCRO Response:
The City of Craig comments are accepted.

City of Klawock Comment:
• "The proposed oyster farm continues the expansion of the mariculture on the west coast of Prince of Wales Island and, adding to a growing mariculture economy.

• Kelp farming at the site indicted expands mariculture in the area and is the first kelp farm in our area.

• Kelp farming provides an opportunity for employment and additional value-added processing facilities in or near Klawock.

• Placement and operation of the lease facilities should not interfere with existing boat traffic or anchorages in the area.

• It is not expected that the proposed operation will interfere with the traditional uses and activities of our residents in the Doyle Bay area.

• Additionally, we are very encouraged by the environmentally friendly economic development opportunity that the proposed project can bring to the local communities on Prince of Wales Island. In conclusion, the City of Klawock supports the issuance of the Premium Aquatics, LLC site lease application ADL 232885."
SCRO Response:
The City of Klawock comments are accepted.

USACE Comment:
A USACE Regulatory Specialist provided an email to SCRO advising that PA’s proposed aquaculture structures will require permit authorization(s) from their agency. Directions as to the location of the applications and contact information were provided.

SCRO Response:
USACE’s comment is accepted. PA is aware of the permit requirements and has communicated with USACE. Furthermore, lease stipulation No. 26 states: The lessee shall, at the lessee's own expense, comply with all existing and hereafter enacted environmental responsibility laws "Environmental Laws". The lessee shall, at the lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Environmental Laws.

ADFG Comment:
ADFG completed a preliminary review of the proposed aquatic farm. In a letter to SCRO, ADFG provided recommended site-specific conditions to address concerns relating to potential impacts to fish and wildlife resources in the area and to make the project consistent with ADFG’s statutory and regulatory provisions for issuance of an aquatic farm operation permit.

Site-specific conditions are recommended to be added to the aquatic farm lease and aquatic farm operation permit authorizations, where appropriate, and an advisory of the recommendations be provided in the DNR PD that are provided to the applicant and the public. Within ADFG’s letter, there are four comments that are addressed by SCRO below.

ADFG Comment 1:
“Fish Resources and Their Habitat
There are concerns relating to adult pink salmon that travel, mill, and stage in preparation for returning to spawn in four classified anadromous streams located in Doyle Bay. The following site-specific conditions are recommended to minimize the impacts to adult pink salmon from the proposed aquatic farm operation:

- The permit holder will conclude all aquatic farm activities where the submerged kelp longlines are to be located each year, by May 15 of each year to October 1 to limit interaction with salmon fry outmigration and staging of adult salmon.

- The permit holder will remove as many lines and buoys associated with the kelp culture, as much as possible, after the kelp harvest is concluded in the spring.
• No changes will be considered for the ADF&G operation permit in the future that would allow operation activities and gear usage in the area of Parcel 1 where submerged kelp longlines and are to be located and kelp culture is to occur, during the summer months when adult salmon are present.”

SCRO Response:
The ADF&G conditions related to the proposed kelp culture and harvest area in the proposed leasehold will be added as a stipulation in the aquatic farm lease. PA submitted a revised Project Description for inclusion in the Development Plan (Attachment A) to DNR on April 21, 2018. This revision is in response to ADF&G’s condition to conclude all aquatic farm activities where the submerged kelp longlines are to be located on Parcel 1, by May 15 to October 1 of each year.

ADF&G Comment 2:

Wildlife Resources and Their Habitat

There are concerns with the project relating to marine mammal disturbances during the aquatic farm operation installation and daily activities, and the potential for marine mammal interactions and entanglement with the large number of submerged longlines and anchor, lines, and buoy systems proposed for the operation. The following site-specific conditions are recommended to minimize marine mammal disturbances from the proposed aquatic farm operation:

• “The lease holder/permit holder will implement best management practices to reduce impacts to marine mammals in the area of Doyle Bay including:
  a. regular maintenance of farm structures (i.e. keep lines secured and anchor wraps under tension);
  b. ensure waste material and debris are collected and disposed of correctly;
  c. use caution when operating vessels;
  d. directing aquatic farm workers to avoid interacting with or feeding marine mammals;
  e. limit the use of underwater lighting;
  f. for crab pots used as anchors, remove all entangling materials on the pots and avoid the use of rubber; and
  g. monitor marine mammal species in the vicinity of the farm.”

“Any marine mammal entanglements should be immediately reported to the department aquatic farming coordinator (phone 907-465-6150 and dfg.dcf.aquaticfarming@alaska.gov) and National Marine Fisheries Service Alaska 24 hr. Stranding Hotline, phone – (877) 925-7773.”
SCRO Response:
DNR statutes and regulations do not specify management of aquatic farms relating to marine mammals, and management of marine mammals are outside the scope of DNR’s authority. However, DNR will add an advisory in the lease as a reminder to PA. In addition, pursuant to the lease stipulations Section 4 and Section 26, the stipulations require the Lessee to comply with all applicable laws, regulations, ordinances, and order that a public authority has put into effect.

ADF&G Comment 3:
“In addition to the above recommended site-specific conditions, the applicant should be made aware that any questions about the Marine Mammal Protection Act and authorized activities should be directed to NOAA Fisheries Alaska Region Protected Resources Division at 907-586-7235 or NOAA Fisheries Headquarters at 301-713-2322. The project is also within the range of the northern sea otter, managed by the U.S. Fish and Wildlife Service (FWS). For Take permits for FWS managed species, please call 1-800-358-2104.”

SCRO Response:
DNR will add this information to the marine mammal advisory in the lease as a reminder to PA.

ADF&G Comment 4:
“The department would also like to request that a public hearing be conducted in Craig by the DNR for the proposed aquatic farm application. The rationale for this request is for the public to have an opportunity to comment on this proposed project before authorization determinations are finalized.”

SCRO Response:
The public will have an opportunity to comment on this proposed lease. Pursuant to AS 38.05.945, the department shall provide notice of the Preliminary Decision notifying the public of the right to submit comments on the proposed lease. A public hearing will not be conducted.

Public Notice of the Preliminary Decision:
Pursuant to AS 38.05.945, this PD will be advertised for a 30-day public comment period. Notice will be posted on the Alaska Online Public Notice System at: http://aws.state.ak.us/OnlinePublicNotices/Default.aspx and the post offices located in Craig, Klawock, Thorne Bay, and Hydaburg. Notices will also be mailed or emailed to neighboring property owners, permit/lease holders, and other interested parties on July 10, 2018 for a 30-day public comment period.
Comment(s):
This decision is subject to both public and agency comments and all comments received by the comment deadline will be considered in the Final Finding and Decision. Only those who comment and the applicant have the right to appeal the Final Finding and Decision.

Written comments about this project must be received in this office no later than 5:00 PM on August 15, 2018 to be considered.

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

Postal: Department of Natural Resources
        Southcentral Region Office
        ATTN: Karen Cougan
        550 West 7TH Avenue Suite 900C
        Anchorage, AK 99501-3577

Phone: 907-269-8543

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If public comments result in significant changes to the Preliminary Decision, additional public notice may be given. To be eligible to appeal the Final Finding and Decision, a person must provide written comments during the Preliminary Decision comment period per AS 38.05.035(i)-(m).

Signature page follows:
**Recommendation:**
DMLW has completed a review of the information provided by the applicant, examined the relevant land management documents, and has found that this project is consistent with all applicable statutes and regulations. This decision considers the existing uses in the area, interested agency comments, and the overall benefit to the State’s aquatic farm industry. DMLW considered three criteria to determine if this project provided the best interest to the State and the development and enjoyment of its natural resources. The criteria include direct economic benefit to the State, indirect economic benefit to the State, and encouragement of the development of the State’s resources. This authorization provides a direct economic benefit to the State with the collection of a one-time filing fee and annual rental fees. The proposed lease also supports job opportunities for the public while maximizing the use of the State’s natural resources. The authorization of this lease is in the State’s best interest as it furthers economic development of the State’s aquatic farm industry.

It is the recommendation that the State issue PA a 10-year lease, with the understanding that if the lessee fails to comply with the submission of the Annual Reports, Commercial Use Requirements, or stipulations within the lease, this will constitute a violation of the lease terms and steps may be taken to terminate the lease authorization.

Karen Cougan, Aquatic Farm Program Coordinator          Date
7/3/18

**Preliminary Decision:**
It is the determination of the Division of Mining, Land, and Water that it may be in the State’s best interest to issue an aquatic farm lease, per AS 38.05.083, to PA, as described above. Upon authorization of ADL 232885, the applicant will pay the annual lease fee of $11,681.00 per year. The applicant will also be required to submit a $27,000.00 performance bond and meet the State of Alaska liability insurance requirements. This application shall now proceed to public notice.

Clare Cox, Regional Manager                             Date
7-6-18
Southcentral Regional Office, Division of Mining, Land & Water

**Attachments**

Attachment A – Development Plan: General Location Maps, Site Plan Maps and Diagrams, and Project Description (The complete Development Plan is available upon request.)
Attachment A
Development Plan

LOCATION MAP

APPLICANT NAME: PREMIUM AQUATICS
WATERBODY: DOYLE BAY
REGION: CRAIG, SOUTHEAST ALASKA

PROJECT NO. 172322  SCALE: 1" = 2 MILES  DRAWN BY: T.S.S.  CHECKED BY: M.S.  DATE: 4-20-17

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Development Plan
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Attachment A
Development Plan

[Diagram of a raft section view with dimensions and typical stack of 10 trays]

Typical Hanging Stack

Depth at Mean Low Tide
36' to 46'

Bottom: Rock and Silt

24' to 84'
Typical at Mean Low Tide

5" Height

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Development Plan
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Typical Kelp Longline Array

Notes:
- All Kelp floats through the pneumatocyst filled with buoyant gas, so the number of floats and line anchors needed to maintain depth to maximize growth is not yet known, but will be adjusted in season as necessary.

Premium Aquatics, LLC 11. 2017
PROJECT DESCRIPTION

ADL 232885 Premium Aquatics, LLC

A. Site Location. The proposed aquatic farm site is in the Northwest corner Doyle Bay, about 6 nautical miles south-southwest of Craig, Alaska.

B. Site Dimensions. The proposed aquatic farm site dimension is a four-sided polygon, 1,200 feet x 4,600 feet.

C. Total Acres. The proposed site area constitutes 127 acres (actual 126.72).

D. Species Intended to Farm.

25% of the site area, equivalent to 31.68 acres, will be utilized for subtidal suspended culture of Pacific oysters (Magallana gigas) using grow-out raft and cage system.

75% of the site area, equivalent to 95.04 acres, will be utilized for the culture of Bull Kelp (Nereocystis luetkeana) during the period from September to May.

E. Culture Method, Gear, Equipment and Anchoring Systems.

1. Pacific oysters (Magallana gigas) culture.

This section of the site, as allocated, will hold up to up to 32, 24 1/2' X 36' oyster grow-out rafts. The rafts will be constructed with non-treated wood supported by closed cell (extruded) expanded polystyrene or equivalent material. The grow-out rafts will be deployed in arrays or convoys with 300' between each array line. Each grow-out raft in the array will be 150' apart. A total of 1,600 trays, sized 26" x 26" x 5" will be suspended in stacks, from the grow-out raft for a total of 51,200 trays, collectively, for all rafts.

The anchoring system will consist of two (2) buoys, a 3,000-pound concrete anchor and 6,000-pound Danforth anchor that will be set between each raft in the array line. The anchor line will be connected from the raft to a 36" buoy. The Danforth anchor will be secured by chain to the concrete block. A 36" buoy will be anchored by chain to the concrete anchor. The 36" buoy will be situated between adjacent to the raft so that when the raft is moved to and from the work barge for processing, the anchor system will remain on the surface and accessible for quick connection and disconnection. A total of 128 total anchors will be deployed to secure the grow-out raft arrays. The scope provided for this anchor line will be approximately three (3) times the depth of the water at the anchor to provide sufficient scope to secure the raft through all tides and weather. All anchors and anchoring systems will be entirely contained within the site area.

The raft array layout configuration may need to be modified after further testing to find the best configuration to maximize growth, quality and processing efficiency as dictated by tidal and current flow and other factors.

The culture of Pacific oysters (Magallana gigas) will take place year long.
2. **Bull Kelp (Nereocystis luetkeana) culture.**

The kelp culture gear will feature a laterally secured submerged longline array system consisting of up to 162, 900' longlines. Each longline will be made of 3/8" Aqualine Plus groundline, a high-quality twisted nylon groundline or AMCO SSR 100 Ultra ground line, which is a blend of Ultrain® and polyester fibers. Modifications in the type of lines to be used may change based on the grow-out results.

The longline array configuration will be structured in groups of nine 900' x 350' sections. Each array will have two 350' breakwaters, one on each end. Each section will support 18-36 900' longlines that will be suspended approximately 7' below the water surface.

The anchor system for each longline will have a smaller anchor and buoy system which will hold each longline approximately 10-20' apart. The longlines will have small intermittent anchors (2,000 x 2 - 25#) and 4-12" buoy floats (2,500) as may be necessary to maintain a consistent depth to maximize growth, counter the natural buoyancy of the kelp, and prevent fouling of the longlines, including crossing which could damage the growing kelp. The end of each longline will be secured to the breakwater and to a 1,000-pound concrete anchor. For 162 longlines, there will be 324, 1,000-pound line end anchors. The line end anchors will remain in the water, year around.

The breakwaters and associated anchors will remain in the water year around. Each 24' floating steel pipe breakwater will be anchored with six 6,000 lb. concrete anchors. A total of 108 6,000-pound concrete anchors will secure the breakwaters. The anchor chain and cable which will be at least 3 times the depth of the water at the breakwater to provide sufficient scope to remain secure in all tides and weather. All anchors and anchor components will be contained inside the site area.

*Note:* A line of 36" buoys may be installed the end of each line as a substitute for the breakwaters if, in trials and performance, they prove more cost effective, efficient and limit surface coverage, while still providing the same level of performance in keeping the kelp lines from fouling.

The longline systems will be installed in the fall and removed after the annual harvest and stored, on shore, until the next growing season. The breakwaters or buoys and their anchoring systems may remain in the water year around. They will be regularly monitored, even when not in use.

Kelp operations will occur between October 1 and May 15 of the following year.

**F. Harvest equipment and method.**

1. **Pacific Oyster Harvesting.**

At peak production, employment estimates are that 30-40 full time farm workers will work year around tending to the oysters, clearing biofouling, tumbling, sorting, initial sizing and other tasks involved in the husbandry of the oysters.

Each raft will be disconnected from the anchoring system and towed alongside and secured to the steel work barge, where all the drops will be picked by crane and placed on the deck of the steel work barge. There they will be dumped into bins for tumbling, sorting by size, removal of starfish, etc. and clearing of
biofouling. Small or unmarketable oysters will be returned to the trays. Husbandry will be performed using proprietary and purposed designed equipment, which will have mechanized sorting, tumbling and defouling technology.

Once the process above is complete, the drops of trays will be reinstalled in the raft, the raft will be towed to and secured to the anchoring system. The next raft will be towed to the steel work barge and the process repeated. During the growing season, approximately March through September, each raft will be processed not less than once a month.

 Marketable oysters will be sorted out and toted and, once the necessary product is collected, the product will be taken to the shore side facility in Craig where it will be finish tumbled, resorted, bagged in onion bags containing 10 dozen oysters. The bags will then be boxed for shipment to specific customers. Sampling and testing, as required by regulation, will be performed from the product delivered to the shore side facility. Product will be stored in refrigerated vans pending approval for shipment. The product will then be trucked to Ketchikan by ferry, for air freight or shipped by air cargo out of the Klawock Airport.

2. Kelp Harvesting

Kelp will be harvested utilizing a purpose-built vessel that will haul the line on deck where the kelp will be cut from the longline and a belt will move the kelp into a net bag towed behind the vessel. Once a bag is full, it will be tied off and passed to a second vessel that will tow it to the tender. Another bag will be secured, and the vessel will continue down the longline. The longline will be wound on deck and secured. Once full, the kelp bag will go to the plant, directly, or to an onsite tender which will hold it for delivery to the processing facility. This process will be repeated on each longline, until the harvest is complete and all the longlines are removed for cleaning and off-season storage so that they may be reused the following season.

Kelp operations will occur between October 1 and May 15 of the following year.

G. Support Facilities

The initial plan is to deploy a 130' x 30' steel barge with a building constructed on deck, dual cranes erected on it to serve as onsite husbandry facility, additional storage and crew break area, incinerating toilet, power generation and office facilities. Initially, the 130' x 30' work barge will be anchored in the northwest portion of the site. Anchoring systems will consist of two 6,000 Danforth anchors, one to each end, with an estimated 18 fathoms of anchor line/chain on each anchor to provide adequate scope. The anchoring system will be monitored and modified as needed to provide a safe, secure and stable work platform in all tides and weather. The complete anchoring system for the barge will be located inside the site boundaries. The location is subject to change based on tidal conditions and to maximize operational safety and efficiency.

H. Access to and from the Farm Site

All personnel will live off-site and will be transported daily to the site from the dock in Craig, Alaska, by appropriately sized and manned vessels. The barge/processing platform will be outfitted with incinerating
head(s). The vessels will have on board heads for crew usage. All on board vessel heads will be pumped in Craig at appropriate facilities.

1. **Storage Location of Equipment and Gear When Not in Use.**

Excess trays and other equipment will be stored on private property in Craig, Alaska. Additional storage space will be on board the 30' X 130' barge anchored in the Northwest portion of the site.