

## LEASE

THIS LEASE is made this 9th day of March, 1994, between the CITY OF VALDEZ, a municipal corporation organized under the laws of the State of Alaska, hereinafter referred to as "LESSOR", and **ALYESKA PIPELINE SERVICE COMPANY**, acting as agent for and on behalf of Amerada Hess Pipeline Corporation, ARCO Transportation Alaska, Inc., BP Pipelines (Alaska) Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company, (hereinafter referred to as "LESSEE") whose address is 1835 South Bragaw Street Anchorage, Alaska 99512.

LESSOR and LESSEE agree as follows:

### I - PROPERTY

1.01. Subject to Survey. LESSEE agrees to have the property surveyed at LESSEE's expense. Prior to \_\_\_\_\_, 199\_\_\_\_. LESSEE will submit a survey of the Property to LESSOR for plat review and approval by the Valdez Planning and Zoning Commission.

1.02. Property. LESSOR leases to LESSEE and LESSEE leases from LESSOR the property outlined in red in Exhibit "A" attached hereto, it being described as:

See attached Exhibit B

(hereinafter referred to as the "Property"), for the term, the rent, and subject to the covenants and conditions hereinafter provided.

1.03. Quiet Enjoyment, Restrictions, Easements, Etc. LESSOR covenants and agrees that LESSEE, upon paying the rent and other charges herein provided for and observing and keeping the covenants, conditions and terms of this Lease on LESSEE's part to be kept or performed, shall lawfully and quietly hold, occupy and enjoy the Property during the term of this Lease without hindrance or molestation, subject, however, to the rights and reservations expressed in the State of Alaska Patent to the Property, existing easements for roads, gas, electric, water, sewer and other utility lines, restrictions of record, and to encroachments ascertained by physical inspection of the Property.

1.04. Property Accepted "As Is". LESSEE acknowledges that it has inspected the Property and accepts the same "as is" and without reliance on any representations or warranties of LESSOR,

HUGHES THORSNESS  
GANTZ POWELL & BRUNDIN  
ATTORNEYS AT LAW  
509 WEST THIRD AVENUE  
ANCHORAGE, AK 99501  
(907) 274-7522

**Valdez Tideland Lease 11-22-94  
Contract TAPS/3612:XKAH**

**Page 1**

its agents, servants, or employees, as to the physical condition of the Property, including, but not limited to, subsurface and soil conditions, or as to its fitness or habitability or for any particular purpose, or otherwise.

1.05. No Subsurface Rights. This Lease confers no mineral rights or rights with regard to the subsurface of the land below the level necessary for the use of the Property as stated in this Lease. LESSOR makes no warranty or representation as to whether the Property is open or closed to mineral claims or leases under state or federal law.

1.06. Appraisal. LESSEE shall pay for the cost of appraisal which sum is \$2,500.00.

## II - TERM

2.01. Lease Term. The term of this Lease shall be TWENTY-ONE YEARS WITH SIX (6) FIVE YEAR RENEWALS. The lease shall commence on March 9, 1994, and end on the last day of March 8, 2015. Exercise of the renewal options shall be as follows:

(a) LESSEE shall have six (6) successive options to renew this Lease for terms of five (5) years each.

(b) Each renewal option may be exercised by the LESSEE only if written notice to the LESSOR is given not more than 90 days and not less than 30 days from the date of expiration of this Lease or any renewal thereof.

(c) The LESSOR shall not grant the renewal, if the LESSEE is in default under the terms of this Lease at the time the option is exercised.

2.02 Preference Rights to Re-Lease. LESSEE shall upon expiration of this lease and any renewal options be allowed a preference right to re-lease the Property if all of the other factors are substantially equivalent; and provided the LESSEE is not in breach or default of any of the terms or conditions of the Lease, unless it shall be determined by LESSOR that the renewal of such lease is not in the best interest of LESSOR.

2.03. Application to Re-lease. If, at the expiration of this Lease, the LESSEE desires to re-lease the Property, LESSEE shall, not sooner than ninety calendar days and not later than sixty calendar days prior to the expiration, make application to re-lease the Property. The re-lease application shall certify the character and value of all improvements placed by LESSEE on the Property, the purpose and length for which the re-lease is

desired, and any other information that LESSOR may require. Applications to re-lease shall be submitted to the same application review as new applications for lease, pursuant to Sec. 27-21 of the Valdez City Code.

2.04. Hold-Over. If LESSEE shall hold-over after the expiration of the term of this Lease, such tenancy shall be from month to month, subject to all the terms, covenants and conditions of this Lease.

2.05. Surrender of Possession. Upon expiration of the term of this Lease, or any renewal option, whether by lapse of time or otherwise, LESSEE shall promptly and peaceably surrender the Property, and all buildings and improvements thereon, except as provided in Article XVII of this Lease, and LESSEE agrees to execute, acknowledge and deliver to LESSOR a proper instrument in writing, releasing and quitclaiming to LESSOR all right, title and interest of LESSEE in and to the Property and all such buildings and improvements thereon subject to Lessor's right to not accept the buildings or improvements.

### III - RENT, TAXES, ASSESSMENTS AND UTILITIES

3.01. Rent. The LESSEE agrees to pay to LESSOR an annual rent of six percent (6%) of the appraised value of the Property, (the LESSOR may use either the tax assessment or obtain a new appraisal reflecting the fair market value, at Lessor's cost), with equal monthly installment payments to be made not later than the first day of each month. Rent for any partial year shall be prorated at the rate of 1/12th of the annual rent per month or portion thereof. For the first five (5) years, the appraised value is agreed to be TWO HUNDRED, FORTY-FOUR THOUSAND DOLLARS (\$244,000) resulting in an annual rent of FOURTEEN THOUSAND SIX HUNDRED AND FORTY DOLLARS (\$14,640.00) per year. Rent shall be payable at the office of the City Manager, P. O. Box 307, Valdez, Alaska, 99686, or at such other place as LESSOR may designate in writing. Delinquent rent shall bear interest at the maximum legal rate of interest.

3.02 Adjustment of Rent. The Property will be reappraised and the annual rent accordingly adjusted every five (5) years during the term of this Lease or any remaining portion of each five year increment should the reappraisal take place after the 5 year time frame. Such appraisal will be based on the value of the Property, but shall not include the value of buildings or improvements placed on the Property by LESSEE. The appraised value of the Property for the purposes of determining the annual rental shall be the most recent tax assessment valuation according to the tax rolls of the City of Valdez or the fair

market value as determined by an appraisal paid for by LESSOR. In no event, however, shall the annual rent be less than the original annual rent set forth in paragraph 3.01. Nothing in this paragraph shall prevent the annual reassessment of the leased premises for tax purposes to determine its true value as provided by law.

3.03. LESSEE to Pay Taxes. LESSEE agrees to pay prior to delinquency and directly to the taxing authorities in which the Property is located all real property taxes levied or assessed upon or against the leasehold interest in the Property and the ownership interest in all buildings and improvements thereon during the term of this Lease. LESSEE further agrees to pay prior to delinquency and directly to the taxing authorities in which the Property is located all personal property taxes on personal property situated on the Property and placed thereon by LESSEE, its agents, servants, or employees. LESSEE further agrees to pay prior to delinquency any other taxes for which it may be liable. LESSEE shall, within thirty (30) days after any such tax, assessment or other charge, whether or not constituting a lien on the Property, shall become due and payable, produce and exhibit to LESSOR satisfactory evidence of payment thereof.

3.04. LESSEE to Pay Assessments. LESSEE during the term of this Lease agrees to pay directly to the public authorities charged with collection thereof any and all assessments levied on the Property for any part or all of the costs of any public work or improvement assessed according to benefit found by the levying authority to accrue therefrom to the Property; provided, however, that if an option is given to pay such assessment(s) in installments, LESSEE may elect to pay the same in installments, and in such case LESSEE shall be liable only for such installments as shall accrue during the term of this Lease. LESSOR warrants and represents that there are currently no outstanding assessments levied on the Property for any part or all of the cost of any public work or improvement constructed by LESSOR.

3.05. Proration of Taxes and Assessments. If LESSEE's obligation to pay taxes or assessments commences or ends during a tax year, such obligation shall be prorated between LESSOR and LESSEE.

3.06. Contest. LESSEE shall have the right to contest any taxes or assessments which LESSEE is obligated to pay under paragraphs 3.03 or 3.04 of this Lease. Such proceedings shall, if instituted, be conducted promptly at LESSEE's own expense and free from all expense to LESSOR. Before instituting any such proceedings, LESSEE shall pay under protest any such taxes or

assessments, or shall furnish to LESSOR a surety bond written by a company acceptable to LESSOR or other security acceptable to LESSOR, sufficient to cover the amount of such taxes or assessments, with interest for the period which such proceedings may reasonably be expected to take, and costs, securing the payment of such taxes or assessments, interest and costs in connection therewith when finally determined. Notwithstanding the furnishing of any such bond or security, LESSEE shall pay any such taxes or assessments at least thirty (30) days before the time when the Property or any part thereof, might be forfeited. The proceedings referred to in this paragraph 3.06 shall include appropriate appeals from any order or judgments therein, but all such proceedings shall be begun as soon as reasonably possible after the imposition or assessment of any such taxes or assessments and shall be prosecuted to final adjudication promptly. In the event of any reduction, cancellation or discharge, LESSEE shall pay the amount that shall be finally levied or assessed against the Property or adjudicated to be due and payable, and, if there shall be any refund payable by the governmental authority with respect thereto, LESSEE shall be entitled to receive and retain the same, subject, however, to apportionment as provided in paragraph 3.05 of this Lease. LESSOR, at LESSOR's option, may, but shall not be obligated to, at LESSOR's own expense contest any such taxes or assessments, which shall not be contested as set forth above, and, unless LESSEE shall promptly join with LESSOR in such contest and pay all costs and attorneys fees of LESSOR therein, LESSOR shall be entitled to receive and retain any refund payable by any governmental authority with respect thereof.

3.07. LESSEE to Pay Utility Charges. LESSEE shall pay or cause to be paid all charges for gas, oil, electricity, water, sewer, heat, snow removal, refuse removal and any and all other utilities or services used upon the Property throughout the term of this Lease, including any connection fees.

3.08. Additional Rent and LESSOR's Right to Cure LESSEE's Default. All costs and expenses which LESSEE assumes or agrees to pay pursuant to this Lease shall, at LESSOR's election, be treated as additional rent, and, in the event of nonpayment, LESSOR shall have all rights and remedies provided in this Lease in the case of nonpayment of rent or of a breach of condition, at LESSOR's election. If LESSEE shall default in making any payment required to be made by LESSEE or shall default in performance of any term, covenant or condition of this Lease on the part of LESSEE to be kept, performed or observed which shall involve the expenditure of money by LESSEE, LESSOR at LESSOR's option may, but shall not be obligated to, make such payment, or, on behalf of LESSEE, expend such sum as may be necessary to

keep, perform or observe such term, covenant or condition, and any and all sums so expended by LESSOR, with interest thereon at the maximum legal rate of interest in the State of Alaska per year from the date of such expenditure until repaid, shall be, and shall be deemed to be, additional rent and shall be repaid by LESSEE to LESSOR, on demand, provided, however, that no such payment or expenditure by LESSOR shall be deemed a waiver of LESSEE's default, nor shall it affect any remedy of LESSOR by reason of such default.

#### IV - USE

4.01. Use. LESSEE acknowledges that the Property is being leased on the express condition that LESSEE construct and operate a dock facility in support of its Ship Escort and Response Vessel System. LESSEE shall not conduct any illegal activities on the Property or maintain any nuisances on the Property.

4.02. Radio Interference. At the LESSOR's request, the LESSEE shall discontinue the use of any machine or device which interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

#### V - IMPROVEMENTS

5.01. Notice of Construction. LESSEE shall give LESSOR no less than five days written notice prior to the commencement of any construction, alteration or repair of any improvements constructed or made by LESSEE on the Property so that LESSOR may, if it so elects, give notice of nonresponsibility pursuant to A.S. 34.35, as now enacted or hereafter amended.

5.02. Development Requirements. Upon obtaining the necessary state, federal and local permits, the, LESSEE, at LESSEE's sole expense, shall construct and operate a dock facility on the Property within 24 months from the date of the execution of this Lease.

5.03. LESSEE's Ownership of Buildings and Improvements. It is expressly understood and agreed that any and all buildings and improvements of any nature whatsoever constructed or maintained on the Property by LESSEE shall be and remain the property of LESSEE and may be removed or replaced by LESSEE at

any time during the term of this Lease, subject, however, to paragraph 17.01 of this Lease.

5.04. Landscaping. LESSEE shall landscape the upland areas surrounding any buildings or improvements constructed or maintained on the Property in a pleasing and aesthetic manner consistent with the scenic nature and natural vegetation of the Property and the surrounding environs.

5.05. Construction Prerequisites. No construction shall be commenced unless the following events have occurred:

(a) LESSEE shall furnish to LESSOR certificates of insurance in the amounts and for the purposes specified in Article X.

(b) LESSEE shall from time to time deliver to LESSOR satisfactory proof that workers' compensation insurance has been procured to cover all persons employed or contracted by it in connection with the construction. Notice of any deficiency in this area to LESSEE will be cured immediately and no work will be performed on the project until the LESSOR has satisfactory proof that proper workers' compensation insurance is in place.

(c) LESSEE shall furnish to LESSOR copies of the permit from the U.S. Army Corps of Engineers (COE) to construct the dock facility.

(d) LESSEE shall be responsible for complying with conditions and stipulations of the COE permit.

#### VI - TRADE FIXTURES

6.01. LESSEE's Ownership of Trade Fixtures, Machinery and Equipment. It is expressly understood and agreed that any and all trade fixtures (including electrical fixtures), machinery, equipment of any nature whatsoever and other personal property of LESSEE at any time placed or maintained upon the Property by LESSEE shall be and remain property of the LESSEE and may be removed or replaced at any time during the term of this Lease.

#### VII - ASSIGNMENT AND SUBLETTING

7.01. Assignment Without Consent Generally Prohibited. LESSEE shall not voluntarily assign or encumber its interest in this Lease or in the Property, or sublet all or any part of the Property, or allow any other person or entity (except LESSEE's authorized representatives) to occupy or use all or any part of the Property without first obtaining LESSOR's consent. Any assignment, encumbrance or sublease without LESSOR's consent

Valdez Tideland Lease 11-22-94  
Contract TAPS/3612:XKAH

*which will not be  
unreasonably  
withheld.*  
*Wm J. H. - go*

Page 7  
5.4.

shall be voidable and, at LESSOR's election, shall constitute a default. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this paragraph. If LESSEE is a partnership, a withdrawal or change, whether voluntary, involuntary, or by operation of law, of any partner or partners owning fifty percent (50%) or more of the partnership, or the dissolution of the partnership, shall be deemed a voluntary assignment. If LESSEE is a corporation, any dissolution, merger, consolidation or other reorganization of LESSEE, or the sale or other transfer of a controlling percentage of the capital stock of LESSEE, or the sale of fifty-one percent (51%) of the value of the assets of LESSEE, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least fifty-one percent (51%) of the total combined voting power of all classes of LESSEE's capital stock issued, outstanding and entitled to vote for the election of directors. As to a corporation the stock of which is traded through an exchange or over the counter, a sale or other transfer of a controlling percentage of the capital stock of such a LESSEE corporation will not be deemed to be a voluntary assignment. Any assignment affected pursuant to this paragraph 7.01 shall require the assignee to assume the Lessee's obligations hereunder. Lessee shall promptly deliver to Lessor a copy of any assignment instrument. Any assignment shall not release the Lessee from liability hereunder.

7.02. Assignment of Rents to LESSOR. LESSEE immediately and irrevocably assigns to LESSOR, as security for LESSEE's obligations under this Lease, all rent from any subletting of all or a part of the Property as permitted by this Lease, and LESSOR, as assignee and attorney-in-fact for LESSEE or a receiver for LESSEE appointed on LESSOR's application, may collect such rent and apply it toward LESSEE's obligations under this Lease, except that, until the occurrence of an act of default by LESSEE, LESSEE shall have the right to collect such rent.

7.03. Costs of LESSOR's Consent to Be Borne by LESSEE. LESSEE agrees to pay to LESSOR, on demand, reasonable costs, including attorney's fees, incurred by LESSOR in connection with any request by LESSEE for LESSOR to consent to any assignment or subletting by LESSEE.

#### VIII - LIENS

8.01. Prohibition of Liens. LESSEE shall not suffer or permit any liens, including without limitation, mechanic's or materialman's liens, to be recorded against the Property. If any such liens shall be recorded against the Property, LESSEE



shall cause the same to be removed, or, in the alternative, if LESSEE in good faith desires to contest the same, LESSEE shall be privileged to do so, but in such case LESSEE hereby agrees to indemnify and save LESSOR harmless from all liability for damages occasioned thereby and shall, in the event of a judgment or foreclosure of such liens, cause the same to be discharged and removed prior to any attempt at execution of such judgment. Nothing contained in this Lease shall be construed to be a waiver of the provisions of A.S 09.38.015(c), as may be amended from time to time.

#### IX - INDEMNITY

9.01. Indemnity. Except for claims arising solely out of acts or omissions of LESSOR, its agents, servants, employees or contractors, LESSEE agrees to protect, defend, indemnify and hold LESSOR harmless from and against any and all liability arising from acts or omissions of any person and of any nature whatsoever occurring on or relating to the Property or arising from the leasing of the Property LESSEE, causing injury to, or death of persons, or loss of, or damage to, property, and from any expense, including attorneys fees, incident to the defense of and by LESSOR therefrom. If any action or proceeding is brought against LESSOR by reason of any such occurrences, LESSOR shall promptly notify LESSEE in writing of such action or proceeding.

#### X - INSURANCE

10.01. Liability Insurance. LESSEE, during the term of this Lease, shall carry at its expense comprehensive general liability insurance covering the Property in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000.00) combined single limit to protect against liability for personal injury, death or property damage which might arise from the construction occupancy or use of the Property and the operations conducted on it. Said insurance shall insure performance by LESSEE of the indemnity provisions of paragraph 9.01. LESSOR may increase the amount of insurance required at five (5) year intervals. LESSEE may, at its option, self-insure all or part of the risk as set forth above, but must provide documentation and evidence of the self insurance program acceptable to LESSOR.

10.02. Named Insured, Notice to LESSOR, and Waiver of Subrogation. All insurance policies required to be maintained by LESSEE under paragraph 10.01 shall name LESSOR, and its officers, employees and agents, as additional insureds. All policies issued under paragraph 10.01 shall contain an agreement

by the insurers that such policies shall not be canceled without at least twenty (20) days' prior written notice to LESSOR, and certificates or copies of all such insurance policies shall be furnished to LESSOR promptly after the issuance thereof. All policies issued under paragraph 10.01 shall contain a waiver of any subrogation rights any insurer might have against LESSOR.

10.03. Fire and Extended Coverage Insurance. LESSEE may at its own expense and in its own name obtain insurance against loss or damage by fire and such other risks as it determines to cover buildings, equipment, inventory, fixtures, personal property and improvements made to the Property by LESSEE subsequent to LESSEE's taking possession of the Property under this Lease.

#### XI - CARE OF PROPERTY

11.01. Care of the Property. LESSEE at its own cost and expense shall keep the Property and all buildings and improvements which at any time may be situated thereon in good condition and repair during the term of this Lease, ordinary wear and tear excepted. The Property shall always be kept by LESSEE neat, clean and free of litter. No vehicle, equipment, supplies, materials or other thing shall be stored on the Property unless stored inside a building or within a fenced area which screens completely from public view the stored vehicle, equipment, supplies, materials, or other thing.

11.02. Restoration or Removal of Damaged Buildings and Improvements. In the event any buildings or improvements situated on the Property by LESSEE are damaged or destroyed by fire or other casualty, LESSEE shall at LESSEE's expense restore the same to good and tenantable condition or shall remove the same as soon as is reasonably possible, but in no event shall the period of restoration exceed eighteen (18) months nor shall the period of removal exceed forty-five (45) days.

11.03. Access Rights of LESSOR. LESSOR and its agents, servants and employees shall have the right to enter into and upon the Property and all buildings or improvements situated thereon upon reasonable notice to LESSEE and during normal business hours (defined as 9:00 a.m. to 5:00 p.m. Monday through Friday except for holidays as defined in paragraph 15.05 of this Lease) for the purpose of inspecting the Property and all buildings and improvements situated thereon for compliance with the terms of this Lease.

11.04. Nuisances Prohibited. LESSEE shall immediately remove from the Property any abandoned or junk vehicles, buildings, improvements, equipment, machinery or fixtures. LESSEE shall

not permit any nuisance or public nuisance to exist or to be created or maintained on the Property. LESSEE agrees that any nuisance or public nuisance as defined by the Valdez City Code, or any other code of regulations incorporated therein or otherwise adopted by ordinance or resolution of the City of Valdez, may, after fifteen days' written notice to LESSEE, be removed by LESSOR without LESSEE's further permission, all the costs of such removal to be paid by LESSEE to LESSOR as additional rent under the terms of this Lease. This paragraph shall not be construed as any limitation on any other legal rights or remedies available to the LESSOR to abate any nuisance or to prosecute any violation of the Valdez City Code.

#### XII - LAWS

12.01. Compliance with Laws. LESSEE shall comply with all applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter in any manner affecting LESSEE's activities on the Property or any buildings or other improvements which may be situated thereon, whether or not any such laws, ordinances or regulations which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same.

#### XIII - CONDEMNATION

13.01. Condemnation. In the event the Property, or any part thereof or interest therein, shall be taken for public purposes by condemnation, by other than LESSOR, as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of LESSOR and LESSEE in the award or consideration for such transfer and the effect of the taking or transfer upon this Lease shall be as provided in this Paragraph 13.

13.02. Total Taking. If all of the Property is taken or so transferred, this Lease and all the right, title and interest thereunder of LESSEE shall cease on the date title to the Property vests in the condemning authority.

13.03. Partial Taking - Termination of Lease. In the event the taking or transfer of part of the Property leaves the remainder of the Property in such location, or in such form, shape or reduced size, or so inaccessible as to be not effectively and practicably usable in the opinion of LESSEE for the purpose of operation thereon of LESSEE's business, then this Lease and all of the right, title and interest thereunder of LESSEE shall cease on the date title to the Property vests in

the condemning authority, and the condemning authority enters into possession.

13.04. Partial Taking - Continuation of Lease. In the event the taking or transfer of a part of the Property leaves the remainder of the Property in such location and in such form, shape or size, or so accessible as to be effectively and practicably unusable in the opinion of LESSEE for the purpose of operation thereon of LESSEE's business, this Lease shall terminate and end as to the portion of the Property so taken or transferred as of the date title to such portion vests in the condemning authority and the condemning authority enters into possession, but shall continue in full force and effect as to the portion of the Property not so taken or transferred. If there is a partial taking and this Lease is not terminated, then the annual rent payable under this Lease shall abate for the portion of the Property taken in the proportion that such portion bears to all of the Property.

13.05. Compensation. Any compensation received or payable as a result of eminent domain proceedings or a transfer in lieu thereof shall belong to LESSOR, whether such compensation be awarded or paid as compensation for diminution in value of the leasehold or of the fee, and LESSEE shall make no claim against LESSOR for damages for termination of the leasehold or interference with LESSEE's business. LESSEE shall have the right to claim and recover from the condemning authority compensation for any loss to which LESSEE may be put for LESSEE's moving expenses, for interference with LESSEE's business, damages relating to any trade fixtures, machinery or equipment owned by LESSEE, and for value of improvements to the Property made by LESSEE, provided, however, that such damages can be claimed only if separately awarded in the eminent domain proceeding and not as a part of the damages recoverable by LESSOR.

#### XIV - DEFAULT

14.01. Default. Each of the following events shall be deemed an event of default by the LESSEE under this Lease and a breach of the terms, covenants and conditions of this Lease:

(a) Failure to perform as required and when required any of the development requirements contained in paragraph 5.02 of this Lease.

(b) A default in the payment of the rent and additional sums due under this Lease, or any part thereof, for a period of

thirty (30) days from the due date for the payment of such rent or additional sums.

(c) A default in the performance of any other term, covenant or condition on the part of the LESSEE to be kept, performed or observed for a period of thirty (30) days after LESSOR gives to LESSEE a written notice specifying the particular default or defaults; provided, however, that any default on the part of LESSEE in the performance of work or acts required by him to be done, or conditions to be modified, shall be deemed to be cured if steps shall have been taken promptly by LESSEE to rectify the same and shall be prosecuted to completion with diligence and continuity.

(d) The filing of a petition by or against LESSEE for adjudication as a bankrupt under the Federal Bankruptcy Code, as now enacted or hereafter amended, or for arrangement pursuant to Chapter XI of the Bankruptcy code.

(e) The making by LESSEE of an assignment for the benefit of creditors.

(f) The appointment of a receiver by a court of competent jurisdiction for LESSEE's business.

(g) The levy upon under execution or attachment by process of law of the leasehold interest of LESSEE in the Property.

(h) The use of the Property or buildings and improvements thereon for purposes other than those enumerated herein, to which LESSOR has not given its written consent.

(i) The abandonment of the Property by LESSEE.

14.02. LESSOR's Remedies. In the event of any default by LESSEE as recited in paragraph 14.01 of this Lease, LESSOR shall have all of the below enumerated rights and remedies, all in addition to any rights and remedies that LESSOR may be given by statute, common law or otherwise. All rights of LESSOR shall be cumulative, and none shall exclude any other right or remedy. LESSOR's rights and remedies include the following:

(a) LESSOR may declare the term of this Lease ended by written notice to LESSEE. Upon termination of this Lease, LESSEE shall surrender possession and vacate the Property immediately, and deliver possession thereof to LESSOR, and LESSEE hereby grants to LESSOR full and free license to enter into and upon the Property in such event with or without process of law and to repossess LESSOR of the Property and to expel or remove LESSEE and any others who may be occupying or within the Property and to remove any and all property therefrom, and

without relinquishing LESSOR's right to rent or any other right given to LESSOR hereunder or by operation of law.

(b) LESSOR may by written notice declare LESSEE's right to possession of the Property terminated without terminating this Lease. Upon such termination of LESSEE's right to possession, LESSOR shall have all the rights to repossess the Property and remove LESSEE and LESSEE's property that are enumerated in paragraph 14.02(a).

(c) LESSOR may relet the Property in whole or in part for any period equal to or greater or less than the remainder of the term of this Lease, for any sum which LESSOR may deem reasonable, except as provided in (e) of this paragraph.

(d) LESSOR may collect any and all rents due or to become due from subtenants or other occupants of the Property.

(e) LESSOR may recover, whether this Lease be terminated or not, from LESSEE, damages provided for below consisting of items (i), and (ii), or, in lieu of (ii), item (iii);

(i) actual attorney's fees and other expenses incurred by LESSOR by reason of the breach or default by LESSEE; and

(ii) an amount equal to the amount of all rent and additional sums reserved under this Lease, less the net rent, if any, collected by LESSOR on reletting the Property, which shall be due and payable by LESSEE to LESSOR on the several days on which the rent and additional sums reserved in this Lease would have become due and payable; that is to say, upon each of such days LESSEE shall pay to LESSOR the amount of deficiency then existing. Such net rent collected on reletting by LESSOR shall be computed by deducting from the gross rent collected all expenses incurred by LESSOR in connection with the reletting of the Property, or any part thereof, including broker's commission and the cost of renovating or remodeling the Property or the buildings or improvements thereon, provided, however, LESSOR must take diligent effort in reletting the Property to obtain a lease rate as close to or above that required of LESSEE under this Lease or else LESSOR will not have access to the remedy set out in this subparagraph 14.01(e)(ii); or

(iii) an amount to be due immediately on breach, equal to the difference between the rent and the fair and reasonable rental value of the Property for the same period. In the computation of such damages the difference between any installment of rent thereafter becoming due and the fair and reasonable value of the Property for the period for which such

installment was payable shall be discounted to the date of such breach at the rate of eight percent (8%) per year.

(f) Reentry or reletting of the Property, or any part thereof, shall not be deemed a termination of this Lease, unless expressly declared to be so by LESSOR.

(g) If this Lease shall be deemed terminated, LESSEE's liabilities shall survive and LESSEE shall be liable for damages as provided in this paragraph 14.02.

#### XV - GENERAL PROVISIONS

15.01. Estoppel Certificates. Either party shall at any time and from time to time upon not less than thirty (30) days' prior written request by the other party, execute, acknowledge and deliver to such party, or to its designee, a statement in writing certifying that this Lease is unamended and in full force and effect (or, if there has been any amendment thereof, that the same is in full force and effect as amended and stating the amendment or amendments), that there are no defaults existing, (or, if there is any claimed default, stating the nature and extent thereof); and stating the dates to which the rent and other charges have been paid in advance.

15.02. Conditions and Covenants. All the provisions of this Lease shall be deemed as running with the land, and shall be construed to be "conditions" as well as "covenants", as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.

15.03. No Waiver of Breach. No failure by either LESSOR or LESSEE to insist upon the strict performance by the other of any term, covenant or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such terms, covenants or conditions. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

15.04. Time of Essence. Time is of the essence of this Lease and of each provision.

15.05. Computation of Time. The time in which any act provided by this Lease is to be done is computed by excluding the first (1st) day and including the last, unless the last day is a Saturday, Sunday or a holiday, and then it is also

excluded. The term "holiday" shall mean all holidays as defined by the statutes of Alaska.

15.06. Successors in Interest. Each and all of the terms, covenants and conditions in this Lease shall inure to the benefit of and shall be binding upon the successors in interest of LESSOR and LESSEE.

15.07. Entire Agreement. This Lease contains the entire agreement of the parties with respect to the matters covered by this Lease, and no other agreement, statement or promise made by any party which is not contained in this Lease shall be binding or valid.

15.08. Governing Law. This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Alaska.

15.09. Partial Invalidity. If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such provisions are considered by LESSEE to be integral to LESSEE's use of the Property for the purposes stated herein in, which case LESSEE will have the authority to terminate this Lease upon thirty (30) days' written notice to LESSOR.

15.10. Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between LESSOR and LESSEE; and neither the method of computation of rent, nor any other provision contained in this Lease nor any acts of the parties, shall be deemed to create any relationship between LESSOR and LESSEE other than the relationship of LESSOR and LESSEE.

15.11. Interpretation. The language in all parts of this Lease shall in all cases be simply construed according to its fair meaning and not for or against LESSOR or LESSEE as both LESSOR and LESSEE have had opportunity for the assistance of attorneys in drafting and reviewing this Lease.

15.12. Number and Gender. In this Lease, the neuter gender includes the masculine and the feminine, and the singular number includes the plural; the word "person" includes corporation, partnership, firm or association wherever the context so requires.



15.13. Mandatory and Permissive. "Shall", "will" and "agrees" are mandatory; "may" is permissive.

15.14. Captions. Captions of the paragraphs of this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

15.15. Amendment. This Lease is not subject to amendment except in writing executed by all parties hereto.

15.16. Delivery of Notices - Method and Time. All notices, demands or requests from one party to another shall be delivered in person or be sent by mail, certified or registered, postage prepaid, to the addresses stated in paragraph 15.17 and shall be deemed to have been given at the time of delivery or, if mailed, three (3) days after the date of mailing.

15.17. Notices. All notices, demands and requests from LESSEE to LESSOR shall be given to LESSOR at the following address:

City Manager  
City of Valdez  
P. O. Box 307  
Valdez, Alaska 99686

All notices, demands or requests from LESSOR to LESSEE shall be given to LESSEE at the following address:

Contracts Manager  
Alyeska Pipeline Service Company  
1835 South Bragaw Street  
Anchorage, Alaska 99512

15.18. Change of Address or Agent. Each party shall have the right, from time to time, to designate a different address or different agent for service of process by notice given in conformity with paragraph 15.16.

15.19. Furnishing of Information. LESSEE shall provide LESSOR with copies of articles of incorporation and bylaws, partnership agreements, joint venture agreements or other documents which shall define the manner of organization and the ownership of any business or activities to be conducted upon the Property, together with all future amendments thereto. LESSEE and LESSEE's assignee or sublessee shall also provide the same information regarding any assignee or sublessee of LESSEE.

15.20. Recordation. This Lease or a memorandum thereof may be recorded by LESSEE at LESSEE's expense with the Valdez Recorder's Office. The memorandum of lease shall contain such accurate information regarding this lease as is acceptable to both LESSOR and LESSEE.

#### XVI - LESSOR'S LIEN

16.01. LESSOR's Lien and Security Interest. LESSOR shall have a lien on, and LESSEE hereby grants LESSOR a security interest on, all buildings, improvements, equipment and fixtures, which are or may be put on the premises by LESSEE, to secure the payment of the rent and additional sums reserved under this Lease. If LESSEE shall default in the payment of such rent, LESSOR may, at its option, without notice or demand, take possession of and sell such property in accordance with the Uniform Commercial Code of Alaska. LESSOR shall apply the proceeds of sale as follows:

(a) To the expense of sale, including all costs, fees and expenses of LESSOR and LESSOR's reasonable attorney's fees in connection with such sale;

(b) To the payment of such rent; and

(c) The surplus, if any, to LESSEE.

#### XVII - OWNERSHIP OF IMPROVEMENTS AND FIXTURES ON TERMINATION

17.01. LESSEE May Remove Buildings, Improvements, Fixtures, Machinery and Equipment. Buildings, improvements, fixtures, machinery and equipment owned by LESSEE may be removed by LESSEE from the Property within sixty (60) days after the expiration or termination of this Lease and any term of renewal option; provided that such removal will not cause injury or damage to the Property, or if it does, LESSEE shall indemnify LESSOR for the full amount of such damage; and further provided that any buildings, improvements, fixtures, machinery or equipment left on the Property by LESSEE shall be in good, safe and tenantable or operable condition; and further provided that LESSEE shall not commit, create, leave or allow to exist on the Property any nuisance or public nuisance. The LESSOR may extend the time for such removal in case hardship is shown to LESSOR's satisfaction, provided application for extension has been made in writing and received by LESSOR within said sixty (60) day period.

17.02. Property Not Removed. Any buildings, improvements, fixtures, machinery, equipment or other items of real or

personal property which are not removed from the Property within the time allowed in paragraph 17.01 of this Lease, at LESSOR'S option may immediately become the property of LESSOR and title thereto shall vest in LESSOR without further action on the part of LESSEE or LESSOR. LESSOR may use, sell, destroy, or otherwise dispose of any such property in any matter which it sees fit, without further obligation to LESSEE.

#### XVIII - NONDISCRIMINATION

18.01. LESSEE Will Not Discriminate. LESSEE agrees that in its use and occupancy of the Property it will not, on the grounds of race, color, religion, national origin, ancestry, age, or sex, discriminate or permit discrimination against any prospective occupant, patron, customer, employee, applicant for employment or other person or group of persons in any manner prohibited by federal, state or local law or regulations promulgated thereunder.

#### XIX - HAZARDOUS MATERIALS

19.01 Condition of Property. LESSEE has had full opportunity to examine the Property for the presence of any Hazardous Material and accepts the Property in its "as is" condition.

19.02 Release of LESSOR. Any other provision of this Lease to the contrary notwithstanding, LESSEE releases LESSOR from any and all claims, demands, penalties, fines, judgments, liabilities, settlements, damages, costs or expenses (including, without limitation, a decrease in the value of the Property, damages due to loss or restriction of usable space, and attorneys' fees, court costs, litigation expenses, and consultant and expert fees) arising during or after the term of LESSEE'S occupancy of the property and resulting from the LESSEE'S use, keeping, storage or disposal of Hazardous Material on the Property. This release includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal or restoration mandated by a federal, state or local agency or political subdivision or by law.

#### 19.03 Use of Hazardous Materials on the Property.

a. LESSEE shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Property by LESSEE or its authorized representatives or invitees, except for such Hazardous Material as is necessary or useful to LESSEE'S use of the Property.

b. Any Hazardous Material permitted on the Property as provided in this paragraph, and all containers therefor, shall be used, kept, stored and disposed of in a manner that complies with all laws or regulations applicable to any such Hazardous Material.

c. LESSEE shall not discharge, leak or emit, or permit to be discharged, leaked or emitted, any material into the atmosphere, ground, sewer system or any body of water, if such material (as reasonably determined by the LESSOR, or any governmental authority) does or may, pollute or contaminate the same, or may adversely affect (a) the health, welfare or safety of persons, whether located on the Property or elsewhere, or (b) the condition, use or enjoyment of the Property or any other real or personal property.

d. LESSEE hereby agrees that it shall be fully liable for all costs and expenses related to the use, storage and disposal of Hazardous Material kept on the Property by the LESSEE, its authorized representatives and invitees, and the LESSEE shall give immediate notice to the LESSOR of any violation or potential violation of the provisions of subparagraphs 19.03 (a), (b) and (c).

19.04 Indemnification of LESSOR. LESSEE agrees to forever protect, defend, indemnify and hold harmless LESSOR from and against any and all losses, claims, investigations, assertions, liens, demands and causes of action of every kind and character (including without limitation any assertions or claims made against LESSOR, LESSEE or third parties, by government agencies or third parties, alleging the release or threatened release of hazardous substances or environmental contamination of any kind on or in connection with the Property during or after the term of LESSEE's occupancy of the property) and all costs thereof (including without limitation costs of removal action, remedial action, other "response costs" as that term is defined under applicable federal and state law, attorney's fees, penalties, damages, interest and administrative/court costs incurred by LESSOR in response to and defense of same) arising in favor of any party, including LESSOR, and arising from or connected with LESSEE's activities under this Lease or LESSEE's use of or presence on the Property, whether such activities, use or presence are those of LESSEE or LESSEE's agents, sub-contractors or other representatives. LESSEE acknowledges that this indemnification clause shall survive termination of this Lease, and that it applies regardless of the basis of liability alleged by or against any party, including strict liability under AS 46.03.822 or federal law. LESSEE's obligations under this section may be discharged, however, by performance of whatever degree of site investigation for environmental contamination (in

LESSOR's sole discretion) is necessary to render the Property suitable for LESSOR to release LESSEE from these obligations, which release must be granted in writing by LESSOR.

19.05. Hazardous Material Defined. Hazardous Material/Substance is any substance which is toxic, ignitable, reactive, or corrosive and which is regulated by any local government, the State of Alaska, or the United States government. Hazardous Material includes any and all material or substances which are defined as "hazardous waste", "extremely hazardous waste" or a "hazardous substance" pursuant to local, state or federal law, including without limitation, the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder. "Hazardous Material" includes but is not restricted to asbestos, polychlorobiphenyls ("PCB's") and petroleum and petroleum products.

19.06. Liability for Releases. LESSEE agrees that at all times while this Lease and any renewal options are in effect, for purposes of potential liability under AS 46.03.822:

- (1) LESSEE, not LESSOR, shall be deemed the owner of and person having control over any hazardous substances used by LESSEE or on the property for business reasons of LESSEE; and
- (2) LESSEE, not LESSOR, shall be deemed the owner of the possessory interest under this Lease, and the operator of the property as a facility under AS 46.03.822(a)(2); and
- (3) LESSEE, not LESSOR, shall be deemed the generator, transporter, or both, of any hazardous substances generated or transported by LESSEE in connection with the enjoyment of its rights under this Lease.

For purposes of this section, "LESSEE" shall include LESSEE's agents, employees, contractors, sub-contractors, subsidiaries, affiliates and representatives of any kind.

19.07 Compliance With Environmental Laws. LESSEE covenants its full compliance with any applicable federal, state or local environmental statute, regulation, or ordinance presently in effect or that may be amended or become effective in the future, including without limitation:

Alaska Statute 46.03.822

The Solid Waste Disposal Act, the Hazardous and Solid Waste Amendments of 1984, and the Federal Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. Section 6901, et seq.;

The Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) and the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. §8591, et seq.;

The Hazardous Materials Transportation Act of 1990, 49 App. U.S.C. §1801 et seq.;

The Clean Air Act, 41 U.S.C. §7401-7626;

The Federal Water Pollution Control Act, and the Federal Clean Water Act, 33 U.S.C. §1257, et seq.;

The Federal Insecticide, Fungicide and Rodenticide Act, and the Federal Pesticide Act of 1978, 7 U.S.C. §136, et seq.;

The Toxic Substances Control Act (TSCA), 15 U.S.C. §2601, et seq.;

The Safe Drinking Water Act, 15 U.S.C. §300, et seq.;

The Alaska Environmental Conservation Act, AS 46.03, et seq.;

The Alaska Oil Pollution Control Act, AS 46.04 et seq.;

The Alaska Oil & Hazardous Substance Release Act, AS 46.08, et seq.;

The Alaska Hazardous Substance Release Control Act, AS 46.09, et seq.;

Valdez City Code:

\* Chapter 5, Building

The Coastal Zone Management Act 16 U.S.C. §1451, et seq.; Alaska Statute 46.40.010 et. seq.; and the Valdez Coastal Management Plan;

Mine Safety and Health Act, 30 U.S.C. §801, et. seq.;

Occupational Safety and Health Act, 29 U.S.C. §650 et. seq.

19.08. LESSEE's Investigation. At LESSOR's recommendation, LESSEE has investigated the Property for potential environmental contamination which may have occurred before the date of this Lease; following such investigation LESSEE accepts the Property in its current environmental condition. After such investigation, LESSEE believes, to the best of its present knowledge, that the Property:

- (a) has not been subject to the use, generation, manufacture, storage, treatment, disposal, release or threatened release of hazardous substances, except as specifically noted on Exhibit "D".
- (b) has not been subject to any actual or threatened assertions, claims or litigation of any kind by government agencies or other persons relating to such matters, except as specifically noted on Exhibit "C".

19.09. LESSOR's Inspection. LESSEE authorizes LESSOR to enter upon the Property to make such inspections and tests as LESSOR may deem appropriate to determine environmental compliance with this Lease. Any such investigations or tests shall be for LESSOR's purposes only, and shall not be construed to create any responsibility or liability on LESSOR's part to LESSEE or any person.

19.10. LESSEE's Release. LESSEE hereby releases and freely waives any future claims against LESSOR for contribution or indemnity (whether under AS 46.03.822, other state law, or federal law) in the event LESSEE incurs or becomes liable for response costs, damages or costs of any kind because of the release, threatened release or presence of hazardous substances on or about the Property.

19.11. LESSEE's Reporting. LESSEE specifically agrees to report all releases, threatened releases, discharges, spills or disposal of hazardous substances, in whatever quantity, immediately to the appropriate regulatory authorities and simultaneously to LESSOR, and to keep LESSOR fully informed of any communication between LESSEE and any person or agency concerning potential environmental contamination and hazardous substances.

XX - PORT OF VALDEZ

20.01. LESSEE Encouraged to Use Port of Valdez. During construction, LESSEE is encouraged to use its reasonable efforts, and will encourage its contractors to use their reasonable efforts, to have those materials and equipment which are to be incorporated into the construction on the Property, and which are suitable for ocean transport from points of origin outside the State of Alaska, to be shipped by water to Valdez for unloading at the Port of Valdez until LESSEE's dock facility is capable of receiving such construction materials.

XXI - PUBLIC TRUST DOCTRINE

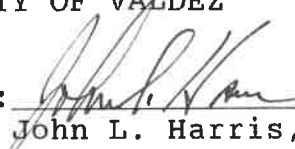
21.01. Access Restrictions under Public Trust Doctrine. LESSOR consents to LESSEE's reasonable restriction of public access to the Property (which access the public might ordinarily be entitled to under the Public Trust Doctrine as enunciated in CWC Fisheries v. Bunker, 755 P.2d 1115 (Alaska 1988)), in order to provide for increased public safety and the efficient performance of those construction activities and future operations authorized for the LESSEE on the Property.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the dates hereinbelow set forth.


LESSOR:

CITY OF VALDEZ

Date: 01-19-95

By:   
John L. Harris, Mayor

Date: 01-19-95

Attest:   
Jeanne D. Donald, City Clerk

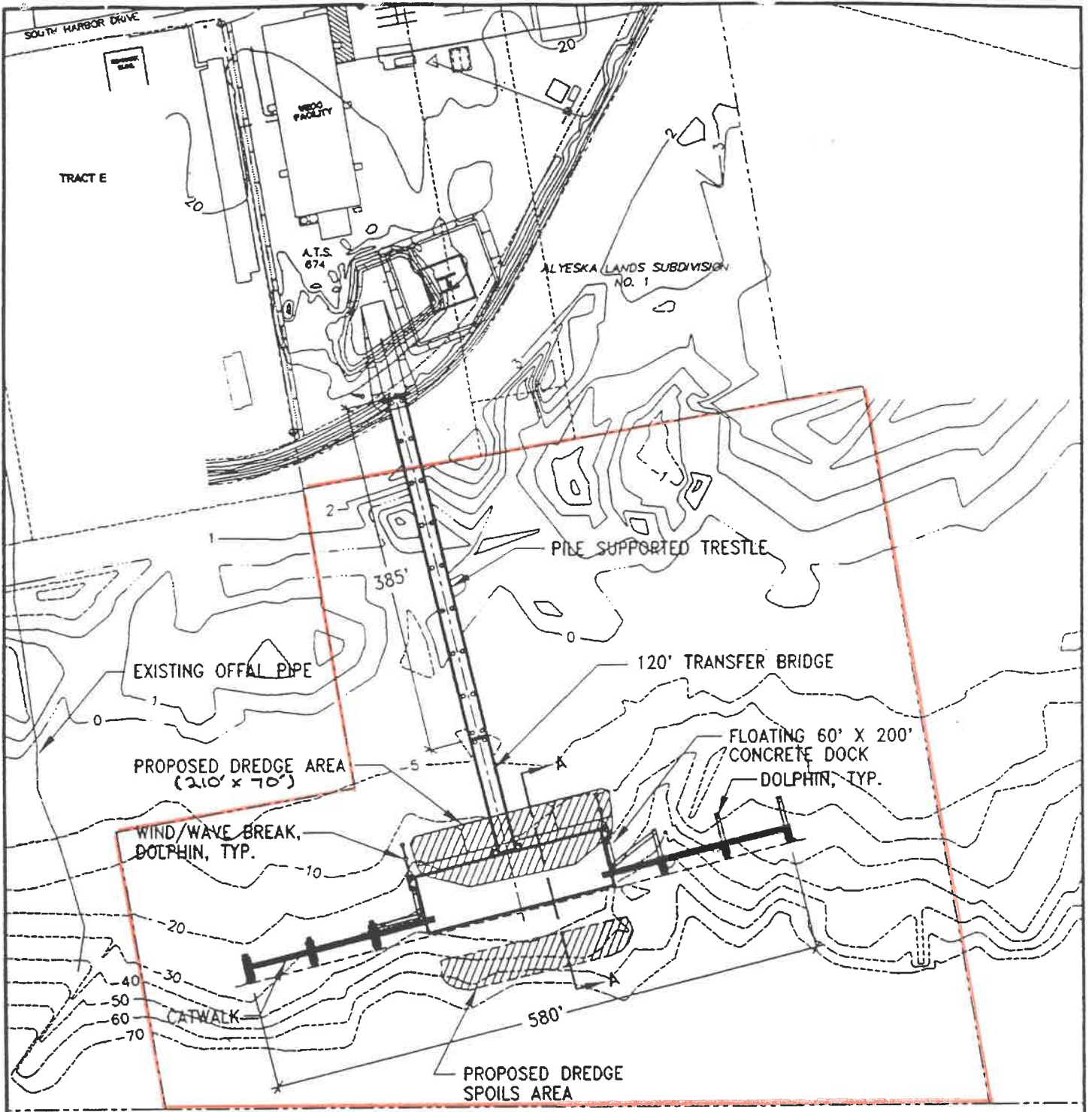




**EXHIBIT A**  
**Property Outline**

HUGHES THORSNESS  
GANTZ POWELL & BRUNDIN  
ATTORNEYS AT LAW  
509 WEST THIRD AVENUE  
ANCHORAGE, AK 99501  
(907) 274-7522

**Exhibit A**



M-930287 Port Valdez 112

**PURPOSE:**  
CONSTRUCTION OF A VALDEZ  
EMERGENCY RESPONSE BASE  
FACILITY

**DATUM:** MLLW (0)

**ADJACENT PROPERTY OWNERS:**  
TRACT E - CITY OF VALDEZ  
TRACT Q - CITY OF VALDEZ  
A.T.S. 564 - CITY OF VALDEZ

**ALT. FLOATING DOCK PLAN**  
REVISED 12-30-93



SCALE: 1"=150'

**ALYESKA PIPELINE  
SERVICE COMPANY**

**ALYESKA LANDS SUBDIVISION #1**

IN: PORT VALDEZ  
AT: VALDEZ, ALASKA  
APPLICATION BY:

ALYESKA PIPELINE SERVICE CO.  
1835 SOUTH BRAGAW  
ANCHORAGE, AK 99512

SHEET 1 OF 2 DATE: 12/30/93

DWG. FILE: 93088\2ANEW.DWG

PLOT SCALE: 1:150'

PN&D JOB NO.: 93088

**EXHIBIT B**

**METES AND BOUNDS DESCRIPTION**

LEGAL DESCRIPTION OF A PORTION OF ALASKA TIDELANDS SURVEY 564 LYING ADJACENT TO ALASKA TIDELAND SURVEYS 623, 624 and 674, LOCATED WITHIN SECTION 32, TOWNSHIP 8 SOUTH, RANGE 6 WEST, AND SECTIONS 5 AND 6, TOWNSHIP 9 SOUTH, RANGE 6 WEST, COPPER RIVER MERIDIAN, ALASKA.

Commencing at United States Corps of Engineers Control Monument "BOAT", thence S60°43'34"W, a distance of 527.05 ft. to a point on the north west corner of Alaska Tidelands Survey No. 674;

Thence, S10°13'22"E, along the boundary of Alaska Tidelands Survey No. 674, a distance of 489.15 ft. to the south west corner of A.T.S. No. 674 and the True Point of Beginning;

Thence, N79°46'30"E, along the southerly boundary of Alaska Tideland Surveys No. 674, 623, and 624, a distance of 594.91 ft. to a point;

Thence, S10°13'20"E, a distance of 750.37 ft. to a point on the southerly boundary of A.T.S. 564;

Thence, S89°42'13"W, along the southerly boundary of A.T.S. 564 a distance of 861.44 ft. to a point;

Thence, N10°13'23"W, a distance of 289.37 ft. to a point;

Thence, N79°46'30"E, a distance of 253.64 ft. to a point;

Thence, N10°13'21"W, a distance of 312.52 ft. to the southwest corner of Alaska Tidelands Survey No. 674 and the True Point of Beginning.

Containing 494,468 square feet or 11.35 acres of land, more or less. All bearings are True Forward Bearings and distances are true.

**EXHIBIT C**

Actual or threatened assertions, claims or litigation of any kind by government agencies or other persons relating to such matters: (Refer to Paragraph 19.08(b) of this Lease)

*NONE*

HUGHES THORSNESS  
GANTZ POWELL & BRUNDIN  
ATTORNEYS AT LAW  
509 WEST THIRD AVENUE  
ANCHORAGE, AK 99501  
(907) 274-7522

**Exhibit C**

## EXHIBIT D

Use, generation, manufacture, storage, treatment, disposal, release or threatened release of hazardous substances: (Refer to Paragraph 19.08(a) of this Lease)

*The fact that the Property is submerged, at least partially, has decreased Lessee's ability to conduct investigation. Lessee has discovered the following:*

- 1) The increased presence of organic carbons in and a hypoxic or anoxic character to the sediment on the westerly side of the property is directly related to the adjacent fish processing plant's discharge line. (Further described on pages 1 and 2 of the report, "Environmental Survey of the SERVS Dock Site at Valdez, Alaska" dated October, 1994, by H. M. Feder and D. G. Shaw.)*
- 2) Concentrations of phytane higher than usual in Port Valdez. (Further described on page 33 of the above-named report.)*

HUGHES THORSNESS  
GANTZ POWELL & BRUNDIN  
ATTORNEYS AT LAW  
509 WEST THIRD AVENUE  
ANCHORAGE, AK 99501  
(907) 274-7522

**Exhibit D**