

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTHEAST REGIONAL OFFICE
AMENDMENT #1 TO THE
PRELIMINARY & FINAL DECISIONS FOR ADL 108691
WHALE ISLAND DOCK ASSOCIATION

Purpose

The purpose of this Technical Amendment is to amend the Preliminary Decision (PD) for ADL 108691 to remove the appraisal requirement, lower the annual fee amount to \$500.00, waive the performance guarantee, and amend the survey requirement from a formal state approved survey to a professional as-built diagram.

Background

The Division of Mining, Land & Water (DMLW) signed a preliminary decision for a lease authorization to the Whale Island dock Association on October 26, 2020, under the authority of AS 38.05.070(b). This authorization went through public notice and the final finding and decision was signed December 18, 2020.

The Whale Island Dock Association applied for a lease on October 22, 2016. The request was for operation and maintenance of the dock and pier for property owners to access their lots on Whale Island.

Existing Improvements on State Land are as follows:

- Pier, 16' x 16', 256 square feet
- Ramp, 80' x 4', 160 square feet
- Floating dock, 30' x 15', 450 square feet

Located within Section 11, Township 56 South, Range 63 East, Copper River Meridian and more particularly located seaward and adjacent to conveyed land to the northwest and Mental Health Trust land to the southeast. It is within Lot 1 of USS 3556.

Containing 0.12 acres, more or less, as shown on the Development Plan dated October 24, 2016 (Attachment 1).

Discussion

Due to concerns about the financial requirements associated with the appraisal, performance guarantee, and survey deliverables outlined in the original Preliminary Decision for ADL 108691, on January 25, 2021, the applicant asked DMLW staff to consider the necessity of an appraisal, performance guarantee, and official survey.

The Department of Natural Resources (DNR) Appraisals Section determined with updated market data that a formal appraisal would not be necessary, and the annual fee should be \$500.00 per year for a residential lease.

Regional DNR staff determined the performance guarantee requirement should be waived since the applicant relies on this dock for access to residential properties, the applicant previously held a permit in good standing with DMLW, and this dock has been installed and maintained on state land since prior to World War II.

The survey requirement was required by stipulation #7 in the Letter of Concurrence issued by David Griffin at the Trust Land Office (TLO) (See Attachment 2). This stipulation stated “An As-Built survey of the dock must be provided to the TLO by the Lessee. The As-Built survey shall be performed by a registered land surveyor authorized to perform surveys in Alaska, and must be in compliance with state law and meet the requirements of 11 AAC 06.040 (Prerequisites for Recording Documents).” After visiting Whale Island on February 3, 2021, TLO determined an as-built diagram done by a professional land surveyor would be sufficient for TLO. DMLW agrees that an as-built diagram will suffice, although we reserve the right to require a survey should circumstances warrant one.

The “Appraisal” section should be amended to read:

“As provided by AS 38.05.840(b), the applicant is not required to provide a fair market value appraisal to determine the initial lease compensation. Based on a Minimum Rent Determination Appraisal from the DMLW Appraisals Unit, the compensation will be the minimum required by 11 AAC 58.410.”

The “Compensation” section should be amended to read:

“Annual Land Use Fees:

“A Minimum Rent Determination for the proposed leasehold was completed on February 25, 2021. In accordance with AS 38.05.840(b), the applicant will not be required to provide an appraisal before lease issuance, and the proposed lease annual fee will be \$500.00. Furthermore, in accordance with AS 38.05.105, the proposed lease will be subject to reappraisal at five-year intervals after the issuance of the proposed authorization.”

The "Performance Guarantee" section should be amended to read:

The amount of the performance guaranty would previously have been \$3,070.00. However, DMLW recently withdrew guidance establishing this figure, and has instead made this figure the maximum bonding amount. Given the security provided by the applicant’s reliance on this dock to gain access to their residential property and long-standing history of compliance with State regulations to ensure this dock is authorized, DMLW has decided that waiving the bonding amount is appropriate.

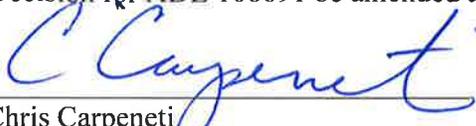
The "Survey" section should be amended to read:

"In accordance with AS 38.04.045, this 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. The applicant will be required to submit a professional as-built diagram with GPS coordinate points for all leasehold corners. Remittance of an approved diagram will be required before the lease may be issued."

Other than the changes noted herein, all of the terms and conditions of the FFD and PD (ADL 108691) remain as written and approved.

Amendment #1

It is the determination of the Division of Mining, Land & Water that the Preliminary Decision for ADL 108691 be amended according to the changes described above.


Chris Carpeneti
Interim Southeast Regional Manager


Date

Attachments:

- Attachment 1. Development Plan
- Attachment 2. Letter of Concurrence