1. **Proposed Action**

On April 20, 2022, Kenai LNG, LLC (KLNG) submitted an application to the Department of Natural Resources (DNR) Division of Oil and Gas (Division) requesting to renew the existing tideland lease, ADL 34729 (Lease), for a new term. KLNG requested the Lease renewal to allow for continued use of the marine terminal in support of the adjacent Kenai LNG facility. The Lease comprises approximately 76.606 acres of tidelands for an industrial marine terminal in the Cook Inlet region near Nikiski. KLNG is the current upland owner of the parcel adjacent to the Lease and is the current named lessee on the Lease.

The Division proposes to issue a renewal for ADL 34729 to KLNG for a new term of 20 years. No changes to the acreage or projected use of the Lease parcel are requested for the new term. This Lease Renewal Agreement will be in the form of a separate document issued concurrently with this Director’s Decision.

2. **Background**

The Lease was issued on August 4, 1967, for a primary term of 55 years expiring August 3, 2022. The purpose of acquiring the Lease was to construct a marine terminal to facilitate transfer of LNG between marine vessels and the adjacent KLNG facility in support of activities related to offshore gas development and production in the Cook Inlet region. The Lease was amended and assigned multiple times, and at the end of the primary term contained 76.606 acres as depicted on Alaska Tideland Survey (ATS) 699 recorded in the Kenai Recording District.

3. **Scope of Decision**

The scope of this decision is to determine if it is in the State’s best interest to renew the Lease and authorize continued activity on leased tidelands. The administrative review for this authorization is defined by AS 38.05.035(e)(1)-(2) and is limited to reasonably foreseeable and significant effects of the uses to be authorized, applicable statutes and regulations, facts and available land management information pertaining to the land or resources, and any issues that are material to the determination.
4 Development Plan – Existing Infrastructure

This Director’s Decision and Lease renewal update the Development Plan to reflect current improvements on the Lease and to provide a description of activities reasonably anticipated during the renewed Lease term. KLNG is responsible for obtaining approvals or permits from other persons or governmental agencies that may also be required for the activities described in the Development Plan.

The marine terminal consists of a 1,300-foot causeway connecting the shore to a 50-foot by 100-foot breasting platform housing a storage room, control room, LNG loading arms, and fire suppression equipment. No new infrastructure or changes to the existing lease boundaries are proposed at this time. No changes to existing operating activities, procedures, or projected uses are planned or proposed at this time.

5 Authority

This Lease renewal application has been adjudicated pursuant to AS 38.05.035(e), AS 38.05.070, and AS 38.05.075. The authority to execute the Lease and Development Plan amendments was delegated to the Division of Oil and Gas from the DNR Commissioner, effective October 27, 2020.

6 Administrative Record

The administrative record for the proposed actions consists of the casefile serialized by DNR as tideland lease ADL 34729.

7 Lease Renewal Qualifications

KLNG qualifies for a noncompetitive renewal consistent with the definitions of AS 38.05.075(c) and AS 38.05.102. KLNG is the current lessee and in good standing.

8 Location and Legal Description

Geographic Location: Kenai Spur Highway, Nikiski, Alaska, approximately 10 miles northwest of the City of Kenai.

Municipality/Borough: The project area is within the Kenai Peninsula Borough (KPB). No borough lands are impacted.

Regional/Village Corporation: Cook Inlet Regional Corporation. No corporation lands are impacted.

USGS Quad: Kenai C-4

Approximate Lat/Long: 60°67'13" N, 151°39'03" W

Current Legal Description: Sections 21 and 28 of Township 7 North, Range 12 West, Seward Meridian, as depicted on Alaska Tideland Survey (ATS) 699 recorded in the Kenai Recording District dated August 4, 1967, containing 76,606 acres, more or less.
9  Planning and Classification

The Lease is subject to the Kenai Area Plan (KAP), Region 5, Management Unit 517, Nikiski Industrial Waterfront. Unit 517 is classified as Waterfront Development Land, defined by 11 AAC 55 215 as “tideland, submerged land, or shoreland that is suitable to be used for commercial or industrial activities such as fish processing, aquatic farming, mineral and log transfer facilities, or commercial recreation.”

The Plan recognizes the existing industrial infrastructure and dock facilities in the Resources and Uses and management intent. The Lease supports industrial waterfront activities related to the support of upland and offshore oil and gas activities and is therefore consistent with the Management Intent of the KAP.

Chapter 2 of the KAP outlines the Goals, Management Intent and Guidelines for Waterfront Development. The Goals for Waterfront Development are to “aid in the development of infrastructure and continue to provide support for waterfront industries.” Resource transfer facilities should be sited and operated such as to minimize interference with important established personal, commercial, or recreational uses, consolidate facilities to accommodate future development and avoid unnecessary relocation of sites, and avoid hazards to navigation.

The Lease supports industrial waterfront activities related to the support of oil and gas activities, and is therefore not in conflict with the Goals, Management Intent and Guidelines outlined in Chapter 2.

10  Title and Third-Party Interests

The State of Alaska holds title to the subject tide and submerged lands under the Equal Footing Doctrine and the Submerged Lands Act of 1953.

Shore fishery leases ADL 33630, ADL 33631, and ADL 52735 overlap with ADL 34729. The tideland and shore fishery leases have coexisted for more than 60 years without significant issue. A private non-exclusive easement, ADL 231108, for effluent discharge, runs parallel to the wharf approximately 650 feet south of the wharf. The Lessee is encouraged to coordinate with adjacent lessees, so Lease activities do not unreasonably or unnecessarily interfere with access or activities related to adjacent interests.

11  Access

Access to the leasehold will be through existing roads or from the water.

12  Agency Review

The Division provided a review and comment opportunity for the proposed Lease renewal. The following government entities were notified on May 5, 2022, for comment on the application: DNR Division of Mining, Land, and Water (DMLW), US Army Corps of Engineers (USACE), US Coast Guard (USCG), and the Kenai Peninsula Borough (KPB). The comment deadline was
4:30 pm Alaska time on May 19, 2022. Comments were received from DMLW, considered, and resolved in a timely manner.

13. Public Notice

Public notice of this Director’s Decision and Lease renewal has been posted on the Alaska Online Public Notice website on June 22, 2022.

14. Discussion and Finding

The Division finds that the proposed Lease renewal is necessary for the practicable development and production of energy resources in the Cook Inlet region. The proposed Lease renewal will be authorized under AS 38.05.070(e) through this Director’s Decision for a term of 20 years. All covenants, stipulations, terms, and conditions remain as originally written with the exception of those that have been updated in the Lease Renewal Agreement, which has been updated to include more modern language to adequately protect State interests. The Lessee is subject to the terms of this decision and the stipulations of the Lease. The State reserves the right to issue authorizations for other compatible uses within the same area.

The casefile has been found to be complete and the requirements of all applicable statutes have been satisfied. It is the decision of the Division that it is in the interest of the State to proceed with the Lease renewal, as recommended above, pursuant to AS 38.05.070.

Derek Nottingham
Director, Division of Oil and Gas

Appeal Provision

A person affected by this decision may appeal it in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of “issuance” of this decision, as defined in 11 AAC 02.040(e) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-(907) 269-8918, or emailed to dnr.appeals@alaska.gov. Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 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) and (b).

If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31st calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.
Attachments
Attachment A - Lease Renewal Agreement
Attachment B – Region and facility maps
Attachment C – Renewal Application & Development Plan
DNR Tidelands Lease #34729
Kenai LNG LLC
Existing Wharf, ALD #34729
78.32 Acres
NOTES:

1. ELEVATION DATA REFER TO U.S.G.S. BUSH BENCH MARK ON THE KENDAL POINT, KENAI PENINSULA, ALASKA

2. ALL ELEVATIONS REFER TO U.S.G.S. BUSH BENCH MARK ON THE KENDAL POINT, KENAI PENINSULA, ALASKA

3. ON THE AMENDMENTS FOR CONTROL VACUUM

4. VAV IS THE ABBREVIATION FOR VACUUM VACUUM

5. GATE LOCKS IN VACUUM VACUUM