

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER

- Land Sales and Contract Administration
550 W 7th Ave., Suite 640
Anchorage, AK 99501-3576
(907) 269-8594
- Northern Region
3700 Airport Way
Fairbanks, AK 99709
(907) 451-2740
- Southcentral Region
550 W 7th Ave., Suite 900C
Anchorage, AK 99501-3577
(907) 269-8552
- Southeast Region
400 Willoughby, #400
P.O. Box 111020
Juneau, AK 99811-1021
(907) 465-3400

APPLICATION FOR PURCHASE OR LEASE OF STATE LAND

3-25-25
Date _____ ADL # (assigned by DNR) _____

Applicant's Name Mikel J Payne Doing business as: Rocky Point Resort/Alaska, INC

Mailing Address P.O. Box 1251

City/State/Zip Petersburg, AK 99833 E-Mail fishhawk@aak.net

Message Phone (907) 518-0594 Work Phone (907) 772-4905 Date of Birth 12-28-72

Is applicant a corporation qualified to do business in Alaska? yes no. Is the corporation in good standing with the State of Alaska, Dept. of Commerce and Economic Development? yes no.

Is applicant 18 years or older? yes no. Are you applying for a lease or sale?

What kind of lease or sale are you applying for? Tideland; Public/Charitable Use; Grazing; Millsite;
 Negotiated; Competitive; Non-Competitive; Preference Right.

If a lease, how many years are you applying for? 25 years. (55 years Max.)

Legal Description: Lot(s) T-1594 Block/Tract # _____ Survey/Subdivision ATS-1594

Other: _____

Meridian _____ Township T60S, Range R79E, Section(s) _____ Acres .347

Municipality Petersburg LORAN Reading (optional) _____

Geographic Location: Buoy #42 Wrangell Narrows

What is the proposed use of and activity on the state land? our dock sits on it at low tide

Are there any improvements on the land now? yes no. If yes, who owns the improvements, and what is the estimated value? Rocky Point Resort \$20,000.00

If yes, describe any existing improvements on the land. Maintenance

Are there any improvements or construction planned? yes no. If yes, describe them and their estimated value.

State the proposed construction date: _____; estimated completion date*: _____

Name and address of adjacent land owners and, if you are applying for tidelands, the name and address of the adjacent upland owners: Tom Parker, P.O. Box 1322 Bill Menish P.O. Box 877 upland Rocky Point Resort

Are you currently in default on, or in violation of, any purchase contract, lease, permit or other authorization issued by the department under 11 AAC? yes no. Within the past three years, has the department foreclosed or terminated any purchase contract, lease, permit or other authorization issued to you? yes no.

Non-refundable application fee: See current Director's Order for applicable fees. Date Stamp: _____
(Fee may be waived under 11 AAC 05.020.)

2025 ASSESSMENT NOTICE



ROCKY POINT LODGE, LESSEE
 ALASKA STATE OF LESSOR
 PO BOX 1251
 PETERSBURG, AK 99833-1251

Please see the back of your
 assessment notice. Inquires can
 be made to Anna at
 acaulum@petersburgak.gov or
 (907) 772-5409

| Property Address | Parcel Number | Date Of Mailing | Appeal Deadline |
|------------------|---------------|-----------------|-----------------|
| S MITKOF HWY | 02-083-300 | 2/28/2025 | 3/31/2025 |

Property Information

Lot Size: 15115 SF; Lot: T-1594; Subdivision: TIDELANDS; Plat#: 2001-7; US Survey: ATS 1594;
 Township: T60S; Range: R79E; Zone: Outside SA1; District: Petersburg - 110

Current Assessment

| | Land | Improvement | Total Assessment |
|----------------------|----------|-------------|------------------|
| Assessment | \$3,000 | \$0 | \$3,000 |
| Adjustments | | | |
| Possessory | -\$2,727 | -\$0 | -\$2,727 |
| Taxable Value | \$273 | \$0 | \$273 |

Appeal Deadline is March 31, 2025, by 4:30 PM for 2025 Assessment Notices. Tax Bills will be mailed by July 1, 2025. Property taxes are due, in our office, by October 15, 2025 at 4:30 PM. See reverse side for important information.

Petersburg Borough

12 S. Nordic Drive or PO Box 329 Petersburg, AK 99833
 Phone #: (907) 772-4425 Fax#: (907) 772-3759

Is the land applied for subject to any existing leases or permits? yes no. If yes, lease or permit?

Name lease/permit is issued under: Walt Payne / Rocky Point Resort ADL # 106062

Do you think you qualify for a non-competitive lease or sale? yes no. If yes, under what provision of AS 38.05?

- AS 38.05.035(b)(2) (to correct an error or omission);
- AS 38.05.035(b)(3) (owner of bona fide improvements);
- AS 38.05.035(b)(5) (occupied, or are the heir of someone who occupied the land before statehood);
- AS 38.05.035(b)(7) (adjacent owner of remnant of state land, not adjoining other state land);
- AS 38.05.068 and .087 (U.S. Forest Service Permittee);
- AS 38.05.075(c) (upland owner or lessee);
- AS 38.05.035(f) (previous federal and state authorization, erected a building and used the land for business purposes);
- AS 38.05.102 (current long-term lessee or current shore fishery lessee);
- AS 38.05.255 (millsite lease for mine-related facilities);
- AS 38.05.810(a)* (government agency; tax-exempt, non-profit organization organized to operate a cemetery, solid waste facility, or other public facility; or a subdivision's nonprofit, tax-exempt homeowners' association);
- AS 38.05.810(b)-(d) (non-profit corporation, association, club, or society operated for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare, or a youth encampment);
- AS 38.05.810(e) (licensed public utility or licensed common carrier);
- AS 38.05.810(f) (non-profit cooperative organized under AS 10.25, or licensed public utility);
- AS 38.05.810(h) (Alaska Aerospace Development Corporation);
- AS 38.05.810(i) (port authority);
- AS 38.05.825 (municipality applying for eligible tidelands, or tidelands required for private development);
- other (please explain): _____

If you have checked one of the above statutes, attach a statement detailing your qualifications under each requirement of that statute.

Do you think you qualify to lease the land for less than fair market value? yes no. If yes, under what provision of AS 38.05?

- AS 38.05.097 (youth encampment or similar recreational purpose);
- AS 38.05.098 (senior citizen discount for a residential lease);
- other (please explain).

Mike Payne
Signature

3-25-25
Date

CO-Owner
Title

If applying on behalf of an agency, municipality, or organization, state which one

NOTICE TO APPLICANT:

- * For applications filed by a municipality under AS 38.05.810, if there is a remaining entitlement of the municipality under AS 29.65, land transferred under AS 38.05.810 shall be credited toward fulfillment of the entitlement.
- * Construction may not commence until approval is granted by lessor.
- * This application will not be considered unless it is accompanied by the appropriate filing fee and completed in full. THE FILING FEE WILL NOT BE REFUNDED NOR IS IT TRANSFERABLE. All checks are to be made payable to the Department of Natural Resources.
- * Include a 1:63,360 USGS map showing location of proposed activities in relation to survey monumentation or fixed geographical features which fully illustrates your intended use, including the location of buildings and improvements and access points, labeled with all dimensions, and a development plan providing a complete list of proposed activities.
- * The applicant may be required to deposit a sum of money sufficient to cover the estimated cost of survey, appraisal, and advertising. If the land is sold or leased to another party, the deposit will be returned to the applicant.
- * The filing of this application and payment of the filing fee vests the applicant with no right or priority in the lands applied for. It is merely an expression of the desire to purchase or lease a parcel of land when and if it becomes available. Filing an application serves the purpose of notifying the state that an individual is interested in purchasing or leasing land. It is not a claim, nor does it in any way obligate the state to sell or lease land.
- * If the application is for use in conjunction with a guide/outfitter operation, include proof of a guide/outfitter certification for the use area.
- * If the application is for a commercial fish camp, include a copy of your limited entry permit or an interim-use salmon set net permit.
- * If applying for a senior citizen discount, include form 102-1042.
- * AS 38.05.035(a) authorizes the director to decide what information is needed to process an application for the sale or use of state land and resources. This information is made a part of the state public land records and becomes public information under AS 40.25.110 and 40.25.120 (unless the information qualifies for confidentiality under AS 38.05.035(a)(8) and confidentiality is requested, AS 43.05.230, or AS 45.48). Public information is open to inspection by you or any member of the public. A person who is the subject of the information may challenge its accuracy or completeness under AS 44.99.310, by giving a written description of the challenged information, the changes needed to correct it, and a name and address where the person can be reached. False statements made in an application for a benefit are punishable under AS 11.56.210. In submitting this form, the applicant agrees with the Department to use "electronic" means to conduct "transactions" (as those terms are used in the Uniform Electronic Transactions Act, AS 09.80.010 – AS 09.80.195) that relate to this form and that the Department need not retain the original paper form of this record: the department may retain this record as an electronic record and destroy the original.

If the proposed activities involve any storage tanks, either above or below ground, address the following questions for each tank. Please use a separate sheet of paper, if necessary, and, where appropriate, include maps or plats:

a. Where will the tank be located? No Tanks on property

b. What will be stored in the tank? _____

c. What will be the tank's size in gallons? _____

d. What will the tank be used for? (Commercial or residential purposes?) _____

e. Will the tank be tested for leaks? _____

f. Will the tank be equipped with leak detection devices? Yes No . If yes, describe: _____

Do you know or have any reason to suspect that the site may have been previously contaminated? Yes No

If yes, please explain: _____

I certify that due diligence has been exercised and proper inquiries made in completing this questionnaire, and that the foregoing is true and correct to the best of my knowledge.

Mike Payne
Applicant

3-25-25
Date

AS 38.05.035(a) authorizes the director to decide what information is needed to process an application for the sale or use of state land and resources. This information is made a part of the state public land records and becomes public information under AS 40.25.110 and 40.25.120 (unless the information qualifies for confidentiality under AS 38.05.035(a)(9) and confidentiality is requested). Public information is open to inspection by you or any member of the public. A person who is the subject of the information may challenge its accuracy or completeness under AS 44.99.310, by giving a written description of the challenged information, the changes needed to correct it, and a name and address where the person can be reached. False statements made in an application for a benefit are punishable under AS 11.56.210.

Description - Nothing new is planned from the existing lease. We already have a removable dock in place. We own a fishing lodge that is upland of the lease. No improvements are planned just maintenance.

Legal description - See the attached Survey

Terrain/ground cover - It is mudflats no changes will be made just the dock sitting on it at low tide.

Access - Walk down from our lodge or drive up to the dock by boat.

Buildings - No buildings ~~are~~ just the dock

Power source - There is no power

Waste - No waste will be generated

Hazardous substances - Nothing is stored on the dock

Water supply - Simple garden hose running down the dock with fresh water for rinsing out boats

Parking Areas - N/A

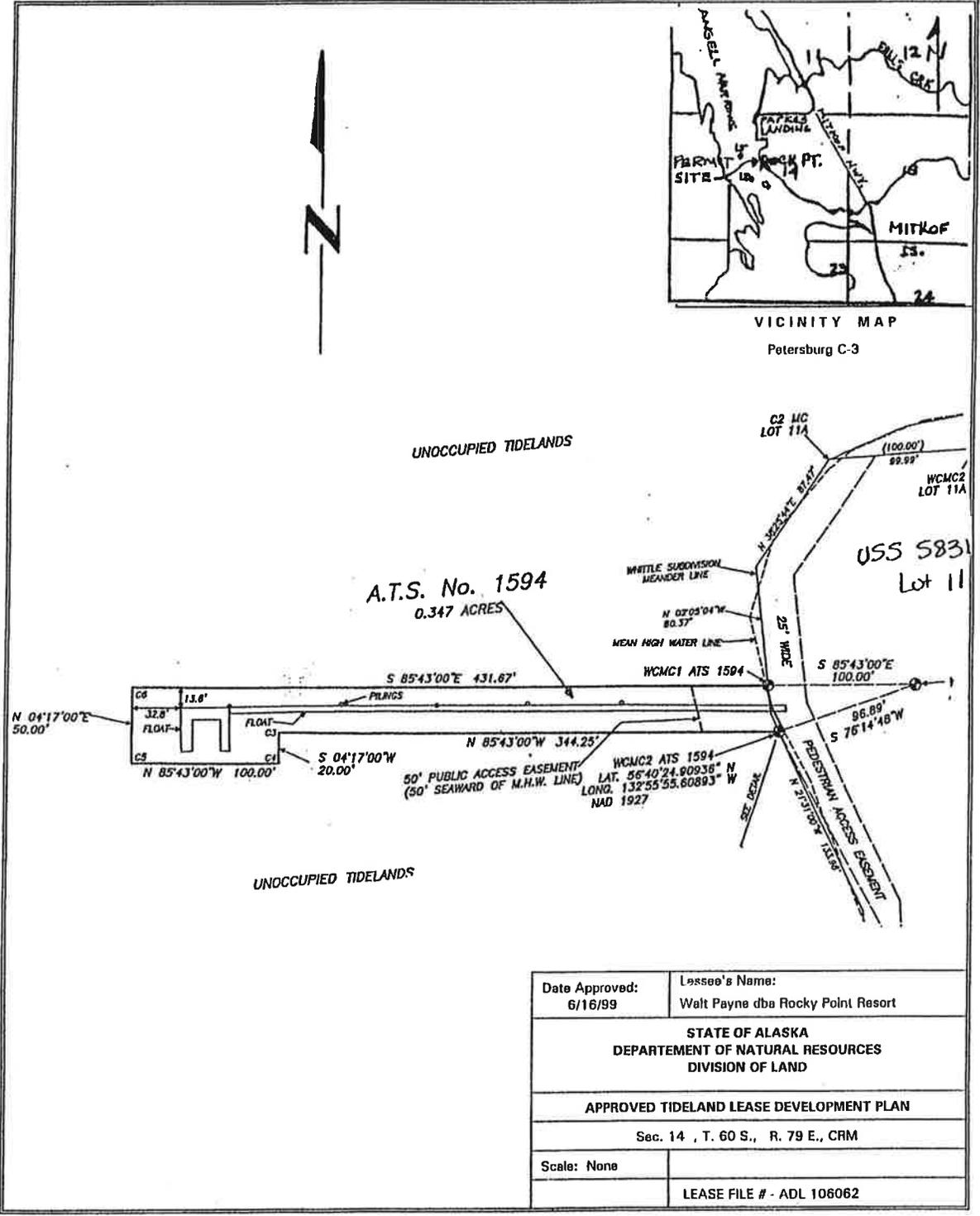
Number of People - 8 employees that will use dock
I am their boss. Up to 600 clients

Maintenance - Each spring myself and another employee do maintenance on the dock & any repairs needed during the summer.

Closure - If needed unhook & float the dock off the land leased. Also still have a \$3000.00 CD sitting in the bank with your name on it if something should happen.

Sketch - See survey. Nothing has changed or been added

Thank you,
Mike



| | |
|---|---|
| Date Approved: 6/16/99 | Lessee's Name: Walt Payne dba Rocky Point Resort |
| STATE OF ALASKA DEPARTEMENT OF NATURAL RESOURCES DIVISION OF LAND | |
| APPROVED TIDELAND LEASE DEVELOPMENT PLAN | |
| Sec. 14 , T. 60 S., R. 79 E., CRM | |
| Scale: None | |
| LEASE FILE # - ADL 106062 | |

Search Maps





North Pacific Ocean

Alaska Marine Hwy

Alaska Marine Hwy

Alaska Marine Hwy

Search Maps



Alaska Marine Hwy

AQUEDUCT

AQUEDUCT

41° MOI 47°

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER

TONY KNOWLES, GOVERNOR

400 Willoughby Avenue, SUITE 400

JUNEAU, ALASKA 99801

PHONE: (907) 465-3400

FAX: (907) 586-2954

April 24, 2002

Certified Mail 7000 1530 0005 2252 2624

Return Receipt Requested

Walt Payne dba Rocky Point Resort

P.O. Box 1251

Petersburg, AK 99833

RE: Tideland Lease – ADL 106062

Enclosed is your recorded tideland lease for the commercial dock. Please file it in a safe location. The lease shall extend through August 31, 2026. Administration of your lease will remain with this office but billing will be transferred to our Revenue and Billing section in Anchorage. The Division of Mining, Land and Water must be advised of all changes of address.

It is the responsibility of the lessee to make timely payments. Failure to receive a courtesy notice of payment due does not relieve the lessee of the responsibility of making timely payments which are due on or before August 31st of each year.

We have not yet received the certificate of insurance required by the lease, which means that you are in breach of contract. If we do not receive it by May 28, 2002, I will need to turn the file over to Contract Administration. Enclosed is information for your insurance company that I previously provided to you. Please have the certificate sent to Contract Administration at the above address.

If you have any questions regarding administration of the lease please contact this office at (907) 465-3513 for assistance.

Sincerely,



Joan Gilbertson
Lands Officer

465-3432

Enclosures

"Develop, Conserve and Enhance Natural Resources for Present and Future Alaskans"

To: Licensed Insurance Broker (Producer)

April 23, 2002

From: Alaska Department of Natural Resources

Re: Walt Payne, dba Rocky Point Resort (Insured)

CERTIFICATE OF INSURANCE REQUIREMENTS

The State of Alaska, Department of Natural Resources is requiring your client to obtain and maintain liability coverages and limits consistent with what you would professionally recommend as adequate to protect your client (the insured) and the State from the liability exposures of ALL the insured's commercial operations. The State of Alaska must be added as an additional insured on ALL liability policies of the insured which would provide coverage for liabilities of the insured's commercial operations on or in conjunction with the insured's use of State Land.

Proof of insurance may include copies of the policy endorsements which fulfill these requirements and or a certificate of insurance which contains under special items, a statement as appears below:

Certificate holder is included as additional insured on all liability policies provided by the producer for the insured. The Policies adequately cover the liabilities stemming from the insured's commercial operations on State land leased under ADL# 106062.

NAME & ADDRESS OF CERTIFICATE HOLDER:

State of Alaska, Department of Natural Resources,
400 Willoughby Ave., Suite 400
Juneau, Alaska 99801

The insured is contractually obligated to deliver annual proof of insurance to the certificate holder.

The endorsement and certificate must provide for a 30-day prior notice to the State of Alaska in the event of cancellation, non-renewal or material change of conditions. All insurance policies shall comply with, and be issued by, insurers licensed to transact the business of insurance under Alaska Statute, Title 21. The State, DNR will expect to see, at a minimum, the following types of coverage:

Commercial General Liability coverage. The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the State of Alaska, Division of Risk Management.

The Department is also requiring your client to provide proof that they have secured and are maintaining **Workers' Compensation coverage** for all the insureds employees, as required by AS 23.30.045. Where applicable, coverage must comply with any other statutory obligations, whether Federal (i.e. U.S.L.&H)., or, Jones Act) or other state laws in which employees are engaged in work on the premises described above. This insurance policy should not include the State of Alaska as an additional insured, but must contain a waiver of subrogation clause in favor of the State of Alaska.



2002-000180-0

Recording Dist: 110 - Petersburg
3/8/2002 11:38 AM Pages: 1 of 16

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**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER, SOUTHEAST REGION
400 Willoughby Avenue, Suite 400
Juneau, Alaska 99801**

ADL No. 106062

LEASE AGREEMENT

Effective this 1st day of September, 2001, this lease agreement is entered into by the State of Alaska, hereafter referred to as "lessor," and Walter Payne dba Rocky Point Resort, hereafter referred to as "lessee," whether one or more, whose sole addresses for purposes of notification under this lease agreement are listed in section 28.

The lessor and the lessee agree that this lease, including all attachments and documents that are incorporated in this lease by reference, contains the entire agreement between the parties, and each of the covenants and conditions in this lease including any attachments will be binding upon the parties and upon their respective successors and assigns. The lessor and the lessee further agree that this lease is conditioned upon satisfactory performance by the lessor and the lessee of all covenants and conditions contained in this lease. The lessee is aware of the provisions of Title 38, Alaska Statutes, Title 11, Alaska Administrative Code, and other applicable laws, regulations, and ordinances, and fully understands the duties and obligations of the lessee under this lease, and the rights and remedies of the lessor.

This lease is subject to all applicable state, federal, and municipal statutes, regulations, and ordinances in effect on the effective date of this lease, and insofar as is constitutionally permissible, to all statutes, regulations, and ordinances placed in effect after the effective date of this lease. A reference to a statute, regulation, or ordinance in this lease includes any change in that statute, regulation, or ordinance, whether by amendment, repeal and replacement, or other means. This lease does not limit the power of the State of Alaska, its political subdivisions, or the United States of America to enact and enforce legislation or to adopt and enforce regulations or ordinances affecting, directly or indirectly, the activities of the lessee or its agents in connection with this lease or the value of the interest held under this lease. In case of conflicting provisions, statutes, regulations, and ordinances take precedence over this lease. This lease shall not be construed as a grant or recognition of authority for promulgation or adoption of municipal ordinances that are not otherwise authorized.

1. Grant. This tideland lease is issued under the authority of AS 38.05.035(e), for a term of 25 year(s) beginning on the 1st day of September, 2001 and ending at 12 o'clock midnight on the 31st day of August, 2026, unless sooner terminated, subject to: compensation as specified in section 2; the attached development plan approved by the state on June 16, 1999 (see Attachment 'B'); and attached stipulations, if any, that are incorporated in and made a part of this lease (see Attachment 'A'), for the following, hereafter referred to as the "leasehold":

Alaska Tideland Survey 1594, located within Section 14, Township 60 South, Range 79 East, Copper River Meridian, containing 0.347 acres, more or less, according to the survey plat filed in the Petersburg Recording District on April 18, 2001 as plat # 2001-7

Excepting and reserving any general reservations to the lessor that are required by law and that may be stated elsewhere in this lease, and the following, which the state reserves for itself and others:

Subject to all platted easements and reservations and further subject to the Special Stipulations noted on Attachment 'A', which is incorporated in and made a part of this lease agreement.

2. Compensation. (a) The lessee shall pay to the lessor compensation as follows, without the necessity of any billing by the lessor: ***Equal annual payments on or before the 31st of August of every year during said term at the rate of Five Hundred Dollars (\$500. 00) per year with the basis specified in Special Stipulation # 12 of Attachment 'A'.*** The lessor may, upon 10 days' notice, review and copy any records of the lessee that are necessary to verify the lessee's compliance with this paragraph.

(b) In accordance with AS 38.05.105, the lease compensation is subject to adjustment by the lessor at the commencement of the sixth year of the term and every fifth year thereafter (the "adjustment date"). The compensation adjustment takes effect on the applicable adjustment date, regardless of whether the adjustment determination occurs before or after that date. All reasonable costs of the adjustment, including reappraisal if required by the lessor, will be borne by the lessee.

3. Denial of Warranty. The lessor makes no warranty, express or implied, nor assumes any liability whatsoever, regarding the social, economic, or environmental aspects of the leasehold, including, without limitation, the soil conditions, water drainage, access, natural or artificial hazards that may exist, or the profitability or fitness of the leasehold for any use. The lessee represents that the lessee has inspected the leasehold and determined that the leasehold is suitable for the use intended, or has voluntarily declined to do so, and accepts the leasehold "as is" and "where is."

4. Use of Leasehold. Prior to execution of this lease and to commencing use or development of the leasehold, the lessee shall submit a development plan for the leasehold to the lessor and obtain the lessor's approval of the plan. Any use or development of the leasehold must be consistent with the development plan approved by the lessor. Any proposed revisions to the development plan must be submitted to the lessor for approval before any change in use or development occurs. The lessee shall use and occupy the leasehold in compliance with the approved development plan and all applicable laws, regulations, ordinances, and orders that a public authority has put into effect or may put into effect, including those of a building or zoning authority and those relating to pollution and sanitation control. The lessee may not permit any unlawful occupation, business, or trade to be conducted on the leasehold. The lessee shall properly locate all activities and improvements on the leasehold, and may not commit waste of the parcel. The lessee shall maintain and repair the leasehold including improvements in a reasonably neat and clean condition, and shall take all necessary precautions to prevent or suppress grass, brush, or forest fires, and to prevent erosion, unreasonable deterioration, or destruction of the land or improvements. The lessee agrees not to place any aboveground or underground fuel or chemical tanks on the leasehold without the prior written approval of the lessor.

5. Encumbrance of Leasehold. The lessee may not encumber or cloud the lessor's title to the leasehold, or any portion of the leasehold, nor enter into any lease, easement, or other obligation of the lessor's title without the prior written approval of the lessor.

6. Assignment of Interest. The lessee may not assign or sublet any interest held under this lease, including a security interest, without the prior written approval of the lessor. The lessor may approve such assignment or subletting if the lessor finds it to be in the best interest of the state. No such



assignment or subletting will be effective until approved by the lessor in writing, and the assignee agrees to be subject to and governed by the provisions of this lease, any subsequent amendments to this lease, any additional stipulations, or reappraisal as deemed appropriate by the lessor, and all applicable laws, regulations, and ordinances in the same manner as the original lessee. No assignment or subletting of the leasehold, or any portion thereof, by the lessee will annul the lessee's obligation to pay the compensation required for the full term of this lease. Except as provided in this lease, no subdivision of the leasehold interest may occur without the prior written approval of the lessor.

7. Conditional Lease. If all or part of the leasehold has been tentatively approved, or approved, but not yet patented, by the United States to the lessor, then this lease will be conditioned upon receipt by the lessor of such patent. If for any reason the lessor does not receive patent, any compensation paid to the lessor under this lease will not be refunded. Any prepaid compensation for land to which patent is denied the lessor will be refunded to the lessee of record in the amount of the pro-rata portion of the unexpired term. The lessor will have no further liability to the lessee for the termination of the lease.

8. Payment of Taxes and Assessments. The lessee shall pay prior to delinquency all taxes and assessments accruing against the leasehold.

9. Section Line Rights-of-Way. If the leasehold borders on or includes one or more section lines, the lessor hereby expressly reserves unto itself and its successors and assigns a right-of-way or rights-of-way pursuant to AS 19.10.010.

10. Navigable and Public Waters. (a) Pursuant to AS 38.05.127 and 11 AAC 53.330, the lessor reserves a public access easement to and along all public or navigable water bodies that border on or are included in this leasehold. No public access easement may be obstructed or otherwise rendered incapable of reasonable use for the purposes for which it was reserved. No public access easement may be vacated, abandoned, or extinguished without the prior written approval of the lessor.

(b) The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This lease is issued subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The lessor reserves the right to grant other interests to the leasehold consistent with the Public Trust Doctrine.

11. Condemnation of Leasehold or Improvements. If the whole or any part of the leasehold is taken by any authorized body or person vested with the power of eminent domain, by negotiation, court action, or otherwise, the following provisions control:

(1) Taking of the entire leasehold. If all of the leasehold is taken by condemnation, this lease and all rights of the lessee will immediately terminate, and the compensation will be adjusted so that it is due only until the date the lessee is required to surrender possession of the leasehold. The lessor is entitled to all the condemnation proceeds, except that the lessee will be paid the portion of the proceeds attributable to the fair market value, as determined in the condemnation proceedings, of any buildings or improvements taken that were placed on the condemned leasehold by the lessee in accordance with the approved development plan.

(2) Taking of substantial part of the leasehold. If the taking is of a substantial part of the leasehold, the following rules apply:



(A) If the taking by condemnation reduces the ground area of the leasehold by at least 30 percent or materially affects the use being made by the lessee of the leasehold, the lessee has the right to elect to terminate the lease by written notice to the lessor not later than 180 days after the date of taking.

(B) If the lessee elects to terminate, the provisions in subsection (1) of this section govern the condemned portion of the leasehold and the covenants and conditions of the lease govern disposal of the remainder of any buildings or improvements made by the lessee in accordance with the approved development plan.

(C) If the lessee does not elect to terminate, the lease continues and the lessor is entitled to the full condemnation proceeds except the portion attributable to the fair market value, as determined in the condemnation proceedings, of any buildings or improvements taken that were placed on the condemned portion of the leasehold by the lessee in accordance with the approved development plan. Compensation at the existing rate will terminate on the date the lessee is required to surrender possession of the condemned portion of the leasehold. Except as it may be adjusted from time to time under the covenants and conditions of the lease and applicable statutes, compensation for the balance of the term will be adjusted by the lessor to reflect the taking.

(3) Taking of insubstantial part of the leasehold. If the taking by condemnation reduces the ground area of the leasehold by less than 30 percent and the lessor determines that the taking is of such an insubstantial portion that the lessee's use of the leasehold is not materially affected, the lessee may not elect to terminate the lease and the compensation provisions of subsection 2(C) of this section will govern.

12. Valid Existing Rights. This lease is subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land in existence on the date of execution of this lease.

13. Inspection. The lessor will have reasonable access to the leasehold for purposes of inspection.

14. Mineral Reservations. This lease is subject to the reservations required by AS 38.05.125 and the rights and obligations imposed by AS 38.05.130.

15. Concurrent Use. This lease is subject to reasonable concurrent uses as provided under Article VIII, Section 8 of the Constitution of the State of Alaska. The concurrent user who is found to be at fault for damage or injury arising from noncompliance with the terms governing the user's concurrent use is liable for damages and the user's interest is subject to forfeiture or termination by the lessor. In this context, the term "concurrent user" includes the lessee and any other person or entity who lawfully uses the land subject to this lease, but does not include the State of Alaska.

16. Surface Resources. Unless otherwise provided by this lease or other written authorization, the lessee may not sell or remove from the leasehold any timber, stone, gravel, peatmoss, topsoil, or any other material valuable for building or commercial purposes. Material required for the development of the leasehold may be used only in compliance with the approved development plan.

17. Appropriation or Disturbance of Waters. During the term of this lease, the lessee will have the right to apply for an appropriation of ground or surface water on the leasehold in accordance with AS 46.15 and 11 AAC 93.060.



18. Acquisition of Rights or Interests. Any right or interest acquired during the term of this lease and accruing to the benefit of the leasehold will remain appurtenant to the leasehold, and may not be severed or transferred from the leasehold without the prior written approval of the lessor. In the event of termination or forfeiture of this lease, any such right or interest will vest in the lessor.

19. Land Alterations Due to Natural or Artificial Causes. The interest described in this lease constitutes the entire leasehold. If, through natural or artificial causes, accretion or reliction of land occurs contiguous to the leasehold, the Lessee has no right to occupy or use the accreted land unless a separate lease is entered with the Lessor with respect to such lands. The rules of law usually applicable to accretion or reliction of land do not apply to this lease, nor to the interest described in this lease.

20. Waiver or Forbearance. The receipt of compensation by the lessor, with or without knowledge of any default on the part of the lessee, is not a waiver of any provision of this lease. No failure on the part of the lessor to enforce a covenant or condition of this lease, nor the waiver of any right under this lease by the lessor, unless in writing, will discharge or invalidate the application of such covenant or condition. No forbearance or written waiver affects the right of the lessor to enforce any covenant or condition in the event of any subsequent default. The receipt of compensation by the lessor after termination or any notice of termination will not reinstate, continue, or extend this lease, or destroy, or in any manner impair the validity of any notice of termination that may have been given prior to receipt of the compensation, unless specifically stated by the lessor in writing.

21. Default and Remedies. (a) Time is of the essence in this lease. If the lessee defaults on the performance of any of the covenants or conditions of this lease, and the default is not remedied within 60 days after the lessor issues written notice of such default to the lessee and to the holder of a security interest in the leasehold approved by the lessor, or within any additional period the lessor allows for good cause, the lessee will be subject to legal or any other administrative action deemed appropriate by the lessor, including termination of this lease. The lessor may, in the notice of the default or in a separate written notice, state that if the default is not remedied, this lease shall terminate on a date certain, which shall be at least 60 days after issuance of the notice of default. Upon the date specified in such notice, unless the default has been remedied, the lease shall expire automatically without further notice or action by the lessor and this lease and all rights of the lessee under the lease shall terminate. Upon termination of the lease the lessor shall have an immediate right to possession of the leasehold and any possession by the lessee shall be unlawful. It is specifically agreed that no judicial action shall be necessary to terminate this lease or to allow the lessor to retake possession in the event of default by the lessee. No improvements may be removed from the leasehold while the lease is in default except with the lessor's prior written approval. If this lease is terminated for default, all compensation paid by the lessee is forfeited to the lessor. The lessor is not liable for any expenditures made or undertaken by the lessee under this lease. Any costs or fees, including attorney's fees, reasonably incurred by the lessor for the enforcement of this lease, shall be added to the obligations due and payable by the lessee.

(b) The rights, if any, of third-party security interest holders or lienholders are controlled solely by AS 38.05.103 and 11 AAC 58.590. If the lessee fails to remedy the default within the time allowed in subsection (a) of this section, the holder of an approved security interest who has received notice under subsection (a) of this section may remedy the default. The holder shall act within 60 days from the date of receipt of notice under subsection (a) of this section, or within any additional period the lessor allows for good cause.



(c) The lessor may, at the lessor's option, following the lessee's default and failure to remedy, or after termination of this lease due to such default and failure to remedy, accelerate the unpaid compensation for the remainder of the term of this lease. The lessee's obligation to pay such accelerated rent to the lessor survives termination of this lease.

(d) If this lease is terminated, or all or any portion of the leasehold is abandoned by the lessee, the lessor may immediately enter, or re-enter and take possession of the leasehold, and without liability for any damage, remove all persons and property from the leasehold and may, if necessary, use summary proceedings or an action at law. The words "enter" and "re-enter" as used are not restricted to their technical legal meaning. Any entry, re-entry, possession, repossession, or dispossession by the lessor, whether taken with or without judicial action, does not absolve, relieve, release, or discharge the lessee, either in whole or part, of any liability under the lease.

(e) The lessor, upon or at any time after giving written notice of any default, may enter or re-enter the leasehold to remedy any default by the lessee or exercise any right given under this lease, all without the intervention of any court being required. The curing of such default shall not be deemed for any purpose to be for the benefit of the lessee.

(f) At any time after termination of this lease, the lessor may re-let the leasehold, or any part thereof, in the name of the lessor for such term and on such conditions as the lessor may determine, and may collect and receive the compensation therefor. The lessor shall not be responsible or liable for failure to re-let the leasehold or for any failure to collect any compensation due upon such re-letting, nor shall the lessor be required to account for or pay to the lessee any excess compensation received as a result of such re-letting. The lessee shall be liable for any deficiency, and for all costs, expenses, and fees incurred by the lessor arising out of the default, including the lessor's efforts to re-let the leasehold.

(g) No right or remedy conferred upon or reserved to the lessor in this lease or by statute, or existing in law or equity, is intended to be exclusive of any other right or remedy, and each and every right shall be cumulative.

22. Disposition of Improvements and Chattels After Termination. AS 38.05.090 will govern disposition of any lessor-approved chattels or improvements left on the leasehold after termination. At the lessor's sole option, improvements not approved by the lessor shall be removed from the leasehold and the site restored to its original condition at the lessee's sole expense, or be forfeited to the lessor. The lessee shall be liable to the lessor for any costs, expenses, or damages arising out of the disposition of improvements not approved by the lessor, and may be required to pay rent on any improvements or chattels left on the parcel in accordance with 11 AAC 58.680.

23. Indemnity to Lessor. The lessee shall indemnify, defend, and hold the lessor harmless from and against all claims, demands, judgments, damages, liabilities, penalties, and costs, including attorney's fees, for loss or damage, including but not limited to property damage, personal injury, wrongful death, and wage, employment, or worker's compensation claims, arising out of or in connection with the use or occupancy of the leasehold by the lessee or by any other person holding under the lessee, or at the lessee's sufferance or invitation; and from any accident or fire on the leasehold; and from any nuisance made or suffered on the leasehold; and from any failure by the lessee to keep the leasehold in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and from any assignment, sublease, or conveyance, attempted or successful, by the lessee of all or any portion of the leasehold or interest therein contrary to the covenants and conditions of this lease. The lessee holds all goods, materials, furniture, fixtures, equipment, machinery, and other property whatsoever on the parcel at the sole risk of the lessee,



and shall defend, indemnify and hold the lessor harmless from any claim of loss or damage by any cause whatsoever, including claims by third parties.

24. Insurance. If required by the lessor, the lessee shall obtain insurance in an amount determined by the lessor to be sufficient. The lessor shall be named as an additional insured party of any such insurance. The types and amount of insurance shall be specified in the attached stipulations made a part of this lease agreement and may be adjusted periodically. The lessee shall maintain that insurance as long as required by the lessor. Any insurance acquired by the lessee for the purpose of providing insurance coverage under this lease must be issued by an insurer authorized to do business in the State of Alaska under the provisions of AS 21.09.010 and AS 21.27.010 for the type of policy being written.

25. Bonding. If required by the lessor, the lessee shall furnish a bond, cash deposit, certificate of deposit, or other form of security acceptable to the lessor in an amount determined by the lessor to be sufficient to ensure faithful performance of the covenants and conditions of this lease, and to cover the cost of site cleanup and restoration and any associated costs after termination of the lease. The amount and conditions of the bond shall be specified in the attached stipulations made a part of this lease agreement. The lessee shall maintain the bond as long as the lessor deems necessary, and in the amount required by the lessor, which amount may be adjusted periodically.

26. Environmental Compliance. (a) 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.

(b) Should the Authority require that a remedial action plan be prepared and that a remedial action be undertaken because of the presence of, or any disposal, release, spill, or discharge, or threatened disposal, release, spill, or discharge of or contamination by hazardous materials at the leasehold that occurs during the term of this lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease, then the lessee shall, at the lessee's own expense, prepare and submit the required plans and financial assurances and carry out the approved plans. The lessee's obligations under this section shall arise if there is any event or occurrence at the leasehold during the term of this lease, or arising out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease, that requires compliance with the Environmental Laws.

(c) At no expense to the lessor, the lessee shall promptly provide all information requested by the lessor for preparation of affidavits or other documents required by the lessor to determine the applicability of the Environmental Laws to the leasehold, and shall sign the affidavits promptly when requested to do so by the lessor.

(d) The lessee shall indemnify, defend, and hold harmless the lessor from all fines, penalties, suits, judgements, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of or in any way connected with the presence of or any disposal, release, spill, or discharge or any threatened disposal, release, spill, or discharge of or contamination by hazardous materials at the leasehold that occurs during the term of the lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease; and from all fines, penalties, suits, judgements, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of the lessee's failure to provide all information, make all submissions, and take all steps required by the Authority under the Environmental Laws or any other law concerning any spill, discharge, or



contamination that occurs during the term of this lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease.

(e) The lessee agrees that it will not discharge or dispose of or suffer the discharge or disposal of any petroleum products, gasoline, hazardous chemicals, or hazardous materials into the atmosphere, ground, wastewater disposal system, sewer system, or any body of water.

(f) In any court action or administrative proceeding, in addition to all other applicable presumptions, it shall be rebuttably presumed that any environmental contamination of the leasehold (i) has been released on the leasehold; (ii) has resulted from acts or omissions of the lessee or its agents; and (iii) has occurred during the term of this lease. The lessee has the burden of rebutting the presumptions by clear and convincing evidence.

(g) This section of this lease does not in any way alter the State of Alaska's powers and rights or the lessee's duties and liabilities under Title 46 (or its successor) of the Alaska Statutes or other state, federal, or municipal statutes, regulations, or ordinances. For example, notwithstanding the provisions of this lease, the State of Alaska shall not be precluded from claiming under AS 46.03.822 that the lessee is strictly liable, jointly and severally, for damages and costs incurred by the state for clean up of contamination on the leasehold. The obligations and provisions of this section 26 shall survive the termination of this lease.

(h) As used in this lease, the term "hazardous materials" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any municipal governmental authority, the State of Alaska, or the United States government.

27. Surrender of Leasehold. Upon the expiration, termination, or cancellation of this lease, the lessee shall peacefully leave and deliver up all of the leasehold in good, sanitary, and marketable condition, order, and repair.

28. Notices. (a) Any notice or demand by the lessee will be made by hand delivery to the Director, Division of Mining, Land and Water, or by certified mail, postage prepaid, addressed as follows (or to a new address that the lessor designates in writing), with delivery occurring upon receipt by the lessor:

To the Lessor:

Division of Mining, Land and Water, Southeast Region
400 Willoughby Avenue, Suite 400
Juneau, Alaska 99801

(b) Any notice or demand by the lessor will be issued as provided in 11 AAC 02.040(c). If issuance is by mail, the notice or demand will be addressed as follows (or to a new address that the lessee or its successor in interest designates in writing):

To the Lessee:

Walter Payne dba Rocky Point Resort
P.O. Box 1252
Petersburg, AK 99833



The lessor will issue a copy of any such notice or demand to each holder of a security interest in the leasehold whose assignment has been approved by the lessor under section 6 of this lease. Any security interest not approved as provided in section 6 is insufficient to require notice by the lessor under AS 38.05.103.

(c) Any notice or demand regarding the lease must be in writing and will be complete if given as set out above.

29. Penalty Charges. The lessee shall pay a fee for any late payment or returned check issued by the lessee as follows:

(1) Late Payment Penalty: The greater of either the fee specified in 11 AAC 05.010 or interest at the rate set by AS 45.45.010(a) will be assessed on a past-due account until payment is received by the lessor. Acceptance of a late payment or of a service charge for a late payment is subject to the lessor's rights under sections 20 and 21 of this lease.

(2) Returned Check Penalty: A returned check fee as provided in 11 AAC 05.010 will be assessed for any check on which the bank refuses payment. If the bank refuses payment, the default termination date remains the same. Late penalties under subsection (1) of this section shall continue to accumulate.

30. Modification. This lease may be modified or amended only by a document signed by both parties. Any purported amendment or modification has no legal effect until placed in writing and signed by both parties.

31. Choice of Law. This lease shall be construed under the laws of the State of Alaska. The lessee confers personal jurisdiction on the courts of the State of Alaska for any litigation under this lease.

32. Severability of Clauses of Lease Agreement. If any clause or provision of this lease is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the lessor and the lessee agree that the remainder of this lease will not be affected, and in lieu of each clause or provision of this lease that is illegal, invalid, or unenforceable, there will be added as a part of this lease a clause or provision as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

By signing this lease, the lessor and the lessee agree to be bound by its provisions.

LESSEE:

Walter Payne

Walter Payne dba Rocky Point Resort

LESSOR:

Ron Schonenbach

Ron Schonenbach , Division of Mining, Land and Water

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

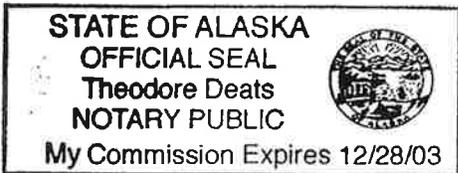
THIS IS TO CERTIFY THAT ON THIS 23rd day of November, 2001, before me personally appeared Walter Payne, known to me to be the person named and who signed the foregoing lease and acknowledged voluntarily signing the same.

Marsha K. Birchell
Notary Public in and for the State of Alaska
My commission expires: Oct 04, 2004



STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY THAT ON THIS 3rd day of April, 2002, before me personally appeared Ron Schonenbach, of the Division of Mining, Land and Water of the Department of Natural Resources of the State of Alaska, who executed the foregoing lease on behalf of the State of Alaska, and who is fully authorized by the State to do so.



Theodore Deats
Notary Public in and for the State of Alaska
My commission expires: 12/28/03

Approved as to form February 9, 1994, and September 25, 2001.

/s/ Elizabeth J. Barry, Assistant Attorney General

After Recording in the Petersburg Recording District, return this document to the Alaska Division of Mining, Land & Water, Southeast Regional Office, 400 Willoughby Avenue, Suite 400, Juneau, Alaska 99801.



ATTACHMENT 'A'
TO
LEASE AGREEMENT ADL 106062

SPECIAL STIPULATIONS

1. **Lease Development.** The development of the Lease area shall be limited in form and scope to the area and improvements specified in the development and operations plan, included as Attachment 'B'. The lessee is responsible for accurately siting development and operations within this area. Use of the area for purposes other than those specified in this agreement is a violation of this lease. Any proposed revisions to the development and operations plan must be approved in writing by the Lessor before the change in use or development occurs. This lease must be utilized for the purpose described in the approved development plan. Failure to make substantial use of the land, consistent with the approved development plan, within five years, will, in the Director's discretion, constitute grounds for cancellation.

2. **Insurance.** Pursuant to lease condition #24, the Lessee shall:
 - a. Consult, as appropriate, with an insurance professional licensed to transact the business of insurance under Alaska Statute, Title 21, to determine what types and levels of insurance are adequate to protect the Lessee and Lessor (the State, its officers, agents and employees) relative to the liability exposures of the Lessee's commercial operations.

 - b. Secure or purchase at Lessee's own expense, and maintain in full force at all times during the term of the lease, adequate insurance policies and coverage levels recommended by an insurance professional, licensed to transact the business of insurance under Alaska Statute, Title 21, and acceptable to the Lessor. The Lessor will expect to see at a minimum, the following types of coverage:

Commercial General Liability Insurance: The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the Division of Risk Management, Alaska Department of Administration.

Workers' Compensation Insurance: The lessee shall provide and maintain, for all its employees, Workers' Compensation Insurance as required by AS 23.30.045. Where applicable, coverage must comply with any other statutory obligations, whether Federal (i.e. U.S.L.&H), or, Jones Act) or other state laws in which employees are engaged in work on the leased premises. The insurance policy must contain a waiver of subrogation clause in favor of the State of Alaska.

 - c. Ensure that the State of Alaska, Department of Natural Resources is included as an additional insured on all liability policies held by the Lessee that provide coverage for liabilities connected to the operations of the Lessee on or in conjunction with the leased premises, referred to as ADL 106062.



- d. Provide proof of insurance to the Lessor on a yearly basis. The certificate must provide for a 30-day prior notice to the State of Alaska in the event of cancellation, nonrenewal or material change of conditions. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of the lease contract and shall be grounds, at the option of the Lessor, for termination of the lease agreement. Generally, the Lessor will rely upon the best professional judgment of the licensed insurance agent and, at renewal, the agent's annual re-assessment of the insured's liability exposure for determination of adequate levels of coverage. The Lessor hereby reserves the right to require additional coverage if, in its discretion, it determines that it may be warranted. Any changes in the approved lease development and operations plan, or the existence of significant claims against the liability coverage, would warrant examination of the insurance by the state to determine adequacy.
- e. In the event the Lessee becomes aware of a claim against any of its liability coverage, the Lessee shall notify, and provide documentation and full disclosure of the claim to the Lessor within 20 days.
3. **Maintenance.** The State assumes no responsibility for maintenance of improvements constructed on state land nor liability for injuries or damages attributable to that construction.
4. **Performance Guarantee.** Pursuant to Lease Condition #25, the Lessee shall provide a surety bond or other form of security acceptable to the State **in the amount of \$3,000.00** payable to the State of Alaska. Such performance guaranty shall remain in effect for the term of this Lease and shall secure performance of the lessee's obligations hereunder. The amount of the performance guaranty may be adjusted by the Lessor upon approval of amendments to this Lease, changes in the development plan, upon any change in the activities conducted or performance of operations conducted on the premises. If Lessee fails to perform the obligations under this lease within a reasonable time, the State may perform Lessee's obligations at Lessee's expense. Lessee agrees to pay within 20 days following demand, all costs and expenses reasonably incurred by the State of Alaska as a result of the failure of the lessee to comply with the terms of this lease. The provisions of this lease shall not prejudice the State's right to obtain a remedy under any law or regulation. If the Lessor determines that the Lessee has satisfied the terms and conditions of this lease the performance guarantee may be released. The performance guarantee may only be released in a writing signed by the Lessor or an authorized representative.
5. **Solid Waste** All solid waste and debris generated from the activities conducted under this Lease shall be removed to a facility approved by the ADEC prior to the expiration, completion, or termination of the Lease or activities. Temporary storage and accumulation of solid waste (prior to its removal) shall conform to the following: (1) Solid waste shall be stored in a manner that prevents a litter violation under AS 46.06.080; (2) Putrescible wastes (material that can decompose and cause obnoxious odors) shall be stored in a manner that prevents the attraction of or access to wildlife or disease vectors; and (3) The premises shall be maintained free of solid waste that might create a health or safety hazard.
6. **Wastewater Disposal.** Disposal of wastewater from any operation associated with this Lease to state lands or water is specifically prohibited, unless otherwise approved by the Alaska Department of Environmental Conservation.



7. **Fuel and Hazardous Substances.** To ensure future use of public lands as well as tide and submerged lands, fuel and hazardous substance use shall occur in a manner that avoids toxic discharge and run-off.

a. **Spill Prevention and Cleanup.** The Lessee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants that result from activities associated with this Lease. Appropriate spill response equipment must be on hand to respond to spills from any transfer or handling of fuel or other hazardous substances.

b. **Container marking.** All independent fuel and hazardous substance containers shall be marked with the contents and the Lessee's name using paint or a permanent label.

c. **Definitions.**

Containers" means any item which is used to hold fuel or hazardous substances. This includes tanks, drums, double-walled tanks, portable testing facilities, fuel tanks on small equipment such as light plants and generators, flow test holding tanks, slop oil tanks, bladders, and bags. Manifolded tanks or any tanks in a series must be considered as single independent containers. Vehicles, including mobile seismic tanks, are not intended to be included under this definition.

Hazardous substances" are defined under AS 46.03.826(5) as (a) an element or compound which, when it enters the atmosphere, water, or land, presents an imminent and substantial danger to the public health or welfare, including fish, animals, or vegetation; (b) oil; or (c) a substance defined as a hazardous substance under 42 U.S.C. 9601(14).

8. **Notification.** The Lessee shall immediately notify the Department of Environmental Conservation (DEC) by telephone, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail, informing DEC of: any unauthorized discharges of oil to water, any discharge of hazardous substances other than oil; and any discharge or cumulative discharge of oil greater than 55 gallons solely to land and outside an impermeable containment area. If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the Lessee shall report the discharge within 48 hours, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail. Any discharge of oil, including a cumulative discharge, solely to land greater than one gallon up to 10 gallons must be reported in writing on a monthly basis. The posting of information requirements of 18 AAC75.305 shall be met. Scope and Duration of Initial Response Actions (18 AAC 75.310) and reporting requirements of 18 AAC 75, Article 3 also apply. *The Lessee shall supply DEC with all follow-up incident reports. Notification of a discharge must be made to the nearest DEC Area Response Team during working hours: Anchorage (907) 269-7500, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-2237. The DEC oil spill report number outside normal business hours is (800) 478-9300.*

9. **Inspection.** Authorized representatives of the State of Alaska shall have reasonable access to the subject parcel for purposes of inspection. The Lessee may be charged fees under 11 AAC



05.010(a)(7)(M) for routine inspections of the subject parcel, inspections concerning non-compliance, and a final close-out inspection.

10. **Compliance with Governmental Requirements.** The lessee shall, at its expense, comply with all applicable laws, regulations, rules and orders, and the requirements and stipulations included in this Lease. Lessee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
11. **Destruction of Markers.** All survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed lease corner posts shall be protected against damage, destruction, or obliteration. The lessee shall notify the Lessor of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the lessee's expense in accordance with accepted survey practices of the Division of Mining, Land & Water.
12. **Lease Compensation.** Pursuant to Lease Condition #2, annual compensation is based upon AS 38.05.073(m)(7). Specifically, as referenced in the best interest finding, the annual rent shall, at the state's discretion, be the greater of: (1) An amount equal to 2.5% of the annual gross receipts from the business or businesses deriving income from the lease facility as reported to the IRS; (2) An amount equal to the fee that would be charged for this use under the Division's current tideland permit fee schedule; or (3) A market rent value as determined by the Division using an established lease appraisal schedule or, if that is not available, appropriate or acceptable to the lessee, a DNR approved fair market value appraisal provided by the lessee.

AS 38.05.105 requires that the annual lease compensation be re-evaluated and adjusted at five year intervals. At an adjustment interval, the lessor, at its discretion, may adjust the method of determining compensation. Adjustment may include:

- (a) requiring the lessee to provide an acceptable current market appraisal of the lease parcel with the appraiser and appraisal subject to the review and approval of DNR and the cost of appraisal borne by the lessee;
- (b) adjust the annual compensation based on an appropriate DNR lease fee schedule in effect at that time;
- (c) requiring compensation based on a percentage of gross business revenues as reported to the IRS, up to 2.5%;
- (d) requiring compensation based on a per client amount equivalent to (c) above, or;
- (e) a combination of these or other methods stated in AS 38.05.073 (m).

Adjustment of the amount of annual lease compensation is not limited to the appraised fair market value of the land but shall not be less than this value.

13. **Sublease and Rental agreements.** Lessor approval pursuant to condition #6 of the lease shall be subject to an increased annual compensation as a condition of a sublease approval. Said increase shall be determined by negotiation between the lessee and lessor, but shall not be less than 25% of all compensation paid annually to the lessee by the sub-lessee. Sublease shall be defined to include any lease, rental, storage or accommodation agreement between the lessee and another individual, business or corporation utilizing or benefiting from the lease parcel. Sub-lessee shall be defined to mean any individual, business or corporation executing an agreement, as above, with the lessee. The amount of sublease compensation shall be subject to change at the same time as the lease



compensation adjustment discussed in '12' above, and whenever the terms or conditions of the agreement between the lessee and sub-lessee change. Approval of a sublease shall also be conditioned upon: (1) submission by the lessee of a signed copy of the agreement(s) which govern the relationship and compensation provisions between the Lessee and the Sub-lessee; (2) submission by the lessee of a complete "plan of operations and development" for the subleased area and if changed, an amended plan to replace the approved "plan of operations and development" for the entire lease area; (3) a lessor best interest finding and amendments to the lease contract as necessary, if significant changes to the use and development are proposed. Proof of Compliance with DEC Requirements. The lessee shall provide evidence that they continue to comply with all requirements of the Department of Environmental Conservation (DEC) for this project including health permits for food service and lodging, on an annual basis, or upon renewal of the authorizations as required by DEC.

14. **Annual Report.** The lessee shall submit a written **annual report due on or before May 1 of each year**, to the Lessor documenting information the division determines to be necessary to obtain a clear and detailed understanding of the financial status of commercial operations occurring on, or being facilitated by the lease. At a minimum, the report shall include the following information: (1) A certified statement by a certified public accountant stating the gross amount of annual business revenue reported to the Internal Revenue Service for the business or businesses which derive income from the facilities utilizing the lease parcel; (2) The number of paying guest served on the lease site, by month during the previous calendar year; the retail sales price and number of days of each trip/visit sold. The total number of non-paying guests served at the site for promotional purposes during the year. The maximum number of guests and staff on site at any time. Copies of all current brochures and promotional materials used by the lessor shall be attached each year to the annual report (3) Any other information the division determines to be necessary to obtain a clear and detailed understanding of the commercial operations occurring on, or being facilitated by the lease parcel. Information gathered during the first 4 years of each 5 year period of the lease may be averaged and used to determine the annual rental at the next periodic rent adjustment period required under AS 38.05.105.

The lessee shall immediately make all necessary financial records available and shall fully cooperate with an independent audit by state auditors to verify any particular annual report submitted, if in his or her discretion, the lessor determines that verification is necessary. At the discretion of the lessor, the annual reporting requirement may be temporarily suspended or reinstated in writing as appropriate.

15. **Site Restoration.** Pursuant to Lease Condition #22 and 23, upon expiration or termination of this lease, the lease site shall be restored to a condition acceptable to the lessor in accordance with the following:

The lessor will make a determination, at the time of expiration or termination of this lease, on the scope of restoration that will be required. Such determination will take into account the need for improvements based on the projected long-term use of the upland property. The lessee will be required to (a) remove all improvements; (b) reduce the size or scale of the improvements; or (c) leave the improvements in place as depicted on the approved development plan.



