

**State of Alaska
Department of Natural Resources
Division of Mining, Land & Water
Northern Regional Office**

Lease Extension Decision
ADL 400084 - Crowley Marine Services, Inc.
Subdivision Lease

Decision to Extend Lease

Crowley Marine Services, Inc. (Crowley), has applied to the Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW), to renew a current long-term lease in Deadhorse, Alaska. The lease will expire February 13, 2018. DMLW staff observed sheen and potential environmental liability during a site visit on August 21, 2017 and, during file review, found a 1991 environmental audit (EA) documenting on-site hydrocarbon contamination with no corresponding record of corrective action. Crowley requests, in the application, to subdivide the lease parcel for the purpose of carving out a septic outfall and mixing zone area that is associated with a neighboring lease tract from the Crowley lease area. DMLW has made the decision to extend the lease for a maximum of two years pursuant to AS 38.05.070(f)(2). The lease extension will allow Crowley time to develop and execute a corrective action plan for contamination assessment and remediation and conduct any work necessary for lease subdivision. During this process, DMLW will evaluate the lessee's progress towards meeting contamination cleanup standards as well as the appropriateness of lease tract subdivision. This evaluation will be made part of the future lease renewal review process.

Scope of Decision

The scope of this decision is to determine if it is in the State's best interest to extend the lease for ADL 400084 to Crowley for equipment and material storage in support of North Slope oil field activities.

Authority

This lease extension is being adjudicated pursuant to AS 38.05.070, leasing of land other than for the extraction of natural resources; AS 38.05.070(g), the director shall provide public notice; and AS 38.05.070(f), a lease may be extended once for a period up to two years.

Administrative Record

The current case file, ADL 400084, comprises the administrative record for this case.

Location and Legal Description

Tract 27 (ADL 400084) of Alaska State Land Survey 76-227, Survey of North Slope Lease Tracts, Deadhorse, Alaska; within NW ¼ of NW ¼ of Section 17, Township 10 North, Range 15 East, Umiat Meridian, containing 21.19 acres, more or less. Location map is provided in Attachment A.

Title

The State received patent, #50-74-0092, on March 27, 1974.

Adjacent Landowners, Native Corporations or Borough

The lease tract is within the North Slope Borough, though no borough lands are impacted. The lease tract is within the Arctic Slope Regional Corporation boundaries, though no corporation lands are impacted.

Third Party Interests

Surface Activity:

- ADL 63237, Public Easement, Utility, Issued, Arctic Slope Telephone Assoc. Inc
- ADL 413263, Public Easement, Utility, Issued, Norgasco Inc.

Subsurface Activity:

- ADL 28330, Oil & Gas Lease Competitive, Issued, BP Exploration (Alaska) Inc.

See Title Report RPT #10223 for more information. There are no other known third party interests identified at this site. The third party interests identified do not conflict with the lease extension.

Planning and Classification

This site is within the North Slope Borough, which is the zoning authority. This site is zoned Resource Development and does not preclude this extension.

The site is classified Settlement under the Deadhorse Lease Tracts Site Specific Plan (SSP) CL NC-04-003, dated January 30, 2006. The SSP notes that an Oil and Gas Lease (ADL 28330) covers the area. Development of the surface estate is not prohibited, but the subsurface is the dominant estate (SSP, p. 10).

The General Management Intent for the Deadhorse Lease Tracts is to support oil and gas development and to ensure continued access to develop the underlying mineral estate (SSP, p. 19). Tracts improved under the SSP are to be managed to support oil and gas operations (SSP, p. 19).

The site is subject to ADL 50666, North Slope Area Special Land Use and AS 19.40.010, James Dalton Highway.

This site has not been closed to mineral entry.

The extension is consistent with the classification and management intent of the area.

Access

An industrial road (Spine Road), which connects to the Dalton Highway, provides direct physical and legal access to the tract and does not require an authorization.

Hazardous Materials and Potential Contaminants

Tract 27 has historically been used for an oil field man camp and storage of construction and oil field equipment. On-site structures have included man camp of diverse sizes, multiple drill rigs, maintenance shop buildings, paint shop, fuel holding tanks of various sizes, drilling pipe, among other items. Currently, there are no buildings or functioning support utilities on-site; the site is being used as a temporary material laydown yard.

There is known contamination within the boundary of Tract 27. An EA performed in 1991 (See File) indicated that portions of the gravel pad had been impacted by petroleum hydrocarbons. A summary on the level of contamination from the audit reads “Contamination in the form of heating oil or diesel fuel is widespread. Samples taken at the interface between the gravel pad and the native soil indicate that there is detectable levels of petroleum hydrocarbons over the entire pad area. Greater than one half of the pad area has Total Petroleum Hydrocarbons (TPH) levels of over 100 ppm and approximately one quarter of the pad area has TPH levels over 1000 ppm.” Alaska Department of Environmental Conservation (ADEC) regulation at that time allowed for a maximum level of 100 ppm of TPH of a non-gasoline product. A separate, newer set of regulations had recently gone into effect for leaking underground storage tanks, which allowed for a maximum non-gasoline TPH contaminant level of 1000 ppm. Current ADEC regulations are similar to the 1000 ppm non-gasoline TPH standard. There are no records in the DMLW casefile that address if corrective action has been performed at the contaminated area identified in the 1991 EA.

DMLW staff observed sheen during a site visit on August 21, 2017 and requested that Crowley submit a spill report to ADEC. Crowley fulfilled this request, making ADEC "... aware of a 'historical' discharge" which was noted in a letter addressed to Crowley on September 28, 2017 (See File). In a letter dated October 2, 2017 ADEC requested that Crowley submit a site characterization work plan to "investigate the sheen discovered near the six steel piles on Tr. 27" (See File). DMLW instructed Crowley, via December 22, 2017 email, to include the area of concern identified in the 1991 EA in the site characterization work plan, which, to date, has not been submitted.

DNR has initiated a potentially hazardous site file (ADL 420903) to track contamination associated with Tract 27.

Performance Guaranty

To incentivize performance of the conditions of the lease and to provide a mechanism for the State to ensure that the lessee shares in financial burden in the event of noncompliance for site cleanup, restoration and any associated costs after termination or expiration of the leases, a performance guaranty is required. Calculating the bond using the DMLW performance guaranty matrix yielded a bond in the amount of \$320,000. Crowley currently holds a bond in the amount of \$25,000. The existing bond will need to remain in place throughout the two-year extension period; an increased or a new bond will be considered during the renewal review process for long-term lease.

Insurance

To protect the State from liability associated with the use of the site, Crowley provided and will maintain a comprehensive generally liability insurance policy with the State of Alaska named as an additional insured party. To correspond with the current amount of insurance required by DMLW for similar cases, the insurance requirement for the lease is no less than \$1,000,000 commercial general liability per occurrence and \$2,000,000 per annual aggregate. The insurance requirement may be adjusted periodically.

Appraisal

The original lease provisions restricted compensation increases. The rental rate remained the same for the first 25 years. After that time period, rent increases were restricted to 50-percent of the previous annual rental. The annual rental established in 1978 was \$1,000. This increased to \$1,500 in 2003. In 2013 the annual compensation was increased to \$2,250.

An appraisal was recently conducted by Black-Smith, Bethan & Carlson, LLC and the effective date of the appraisal is June 28, 2017. It reports an annual market rent of the 21.19-acre parcel to be \$148,330.

Per terms of the current lease agreement and with the requirements of AS 38.05.105, periodic rent adjustments, reappraisals of lease sites are conducted to adjust compensation rates to the state. The annual rent will be adjusted to reflect the new appraised value. Annual rent will be set at \$3,375 at the start of the two-year extension. Updates and more significant increases in rent requirements will be addressed in the long-term lease renewal process, as the law capping rental increases at 50-percent of previous annual rent was repealed in 1992.

Agency Review

A separate, prior agency review was not deemed necessary for this lease extension decision and was therefore, not conducted. Agencies will be notified concurrent with the public review following issuance of the extension decision. Review will be sent to the following agencies: DNR DMLW Water Section, DNR Division of Oil and Gas, DNR Office of Project Management and Permitting, DNR State Historic Preservation Office, DOG State Pipeline Coordinators Section, Alaska Department of Fish and Game,

ADEC Spill Prevention and Response, ADEC Division of Water, US Army Corp of Engineers, and the US Fish and Wildlife Service.

Public Review

Pursuant to AS 38.05.070(g), the department shall provide public notice of the extension decision. This proposed action will be posted on the Alaska Online Public Notice System for 30 days. Public notice will also be provided to the North Slope Borough and agencies noted in the Agency Review section.

Background

ADL 400084 was issued to Mukluk Freight Lines on February 14, 1978. The customer was amended in 1990 when Mukluk Freight Lines merged with Puget Sound Tug & Barge Company. In 1995, Puget Sound Tug & Barge merged with Crowley Marine Services, Inc. and the lease customer was again amended. Tract 27 has been used for equipment and material storage and camp facilities since 1978.

The original lease provisions restricted compensation increases. The rental rate remained the same for the first 25 years after that, rent increases were restricted to 50-percent of the previous annual rental. The annual rental established in 1978 was \$1,000. This increased to \$1,500 in 2003 and to \$2,250 in 2013.

In addition to the previously documented contamination issues, an operating sewage outfall line from neighboring Tract 28, currently leased and operated by CH2M-Hill under ADL 64456, discharges clean septic effluent within the boundary of Tract 27. Per Crowley application, CH2M-Hill conducted an environmental assessment of the septic outfall area in 2010 and no pollution was identified. Crowley has requested that Tract 27 be subdivided during the lease renewal process into two lots to remove the outfall and mixing zone area from Crowley leasing responsibility. In addition to addressing site contamination, the lease extension will permit time for parties to develop and adjudicate the proposed subdivision process. Gravel has been placed within the lease area over approximately 200,000 square feet (4.59 acres) of the 21.19 acres of total lease area.

Lease Discussion

Crowley currently uses Tract 27 for temporary storage of rolling equipment and material stock in support of North Slope oil and gas operations. Crowley or subsidiaries have been operating on the tract continuously since 1978.

Per AS 38.05.070(f), a one-time lease extension for a period of up to two years may be approved if it is determined to be in the best interest of the state and the extension is necessary to prolong the lease while the department considers certain applications, including an application for lease renewal or an application to issue a new lease at the same site due to substantial change in purpose or operation of the lease. Crowley had applied for a renewal of their current lease, but contamination concerns were discovered at the site. In addition, the development plan submitted by Crowley includes a proposed subdivision of the pad (See File).

The extension of the lease to Crowley will provide Crowley with the ability to continue operations on Tract 27, develop and implement a corrective action plan for contamination, noted in the Hazardous Materials and Potential Contaminants section of this decision, in coordination with DNR and ADEC, and work with Tract 28 lessee, CH2M-Hill, and DNR on proposed subdivision of Tract 27 to remove the septic outfall and mixing zone area from Crowley leasing responsibility. Similarly, the lease extension will allow DNR time to consider the forthcoming corrective action. The request for lease tract subdivision will be considered after the contamination has been addressed.

Recommendation


It has been determined that the lease extension for a limited term of two years is in the best interest of the State.

Issuance of the lease for a limited term will allow for continued use while DNR considers the nature of contamination, related corrective action, and request for tract subdivision. It will allow the lessee and the lessor to continue a lease agreement without a gap between authorizations resulting in a time period of unauthorized use.

In consideration of all the information and facts listed above, it is my recommendation that a lease extension with a limited term, is consistent with the overall classification and management intent for this land and would be a benefit to the State of Alaska. It is therefore recommended that DNR grant a lease extension with a two-year term to Crowley Marine Services, Inc.

for 
Becky Baird
Natural Resource Specialist

February 7, 2018
Date


Brent Goodrum
Director Division of Mining, Land and Water

7 FEB 2018
Date

Decision

The casefile has been found to be complete and the requirements of all applicable statutes have been satisfied. I find that it is in the interest of the State to proceed with the lease extension pursuant to AS 38.05.070(f) and issuance of the lease pursuant to AS 38.05.070, as recommended above.


Andy T. Mack
Commissioner Department of Natural Resources

2/12/18
Date

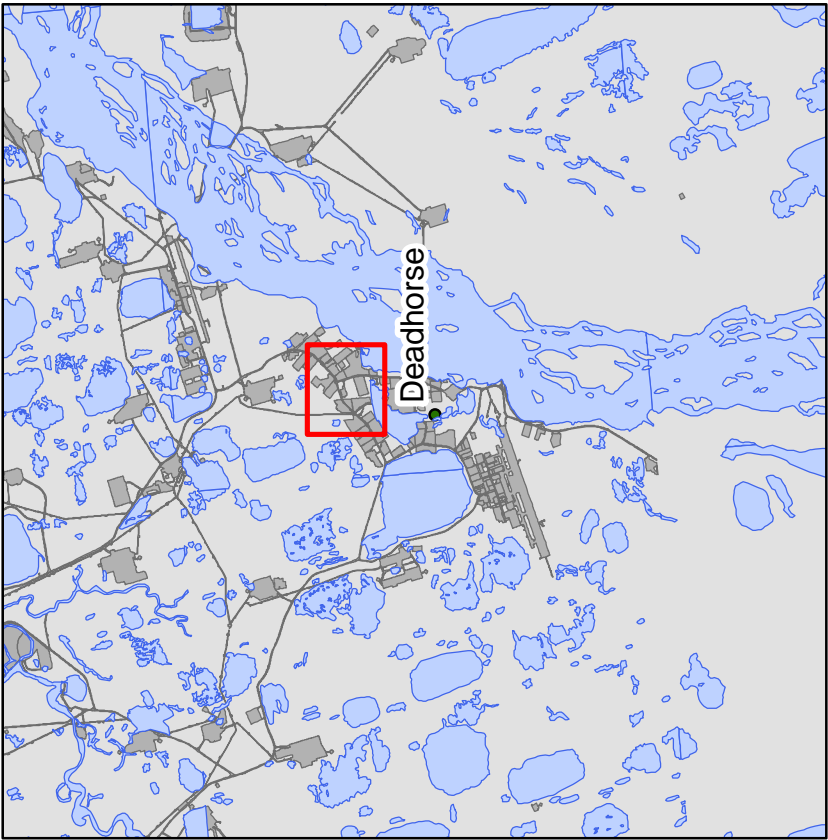
A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. If no appeal is filed by that date, this decision goes into effect as a final order and decision on the 31st calendar day after the date of issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to 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 – Location Map

Attachment B – Lease Extension Instrument

Deadhorse Lease Tract 27 (ADL 400084)



Date: 9/21/2017

Author: B. Baird

Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Coordinate System: NAD 1983 Alaska Albers

Projection: Albers

Datum: North American 1983

False Easting: 0.0000

False Northing: 0.0000

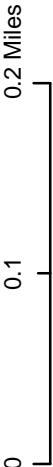
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Standard Parallel 1: 55.0000

Standard Parallel 2: 65.0000

Latitude Of Origin: 50.0000

Units: Meter



**State of Alaska
Department of Natural Resources
Division of Mining, Land and Water
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Extension to Lease Agreement

ADL 400084
Crowley Marine Services, Inc., Deadhorse Lease Tract 27

This Extension to Lease Agreement is between the State of Alaska, Department of Natural Resources, by and through the Director of Division of Mining, Land & Water ("Lessor"), whose address is 3700 Airport Way, Fairbanks, Alaska 99709-4699 and Crowley Marine Services, Inc. 201 Arctic Slope Avenue, Anchorage, Alaska 99518, who agree as follows:

This extension of lease is made with reference to the following facts and objective:

Lessor (Mukluk Freight Lines, Inc.) entered into a Lease Agreement dated February 14, 1978 under ADL 400084. The Lease Agreement was recorded in the Barrow Recording District as document number:1998-000454-0. The Lessor merged with Puget Sound Tug & Barge which then merged with Crowley Marine Services, Inc. The lease was amended to reflect the new name on May 2, 1995.

Page 1 of the original lease identifies the expiration date of the lease as "ending at 12 o'clock midnight on the 13th day of February 2018, unless sooner terminated as hereinafter provided".

The term of this Lease Agreement is hereby extended for two years. The new expiration date for the Lease Agreement is February 13, 2020.

All other terms and conditions of the lease agreement, including subsequent amendments, remain as originally written.

Lessee: Date

Authorized Signer
Crowley Marine Services, Inc.

State of Alaska, DNR Date
Division of Mining, Land and Water

STATE OF _____)
_____)ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this ____ day of _____, 20____, before me personally appeared _____, to me known and known to me to be the person named in and who executed the Lease and acknowledged voluntarily signing the same.

Notary Public in and for the State of _____
My Commission Expires: _____

STATE OF ALASKA)
_____)ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this ____ day of _____, 20____, before me appeared _____ of the Division of Mining, Land and Water, Department of Natural Resources of the State of Alaska, who executed the foregoing Lease Amendment and acknowledged voluntarily signing the same.

Notary Public in and for the State of Alaska
My Commission Expires: _____

Recorder's Office: Return the recorded document to:
DNR-Lands Section
Attn: Becky Baird
3700 Airport Way
Fairbanks, Alaska 99709-4699

No Fee State Business