



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue

Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum

Agenda Changes/Supplemental Packet

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: RENEE KRAUSE, MMC, DEPUTY CITY CLERK
DATE: DECEMBER 9, 2019
SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

Consent Agenda

Ordinance 19-55, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Amending Homer City Code 2.08.040, Bylaws for Council Procedures to Establish that Newly Elected Members will be Seated at a Special Meeting Following the Canvass of the Election; and 4.35.404 Certification of Election to Clarify the Time for Certification of a Regular and Special Election. Evensen/Hansen-Cavasos.

Ordinance 16-01(A)(S) Amending HCC 2.08.030 Composition of Governing Body – Terms of Office; Excerpt of Minutes from Regular Meetings on January 11, 2016 and January 25, 2016 and Memorandum 16-003 from City Clerk dated January 4, 2016 re: Amendments to Election Procedures as backup **Page 3**

Resolution 19-089, A Resolution of the City Council of Homer, Alaska, in Support of the Exchange of Services Contract between the Homer Port and Harbor and Kachemak Marine Haul Out Services for the Disposal of Nuisance Vessel, *F/V Kupreanof*, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Port Director. Recommend adoption.

Corrected Barter Agreement Contract document with Exhibits A and B **Page 14**

Announcements / Presentations / Reports

l. City Council Travel **Page 53**
iv. Travel Report from Councilmember Lord re: AML Conference November 2019

City Manager's Report

City Manager's Letter of Resignation **Page 55**

Memorandum 19-163 from City Manager re: City Manager Search – Next Steps **Page 56**

Resolutions

Resolution 19-088, A Resolution of the City Council of Homer, Alaska, Commenting on Regulatory Commission of Alaska Docket No. P-19-017 in the Matter of the Joint Application Filed by BP Pipelines (Alaska), Inc., and Harvest Alaska, LLC, for Approval of the Transfer of a Certificate of Public Convenience and Necessity No. 311 and Operating Authority thereunder from BP Pipelines (Alaska) Inc. to Harvest Alaska, LLC. Aderhold.

PWSRCAC letter to Regulatory Commission of Alaska as backup

Page 61

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

**CITY OF HOMER
HOMER, ALASKA**

Mayor

ORDINANCE 16-01(A)(S)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 2.08.030, COMPOSITION OF GOVERNING BODY – TERMS OF OFFICE, HOMER CITY CODE 4.10.010, DECLARATION OF CANDIDACY, HOMER CITY CODE 4.35.010, REVIEW OF ELECTION DOCUMENTS BY CANVASS BOARD, AND HOMER CITY CODE 4.40.010, RUNOFF ELECTION – REQUIRED; AND ENACTING HOMER CITY CODE 4.35.020, VOTES REQUIRED TO BE ELECTED, HOMER CITY CODE 4.35.030, TIE VOTE, AND HOMER CITY CODE 4.35.040, CERTIFICATION OF ELECTION; REGARDING THE PROCEDURE FOR ELECTING THE MAYOR AND COUNCIL MEMBERS.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 2.08.030, Composition of governing body – Terms of office, is amended to read as follows:

2.08.030 Composition of governing body – Terms of office.

- a. The governing body of the City of Homer shall consist of six Council members, two of whom are elected at large each year for three-year terms and until a successor qualifies.
- b. The Mayor shall be elected for a two-year term and until a successor qualifies.
- c. A person so elected to office under this chapter shall take office at the first regular council meeting following the election, immediately after the final certification of that election, except that when HCC 4.40.010(c)(3) applies, the person shall take office at the first regular council meeting following the runoff election, immediately after the certification of that election.

Section 2. Homer City Code 4.10.010, Declaration of candidacy, is amended to read as follows:

4.10.010 Declaration of candidacy.

- a. Time. A person declares candidacy for an elective city office by filing a declaration of candidacy with the City Clerk on or after August 1st and not later than 12:00 p.m. on August 15th; provided that if August 15th is a Saturday or Sunday, a declaration of candidacy may be filed no later than 12:00 p.m. on the following Monday.
- b. Filing. A declaration of candidacy may be filed with the City Clerk by electronic transmission; provided that the original signed and notarized declaration is delivered to the

43 City Clerk no later than the close of the filing period. If the City Clerk has not received the
44 original signed and notarized declaration before the close of the filing period, the candidate's
45 name shall not appear on the ballot.

46 c. Notice. At least one week preceding the candidate filing period, the City Clerk shall
47 publish a notice announcing that candidacy declarations are available, naming offices and
48 the terms that are open on the next regular election day. The notice shall include:

- 49 1. Candidate qualifications.
- 50 2. Time for filing declarations.
- 51 3. Where to file declarations.

52 d. Declaration. The City Clerk shall provide a form for declaration purposes which will
53 include candidate's name, residence address, mailing address and telephone number; a
54 statement of City residence, voter qualifications and the name of the office and the date of
55 the election to which he declares himself a candidate; the term of office; and a statement of
56 acceptance of the office if elected and an acknowledgment of compliance with the State of
57 Alaska Campaign Disclosure Law. The declaration will be signed and dated by the candidate
58 and sealed by a notary. The candidate's name shall be printed as specified on the declaration
59 for candidacy (see ballot form in HCC 4.15.010 for prohibitions).

60
61 Section 3. Homer City Code 4.35.010, Review of election documents by Canvass
62 Board, is amended to read as follows:

63
64 4.35.010 Review of election documents by Canvass Board.

65 a. The Clerk shall, subject to confirmation of the City Council, appoint a Canvass Board
66 of as many members as required to accomplish the canvass in reasonable time. All members
67 of the election Canvass Board, before entering upon their duties, must subscribe to the oath
68 required of all public officers by the Constitution of the State of Alaska in the manner
69 prescribed by the Clerk. The Canvass Board will review the preliminary certificates of election
70 and all official documents of the precinct election boards and the counting center boards.

71 b. Not later than the Monday following each election, the Canvass Board shall meet in
72 public session and canvass all election returns. The Canvass Board may be recessed from day
73 to day, but not more than three such recesses. In full view of those present, the election
74 Canvass Board shall judge the applicability of absentee and questioned ballots, shall open
75 and tally those accepted, and shall compile the total votes cast in the election. The canvass of
76 ballots counted by the counting center shall be accomplished by reviewing the tallies of the
77 recorded vote to check for mathematical error by comparing totals with the counting center
78 logs and certificates of results. All obvious errors found by the election canvass in the transfer
79 of totals from the precinct tally sheets to the precinct certificate of results shall be corrected
80 by the Canvass Board. A mistake which has been made in precinct returns from the tallies to
81 the certificate of results empowers the Canvass Board to recommend a recount of the results
82 of the precinct or precincts for that portion of the returns in question.

83 c. To be counted in the election, an absentee ballot by mail must be postmarked by
84 midnight of election day and received by the Clerk before the canvass. Envelopes of absentee

85 ballots by mail received after that time shall not be opened, but shall be marked “invalid”
86 with the date and hour of receipt noted thereon, and shall be retained with other ballots of
87 the election. An absentee ballot that is returned by electronic transmission must be received
88 by the Clerk not later than 8:00 p.m. on election day in order to be counted. When the Clerk
89 receives a completed absentee ballot by electronic transmission, the Clerk will remove the
90 ballot portion of the transmission from the portion that identifies the voter; place the ballot
91 portion in a secrecy sleeve and seal the secrecy sleeve; place the sealed secrecy sleeve in an
92 envelope of the type used for absentee ballots returned by mail and seal that envelope;
93 attach the voter identification portion to the outer envelope; and forward the sealed outer
94 envelope to the Canvass Board.

95 d. Questioned and absentee ballots shall be counted as follows: No questioned or
96 absentee ballot by mail shall be counted if the voter has failed to properly execute the
97 certificate, if the witness or the officer or other person authorized by law to administer the
98 oath fails to affix his signature, or if the voter fails to enclose his marked ballot inside the
99 small envelope or secrecy sleeve provided. No absentee ballot by electronic transmission
100 shall be counted if the voter has failed to properly execute the certificate, or if the witness or
101 the officer or other person authorized by law to administer the oath fails to affix his signature.
102 The Clerk or a member of the election Canvass Board may challenge the name of an absentee
103 voter if he has good reason to suspect that the voter is not qualified to vote, is disqualified, or
104 has already voted at the same election. The person making the questioned ballot shall specify
105 the basis of the challenge for the record. The Canvass Board, by majority vote, may refuse to
106 accept the challenge and count the ballot of a person properly challenged. If the ballot is
107 refused, the Clerk shall notify the challenged voter by letter within four weeks of the canvass.
108 All rejected ballots shall be enclosed in a separate envelope and shall be labeled “rejected
109 ballots” retained with other materials of the election. If the ballot is not rejected, the large
110 envelope shall be opened, the small inner envelope or secrecy sleeve shall be placed in a
111 container and mixed with other blank absentee ballot envelopes, or in the case of counting
112 questioned ballots, with other blank questioned-ballot envelopes, the mixed small blank
113 envelopes or secrecy sleeves shall be drawn from the container, opened, and the ballots
114 counted according to the rules of determining properly marked ballots.

115
116 Section 4. Homer City Code 4.35.020, Votes required to be elected, is enacted to read
117 as follows:

118
119 4.35.020 Votes required to be elected. The number of candidates for an office equal to
120 the number of vacancies to be filled who receive the highest number of votes for the office
121 shall be elected, provided that

122 a. To be elected to the office of mayor a candidate must receive more than the
123 plurality of the votes cast for mayor determined by subsection c of this section, and

124 b. To be elected to the council, a candidate must receive more than the plurality
125 determined by subsection c of this section of the total votes cast for all candidates for council
126 divided by the number of seats to be filled.

127 c. The plurality of the vote that is required for a candidate to be elected shall be based
128 on the number of qualified candidates who filed declarations of candidacy that remain in
129 effect on the date of the election as follows:

| <u>Number of candidates</u> | <u>Percentage of vote</u> |
|-----------------------------|---------------------------|
| Less than five | 40% |
| Five or more | 35% |

134 Section 5. Homer City Code 4.35.030, Tie vote, is enacted to read as follows:
135

136 4.35.030 Tie vote. If two candidates tie in receiving the highest number of votes for an
137 office to which only one candidate may be elected, the person to be elected shall be
138 determined by a single coin toss conducted by the City Council at a regular or special
139 meeting. The first candidate to have filed a candidacy declaration shall call the coin during
140 the toss. A tied candidate may designate a representative to participate in the coin toss in the
141 candidate's absence. The designation shall be made in such a manner that the Clerk is
142 assured of its authenticity.
143

144 Section 6. Homer City Code 4.35.040, Certification of election, is enacted to read as
145 follows:
146

147 4.35.040 Certification of election. The Council shall certify the results of the election at
148 the next regular Council meeting following completion of the canvass by the Canvass Board.
149

150 Section 7. Homer City Code 4.40.010, Runoff election – Required, is amended to read
151 as follows:
152

153 4.40.010 Runoff election – Required.

154 a. A runoff election shall be held to fill an office that is not filled under HCC 4.35.020 or
155 HCC 4.35.030 at the initial election for the office.

156 b. The two candidates for the office that received the highest number of votes without
157 being elected at the initial election shall be the candidates for an office that is to be filled by a
158 runoff election.

159 c. If a runoff election for council is required, any candidate who was elected to the
160 council at the regular election shall:

161 1. Retain the same seat if reelected;

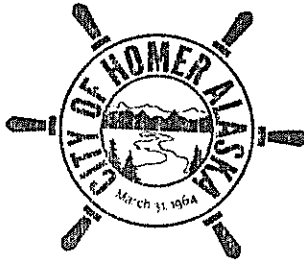
162 2. If there is one council member whose term is expiring and who was not a
163 candidate for reelection, succeed that council member; or

164 3. If neither 1 nor 2 applies, take office after certification of the runoff election.
165

166 Section 8. This Ordinance is of a permanent and general character and shall be
167 included in the City Code.
168

169 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this 25th day of
170 January, 2016.

171
172
173
174
175
176
177



CITY OF HOMER

Mary E. Wythe
MARY E. WYTHE, MAYOR

178 ATTEST:

179
180 *Jo Johnson*
181 _____
182 JO JOHNSON, MMC, CITY CLERK
183

184
185

186 AYES: 6
187 NOES: 0
188 ABSTAIN: 0
189 ABSENT: 0

190
191

192 First Reading: 1/11/16
193 Public Reading: 1/25/16
194 Second Reading: 1/25/16
195 Effective Date: 1/26/16

196
197

198 Reviewed and approved as to form:

199
200

201 *Mary K. Koester*
202 _____
203 Mary K. Koester, City Manager

204

Date: 1-28-16

Thomas F. Klinkner

Thomas F. Klinkner, City Attorney

Date: 2-2-16



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum 16-003

TO: MAYOR WYTHE AND HOMER CITY COUNCIL
FROM: JO JOHNSON, CITY CLERK
DATE: JANUARY 4, 2016
SUBJECT: ORDINANCE 16-01 AMENDMENTS TO ELECTION PROCEDURES.

The purpose of Ordinance 16-01 is to clarify election procedures so that the process runs smoothly and is cost effective. The following amendments are made:

2.08.030(a)(b) – A council member or the mayor will remain in office until a successor qualifies. This will leave the Council and Mayor seated until a successor is sworn into office.

2.08.030(c) – Removes the need for a special meeting (and a third meeting in October) for incoming council members and mayor to be sworn in. Mayor and Councilmembers will be sworn in at the first meeting in October following certification of election. The agenda will be amended to move this business to the front of the regular meeting.

4.10.010(a) – Defines the deadline for declaring candidacy if August 15th should fall on a weekend and moves the filing deadline to 4:30 p.m.

4.10.010(b) – Allows a candidate to file declaration of candidacy by electronic transmission, but still requires the original signed and notarized declaration to be filed with the City Clerk before the filing period closes.

4.35.020 – Replaces verbiage in HCC 4.35.010(e) and (f). This defines the percentage of votes required to be elected, and includes percentages of vote required depending on the number of candidates.

4.35.030 – Replaces verbiage in HCC 4.35.010(f) relating to the procedure for a tie vote.

4.35.040 – Replaces verbiage in HCC 4.35.010(f) that the election results will be certified at the next regular council meeting.

4.40.010 – Defines procedure for conducting a runoff election to remove the ambiguity of which candidates participate in a runoff and which council member retains their seat until the runoff is held.

RECOMMENDATION: Introduce Ordinance 16-01 and adopt the amendments to election procedures.

Fiscal Note: N/A

Mayor Wythe called for a motion for the adoption of Ordinance 16-03 for introduction by reading of title only.

LEWIS/ADERHOLD – SO MOVED.

Mayor Wythe called for a motion to substitute Ordinance 16-03(S) for Ordinance 16-03.

LEWIS/ADERHOLD – SO MOVED.

There was no discussion.

VOTE: (substitute) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Ordinance 16-01**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor. Recommended dates: Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Mayor Wythe called for a motion for the adoption of Ordinance 16-01 for introduction by reading of title only.

LEWIS/ADERHOLD – SO MOVED.

SMITH/ZAK – MOVED TO AMEND TO DELETE ON LINES 27 THROUGH 29 “AT THE REGULAR COUNCIL MEETING AT WHICH THE PERSON’S ELECTION IS FINALLY CERTIFIED IMMEDIATELY FOLLOWING THAT CERTIFICATION” AND INSERT “AT THE FIRST REGULAR COUNCIL MEETING FOLLOWING THE ELECTION IMMEDIATELY AFTER THE FINAL CERTIFICATION OF THAT ELECTION.”

The election will be certified and the candidate(s) sworn in on the same day.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

SMITH/ZAK - MOVED TO AMEND LINE 153 TO DELETE "HIS" AND INSERT "THE CANDIDATE'S."

There was no discussion.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

City Clerk Johnson requested an amendment to the title to include HCC 4.10.010 Declaration of Candidacy be added to Line 8 following "terms of office."

ZAK/ADERHOLD – SO MOVED.

There was no discussion.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

An amendment to the final section will be made so that the Council may decide on potential situations that were not addressed. Attorney Klinkner will provide a substitute ordinance for the next meeting.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

CITY MANAGER'S REPORT

A. City Manager's Report

It has been 5 weeks since the last Council meeting - feels like almost an eternity! I hope everyone enjoyed the respite and the holidays. There promises to be plenty to keep us busy in 2016.

Storm Drain Failure on Bunnell Avenue

On Tuesday, a hole opened up in the Bunnell Street roadway, south of Main Street. The "sink hole" was caused by a deteriorated 36" storm drain which allowed soil to wash into the drain – undermining the pavement. Public Works responded; excavated to expose the drain, put a patch on the hole in the side of the storm drain, and backfilled the hole. Pavement will be replaced in the Spring. The storm drain was installed by the State in the early 80's. This storm

Cannabis Advisory Commissioner Carrie Harris reported the commission discussed the City's need to get taxes back that the Borough places on marijuana sales.

- C. Letter from Mayor Wythe in Support of Kachemak Bay National Estuarine Research Reserve Transfer Proposal.

PUBLIC HEARING(S)

- A. **Ordinance 15-43(S)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 3.10.130, Governance of Homer Permanent Fund Assets, Regarding the Management of Investments of the Homer Permanent Fund. City Clerk/Permanent Fund Committee. Introduction November 23, 2015, Public Hearing and Second Reading December 7, 2015, Postponed to January 11, 2016, Substitute Introduced, Public Hearing January 25, 2016.

Memorandum 15-190 from Permanent Fund Committee as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 15-43(S) by reading of title only for second and final reading.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Ordinance 16-01(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.10.010 Declaration Of Candidacy Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of

Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Ordinance 16-01(A)(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.10.010, Declaration of Candidacy, Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor.

Memorandum 16-003 from City Clerk as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion to substitute Ordinance 16-01(A)(S) for Ordinance 16-01(A).

LEWIS/REYNOLDS - SO MOVED.

Mayor Wythe called for a motion for the adoption of Ordinance 16-01(A)(S) by reading of title only for second and final reading.

LEWIS/REYNOLDS – SO MOVED.

Council discussed redundant language on Lines 28 – 32 when a person shall take office. It was clarified that one applies to a regular election and one applies to a run-off election.

Mayor Wythe called for a recess at 6:39 p.m. and reconvened the meeting at 6:41 p.m.

ZAK/REYNOLDS - MOVED TO AMEND LINE 42 CHANGING 4:30 P.M. TO NOON.

Councilmember Zak requested the candidacy filing period be consistent with the Borough. In the past, candidates who have filed in the afternoon have not been included in the candidate packet.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ZAK/LEWIS - MOVED TO FURTHER AMEND THAT ANYWHERE ELSE 4:30 P.M. SHOWS UP WE CHANGE THAT TO 12:00 P.M.

There was no discussion.

VOTE: (secondary amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Vote: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 16-02**, An Ordinance of the Homer City Council Amending the 2016 Operating Budget by Appropriating Funds in the Amount of \$20,000 From Port and Harbor Reserves to Purchase Eight Light Emitting Plasma (LEP) Lamps for the Fish Dock. City Manager/Port and Harbor Director. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Memorandum 16-007 from Port and Harbor Director as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 16-02 by reading of title only for second and final reading.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

BARTER AGREEMENT CONTRACT

This Agreement is made effective as of December 10, 2019, for good and valuable consideration by and between the City of Homer (the “City”, “Offeree”) located at 491 Pioneer Ave Homer AK 99603 and Kachemak Marine Haul Out Services (“KMHOS”, “Offeror”) located at PO Box 2635 Homer AK 99603 who jointly agree to be bound by the following terms and conditions when bartering goods and/or services as outlined below:

A. Kachemak Marine Haul Out Services(“Offeror”) offers the following goods and/or services for barter:

- 1) The haul out, break up, salvage, and complete disposal* of the vessel *Kupreanof* with the following conditions:
 - a) The *Kupreanof* contains a maximum of 50 gallons of dirty oils requiring disposal
 - b) The *Kupreanof* has a maximum of 500 gallons of Diesel Fuel on board requiring disposal
 - c) KMHOS agrees to submit a completed Homer Marine Repair Facility User Agreement (Exhibit A) for the project and abide by all the requirements listed therein

* Complete disposal is defined as the complete removal and/or disposal of all vessel components that comprise the *Kupreanof* and a clean-up of the work area that satisfies the requirements laid out in the Large Vessel Haul Out Facility Best Management Policies (Exhibit B).

B. In exchange, the City(“Offeree”) offers the following goods and/or services for barter:

- 1) Provision of a Quit Claim Deed for the Vessel *Kupreanof* signed over to KMHOS.
- 2) The City agrees that KMHOS retains all salvage rights to any intrinsic items which may have commercial value if marketed, including helm, props, shafts, hardware, marine fittings, etc.
- 3) City staff will move the vessel *Kupreanof* to the beach adjacent to the Large Vessel Haul Out Facility at the afternoon high tide on either December 12, 13, or 14, 2019
- 4) City storage and land rental fees involved in the disposal effort are at no cost for the period starting at the time of haul out to the March 15, 2020 term end of contract. This includes any storage and land rental fees associated with the equipment used by KMHOS for the haul out and breakup of the *Kupreanof*.
- 5) The City Port and Harbor will provide a \$12,500.00 Credit to be exclusively applied to Port and Harbor services and fees generated by KMHOS and/or Earl Brock to be distributed as follows: \$1442.48 is to be applied to existing unpaid Port and Harbor fees accumulated

by KMHOS, \$11,057.52 in credit is to be applied to Port and Harbor account #14503 (KMHOS) to be used against future harbor fees as they are generated by Kachemak Marine Haul Out Services.

Term:

The delivery or exchange of the bartered goods and/or services is to be made on or before March 15 2020.

General Provisions:

- 1) Both parties attest that they are freely/legally entering into this agreement, that they have the authority to enter into such agreement, and will abide by its directives and requirements. It is understood by both parties that the signing of this agreement represents the intent of the parties to enter into a legally binding contract.
- 2) Both parties attest that the pricing for product(s) and/or service(s) offered for barter represent fair market value, to the best of their knowledge, within that industry.
- 3) On its behalf and on behalf of all its employees, designees, representatives, subcontractors, directors, officers, volunteers, administrators, agents, heirs, beneficiaries, executors, successors, assigns, and other entities or individuals claiming through it or affiliated with it, Offeror hereby covenants and agrees to release, indemnify, and hold harmless the City, its employees, volunteers, officials, agents, officers, departments, boards, commissions, or other bodies (hereafter collectively referred to as the "City") from and for any and all demands, claims, actions, suits or causes of action, whether known or unknown, arising from any and all loss, damage, and/or mental or physical injury (including, but not limited to injuries leading to death and death itself) to any property or any person which is caused by or related to the barter of the goods and/or services stated in this agreement.

Early Termination:

If Offeror fails to provide the goods and/or services agreed to in this contract listed under Section A by the end date listed in the Term then all provisions listed under Section B 2-5 shall be forfeit.

Ownership of the vessel *Kupreanof* shall be retained by KMHOS and all responsible fees for storage and harbor services shall be billed to KMHOS/owner, starting on March 15, 2020.

Offeree:

Offeror:

CITY OF HOMER

KACHEMAK MARINE HAUL OUT SERVICES

By: _____
Katie Koester, City Manager

(Signature)

(Print Name & Title)

ACKNOWLEDGMENTS

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on _____, 20__, by .
_____, City Manager of the City of Homer, an Alaska municipal corporation,
on behalf of the City of Homer.

Notary Public in and for Alaska
My Commission Expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on _____, 20__,
by _____, as _____ (title) of
_____ (name of entity) on behalf of
_____ (name of entity).

Notary Public in and for Alaska
My Commission Expires: _____



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road

Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

HOMER MARINE REPAIR FACILITY USER AGREEMENT

Acct # _____

Owner Info

Owner: _____ Phone: Home: _____

Cell Phone: _____ E-Mail Address: _____

Billing Address: _____ City: _____ State: _____ Zip: _____

Haul-out Manager (if other than owner): _____ Phone: _____

Vessel Info

Vessel Name: _____ Registration Number: _____

Length Overall: _____ Beam: _____ Draft: _____ Displacement Tonnage: _____

House is: Forward Aft Height from Keel to Uppermost: Forward (ft): _____ Aft (ft) _____

Hull Type: _____ Hull Material: _____

Haul-out Info

First-time Haul-out User? Yes No Haul-out Date: _____ Launch Date: _____

Damage below Waterline? Yes No If yes, explain: _____

Nature of Work: Inspection Only Paint Zincs Propeller Shaft Rudder

Other: _____

Vendors & Service Providers Contracted to Perform Work: _____

Documents

| Documents (*Required) | Date | Staff Initials | Comments |
|--|-------|----------------|----------|
| <input type="checkbox"/> Owner Registration* | _____ | _____ | _____ |
| <input type="checkbox"/> Proof of Insurance* | _____ | _____ | _____ |
| <input type="checkbox"/> City as Additional Insured* | _____ | _____ | _____ |
| <input type="checkbox"/> BMP Provided to User* | _____ | _____ | _____ |
| <input type="checkbox"/> Vendor Compliance* | _____ | _____ | _____ |
| <input type="checkbox"/> Bond Discussed* | _____ | _____ | _____ |
| <input type="checkbox"/> Waivers, when Required | _____ | _____ | _____ |
| <input type="checkbox"/> Harbormaster's Approval* | _____ | _____ | _____ |

HOMER MARINE REPAIR FACILITY USER TERMS & CONDITIONS

1. **The City agrees** to provide dry dockage space to vessel owners under a User Agreement for the purpose of vessel repairs, maintenance, and inspections per a Harbormaster-approved work plan during the dates specified in this agreement.
2. **Responsibility.** The City does not accept the vessel, its tackle, fixtures, equipment, gear, or furnishings for storage or safekeeping belonging to either the owner or vendor. Nor does the City accept any responsibility for vendor supplies, their laborers/employees, equipment, and personnel that the vessel owner may organize or contract. The City shall not be responsible for lost fishing time, or any other lost time to the vessel, while it is hauled out or on the City-owned tidelands/beaches.
3. **Policy Compliance.** Vessel owners, their agents, crew, service providers/vendors (all referred herein as Users) agree to comply with the City of Homer's (referred herein as City) Marine Repair Facility policies and Best Management Practices (BMPs). A copy shall be provided when services are scheduled.
4. **Operational Structure.** The Homer Marine Repair Facility is being managed as an "Open Yard" facility, meaning that the User is responsible for the actual work being performed on their vessel. The City is simply facilitating the opportunity for haul-out and uplands use, and are not responsible for the finished product. This management structure gives the User the opportunity to manage their project from start-to-finish, contracting with vendors from the Approved Vendor List (provided by the City), or by using their own crew to make the repairs necessary for vessel maintenance.
5. **Vendors & Service Providers.** Contracting for all services to the vessel while it is in the boatyard, and payment for those services, is the sole responsibility of the User. Persons providing services to a vessel in the boatyard ("Vendors") must be on the City's approved vendor list. To qualify for the list, the following documents must be on file along with payment of fees: Certificate of Insurance, Alaska business license, registration for city sales tax, and professional certifications for the named trades. Vendors must abide by OSHA safety rules and regulations pertaining to their trade.
6. **Security.** Users are responsible for the security of their vessel, tools, and equipment. Other than random patrols of the boatyard, City staff will not be present during non-business hours.
7. **Insurance.** Users other than Vendors agree to have a current marine insurance policy of a "named perils" or "all risks" type that fully insures the value of the vessel, plus accident and environmental liability. A Certificate of Insurance shall be provided to the City showing coverage not less than the minimum required in the boatyard policy document. Hull and machinery coverage shall be sufficient to dispose of the vessel if abandoned, burned or otherwise left to the City.
8. **Dry Dockage.** The Harbormaster shall designate a dry storage area within the boatyard for the vessel. Charges for dry dockage are payable from the time the vessel is hauled out until the vessel is removed from the boatyard. Payment of charges for dry dockage grants a User a revocable license to use the dry dockage area that is designated for the vessel.
9. **Scheduling, Deposits, & Cancellations.** Users must plan to be in and out of the boatyard as scheduled. A deposit of 50% of the estimated costs shall be made when the User makes arrangements with the Harbormaster to use boatyard facilities. The City may require the estimated payment in full at time of scheduling. After the vessel has been launched, the deposit will be credited toward beach landing and dry dock fees. The deposit will be forfeited if: a) the vessel fails to adhere to the scheduled haul-out time, or b) the vessel owner fails to leave the facility clean after launching. A cancellation or schedule change must be communicated to the Harbormaster at least 24 hours in advance to avoid deposit forfeiture. Vessels missing their scheduled haul-out date will be accommodated on a "space available" basis.
10. **Charges:** Rates are published in the City's Terminal Tariff. All charges are billed out on a monthly basis and payable to the Homer Harbor Office. Boatyard Moorage: Charges are calculated as square feet, and are based on the overall length and beam of the vessel, plus a ten foot (10') perimeter on all sides, including all appendages. Beach Landing: Prices for the use of the City's beach for landing are based on the overall length of the vessel. Time spent on the beach prior to and after a haul-out is charged per day and will be included in the overall cost of the haul-out.
11. **Blocking.** Vessel blocking is the responsibility of the User and/or their contractors. The City has the right to inspect vessel blocking and will, if necessary, require additional blocking if it is determined to be inadequate for the job. The City will not supply, store, or furnish ships blocking, nor supply the labor needed for blocking installation/removal.
12. **Tarps.** Ground cover tarps must be placed under every vessel prior to blocking, and cover the ground under the entire vessel plus a 10 foot parameter. They must remain in place and shall be kept clean (daily) of all hazmat, paint chips, etc. Ground cover tarps will be protected during welding by placing protective welding mats in the affected areas.
13. **Ladders/Scaffolding.** User and/or Vendors will provide their own ladders and scaffolding. User assumes all risk when utilizing ladders and scaffolding.
14. **PPE:** User shall insure that personal protective equipment and clothing will be provided and worn as appropriate to each task.
15. **Sanding, Grinding, & Scraping.** Open air sanding, grinding and scraping are prohibited unless dustless systems are employed or the vessel is tented and properly vented/filtered. These precautions are to prevent escapement of airborne particulates from the vessel and soil contamination.
16. **Pressure Washing:** The Homer Marine Repair Facility does not allow pressure washing. Users who wish to remove marine growth from their vessel's hull must utilize alternative methods, such as manual removal by scraping. Ground covers must be used to collect debris and then shoveled into dumpsters, which the vessel owner provides.

17. **Disposal of Waste & Hazmat.** See the City's Marine Repair Facility policies and Best Management Practices (BMPs), and/or ask staff for details for proper disposal methods and locations.
18. **Spills & Cleanup.** User must immediately report any spills to the Harbor Office, NRC, DEC, and U.S. Coast Guard MSD. Failure to report can result in fines. User is responsible for the cleanliness of their dry moorage area. Fees will be assessed if City staff labor is utilized to clean a vessel's area.
19. **Welding/Hotworks:** Vendors contracted to weld must be certified, licensed, and insured. All persons, including the User, crewmembers, and vendors must follow all standard welding practices per OSHA regulations. Fire guards and protective measures must be in place during all welding and cutting activities. There will be no open flames (other than welding or cutting torches) and no open burning. For every welder working, each must have a person on fire watch with fire extinguisher near them. Atmospheric testing for enclosed areas shall be done when appropriate. Arc shields shall be used as appropriate and required.
20. **Storm Events:** The User/Vendors are solely responsible to take emergency measures to secure the vessel, or anything that may become airborne during a windstorm event to prevent damage/injuries caused by airborne debris from their vessel and/or dry storage location.
21. **Materials, Structures & Equipment.** Necessary materials should be on hand before each haul-out. Arrangements for storage of materials must be coordinated with the Harbormaster. Users and vendors may bring in vehicles, trailers, or set up temporary structures that fit within the dry storage site of their vessel. Unless otherwise approved, the structures must be removed after the vessel is launched. Mobile homes, travel trailers, or RVs will not be allowed without approval. If the project requires more space for project lay-down, space will be provided as available and charges will reflect actual square foot usage.
22. **Alcohol/Drug-Use in Facility:** No alcohol or drugs shall be consumed/allowed in the boatyard or aboard vessels in the boatyard.
23. **Fires:** No open fires are permitted aboard vessels or in the boatyard.
24. **Children:** Children, under the age of 12, must be accompanied by an adult at all times.
25. **Pets:** All animals must be leashed and cleaned up after per Homer City Code.
26. **Live-a-boards:** No one will live aboard a vessel in dry moorage without consent of the Harbormaster.
27. **Liability.** The City shall not be liable for death or injury to persons, or damage to property, upon the vessel, yard facilities or premises adjacent thereto arising from any cause other than the willful misconduct of the City. The User shall indemnify and hold the City and its officers and employees harmless from all claims for death or injury to persons, or damage to property, arising from their acts or omissions, their agents, service providers/vendors, crew, employees, or invitees.
28. **Default; City's Remedies.** Failure to adhere to the City's policies and best management practices can result in unsafe actions and environmentally harmful activities. When violations are observed by City staff, intentional or otherwise, work will be stopped until corrective measures are taken. If User fail to properly follow and adhere to these practices/policies and/or their agreement with the City, or fail to pay fees or charges for more than thirty (30) days after the due date, the City may exercise any available remedy, including without limitation one or more of the following: a) Terminate their User Agreement; b) Begin impoundment procedures per HCC 10.04.120 to have the vessel removed until the violation has been cured, or disposed of; c) Place a lien on the vessel per HCC 10.04.139 for towing, storage, costs of sale, attorney fees, any other charges incurred in connection with the impoundment, and charges for harbor services.
29. **No Waiver.** The failure of the City to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy available on a breach thereof, or the acceptance by the City of full or partial payments during the continuance of any breach, shall not constitute a waiver of any provision of this Agreement, and all provisions hereof shall continue in full force and effect. Nothing in this Agreement shall constitute a waiver by the City of its right to arrest any vessel to enforce a maritime lien, or any other right or remedy.
30. **Notices.** Billings and notices will be mailed to User's address as set forth herein. User shall notify the City in writing of an address change.
31. **Interpretations; Amendment.** Alaska law shall govern this Agreement. The invalidity of any provision of this Agreement shall not affect the validity of any other provision. This document, in concert with the Homer Marine Repair and Facility Best Management Practices and Policies constitutes the entire agreement of the parties. No amendment of this Agreement shall be valid unless in writing and signed by both parties.

-
- I accept full responsibility for my activities in the boatyard, and for the actions of my crew, workers, vendors and contractors.
 - I agree to have insurance covering the vessel, crew and persons working for me, as may be required by the terms and by the law.
 - I understand that there may be a security bond required in the amount estimated to dispose of the vessel should project failure or abandonment occur.
 - I accept and acknowledge that I have read and agree to the terms hereinabove and will abide by the Homer Marine Repair Facility Policies and Best Management Practices (BMP). I shall take precautions to prevent pollution to the air, ground and water. Should there be fees, fines, or cleanup required, I agree to pay such costs.

User: _____ Date: _____
 (Signature) (Print)

Harbormaster Approval: _____ Date: _____



City of Homer
Marine Repair Facility

Policies & Best Management Practices

*Revised
October 7, 2015*

| | |
|---|-----------|
| Table of Contents | 2 |
| Facility Introduction | 3 |
| Legal Notices | 4 |
| Approved Vendor List Requirements | 6 |
| 1. General | |
| 2. Required Documents | |
| 3. Annual Fee | |
| Planning a Haul-Out | 7 |
| 4. Scheduling | |
| 5. Work Plan | |
| 6. Materials & Equipment | |
| 7. Hauling Out & Launching | |
| 8. Costs, Fees, & Billing | |
| Hull Cleaning, Blocking, & Vertical Access | 11 |
| 1. Hull Cleaning | |
| 2. Ground Covers/Tarps | |
| 3. Blocking | |
| 4. Scaffolding & Ladders | |
| Sandblasting, Grinding, Spray Painting & Sanding | 12 |
| 1. General | |
| 2. Sanding & Grinding | |
| 3. Spray Painting | |
| Housekeeping & Cleanliness | 13 |
| 1. Area Around Each Vessel | |
| 2. Inspections | |
| 3. Drum Storage | |
| 4. Machinery | |
| 5. Disposal Methods & Restrictions | |
| Safety | 15 |
| Spill Prevention & Cleanup | 16 |
| 1. Oil or Hazardous Material Spills | |
| 2. In Case of a Spill | |
| Appendix | 17 |
| A. User Agreement | |
| B. Vendor Agreement | |
| C. Fee Schedule | |
| D. Work Plan Sample | |
| E. Haul-Out & Launch Estimate Worksheet | |
| F. Facility Overview | |

FACILITY INTRODUCTION

The mission of the Port and Harbor Department is to provide safe port and harbor facilities for our commercial clients, recreational users, and the general public, to manage and maintain these facilities cost effectively, and to administer our Tariff and procedures fairly and equitably for all users.

The policies and best management practices detailed in this document are the backbone of Homer's Marine Repair Facility, and apply to vessel owners, service providers, and vendors. We understand the value in being able to haul-out a vessel, and want to ensure it is done as efficient and productive as possible, while preventing/eliminating air, water and soil contamination. Please read this document carefully, since you will sign a document that states you will comply.

Operational Structure: The Homer Marine Repair Facility is being managed as an "Open Yard" facility, meaning that the vessel owner is responsible for the actual work being performed on their vessel. The City is simply facilitating the opportunity for haul-out and uplands use, and are not responsible for the finished product. This management structure gives the vessel owner the opportunity to manage their project from start-to-finish, contracting with vendors from the Approved Vendor List (provided by the City), or by using their own crew to make the repairs necessary for vessel maintenance.

Vessel owners are responsible for:

- **All work** on their vessels, including haul-out, block, and launch activities
- **Hiring** only vendors that are on the City's list of "approved vendors"
- **Cleanliness** and safety of the immediate area surrounding their vessel
- **Security** of their vessel
- **Safety** of crew and vendors at their vessel's work site
- **Complying** with City policy contained herein including compliance of their vendors and crew

Hours of Operation: Vessel haul-outs shall be scheduled with the Harbor Office during normal business hours, Monday through Friday 7:00am – 5:00pm, unless extenuating circumstances dictate otherwise. During normal business hours, City staff can be reached at the Homer Harbor Office and make regular inspections of the facility. During non-business hours, City staff will not be present except for random patrols of the boatyard.

As an "open yard", the Marine Repair Facility does not close; vessel owners are responsible for setting the working hours for their crews and contracted vendors. For safety purposes, the Harbormaster advises users of the facility to consider: A) the lack of daylight during winter months, B) providing adequate lighting, and C) that vendors are in agreement with the vessel owner on what hours are suitable. Timing of haul-out activities will be determined by the vessel owner, the haul-out service provider they choose, and tidal restrictions.

Security: Because the yard is an "open facility", vessel owners and vendors are responsible for their own security. When not actively working on a vessel, all tools, paints, and other materials must be secured to prevent theft, vandalism, and accidents. Harbor Officers will periodically patrol the yard during non-business hours and report obvious conditions that require owner attention.

Concerns/Issues: Homer Port and Harbor Staff encourage all questions, comments, and concerns pertaining to the Marine Repair Facility. Please contact the Harbormaster with these issues and we shall work with you.

LEGAL NOTICES

The City Agrees: to provide dry dockage space to vessel owners under a User Agreement for the purpose of vessel repairs, maintenance, and inspections per a Harbormaster-approved work plan. Further, the City agrees to provide contractors, service providers, and vendors the opportunity to work in the Marine Repair Facility under a Vendor Agreement, of which will place vendors on the Approved Vendor List. The list shall be available on the City of Homer's website and given to all vessel owners utilizing the facility.

Responsibility: The City does not accept the vessel, its tackle, fixtures, equipment, gear, or furnishings for storage or safekeeping belonging to either the owner or vendor. Nor does the City accept any responsibility for vendor supplies, their laborers/employees, equipment, and personnel that the vessel owner may organize or contract. The City shall not be responsible for lost fishing time, or any other lost time to the vessel, while it is hauled out or on the City-owned tidelands/beaches.

Liability: The City shall not be liable for death or injury to persons, or damage to property, upon the vessel, yard facilities or premises adjacent thereto arising from any cause other than the willful misconduct of the City. Vessel owners and vendors shall indemnify and hold the City and its officers and employees harmless from all claims for death or injury to persons, or damage to property, arising from their acts or omissions, their agents, service providers/vendors, crew, employees, or invitees.

Policy Compliance: Vessel owners, their agents, crew, service providers, and vendors agree to comply with the City's Marine Repair Facility Policies and Best Management Practices, detailed in this document.

Every user's full cooperation will help the City maintain the facility with a minimal impact to the environment. The goal is to meet all regulatory requirements, prevent pollution, and provide a safe work environment for owner, crew, vendors, and City staff. Any user who observes another individual in violation is encouraged to report it to the Harbor Office as soon as possible. The identity of anyone reporting a violation will be kept confidential.

Owners, crewmen, and contractors performing work on boats shall comply with all applicable OSHA, Federal, State, and City regulations, policies, and procedures.

Default in Compliance; City's Remedies: Failure to adhere to the City's policies and best management practices can result in unsafe actions and environmentally harmful activities. When violations are observed by City staff, intentional or otherwise, work will be stopped until corrective measures are taken. If vessel owners or vendors fail to properly follow and adhere to these practices/policies and/or their agreement with the City, or fail to pay fees or charges for more than thirty (30) days after the due date, the City may exercise any available remedy, including without limitation one or more of the following:

- a) Terminate the User/Vendor Agreement.
- b) Begin impoundment procedures per HCC 10.04.120 to have the vessel removed until the violation has been cured, or disposed of.
- c) Place a lien on the vessel per HCC 10.04.139 for towing, storage, costs of sale, attorney fees, any other charges incurred in connection with the impoundment, and charges for harbor services.

Refusal of Service: The City reserves the right to refuse service to vessels that: 1) do not have a current (within 3 years) marine survey, 2) have an inadequate work plan, 3) lack sufficient property and liability insurance, 4) fail to comply with the City's Marine Repair Facility Policies and Best Management Practices, 5) are in poor condition, 6) are unsafe to haul-out, or 7) may be damaged by being hauled out. Such vessels may

be hauled out if the vessel owner signs a waiver and provides a performance bond in an amount equal to the dry docking fees plus the estimated cost to dispose of the vessel should removal become necessary.

Refusal of Vendor Access: The City reserves the right to refuse access to Vendors that: (a) do not have a current Alaska Business License, (b) fail to register for, collect, and remit sales tax, (c) lack sufficient insurance, (d) fail to comply with the City's Marine Repair Facility Policies and Best Management Practices, or (e) fail to comply with safety practices.

Disputes: Disputes will be referred to a certified marine surveyor for a professional opinion of the vessel's fitness for hauling out. The vessel owner shall pay the cost of the surveyor. For all other disputes such as billing charges, stopping work orders, or missing work plan information, the Harbormaster reserves the right to make the final decision.

Notices: Billings and notices will be mailed to the address given under the User or Vendor Agreement. Vessel owners and vendors shall notify the City in writing of an address change.

Insurance: Vessel owners must have a current marine insurance policy of a "named perils" or "all risks" type that fully insures the value of the vessel, plus accident and environmental liability. Vendors and service providers must have current insurance to cover all of the services to be provided, including proof of long-shore and harbor workers compensation insurance, or proof that such coverage is waived.

A Certificate of Insurance must be provided to the Homer Harbor Office before any work may begin. The City of Homer must be included as additional insured and show coverage not less than the minimum required outlined below:

| Minimum coverage | Vendors | Vessels |
|--|----------------|----------------|
| General Liability, Marine Artisan Liability, P & I | \$1,000,000 | n/a |
| General Aggregate Limit | \$ 2,000,000 | \$1,000,000 |
| Products Hazard or Operations Hazard Aggregate Limit | \$ 1,000,000 | n/a |
| Personal Injury | \$ 1,000,000 | \$1,000,000 |
| Damage to Premises | \$250,000 | \$250,000 |
| Medical Expense Limit | \$5,000 | n/a |
| Pollution Liability | n/a | \$1,000,000 |
| Hull and Machinery | n/a | * |

* Hull and machinery coverage shall be sufficient to dispose of the vessel if abandoned, burned, or otherwise left to the City.

APPROVED VENDOR LIST REQUIREMENTS

1. GENERAL

Persons available for hire or contract labor is considered a “vendor”, and must be on the City’s Approved Vendor List before being allowed to work on any vessel in the Homer Marine Repair Facility. This list is then given to vessel owners who wish to hire contractors/vendors to complete their vessel work.

Contracting for all services to the vessel while it is in the boatyard, and payment for those services, is the sole responsibility of the vessel owner.

2. REQUIRED DOCUMENTS

To become an approved vendor, the service provider is required to complete a Homer Marine Repair Facility Vendor Agreement, include all necessary documents, and submit them to the Homer Harbor Office along with the appropriate fee. The following documents are required before any work may proceed:

- Vendor Agreement
- Alaska Business License
- Borough Sales Tax Registration
- Proof of Insurance – Includes City as Additional Insured and Worker’s Comp
- Certification, if applicable

3. ANNUAL FEE

To remain on the list, every year vendors must complete the Vendor Agreement with the City and pay an annual fee before providing services. Rates are published in the City’s Terminal Tariff. See “Appendix C” for a Fee Schedule.

4. ONE-TIME VENDOR FEE

In the circumstance that a vendor is being hired to provide services during a one-time job, but is not on the Approved Vendor List (such as an out-of-town business traveling to Homer for a specific vessel project), the vendor is still required to complete the Vendor Agreement, provide the required documents, and pay the vendor fee. Rates are published in the City’s Terminal Tariff. See “Appendix C” for a Fee Schedule.

PLANNING A HAUL-OUT

1. SCHEDULING

Initial Planning Meeting: A vessel haul-out begins with a meeting between the vessel owner, the selected haul-out service provider, and the Harbormaster. This meeting allows the vessel owner to provide the Harbormaster the primary logistics in regards to hauling out, work to be performed, service providers/vendors involved, and the timeframe/schedule. An estimation of all City boatyard and beach landing fees will be calculated (see “Appendix E” for a Haul-Out & Launch Estimate Worksheet).

Timeline: Vessel owners must plan to be in and out of the boatyard as scheduled, and vendors must plan to work within the vessel-owner’s scheduled boatyard time. The City will not be responsible for lost time to the vessel, for any reason while it is in the boatyard. Every work plan should include a timeline of the work to be performed. This written plan will enable staff to understand your needs and schedule boatyard time appropriately. Advance planning is necessary to ensure sufficient time for your needed projects.

Required Documents: The vessel owner is required to complete a Homer Marine Repair Facility User Agreement, include all necessary documents, and submit them to the Homer Harbor Office. The following documents are required before hauling out may proceed:

- User Agreement
- Vessel Owner Registration – i.e. USCG documentation
- Proof of Insurance – Includes City as Additional Insured
- Work Plan – See #2 below for details of Work Plan
- Current Vessel Survey
- Bond and Waivers, if applicable

Security Deposit & Cancellation: A deposit of 50% of the estimated costs shall be made when the vessel owner makes arrangements with the Harbormaster to use boatyard facilities. The City may require the estimated payment in full at time of scheduling (dependent on account history). After the vessel has been launched, the deposit will be credited toward beach landing and dry dock fees. The deposit will be forfeited if: a) the vessel fails to adhere to the scheduled haul-out time, or b) the vessel owner fails to leave the facility clean after launching (see below #4 “Final Clean-up of Work Area”). A cancellation or schedule change must be communicated to the Harbormaster at least 24 hours in advance to avoid deposit forfeiture. Vessels missing their scheduled haul-out date will be accommodated on a “space available” basis.

2. WORK PLAN

Every haul-out must have a work plan, which includes a description of the work to be performed, materials required, timeline, etc. Once the City approves the work plan, along with the agreement and other required documents, a deposit will be accepted and the vessel placed on the schedule. Vendors contracted to do any of the proposed work must be from the Approved Vendor List, which is provided by the City. Content of the plan must include:

- A description of work to be performed: Be detailed in what you intend to do as it allows staff to schedule enough time for your haul-out; for instance:

- Hull Maintenance – sandblasting, painting, zincs, etc.
 - Mechanical – props, shafts, engines, etc.
 - Fabrication – fiberglass, welding, etc.
 - Inspection Purposes – USCG, insurance, etc.
- A list of who will be completing the work: Specify the persons that will be working on the vessel, including the vessel owner, crewmembers, or contracted vendors/service providers. Any crewmembers that are proposed to complete work on the vessel must have a crewman contract with the vessel; contracts should be available as proof for inspection by the Harbormaster. Vendors selected must be from the Approved Vendor List. Major structural modifications should be designed by a certified marine architect.
 - Information regarding the haul-out and launch: Commonly a vendor will be contracted to perform the haul-out and launch, but the owner may be able to provide their own haul-out equipment; details on who will be moving the vessel and the method/equipment used is required. Drawings/photos of the vessel’s hull and the blocking plan should be included.
 - Plans for containment and disposal of waste: Unless a routine inspection is the only purpose for hauling out, vessel owners must be able to contain anything that may cause air, water or soil contamination. Include plans for:
 - Hazardous waste disposal
 - Containment structures and/or dustless systems for sanding, grinding, spray painting and scraping.
 - Ground cover tarps, which will be placed under the vessel prior to blocking and cover the ground under the entire vessel plus a 10 foot parameter; and welding mats to protect the ground cover tarps if any welding will be conducted.
 - Dumpsters provided by the vessel owner; use of City dumpsters is not permitted.
 - A timeline and proposed launching date: Breaking down the project into time increments allows staff to plan and coordinate your vessel haul-out into the schedule. It is imperative to the efficiency of the facility that all users adhere to the schedule; accurate timelines of projects/repairs are necessary as well as being finished when it is time to launch the vessel.
 - Additional information pertaining to the haul-out: Other details, such as Porta-Potties for workers, needed equipment, lighting, temporary structures, or storage requests should be included before the Harbormaster is able to approve a work plan. If it is applicable to your haul-out, include it.

A work plan example is provided in “Appendix D”.

Changes to the Work Plan: Significant changes that alter the amount of time the vessel is hauled out, due to an emergency or vessel owner’s preference, can potentially disrupt other scheduled haul-outs. Requests to change the work plan after the vessel has been hauled out must be approved by the Harbormaster before the work is conducted, and should be submitted to the Harbor Office with a revised work plan. Each request will be reviewed upon a case-by-case scenario by the Harbormaster, who reserves the right to make the final decision.

If upon inspection City staff finds that vessel work is being done outside the parameters of the approved work plan, the Harbormaster may take action as outlined under “Default in Compliance” (See Legal Notices).

3. MATERIALS, STRUCTURES & EQUIPMENT

Necessary materials should be on hand before each haul-out. For example: ground tarps, scaffolding and plastic for enclosures, welding mats, blasting medium, lights, coatings, zincs, etc. Arrangements for storage of materials must be coordinated with the Harbormaster.

Vessel owners and vendors may bring in vehicles, trailers, or set up temporary structures that fit within the dry storage site of their vessel. Unless otherwise approved, the structures must be removed after the vessel is launched. Mobile homes, travel trailers, or RVs will not be allowed without approval.

If the project requires more space for project lay-down, space will be provided as available and charges will reflect actual square foot usage.

4. HAULING OUT & LAUNCHING

Schedule: The projected dates of hauling out and launching shall be scheduled at the time of the initial haul-out meeting, and is determined by the vessel owner's timeline, work plan, and the facility's schedule. Vessel haul-out/launch activities will be determined on the vessel owner, the haul-out service provider they choose, and tidal restrictions. Weather conditions must be considered as well since high winds, ice, or swell at the haul-out site pose hazards.

Launching Walk-Thru Meeting: Before the proposed launching date, a meeting between the vessel owner, their primary haul-out service provider, and the Harbormaster shall take place. This meeting will allow the Harbormaster to confirm that the vessel's dry dock location is clean of all debris (i.e. paint chips, metal, discarded equipment, engine blocks/part, refrigerators, stoves, lines, scaffolding, etc.), and that launching logistics are in order before the vessel is authorized to move.

Responsibility: The vessel owner and their primary haul-out service provider are responsible, and in charge, during the haul-out and launch; all haul-out/launching logistics must comply with the Marine Repair Facility Policies and Best Management Practices. The City accepts no responsibility for the vessel, crew, contractor or the contracted labor during these operations. However, the city does reserve the right to stop all work if the harbormaster of their designee determines that there are unsafe conditions occurring at any time while the vessel is on city property. Work will cease until the safety issue is resolved to the harbormasters satisfaction.

Final Clean-up of Work Area: After the vessel has been launched, the vessel owner is required to clear all materials, structures, and equipment from the area. Any remaining items that require Harbor Staff time to clean up will be subject to fees and/or deposit forfeiture. When cleaning up, be sure everything has been removed from the premises, including:

- Blocking
- Tarps
- Scaffolding
- Temporary Structures
- Dumpsters
- Equipment/Vehicles
- Vendor's Materials/Equipment
- Debris Not Cleared Before Launch

5. COSTS, FEES, & BILLING

Dry Dockage: Due to limited space, the Homer Marine Repair Facility will not be used as a long-term vessel storage site. Charges for dry dockage are payable from the time the vessel is hauled out until the vessel is removed from the boatyard. Payment of charges for dry dockage grants the vessel owner a

revocable license to use the dry dockage area that is designated for the vessel. Vendors are to work within the vessel's designated dry moorage area. Additional space may be rented from the City if available.

Security Deposit: A deposit of 50% of the estimated costs shall be made when the vessel owner makes arrangements with the Harbormaster to use boatyard facilities. The City may require the estimated payment in full at time of scheduling (dependent on account history). After the vessel has been launched, and the final work-area inspection by the Harbormaster has been completed and approved, the deposit will be credited toward beach landing and dry dock fees. The deposit will be forfeited if: a) the vessel fails to adhere to the scheduled haul-out time, or b) the vessel owner fails to leave the facility clean after launching.

Charges: Rates are published in the City's Terminal Tariff (see "Appendix C" for the fee schedule). All charges are billed out on a monthly basis and payable to the Homer Harbor Office. See the Harbor Office for questions regarding bill payment options. See "Appendix E" for a Haul-Out & Launch Estimate Worksheet.

- **Dry Dockage.** Charges are calculated as square feet, and are based on the overall length and beam of the vessel, plus a ten foot (10') perimeter on all sides, including all appendages and additional space requested.
- **Beach Landing.** Prices for the use of the City's beach for landing are based on the overall length of the vessel. Time spent on the beach prior to and after a haul-out is charged per day and will be included in the overall cost of the haul-out.

HULL CLEANING, BLOCKING, & VERTICAL ACCESS

1. HULL CLEANING

The Homer Marine Repair Facility's Stormwater Pollution Prevention Plan (SWPPP) does not allow pressure washing.

Vessel owners who wish to remove marine growth from their vessel's hull must utilize alternative methods, such as manual removal by scraping. Ground covers must be used to collect debris and then shoveled into dumpsters, which the vessel owner provides.

2. GROUND COVERS/TARPS

Ground cover tarps must be placed under every vessel prior to blocking, and cover the ground under the entire vessel plus a 10 foot parameter. They must remain in place and shall be kept clean (daily) of all hazmat, paint chips, etc. Ground cover tarps will be protected during welding by placing protective welding mats in the affected areas. Good housekeeping practices will be implemented at all times while working in the City's facility.

3. BLOCKING

Vessel blocking is the responsibility of the vessel owner and their primary haul-out service provider. The City has the right to inspect vessel blocking and will, if, necessary, require additional blocking if it is determined to be inadequate for the job. The City will not supply, store, or furnish ships blocking, nor supply the labor needed for blocking installation/removal.

4. SCAFFOLDING & LADDERS

Vessel owners and/or contracted Vendors will provide their own ladders and scaffolding. The vessel owner assumes all risk, including for their agents/crew members working on the vessel, when utilizing ladders and scaffolding. The City assumes no risk for persons utilizing such equipment in or on City facilities.

SANDBLASTING, GRINDING, SPRAY PAINTING & SANDING

1. GENERAL

Open air sanding, grinding and scraping are prohibited unless dustless systems are employed or the vessel is tented and properly vented/filtered. These precautions are to prevent escapement of airborne particulates from the vessel and soil contamination.

City staff will inspect enclosures, spray painting, and sanding practices. When violations occur, intentional or otherwise, work will be stopped until corrective measures are taken.

Owners, crewmen and contractors performing work on boats shall comply with all applicable OSHA, Federal, State, and City regulations, policies, and procedures. Personal protective clothing and respirators shall be used as appropriate.

2. SANDING & GRINDING

When practical, vessel owners are required to utilize vacuum grinding and vacuum sanding (dustless systems). When not practical, a temporary structure must be constructed to fully enclose the area being worked on, including proper ventilation and filters.

3. SPRAY PAINTING

Spray painting is permitted only when the vessel, or portion to be painted, is fully enclosed with proper ventilation and filters. Every possible effort must be made to prevent overspray from leaving the enclosure.

HOUSEKEEPING & CLEANLINESS

1. AREA AROUND EACH VESSEL

The immediate area surrounding each vessel must be kept neat and clean at all times. No open containers of paint, oil, hazardous or other pollution-creating material shall be stored exposed. All containers must be closed and stored under covers.

2. INSPECTIONS

During normal business hours, the Harbormaster will make regular inspections of the facility. Harbor Officers will periodically patrol the yard during non-business hours and report obvious conditions that require owner attention.

Violations must be immediately cured to the satisfaction of the Harbormaster. The pre-launching walk-thru meeting will allow the Harbormaster to confirm that the vessel's dry storage location is clean of all debris before the vessel is authorized to move. Storage of any materials on site must be approved in advance by the Harbormaster.

3. DRUM STORAGE

All drums will be labeled with vessel name, date, and contents. Drums will be stored palletized and covered. Storage of any materials on site must be approved in advance by the Harbormaster. Space will be provided as available and charges will reflect actual square foot usage.

4. MACHINERY

Before removing machinery (i.e. engines, hydraulic motors and other equipment), all open fittings shall be sealed to prevent leakage of lubricating and cooling fluids. Through-hull fittings shall similarly be sealed to prevent leakage of contaminated bilge water.

5. DISPOSAL METHODS & RESTRICTIONS

General: Everything must be properly and promptly disposed of at the time materials/waste is generated. Nothing should be left lying about. Ask if you need guidance or assistance. Abandoned waste will be disposed of and billed to the vessel owner with applicable service fees. Empty cans, scraps of lumber, paper, or other debris must be placed in waste containers and the area cleaned on a daily basis and prior to departure.

For LARGE amounts of waste oil, oily rags, used oil filters, antifreeze, and batteries: Contact National Response Corporation (NRC) Kenai Office for disposal logistics at 907-258-1558 or infoalaska@nrcc.com.

Liquid & Petroleum Waste: Hazardous and non-hazardous wastes must be properly separated and properly stored and/or disposed. No liquid wastes may be drained onto the ground or into the harbor. Violations could result in substantial fines and the removal of such violators from working in the boatyard. No open containers of any liquids are to be left in the open where they could be filled with rain or tipped

over causing potential runoff into the ground and water. Common sense should dictate proper activities. Abandoning wastes without proper disposal is prohibited.

Flammable materials like paint thinners and gasoline must be segregated and properly disposed of at the Homer Landfill Bailing Facility. Please contact the Kenai Peninsula Borough regarding their Hazardous Waste Disposal Program. The use of liquid dispersants, like Joy soap, or mechanical means to dissipate slicks caused by fuel spills, is prohibited. Spills must be reported to staff.

Solid Waste: Dumpsters are to be provided by the vessel owner; use of City dumpsters is not permitted. Dumping of solid waste materials must be free of all liquids and the products must be inert. Heavy metal (engines, refers, etc. and/or large volumes of insulation, cardboard, etc.) trash and recyclable products should be hauled directly to the Homer Landfill Bailing Facility. Covers on dumpsters shall remain closed except during the process of actual trash disposal in order to minimize rainwater entry. No solid wastes may be disposed onto the ground. Any such violations will result in substantial fines and the removal of such violators from working in the boatyard. Abandoning wastes without proper disposal is prohibited.

Contaminated Bilge Water: Bilge water, contaminated with oil, antifreeze, solvents or similar materials shall not be pumped or emptied onto the ground of the boatyard or in harbor waters. Contact National Response Corporation (NRC) Kenai Office for disposal logistics at 907-258-1558 or infoalaska@nrcc.com.

Sewage: Direct discharge of sewage from vessel toilet facilities is prohibited. All applicable systems shall be tagged and locked out to prevent accidental discharge while in the yard. Overboard through hull ports may be plugged to prevent discharge. Vessel owners are responsible to make arrangements for Porta-Potties for their workers/vendors.

Paint: Paint waste, including anti-foulant, must be disposed of at the Homer Landfill Bailing Facility. Please contact the Kenai Peninsula Borough regarding their Hazardous Waste Disposal Program. Hazardous waste includes liquid paint, thinners, solvents and similar materials. All containers must have lids that are capable of being sealed to prevent spillage during transport, and must be properly labeled with vessel's name, its contents, and date. Accidental spillage should be reported to staff for assistance and guidance for clean-up. Paints and solvents shall be stored in properly sealed containers. Drip pans, tarps or other devices shall be used during the transferring of solvents or paints and during paint mixing.

Hazmat Storage: Storage of oily rags, open paints, open solvents, open thinners, gasoline, or other flammable or explosive material is prohibited on or within the boatyard facility, except for gasoline stored aboard a vessel in U.L. or Coast Guard approved containers.

SAFETY

1. **Vessel Owner Responsibility:** Owners are responsible for the safety of their crew and workers.
2. **Vendor Responsibility:** Vendors are responsible for the safety of their employees and shall follow OSHA approved standards.
3. **Welding/Hotworks:** Vendors contracted to weld must be certified, licensed, and insured. All persons, including vessel owners, crewmembers, and vendors must follow all standard welding practices per OSHA regulations. Fire guards and protective measures must be in place during all welding and cutting activities. There will be no open flames (other than welding or cutting torches) and no open burning. For every welder working, each must have a person on fire watch with fire extinguisher near them. Atmospheric testing for enclosed areas shall be done when appropriate. Arc shields shall be used as appropriate and required.
4. **PPE:** Owner and vendors shall insure that personal protective equipment and clothing will be provided and worn as appropriate to each task.
5. **Ladders/Scaffolding:** Vessel owners and vendors assume all risk when utilizing ladders and scaffolding.
6. **Storm Events:** Vessel owners and vendors are solely responsible to take emergency measures to secure the vessel, or anything that may become airborne during a windstorm event to prevent damage/injuries caused by airborne debris from their vessel and/or dry storage location.
7. **Alcohol/Drug-Use in Facility:** No alcohol or drugs shall be consumed/allowed in the boatyard or aboard vessels in the boatyard.
8. **Fires:** No open fires are permitted aboard vessels or in the boatyard.
9. **Children:** Children, under the age of 12, must be accompanied by an adult at all times.
10. **Pets:** All animals must be leashed and cleaned up after per Homer City Code.
11. **Live-a-boards:** No one will live aboard a vessel in dry moorage without consent of the Harbormaster.

SPILL PREVENTION

1. OIL OR HAZARDOUS MATERIAL SPILLS

Owners, crewmen and contractors performing work on boats must immediately report any spills to the Harbor Office, NRC, DEC, and USCG MSD. Failure to report can result in fines. The vessel owner and vendor are responsible for the cleanliness of their dry moorage area. Fees will be assessed if City staff labor is utilized to clean a vessel's area.

- Harbor Office: 907-235-3160
- Harbor Officer On-Duty Cellphone: 907-399-1649
- EPA's National Response Center: 800-424-8802
- Alaska Dept. of Environmental Conservation: 800-478-9300
- U.S. Coast Guard Marine Safety Detachment: 907-690-2098

2. IN CASE OF A SPILL USERS SHALL:

1. Immediately stop the source of the spill.
2. Shut of all ignition sources in the area.
3. Immediately cease all smoking or welding in the area.
4. Contain the spill by using absorbent pads and booms.
5. Recover the spill as quickly as possible.
6. Notify the Harbor Office, NRC, DEC, and U.S. Coast Guard MSD.

APPENDIX A

User Agreement



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road

Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

HOMER MARINE REPAIR FACILITY USER AGREEMENT

Acct # _____

Owner Info

Owner: _____ Phone: Home: _____

Cell Phone: _____ E-Mail Address: _____

Billing Address: _____ City: _____ State: _____ Zip: _____

Haul-out Manager (if other than owner): _____ Phone: _____

Vessel Info

Vessel Name: _____ Registration Number: _____

Length Overall: _____ Beam: _____ Draft: _____ Displacement Tonnage: _____

House is: Forward Aft Height from Keel to Uppermost: Forward (ft): _____ Aft (ft) _____

Hull Type: _____ Hull Material: _____

Haul-out Info

First-time Haul-out User? Yes No Haul-out Date: _____ Launch Date: _____

Damage below Waterline? Yes No If yes, explain: _____

Nature of Work: Inspection Only Paint Zincs Propeller Shaft Rudder

Other: _____

Vendors & Service Providers Contracted to Perform Work: _____

Documents

| Documents (*Required) | Date | Staff Initials | Comments |
|--|-------|----------------|----------|
| <input type="checkbox"/> Owner Registration* | _____ | _____ | _____ |
| <input type="checkbox"/> Proof of Insurance* | _____ | _____ | _____ |
| <input type="checkbox"/> City as Additional Insured* | _____ | _____ | _____ |
| <input type="checkbox"/> BMP Provided to User* | _____ | _____ | _____ |
| <input type="checkbox"/> Vendor Compliance* | _____ | _____ | _____ |
| <input type="checkbox"/> Bond Discussed* | _____ | _____ | _____ |
| <input type="checkbox"/> Waivers, when Required | _____ | _____ | _____ |
| <input type="checkbox"/> Harbormaster's Approval* | _____ | _____ | _____ |

HOMER MARINE REPAIR FACILITY USER TERMS & CONDITIONS

1. **The City agrees** to provide dry dockage space to vessel owners under a User Agreement for the purpose of vessel repairs, maintenance, and inspections per a Harbormaster-approved work plan during the dates specified in this agreement.
2. **Responsibility.** The City does not accept the vessel, its tackle, fixtures, equipment, gear, or furnishings for storage or safekeeping belonging to either the owner or vendor. Nor does the City accept any responsibility for vendor supplies, their laborers/employees, equipment, and personnel that the vessel owner may organize or contract. The City shall not be responsible for lost fishing time, or any other lost time to the vessel, while it is hauled out or on the City-owned tidelands/beaches.
3. **Policy Compliance.** Vessel owners, their agents, crew, service providers/vendors (all referred herein as Users) agree to comply with the City of Homer's (referred herein as City) Marine Repair Facility policies and Best Management Practices (BMPs). A copy shall be provided when services are scheduled.
4. **Operational Structure.** The Homer Marine Repair Facility is being managed as an "Open Yard" facility, meaning that the User is responsible for the actual work being performed on their vessel. The City is simply facilitating the opportunity for haul-out and uplands use, and are not responsible for the finished product. This management structure gives the User the opportunity to manage their project from start-to-finish, contracting with vendors from the Approved Vendor List (provided by the City), or by using their own crew to make the repairs necessary for vessel maintenance.
5. **Vendors & Service Providers.** Contracting for all services to the vessel while it is in the boatyard, and payment for those services, is the sole responsibility of the User. Persons providing services to a vessel in the boatyard ("Vendors") must be on the City's approved vendor list. To qualify for the list, the following documents must be on file along with payment of fees: Certificate of Insurance, Alaska business license, registration for city sales tax, and professional certifications for the named trades. Vendors must abide by OSHA safety rules and regulations pertaining to their trade.
6. **Security.** Users are responsible for the security of their vessel, tools, and equipment. Other than random patrols of the boatyard, City staff will not be present during non-business hours.
7. **Insurance.** Users other than Vendors agree to have a current marine insurance policy of a "named perils" or "all risks" type that fully insures the value of the vessel, plus accident and environmental liability. A Certificate of Insurance shall be provided to the City showing coverage not less than the minimum required in the boatyard policy document. Hull and machinery coverage shall be sufficient to dispose of the vessel if abandoned, burned or otherwise left to the City.
8. **Dry Dockage.** The Harbormaster shall designate a dry storage area within the boatyard for the vessel. Charges for dry dockage are payable from the time the vessel is hauled out until the vessel is removed from the boatyard. Payment of charges for dry dockage grants a User a revocable license to use the dry dockage area that is designated for the vessel.
9. **Scheduling, Deposits, & Cancellations.** Users must plan to be in and out of the boatyard as scheduled. A deposit of 50% of the estimated costs shall be made when the User makes arrangements with the Harbormaster to use boatyard facilities. The City may require the estimated payment in full at time of scheduling. After the vessel has been launched, the deposit will be credited toward beach landing and dry dock fees. The deposit will be forfeited if: a) the vessel fails to adhere to the scheduled haul-out time, or b) the vessel owner fails to leave the facility clean after launching. A cancellation or schedule change must be communicated to the Harbormaster at least 24 hours in advance to avoid deposit forfeiture. Vessels missing their scheduled haul-out date will be accommodated on a "space available" basis.
10. **Charges:** Rates are published in the City's Terminal Tariff. All charges are billed out on a monthly basis and payable to the Homer Harbor Office. Boatyard Moorage: Charges are calculated as square feet, and are based on the overall length and beam of the vessel, plus a ten foot (10') perimeter on all sides, including all appendages. Beach Landing: Prices for the use of the City's beach for landing are based on the overall length of the vessel. Time spent on the beach prior to and after a haul-out is charged per day and will be included in the overall cost of the haul-out.
11. **Blocking.** Vessel blocking is the responsibility of the User and/or their contractors. The City has the right to inspect vessel blocking and will, if necessary, require additional blocking if it is determined to be inadequate for the job. The City will not supply, store, or furnish ships blocking, nor supply the labor needed for blocking installation/removal.
12. **Tarps.** Ground cover tarps must be placed under every vessel prior to blocking, and cover the ground under the entire vessel plus a 10 foot parameter. They must remain in place and shall be kept clean (daily) of all hazmat, paint chips, etc. Ground cover tarps will be protected during welding by placing protective welding mats in the affected areas.
13. **Ladders/Scaffolding.** User and/or Vendors will provide their own ladders and scaffolding. User assumes all risk when utilizing ladders and scaffolding.
14. **PPE:** User shall insure that personal protective equipment and clothing will be provided and worn as appropriate to each task.
15. **Sanding, Grinding, & Scraping.** Open air sanding, grinding and scraping are prohibited unless dustless systems are employed or the vessel is tented and properly vented/filtered. These precautions are to prevent escapement of airborne particulates from the vessel and soil contamination.
16. **Pressure Washing:** The Homer Marine Repair Facility does not allow pressure washing. Users who wish to remove marine growth from their vessel's hull must utilize alternative methods, such as manual removal by scraping. Ground covers must be used to collect debris and then shoveled into dumpsters, which the vessel owner provides.

17. **Disposal of Waste & Hazmat.** See the City's Marine Repair Facility policies and Best Management Practices (BMPs), and/or ask staff for details for proper disposal methods and locations.
18. **Spills & Cleanup.** User must immediately report any spills to the Harbor Office, NRC, DEC, and U.S. Coast Guard MSD. Failure to report can result in fines. User is responsible for the cleanliness of their dry moorage area. Fees will be assessed if City staff labor is utilized to clean a vessel's area.
19. **Welding/Hotworks:** Vendors contracted to weld must be certified, licensed, and insured. All persons, including the User, crewmembers, and vendors must follow all standard welding practices per OSHA regulations. Fire guards and protective measures must be in place during all welding and cutting activities. There will be no open flames (other than welding or cutting torches) and no open burning. For every welder working, each must have a person on fire watch with fire extinguisher near them. Atmospheric testing for enclosed areas shall be done when appropriate. Arc shields shall be used as appropriate and required.
20. **Storm Events:** The User/Vendors are solely responsible to take emergency measures to secure the vessel, or anything that may become airborne during a windstorm event to prevent damage/injuries caused by airborne debris from their vessel and/or dry storage location.
21. **Materials, Structures & Equipment.** Necessary materials should be on hand before each haul-out. Arrangements for storage of materials must be coordinated with the Harbormaster. Users and vendors may bring in vehicles, trailers, or set up temporary structures that fit within the dry storage site of their vessel. Unless otherwise approved, the structures must be removed after the vessel is launched. Mobile homes, travel trailers, or RVs will not be allowed without approval. If the project requires more space for project lay-down, space will be provided as available and charges will reflect actual square foot usage.
22. **Alcohol/Drug-Use in Facility:** No alcohol or drugs shall be consumed/allowed in the boatyard or aboard vessels in the boatyard.
23. **Fires:** No open fires are permitted aboard vessels or in the boatyard.
24. **Children:** Children, under the age of 12, must be accompanied by an adult at all times.
25. **Pets:** All animals must be leashed and cleaned up after per Homer City Code.
26. **Live-a-boards:** No one will live aboard a vessel in dry moorage without consent of the Harbormaster.
27. **Liability.** The City shall not be liable for death or injury to persons, or damage to property, upon the vessel, yard facilities or premises adjacent thereto arising from any cause other than the willful misconduct of the City. The User shall indemnify and hold the City and its officers and employees harmless from all claims for death or injury to persons, or damage to property, arising from their acts or omissions, their agents, service providers/vendors, crew, employees, or invitees.
28. **Default; City's Remedies.** Failure to adhere to the City's policies and best management practices can result in unsafe actions and environmentally harmful activities. When violations are observed by City staff, intentional or otherwise, work will be stopped until corrective measures are taken. If User fail to properly follow and adhere to these practices/policies and/or their agreement with the City, or fail to pay fees or charges for more than thirty (30) days after the due date, the City may exercise any available remedy, including without limitation one or more of the following: a) Terminate their User Agreement; b) Begin impoundment procedures per HCC 10.04.120 to have the vessel removed until the violation has been cured, or disposed of; c) Place a lien on the vessel per HCC 10.04.139 for towing, storage, costs of sale, attorney fees, any other charges incurred in connection with the impoundment, and charges for harbor services.
29. **No Waiver.** The failure of the City to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy available on a breach thereof, or the acceptance by the City of full or partial payments during the continuance of any breach, shall not constitute a waiver of any provision of this Agreement, and all provisions hereof shall continue in full force and effect. Nothing in this Agreement shall constitute a waiver by the City of its right to arrest any vessel to enforce a maritime lien, or any other right or remedy.
30. **Notices.** Billings and notices will be mailed to User's address as set forth herein. User shall notify the City in writing of an address change.
31. **Interpretations; Amendment.** Alaska law shall govern this Agreement. The invalidity of any provision of this Agreement shall not affect the validity of any other provision. This document, in concert with the Homer Marine Repair and Facility Best Management Practices and Policies constitutes the entire agreement of the parties. No amendment of this Agreement shall be valid unless in writing and signed by both parties.

-
- I accept full responsibility for my activities in the boatyard, and for the actions of my crew, workers, vendors and contractors.
 - I agree to have insurance covering the vessel, crew and persons working for me, as may be required by the terms and by the law.
 - I understand that there may be a security bond required in the amount estimated to dispose of the vessel should project failure or abandonment occur.
 - I accept and acknowledge that I have read and agree to the terms hereinabove and will abide by the Homer Marine Repair Facility Policies and Best Management Practices (BMP). I shall take precautions to prevent pollution to the air, ground and water. Should there be fees, fines, or cleanup required, I agree to pay such costs.

User: _____ Date: _____
 (Signature) (Print)

Harbormaster Approval: _____ Date: _____

APPENDIX B

Vendor Agreement



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road

Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

HOMER MARINE REPAIR FACILITY VENDOR AGREEMENT

Business Info

Name of Business: _____ Work Phone: _____

Billing Address: _____

City: _____ State: _____ Zip: _____

Owner's Name: _____ Cell Phone: _____

E-Mail Address: _____

Manager's Name: _____ Cell Phone: _____

General Nature of Services to be Provided: _____

Documents

| Documents (*Required) | Date | Staff Initials | Comments |
|---|-------|----------------|----------|
| <input type="checkbox"/> Alaska Business License* | _____ | _____ | _____ |
| <input type="checkbox"/> Borough Sales Tax Certificate* | _____ | _____ | _____ |
| <input type="checkbox"/> Proof of Insurance* | _____ | _____ | _____ |
| <input type="checkbox"/> City as Additional Insured* | _____ | _____ | _____ |
| <input type="checkbox"/> Proof of Worker's Comp* | _____ | _____ | _____ |
| <input type="checkbox"/> Certification (if required) | _____ | _____ | _____ |
| <input type="checkbox"/> Certification (if required) | _____ | _____ | _____ |
| <input type="checkbox"/> BMP Provided to Vendor* | _____ | _____ | _____ |
| <input type="checkbox"/> Harbormaster's Approval* | _____ | _____ | _____ |

Acknowledgement & Approval

I accept and acknowledge that I have read and agree to the terms on page 2 and 3, and will abide by the Homer Marine Repair Facility Policies and Best Management Practices (BMP). I shall take precautions to prevent pollution to the air, ground and water. Should there be fees, fines, or cleanup required, I agree to pay such costs.

- ✓ I will abide by OSHA safety rules and regulations pertaining to my trade(s).
- ✓ I accept full responsibility for my activities in the boatyard and for the actions of my workers.
- ✓ I agree to have insurance covering my workmanship employees, as may be required by the terms and by the law.
- ✓ I understand that the name of my business will be available to boatyard users.

Vendor: _____ Date: _____
 (Signature) (Print)

Harbormaster Approval: _____ Date: _____

HOMER MARINE REPAIR FACILITY VENDOR TERMS & CONDITIONS

1. **The City agrees** to provide contractors, service providers, and vendors the opportunity to work in the Marine Repair Facility under a Vendor Agreement, of which will place vendors on the Approved Vendor List. The list shall be available on the City of Homer's website and given to all vessel owners utilizing the facility.
2. **Responsibility.** The City does not accept the vessel, its tackle, fixtures, equipment, gear, or furnishings for storage or safekeeping belonging to either the owner or vendor. Nor does the City accept any responsibility for vendor supplies, their laborers/employees, equipment, and personnel that the vessel owner may organize or contract. The City shall not be responsible for lost fishing time, or any other lost time to the vessel, while it is hauled out or on the City-owned tidelands/beaches.
3. **Policy Compliance:** Vendors agree to comply with the City of Homer's (referred herein as City) Marine Repair Facility policies and Best Management Practices (BMPs). A copy shall be provided when services are scheduled.
4. **Operational Structure.** The Homer Marine Repair Facility is being managed as an "Open Yard" facility, meaning that the vessel owner is responsible for the actual work being performed on their vessel. The City is simply facilitating the opportunity for haul-out and uplands use, and are not responsible for the finished product. This management structure gives the vessel owner the opportunity to manage their project from start-to-finish, contracting with vendors from the Approved Vendor List (provided by the City), or by using their own crew to make the repairs necessary for vessel maintenance.
5. **Vendors & Service Providers.** Contracting for all services to the vessel while it is in the boatyard, and payment for those services, is the sole responsibility of the vessel owner. Persons providing services to a vessel in the boatyard ("Vendors") must be on the City's approved vendor list. To qualify for the list, the following documents must be on file along with payment of fees: Certificate of Insurance, Alaska business license, registration for city sales tax, and professional certifications for the named trades. Vendors must abide by OSHA safety rules and regulations pertaining to their trade.
6. **Security:** Vendors and vessel owners are responsible for the security of their property. Other than random patrols of the boatyard, harbor staff will not be present during non-business hours.
7. **Insurance:** Vendors must have on-file with the City a current certificate of insurance to cover all of the services to be provided. All vendors must carry a minimum of \$1,000,000 per incident and \$2,000,000 in aggregate liability insurance and the City must be included as additional insured. Copies of the insurance policy must be on file with the Harbor Office before work may begin. Vendors must provide proof of longshore and harbor worker, workman's compensation insurance, or proof that such coverage is waived.
8. **Scheduling:** Vendors must plan to work within the vessel-owner's scheduled boatyard time.
9. **Dry Dockage:** The City shall designate a dry moorage area within the boatyard for each vessel. Vendors may work within the vessel's designated dry moorage area. Additional space may be rented from the City if available. Rates are published in the City's Terminal Tariff.
10. **Charges:** To remain on the list, every year vendors must complete the Vendor Agreement with the City and pay an annual fee before providing services. In the circumstance that a vendor is being hired to provide services during a one-time job, but is not on the Approved Vendor List, the vendor must complete the Vendor Agreement, provide the required documents, and opt to pay the "one-time" vendor fee instead of the annual fee. Rates are published in the City's Terminal Tariff. All charges are payable to the Homer Harbor Office.
11. **Tarps.** Ground cover tarps must be placed under every vessel prior to blocking, and cover the ground under the entire vessel plus a 10 foot parameter. They must remain in place and shall be kept clean (daily) of all hazmat, paint chips, etc. Ground cover tarps will be protected during welding by placing protective welding mats in the affected areas.
12. **Ladders/Scaffolding.** Vendors will provide their own ladders and scaffolding. Vendor and/or vessel owner assumes all risk when utilizing ladders and scaffolding.
13. **PPE:** Vendor and/or vessel owner shall insure that personal protective equipment and clothing will be provided and worn as appropriate to each task.
14. **Sanding, Grinding, & Scraping.** Open air sanding, grinding and scraping are prohibited unless dustless systems are employed or the vessel is tented and properly vented/filtered. These precautions are to prevent escapement of airborne particulates from the vessel and soil contamination.
15. **Pressure Washing:** The Homer Marine Repair Facility does not allow pressure washing.
16. **Disposal of Waste & Hazmat.** See the City's Marine Repair Facility policies and Best Management Practices (BMPs), and/or ask staff for details for proper disposal methods and locations.
17. **Spills & Cleanup.** The Vendor/vessel owner must immediately report any spills to the Harbor Office, NRC, DEC, and U.S. Coast Guard MSD. Failure to report can result in fines.
18. **Welding/Hotworks:** Vendors contracted to weld must be certified, licensed, and insured. All persons, including the vessel owner, crewmembers, and vendors must follow all standard welding practices per OSHA regulations. Fire guards and protective measures must be in place during all welding and cutting activities. There will be no open flames (other than welding or cutting torches) and no open burning. For every welder working, each must have a person on fire watch with fire extinguisher near them. Atmospheric testing for enclosed areas shall be done when appropriate. Arc shields shall be used as appropriate and required.

19. **Storm Events:** The Vendor/vessel owner are solely responsible to take emergency measures to secure the vessel, or anything that may become airborne during a windstorm event to prevent damage/injuries caused by airborne debris from their vessel and/or dry storage location.
20. **Materials, Structures & Equipment.** Necessary materials should be on hand before each haul-out. Arrangements for storage of materials must be coordinated with the Harbormaster. Users and vendors may bring in vehicles, trailers, or set up temporary structures that fit within the dry storage site of their vessel. Unless otherwise approved, the structures must be removed after the vessel is launched. Mobile homes, travel trailers, or RVs will not be allowed without approval. If the project requires more space for project lay-down, space will be provided as available and charges will reflect actual square foot usage.
21. **Alcohol/Drug-Use in Facility:** No alcohol or drugs shall be consumed/allowed in the boatyard or aboard vessels in the boatyard.
22. **Fires:** No open fires are permitted aboard vessels or in the boatyard.
23. **Children:** Children, under the age of 12, must be accompanied by an adult at all times.
24. **Pets:** All animals must be leashed and cleaned up after per Homer City Code.
25. **Live-a-boards:** No one will live aboard a vessel in dry moorage without consent of the Harbormaster.
26. **Liability:** The City shall not be liable for death or injury to persons, or damage to property, upon the vessel, yard facilities or premises adjacent thereto arising from any cause other than the willful misconduct of the City. Vendors shall indemnify and hold the City and its officers and employees harmless from all claims for death or injury to persons, or damage to property, arising from their acts or omissions, their agents, service providers/vendors, crew, employees, or invitees.
27. **Refusal of Service/Access:** The City reserves the right to refuse access to Vendors that: (a) do not have a current Alaska Business License, (b) fail to register for, collect, and remit sales tax, (c) lack sufficient insurance, (d) fail to comply with the City's Marine Repair Facility policies and Best Management Practices (BMPs), or (e) fail to comply with safety practices.
28. **Default in Compliance; City's Remedies:** Failure to adhere to the City's policies and best management practices can result in unsafe actions and environmentally harmful activities. When violations are observed by City staff, intentional or otherwise, work will be stopped until corrective measures are taken. If Vendor fails to properly follow and adhere to these practices/policies and/or their agreement with the City, or fail to pay fees or charges for more than thirty (30) days after the due date, the City may exercise any available remedy, including without limitation to terminate their Vendor Agreement.
29. **No Waiver:** The failure of the City to insist upon strict performance of any provision of this agreement, or to exercise any right or remedy available on a breach thereof, or the acceptance by the City of full or partial payments during the continuance of any breach, shall not constitute a waiver of any provision of this agreement, and all provisions hereof shall continue in full force and effect. Nothing in this agreement shall constitute a waiver by the City of its right to arrest any vessel to enforce a maritime lien, or any other right or remedy.
30. **Notices.** Billings and notices will be mailed to User's address as set forth herein. User shall notify the City in writing of an address change.
31. **Interpretations; Amendment:** Alaska Law shall govern this agreement. The invalidity of any provision of this agreement shall not affect the validity of any other provision. This document, in concert with the Homer Marine Repair and Facility Best Management Practices and Policies constitutes the entire agreement of the parties. No amendment of this Agreement shall be valid unless in writing and signed by both parties.

I accept and acknowledge that I have read and agree to the terms on page 2 and 3 and will abide by the Homer Marine Repair Facility Policies and Best Management Practices (BMP). I shall take precautions to prevent pollution to the air, ground and water. Should there be fees, fines, or cleanup required, I agree to pay such costs.

- I will abide by OSHA safety rules and regulations pertaining to my trade(s).
- I accept full responsibility for my activities in the boatyard and for the actions of my workers.
- I agree to have insurance covering my workmanship employees, as may be required by the terms and by the law.
- I understand that the name of my business will be available to boatyard users.

Vendor Initials: _____ Date: _____

APPENDIX C

Fee Schedule

HOMER MARINE REPAIR FACILITY FEE SCHEDULE

Please add 7.85% sales tax to fees *unless* otherwise noted
Fees Effective 1/1/2019

- Upland Dry Dockage: \$0.25/square foot per month (No Moorage Paid)
- \$0.20/square foot per month for vessels paying transient daily, monthly,
 semi-annual harbor moorage
- \$0.17/square foot per month for vessels paying annual harbor moorage

UPLAND DRY DOCKAGE FOOTPRINT CALCULATION – Charges are calculated as square feet, and are based on the overall length and beam of the vessel, plus a ten foot perimeter on all sides. If additional equipment is on site, it will be added to the total square footage.

- Beach Landing: \$1.50 per linear foot per calendar day
- Vendor Fee: \$150.00 per calendar year
- Harbor Labor: \$102.00 per hour/\$51.00 minimum
- Administration Fee: \$50.00 per month of Dry Dockage Use

A full list of fees can be found in the Port and Harbor Homer Terminal Tariff. Hard copies are available upon request or at <https://www.cityofhomer-ak.gov/port/port-homer-terminal-tariff-no-1>.

APPENDIX D
Work Plan Sample

Lucky Louie
F/V Sleepless Nights
1234 Main Street
Homer, AK 99603

Haul-out plan for the F/V Sleepless Nights:

Overview:

We plan to use the 19.3' at 4:21pm tide on October 15, 2015 to put the boat on the beach. Rawhide Boat Rollers will have their airbags on the beach and we will let the boat go dry on the bags. Rawhide will begin inflating the bags as soon as the tide recedes and begin moving the Sleepless Nights up the beach into the boat yard. We estimate that it may take two tides to roll the boat off the beach into the yard.

Once in the uplands, we will proceed to the location indicated by the Harbormaster and position the boat overtop of the ground cover that extends out from all sides of the vessel by 10'. Once in place, our crews will block the vessel and then the airbags will be deflated and removed.

Description of work to be performed:

At this time, we plan to repair the damage caused by grounding, pull the rudders, props and shafts, sandblast and paint, and then put it all back together with the last step being welding on Zincs. However, once we get the boat on blocks and are able to perform a thorough inspection, we may find other unanticipated damage. If more damage is found we may need to adjust our estimated timeline, but as it stands now we believe that our crew and contractors will be able to do this work within the two months that we have scheduled.

Haul maintenance:

Besides repairing the hull damage from the grounding, we plan to sandblast and paint the hull.

Mechanical:

We will be pulling the rudders, props, and shafts in this project. We will have the shafts turned at Strait Shooters Machine Shop and the propellers will be trued up by fairly honest Harry's Prop Shop.

Fabrication:

We intend to have the steel fabrication work done by Sparks A Lot Welding fabricators for hire.

Inspection:

Coast Guard MSD will inspect the fabrication work at various stages of completion and I, the vessel owner, will inspect the sandblasting and paint applications.

Work crew:

The work crew will be made up of a combination of my boat crew for the (unskilled labor) and the contractors that are hired from the city of Homer marine repair yard approved vender list to help with the skilled labor portions of the project.

At this time the contractors that I have made agreements with are welding Sparks A Lot Welding machining Strait Shooters Sandblasting/painting will be performed by Looking Good painters

Haul-out contractor and equipment:

We intend to hire Rawhides Boat Rollers to move the Sleepless Nights from the beach into the repair yard and then put us back into the water once the work is completed.

Containment plans and waste disposal:

- Welding mats will be laid down over the ground covering to protect it from welding and cutting damage.

- Work areas will be cleaned up daily by my boat crew to ensure that the work site is clean and that debris doesn't blow out onto the unprotected ground.
- After the fabrication work is complete, we intend to build a temporary shelter around the Sleepless Nights that will contain the dust caused by sandblasting. This area will be kept clean during the whole process. Exhaust air from the enclosure will be filtered to keep so that blasting dust does not escape into the environment.
- We plan to spray on the paint coatings with an airless spray rig once the hull is prepared. This will be done undercover as well so as to ensure there are no overspray issues and for coatings quality. We will rent a job site furnace to control the temp inside the covered work area.
- We will contract with Dumpyp's Refuse Disposal for a dumpster to be located on site.
- We have contacted KPB landfill to discuss the proper disposal of the hazardous waste that will be generated from the project (paint slops and thinner).
- All waste generated from this project will be disposed of properly in dumpsters provided by me for the project. None of our project waste will be disposed of in the harbor dumpsters or waste disposal locations at the harbor.
- We will also have a Port-A-Potty on site for the work crews to use during this project.

Launch date:

At this time it is our intention to complete our work and launch the Sleepless Nights on December 13, 2015 at 3:16pm on the 20.0' tide.

Additional information:

- As the owner of the Sleepless Nights, I will be the project manager for this project. I intend to be on site every day for the duration of this project to ensure quality and cost control. However, if I am called away for some unforeseen reason, my relief Captain, Wrong Side Sam (new nickname since the grounding) will take over the project in my place.
- I will post contact information on the project site and will follow the rules listed in and agreed to in the Homer Marine Repair Facility user agreement.
- I also plan to stage a 20' conex van next to the project for secure equipment storage, and we may need to have a small travel trailer on site to use as a warm-up shack depending on the weather.
- Materials and supplies we'll be purchased from local merchants.
- I have rented a vacation rental for crew housing for the duration of the project. No one will be living on board the Sleepless Nights while it's in the repair yard.

APPENDIX E

Haul-Out & Launch Estimate Worksheet



HOMER MARINE REPAIR FACILITY HAUL-OUT & LAUNCH ESTIMATE WORKSHEET

To better aid users of the haul-out facility, this estimate worksheet will help determine how a general cost of hauling a vessel out in the Homer uplands. The required 50% Security Deposit is based on the estimated costs, which is determined by the user's haul-out work plan and the Marine Repair Facility's fee schedule.

All charges are billed out on a monthly basis and payable to the Homer Harbor Office. Upland Dry Dock charges are calculated as square feet, and are based on the overall length and beam of the vessel, plus a ten foot (10') perimeter on all sides, including all appendages and additional space requested. Prices for the use of the City's beach for landing are based on the overall length of the vessel. Time spent on the beach prior to and after a haul-out is charged per day and will be included in the overall cost of the haul-out.

Example of Estimating Costs

The F/V Sleepless Nights is a 120' landing craft with a 40' beam, which pays Transient Annual moorage in the Homer Harbor. They plan on being hauled out for two months with the possibility of staying longer, and also need additional space for a 20' Conex.

It lands on the City's beach the day before their scheduled haul-out and spend a total of two calendar days on the beach. Beach Landing charges will be:

$$\text{Beach Landing: } \$1.50 \times 120' = \$180 \times 2 \text{ days} = \$360.00 + \text{tax } (\$27.00) = \$387.00$$

After being hauled out, the Sleepless Nights is charged per square foot, plus a ten foot perimeter on all sides. They also require additional space for a 20' Conex. Dry Dockage charges are billed out on a per month basis and will be:

$$\begin{aligned} 120' + 20' \text{ (10' on each side)} &= 160' \text{ overall length} \\ 40' + 20' \text{ (10' on each side)} &= 60' \text{ overall width} \\ 160' \times 60' &= 9,600 \text{ sq ft} + 20' \times 10' = 200 \text{ sq ft} = 9,800 \text{ overall square feet} \end{aligned}$$

$$\text{First Month: } 9,800 \times \$0.17 = \$1,666 + \$50 \text{ Admin Fee} = \$1,716 + \text{tax } (\$128.70) = \$1,844.70$$

$$\text{Second Month: } 9,800 \times \$0.17 = \$1,666 + \$50 \text{ Admin Fee} = \$1,716 + \text{tax } (\$128.70) = \$1,844.70$$

Halfway through the scheduled haul-out, unforeseen circumstances require an additional two weeks of work. The owner of the Sleepless Nights contacts the Harbormaster to confirm the delay will work with the haul-out schedule and to get the work plan changes approved. Further Dry Dockage charges will be:

$$\text{Third Month: } 9,800 \times \$0.17 = \$1,666 + \$50 \text{ Admin Fee} = \$1,716 + \text{tax } (\$128.70) = \$1,844.70$$

The launching date arrives and the Sleepless Nights is rolled out of the uplands onto the beach. The boat stays there for one calendar day as it waits for the next tide. An inspection by the Harbormaster of the uplands shows that the area was cleared properly by the vessel owner; no additional fees for cleanup will be charged. The second Beach Landing charges will be:

$$\text{Beach Landing: } \$1.50 \times 120' = \$180 \times 1 \text{ day} = \$180.00 + \text{tax } (\$13.50) = \$193.50$$

Total estimated costs for the Sleepless Nights hauling out are \$6,114.60. The 50% Security Deposit, paid at the time of scheduling, will be \$3,057.30. There being no defaults, this security deposit will be applied to the vessel's account.

APPENDIX F

Facility Overview





Memorandum

TO: MAYOR CASTNER AND CITY COUNCIL
FROM: RACHEL LORD, COUNCILMEMBER
DATE: DECEMBER 9, 2019
SUBJECT: NOVEMBER AML CONFERENCE TRAVEL REPORT

I was privileged to attend several days of the Alaska Municipal League fall conference along with several other Council members, the Mayor, and the City Manager. It's a whirlwind of activity, and an incredible opportunity to be in a room filled with other elected officials of all political and social stripes working for their communities across Alaska. These notes provide several highlights from my time in Anchorage.

On Tuesday night, I was honored to join Melissa, Renee, and Rachel from the Clerk's office as well as several Council members and the Mayor at the **Alaska Association of Municipal Clerks Annual Banquet**. I was impressed by the camaraderie and network of relationships amongst City Clerks serving municipalities across the State. It was also a pleasure to see Melissa take the gavel as the newly elected President of the Association.

Wednesday included a speech by **Speaker Bryce Edgmon** from the Alaska Legislature's House of Representatives; he acknowledged downstream impacts of State-level decisions and noted that we would likely be seeing a massive supplemental budget. He encouraged everyone to engage and participate in the state government. Company representatives from **Exxon Mobile** gave an interesting talk on global energy outlooks for the next twenty years, including a discussion of climate change and technology drivers on oil demand vs. lower carbon energy sources. AML Director **Nils Andresson** gave a talk on what unites our diverse municipalities across the State. Although we have many differences, we have strength in our commonalities - especially in clusters (i.e. those of us that are AK Marine Highway System communities, those with sales tax, those that participate in PERS, etc). He discussed four core elements including public safety, transportation & public works, education, and quality of life, and he also encouraged participation at the state level. He noted that we must change the nature of state-decision making to ensure it is a two-way road.

I attended a session on **Arctic City Infrastructure Indicators**, which included a panel of researchers looking at different aspects of circumpolar Arctic (and sub-Arctic) communities. I was dismayed (though not surprised) to hear estimates of hugely increasing costs associated with infrastructure and the melting of permafrost across much of Alaska. Good monitoring and communication, with pro-active efforts, were cited as opportunities to minimize costs. Members of the audience brought up and discussed impacts of increases in Arctic shipping. This was an interesting discussion in the room, however the panel didn't have much knowledge of Arctic/sub-Arctic port infrastructure and potentially dramatic changes on the horizon.

The session on **Cybersecurity** was well attended, and I joined the City Manager from Homer to learn more from folks in the cybersecurity/IT industry, the banking industry, the FBI, and municipal representatives. Two case studies really stuck out, both in their similarity and sneakiness, and the ability to exploit relatively sound internal practices. Reviewing internal controls for accounts payable was definitely a takeaway. Municipal representatives discussed the challenge to both provide for efficiency and excellent customer service AND to stop and slow down/question red flags.

Katie was on an excellent panel moderated by the Juneau City Manager, with the Chief of Staff from the Fairbanks North Star Borough, the Mayor of Kodiak, and an Anchorage Assemblymember discussing **Council/Manager relationships**. I really appreciated hearing the similarities, and differences, from other communities when it comes to navigating and balancing our different roles as Council, Mayor, and City Manager. Highlights for me included the importance of ensuring robust public process (especially when projects/issues increase in complexity), establishing and maintaining clear boundaries, mutual respect, and ongoing efforts to improve and sustain good communication.

It was inspiring to witness the next step in AML's statewide effort to establish a central point, independent of the state, to collect and distribute **online sales tax** in accordance with the *Wayfair* decision. All participating municipalities will maintain their same tax rate, exemptions, and boundaries. AML is working with third parties on the software and back end. The group will be overseen by a Board of representatives from participating municipalities. This is a huge effort, and will help to level the playing field between online and brick-and-mortar stores in our communities by ensuring sales tax rates are the same at all vendors in line with local tax codes. Participation is completely optional; the City of Homer and the Kenai Peninsula Borough are both participating.

On Thursday night I attended the **AML Banquet** where awards were presented, Tim Navarre gave a wild speech invoking every political party and ended with a song, Vic Fisher lauded local government and brought tears to my eyes for his dedication to our State, good government, and communities across Alaska, and we listened to a legislative panel with **Senate President Cathy Geissel, Senator Tom Begich, and Representative Lance Pruitt**. It was interesting to hear their different views on issues, and their presence from the State Legislature was appreciated. In addition to them and Speaker Edgmon, I saw **Sen. Revak, Sen. Kiehl, Rep. Foster, and Rep. Shaw** in attendance. There may have been others that I missed - it was great to see their engagement with AML.

I also attended the **Legislative Committee** meeting on Thursday afternoon, where each position statement and resolution was reviewed and discussed, as needed, prior to the full membership meeting the following day. The Municipality of Anchorage had brought forward a last-minute resolution encouraging a general obligation bond be put on the ballot to support port & harbor infrastructure projects statewide. This was discussed at length, and was included with the resolutions for consideration by the full membership. It may be something to keep an eye on for the City to consider supporting and participating with if it moves forward with the legislature. There are many resolutions in the AML packet, and I look forward to reviewing these and working with Council and the community to bring forward those that impact our community so we can participate in further legislative conversations in Juneau.



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

December 9, 2019

RE: Resignation

Mayor Castner and Homer City Council,

Please consider this letter my official notice of resignation from my position as City Manager in Homer, Alaska. I have accepted a position as the Public Works and Engineering Director at the City and Borough of Juneau. This is not goodbye. I plan to spend the next few months with the City advancing key projects in order to ensure a solid foundation for my successor. Chief among them is institutionalizing some of the administrative gains we have made in communicating deferred maintenance, fleet management, project close out and the outcomes of the upcoming Council retreat. I have included recommendations for next steps in a memo to Council.

I will always call Homer home and am forever grateful for this special Cosmic Hamlet by the Sea. This town has raised me, the people have supported me and taught me about integrity, transparency and the value of relationships.

I want to give special thanks to the City of Homer employees whose work ethic and knowledge of their job has allowed me to do mine. You have a great organization and will have no trouble finding a qualified person to lead it.

I look forward to working with the Council to ensure a successful recruitment process and smooth transition.

Sincerely,

Katie Koester



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum 19-163

TO: Mayor Castner and Homer City Council
FROM: Katie Koester, City Manager
DATE: December 9, 2019
SUBJECT: City Manager Search – Next Steps

The purpose of this memo is to give Council guidance on next steps for hiring a new City Manager.

My contract requires 60 days' notice, which would make my last day of employment February 7th. However, my new employer, the City and Borough of Juneau, has agreed to delay the start date and allow me to help the City of Homer through this transition.

In the past, Council appointed a City Manager Selection Committee consisting of the Mayor, City Clerk, Human Resources Director, and two Council members to work through the recruitment and selection process. More recently, when I was hired, the full Council served as the selection committee.

The advertising period may take several months, however you can consider opening up an internal search for a shorter time frame. Alaska Municipal League and the International City Manager Association both have job posting sites, and there are national executive search firms that provide the service. Human Resources Director Browning helped Council through the last City Manager search and will be an invaluable resource.

Recommendation: Select a date for a special meeting to establish a recruitment process and time line. Provide direction to staff in preparation for the special meeting.

Enc: City Manager Job Description

**CITY OF HOMER
JOB DESCRIPTION AND SPECIFICATIONS**

CITY MANAGER

| | | | |
|--------------------|----------------|------------------------|---------------------------------------|
| Department: | Administration | Sub-Department: | |
| Reports To: | City Council | Backed Up By: | Acting City Manager |
| Supervises: | Assigned Staff | Backs Up: | |
| Pay Range: | Contract | Classification: | Full-Time Contract Exempt Position |

GENERAL FUNCTIONS

Serves as chief administrative officer of the city and is responsible for the effective and efficient administration of all city services through the supervision of administrative staff and department heads. Performs duties under the directives of City laws and ordinances within policy guidelines from the City Council. Assists the City Council by providing prompt and accurate information on policy and legislative decisions. Maintains contact with the citizens of Homer to determine problems and provide information. Administers the City of Homer Personnel Regulations as adopted by the City Council.

JOB FUNCTIONS/MAJOR ACTIVITIES

1. Serves as chief administrative officer of the city and is responsible for the effective and efficient administration of all city services.
2. Supervises the enforcement of municipal law and carries out the directives of the governing body.
3. Develops and participates in community relations programs to explain the activities and functions of the City and to answer questions and investigate complaints from the public.
4. Exercises custody over all real and personal property of the municipality.
5. Aids the general planning of City Council meetings, content of the agenda and assists the Council in obtaining requested information.
6. Appoints directors of departments and directs the internal administration and operation of all City Departments through department directors.

7. Responsible for hiring and terminating all City employees subject to the provisions of the City of Homer Personnel Regulations.
8. Coordinates with outside consultants, federal, state and borough personnel and agencies as required.
9. Remains current in regard to federal, state and local laws, regulations and ordinances and pending legislation governing municipal operations.
10. Responsible for overall budget preparation and capital improvement program, as well as their presentation to the City Council and executes budget and capital improvement program as adopted. Makes monthly written reports to the council on city finances and operations.
11. Performs all other duties as required by the City Council and as prescribed by Homer Municipal Code and AS 29.20.500.

SKILLS, KNOWLEDGE AND ABILITIES

B.A. degree in business or public administration or related field required, relevant Master's degree desired. Minimum of five years of management and supervisory experience required, municipal management experience desired. Knowledge of the needs and special requirements of a coastal community ie; fishing and tourism issues desired. Possess proved leadership ability. Knowledge of the Alaska State Legislative process. Familiarity with water and wastewater utility and port and harbor operations.

Ability to: read, analyze and interpret common scientific and technical journals, financial reports and legal documents; respond to inquiries or complaints from the public, regulatory agencies or members of the business community; write speeches and articles for publication that conform to prescribed style and format; effectively present information to top management personnel, public groups, boards and commissions and the City Council.

DECISION MAKING RESPONSIBILITIES

Frequent exercise of independent judgment and initiative is required. Has overall responsibility for all city-owned property and facilities. Budgetary responsibility for an \$18 million operating budget.

SUPERVISORY AUTHORITY

Has direct responsibility (hire, terminate and direct) of the Department Directors and Administrative Staff.

EXTERNAL VISIBILITY/CONTACT

Frequent contact with public in community relations. Requires well developed written and oral communication skills and courtesy in maintaining effective relationships with the public, City Council and other municipal, state, and federal officials.

WORKING CONDITIONS

Office environment. Frequent attendance is required at City Council and other meetings held at night or out of town.



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

MEMBERS

November 15, 2019

Alaska State
Chamber of Commerce

Regulatory Commission of Alaska
701 West 8th Avenue, Suite 300
Anchorage, AK 99501

Chugach Alaska
Corporation

City of Cordova

City of Homer

City of Kodiak

City of Seldovia

City of Seward

City of Valdez

City of Whittier

Community of
Chenegga

Community of
Tatitlek

Cordova District
Fishermen United

Kenai Peninsula
Borough

Kodiak Island
Borough

Kodiak Village Mayors
Association

Oil Spill Region
Environmental
Coalition

Port Graham
Corporation

Prince William Sound
Aquaculture
Corporation

Re: In the Matter of the Joint Application Filed by BP PIPELINES (ALASKA) INC. and HARVEST ALASKA, LLC for Approval of the Transfer of Certificate of Public Convenience and Necessity No. 311 and Operating Authority Thereunder from BP Pipelines (Alaska) Inc. to Harvest Alaska, LLC. Docket No. P-19-017

Dear Members of the Regulatory Commission of Alaska:

The Prince William Sound Regional Citizens' Advisory Council ("PWSRCAC") submits the following comments on the Notice of Pipeline Application issued by the Regulatory Commission of Alaska ("RCA" or "Commission") on October 4, 2019,¹ and pursuant to 3 AAC 48.654, hereby files its comments regarding the Joint Application for Approval of Transfer of Certificate of Public Convenience and Necessity ("CPCN") No. 311 and Operating Authority thereunder from BP Pipelines (Alaska) Inc. ("BPPA") to Harvest Alaska, LLC ("Harvest"), filed on September 27, 2019 ("Application"). Specifically, these comments apply to Docket No. P-19-017.

The basis of PWSRCAC's concerns is the lack of publicly available information to determine whether Hilcorp and/or Harvest is financially fit, willing, and able to safely and reliably operate the VMT and associated tankers. PWSRCAC's comments, suggested actions, and requests, which are detailed below, focus on four major areas of concern: (1) operational implications, including those related to Hilcorp's history of regulatory noncompliance; (2) adequacy of resources available for dismantlement, removal & restoration; (3) public access to information sufficient to assess whether the transfer of operating authority is in the best interest of the public; and (4) conditions required to ensure the transfer is in the public's best interest.

BACKGROUND

BPPA and its affiliates (collectively "BP") have negotiated a transaction with Hilcorp Alaska, LLC ("Hilcorp"), under which all of BP's Alaska-related assets and interests, including those in the Trans Alaska Pipeline System ("TAPS"), will be transferred to Hilcorp or its affiliates. As part of the transaction, the Standard Oil Company is selling its entire stock ownership interest in BP

¹ As supplemented by notice issued October 23, 2019, extending the deadline for submitting comments on the applications to November 15, 2019.

Exploration (Alaska) Inc. to Hilcorp. In conjunction with the proposed transaction, BPPA and Harvest Alaska, LLC (“Harvest”), a wholly-owned subsidiary of Hilcorp, have filed a joint application for approval of the transfer of the following assets and interests to Harvest: (1) BPPA’s RCA issued CPCN No. 311 for the operation of BPPA’s interest in TAPS, and (2) BPPA’s entire interest in TAPS.

PWSRCAC is an independent nonprofit corporation whose mission is to promote environmentally safe operation of the Valdez Marine Terminal (“VMT”) and associated tankers. PWSRCAC is guided by the Oil Pollution Act of 1990 (“OPA 90”) and its contract with Alyeska Pipeline Service Company (“Alyeska”). PWSRCAC’s 18-member organizations are communities in the region affected by the 1989 *Exxon Valdez* oil spill, as well as commercial fishing, aquaculture, Alaska Native, recreation, tourism, and environmental groups and the Alaska State Chamber of Commerce. PWSRCAC is certified by the United States Coast Guard as an alternative voluntary advisory group for Prince William Sound under 33 U.S.C. § 2732(o) of OPA 90,² along with other provisions of OPA 90, which provides for the PWSRCAC to review, study, monitor, and thereby offer advice and recommendations regarding the activities of terminal facilities including the VMT and crude oil tankers in the Prince William Sound region. Accordingly, the financial and organizational capacity of Hilcorp and/or Harvest to properly resource VMT and tanker operations and to prevent and respond to oil spills and other safety or environmental incidents is of critical importance to the citizens of PWSRCAC’s region.

The Application, if granted, will result in the transfer of operational control over TAPS from one of the world’s largest and most well-resourced oil companies to a mid-sized, privately held company with no record of successfully and safely operating comparable facilities. The RCA’s decisions concerning whether to approve and what conditions are required for approval of the Application will affect the development of Alaska’s resources for the foreseeable future.

Hilcorp and/or Harvest has requested a waiver of the requirement to provide audited financial statements under 3 AAC 48.625(a)(7)(B). PWSRCAC has concerns whether Hilcorp and/or Harvest are financially fit, willing, and able to safely and successfully operate the VMT and associated tankers, and recommends and advises Hilcorp and/or Harvest be required by the RCA to show it has the financial capacity to safely, successfully, and reliably operate the assets being acquired.

Further, as private companies, Hilcorp and/or Harvest have no ongoing obligation to publicly and periodically disclose audited financial statements. If the RCA determines they are fit, willing, and able to perform at the time of the Application, PWSRCAC further recommends and advises Hilcorp and/or Harvest be required to annually file with the RCA audited financial statements that would be available to the public. This periodic and public financial reporting obligation will ensure a similar level of transparency as has existed with BP and would further ensure Hilcorp and/or Harvest remain fit, willing, and able to perform during the entire period of their ownership of TAPS.

TAPS is one of the largest and most strategically important pipeline systems in the world and is the exclusive means of transporting Alaska North Slope (“ANS”) crude to Valdez, Alaska for further transport to market. Any disruption to the operation of the

² 33 U.S.C. § 2701, *et seq.*

VMT or the ability to respond to an oil spill like the *Exxon Valdez* would devastate the citizens and communities PWSRCAC is authorized and mandated by law to help protect through its monitoring and advising of industry and regulators.

In light of the importance of TAPS to Alaska and its citizens, and the nature of Hilcorp and/or Harvest and its affiliates as operators, the PWSRCAC recommends and advises that the RCA should open a docket to fully examine the implications of the proposed transfer of operating authority as well as establish conditions that ensure the transfer is in the “best interest of the public.”³

COMMENTS

A. Operational Implications

The TAPS, including the VMT and tanker loading and escort operations, is operated by Alyeska, which is a jointly owned company created by the TAPS Carriers⁴ and is directly responsible for all TAPS maintenance, operations, legal, accounting, and personnel activities. PWSRCAC’s understanding is that Alyeska does not directly deal with shippers or collect tariff revenue, and receives all of its funding through cash calls from the TAPS Carriers.⁵ BPPA⁶ is the largest of the TAPS Carriers and, as such, may have greater influence (i.e., holds effective veto power) over Alyeska management decisions, which directly impact operations at the VMT and associated tanker operations. Accordingly, Hilcorp’s acquisition of BP’s interest in TAPS will give Hilcorp and/or Harvest *de facto* control over Alyeska management decisions and operations. BPPA has provided strong leadership in the implementation of safety, maintenance, environmental, and quality assurance programs throughout its tenure as a TAPS Carrier. With the implementation and maintenance of these programs, VMT and tanker operations have rarely been disrupted and have resulted in relatively few environmental or safety incidents.

Assurance that the integrity of operations, maintenance, and environmental safety of the VMT and associated tanker operations is critical. The PWSRCAC advises that Hilcorp and/or Harvest should be required by the RCA to show it has the operational and financial capacity to continue to support safe operation of the VMT and associated tankers. Comments by Hilcorp representatives assert that Hilcorp and/or Harvest intends to reduce operating costs, which would likely adversely impact funding for programs and personnel dedicated to safety, maintenance, and quality control for the VMT and associated tankers.

The PWSRCAC is concerned over Hilcorp’s documented track record of significantly reducing operating costs. This is a particular concern in light of its history of regulatory noncompliance⁷ and safety and environmental incidents, which include the

³ AS 42.06.305.

⁴ The TAPS Carriers are currently BPPA; ConocoPhillips Alaska Transportation Inc. (“CPTAI”); ExxonMobil Pipeline Company (“EMPCo”); and Unocal Pipeline Company (“Unocal”), which has filed an application with the Commission to transfer Unocal’s ownership in TAPS to BPPA, CPTAI, and EMPCo (Docket P-19-018).

⁵ See *Re BP Pipelines (Alaska) Inc.*, 146 FERC ¶ 63,019 at n.8 (2014).

⁶ BPPA’s current ownership interest in TAPS is 48.4410 percent of the Pipeline and 47.5881 percent of the VMT tankage. (Application at 1, n.1).

⁷ See Exhibit A, AOGCC Notice of Proposed Enforcement (November 12, 2015) at 5 (“The disregard for regulatory compliance is endemic to Hilcorp’s approach to its Alaska operations.”); (*continued p 4*)

death of an employee in 2018, the “near deaths of three rig personnel” in 2015,⁸ and a 2017 gas leak in Cook Inlet that remained unrepaired for over four months while it leaked roughly 100,000 cubic feet of natural gas per day.⁹ More recently, Hilcorp is reportedly responsible for a 302-gallon crude oil spill on August 3, 2019, and a 126-gallon crude oil spill on October 20, 2019.¹⁰ According to Alaska Department of Environmental Conservation records, over the course of its operations in Alaska, which began in 2012, Hilcorp **is responsible for over 90 crude oil spills or discharges**¹¹ (emphasis added).

If Hilcorp and/or Harvest were to operate the VMT and associated tankers in the same manner as its other oil and gas facilities, PWSRCAC would be concerned that operations at the VMT would be exposed to an unacceptable risk of safety and environmental issues in addition to interruptions to service. The PWSRCAC advises that Hilcorp and its affiliates’ records of regulatory noncompliance and disproportionately high number of safety and environmental incidents while operating gas and oil production and transportation systems much smaller than TAPS warrants heightened Commission scrutiny of the Application and the imposition of conditions that ensures Hilcorp/Harvest will safely and reliably operate the VMT and associated tankers. Alaska and its residents should not be subjected again to the trauma and economic and environmental injury of a major oil spill because of the RCA agreeing to unacceptably high risks from such noncompliance and a high number of safety and environmental incidents without remedial action by the RCA.

B. Dismantlement, Removal & Restoration Implications.

In addition to the operational and safety implications discussed above, the Application also involves the Dismantlement, Removal and Restoration (“DR&R”) obligations of Hilcorp and/or Harvest and BPPA. According to the Application, BPPA will retain all of its DR&R obligations and the expenses incurred in relation to those obligations.¹² PWSRCAC is concerned whether the RCA will have jurisdictional authority over BPPA to ensure that the funds to complete DR&R are available at the end of TAPS economic life at the time DR&R obligations become due. Ensuring that adequate resources are available for DR&R purposes is essential to protecting the interests of the Members of the PWSRCAC and the public at large. Accordingly, PWSRCAC recommends that the RCA require additional assurances from both BPPA and Hilcorp/Harvest regarding the duty to maintain sufficient funds in escrow or otherwise available to fully complete DR&R responsibilities and obligations.

See Exhibit B, AOGCC Decision and Order No. 80 (April 10, 2013) at 3 (“The aggressiveness with which Hilcorp is moving forward with operations appears to be contributing to regulatory compliance issues. Since Hilcorp commenced rig work in Alaska in April 2012, AOGCC Inspectors have observed rig crews unable to perform required BOPE component tests, rig crews not trained in use of well control equipment, and rigs with missing required equipment. Hilcorp’s compliance history from April through December 2012—including this enforcement action—shows 13 separate enforcement actions of varying severity since April 2012.”).

⁸ Exhibit A at 4.

⁹ <https://dec.alaska.gov/spar/ppr/spill-information/response/2017/04-hilcorp/>.

¹⁰ <https://dec.alaska.gov/Applications/SPAR/PublicMVC/PERP/SpillDetails?SpillID=64071>

¹¹ <https://dec.alaska.gov/Applications/SPAR/PublicMVC/PERP/SpillSearch> (Hilcorp spill data is available via this search mechanism).

¹² Such BPPA-retained DR&R obligations do not include those required or incurred as a result of modifications made to TAPS after the BPPA-Harvest transaction is completed.

C. The RCA Should Require Public Access to Information Sufficient to Assess Whether the Transfer of Operating Authority is in the Best Interest of the Public.

In order for the RCA to determine whether the transfer of operating authority to Hilcorp/Harvest is in the “best interest of the public,”¹³ commenters should have the full opportunity to review financial and operational information necessary to make meaningful comments. Specifically, the PWSRCAC advises and recommends to the RCA that Hilcorp and its affiliates be required to publicly provide detailed information regarding:

- (1) Hilcorp and/or Harvest’s financial capacity to properly resource operations and respond to oil spills or other environmental and safety incidents;
- (2) Hilcorp and/or Harvest’s proposed plan for delivering North Slope crude oil to the West Coast including whether it will use the tanker fleet previously under contract to BP;
- (3) Hilcorp and/or Harvest’s plans and policies to ensure that proper safety, maintenance, and quality assurance programs will continue during and after the transition of operational control;
- (4) Hilcorp and/or Harvest’s estimates for increased throughput and plans to accommodate such increases; and
- (5) Hilcorp and/or Harvest’s proposed staffing levels and analysis of proposed operating cost reductions.

Because Hilcorp and its affiliates’ financial information has not been made available to the public, at this time, there is no mechanism for PWSRCAC or any other interested member of the public to review Hilcorp and its affiliates’ information to ensure and verify financial and operational capabilities.

Absent Hilcorp and its affiliates’ actual financial and operational plans, it is impossible for the public to adequately assess whether transfer of operating authority from BPPA to Hilcorp and/or Harvest is in the best interest of Alaska or to identify and make informed judgments about appropriate terms, conditions, and limitations required to ensure that it is. Accordingly, PWSRCAC advises and recommends that the RCA require Hilcorp to produce the financial information discussed in these comments and that the public have access to that information to ensure that its best interests are adequately protected.

D. The RCA Should Require Terms and Conditions Sufficient to Ensure the Transfer of Operating Authority is in the Public’s Best Interest.

Under AS 42.06.305, a regulated pipeline’s operating authority may not be transferred without the prior approval of the Commission; and, additionally, the Commission’s decision on an application to transfer a controlling interest of a pipeline carrier holding a CPCN, such as requested in the Hilcorp and/or Harvest/BPPA Application, “**shall be based on the best interest of the public.**” The Commission has the authority under AS 42.06 to prescribe such requirements as are necessary for the safety, accommodation, and convenience of the public and a pipeline’s users¹⁴ and to place

¹³ AS 42.06.305.

¹⁴ AS 42.06.310.

terms and conditions on the transfer of operating authority sufficient to ensure that the best interest of the public is protected.¹⁵

In 1999, when BP and ARCO proposed to merge their Alaska assets, including ownership in TAPS, there was a Charter for Development of the Alaskan North Slope that was entered into between the State of Alaska, BP, and ARCO¹⁶. The State of Alaska had determined that its support of this merger was contingent upon certain conditions, including but not limited to, environmental and community commitments. Commitments were related to management and operations, including providing a safe environment; maintaining training and qualifications for personnel; and facility and vessel operations, maintenance, and management procedures, among other things. PWSRCAC advises that additional protections, using the State of Alaska's 1999 as an example, should be identified as conditions contingent upon the proposed transfer to maintain programs, personnel, and resources to safely and reliably operate the VMT and associated tankers.

PWSRCAC recommends that the RCA invoke its regulatory powers to:

- (1) set a specific reasonable time frame for the filing of petitions of interested persons to intervene into this proceeding;
- (2) permit interveners to participate in an evidentiary process to establish a complete record in this proceeding;
- (3) establish conditions for approval of the Application consistent with the recommendations set forth in these comments and specifically incorporating those conditions suggested in the State of Alaska's 1999 Charter for Development of the Alaskan North Slope relating to ongoing obligations to maintain programs, personnel, and resources to safely and reliably operate the VMT and associated tankers;¹⁷ and
- (4) require that Hilcorp and its affiliates and BPPA maintain and annually publicly report audited financial statements to demonstrate financial resources sufficient to respond to environmental and safety issues and potential catastrophes and to satisfy DR&R responsibilities.¹⁸

CONCLUSION

Hilcorp and/or Harvest's proposed acquisition of BPPA's interest in TAPS and the conditions associated with this acquisition have wide-ranging implications that are of crucial importance to the safe and reliable operation of the VMT and associated tankers that transit Prince William Sound. Accordingly, the PWSRCAC recommends that

¹⁵ AS 42.06.140 (Providing the RCA the authority to place "necessary and reasonable terms, conditions and limitations" on permits for oil pipeline facilities.)

¹⁶ See Exhibit C: 1999 Charter for Development of the Alaskan North Slope between the State of Alaska, BP and ARCO.

¹⁷ See, e.g., the Commission's analysis of TAPS Carriers demonstrating "by their past performance and current standing with the Commission that they, *with support of their corporate parents*, have the required expertise and financial fitness to provide common carrier pipeline service on TAPS." *Re Mobil Alaska Pipeline Co.*, Order P-00-007(1) at 5-6 (Mar. 19, 2001) (emphasis added).

¹⁸ Such protections should include mechanisms for the enforcement of BP's DR&R obligations, including those owed to the public for over collection of DR&R funds.


the RCA require production of the information identified in these comments and allow intervening parties to participate in a hearing to fully develop a record. The view of the PWSRCAC is that only upon analysis of a full record can the RCA fully meet its regulatory duty to determine whether the transfer of operating authority for Alaska's single most important infrastructure system is in the best interest of the public and what terms and conditions are required to ensure the safe and reliable operation of the VMT and associated tankers.


Alyeska Pipeline Service Company, in particular its Ship Escort/Response Vessel System, is recognized as a world-class oil spill prevention and response system. Any actions that would diminish safeguards put in place after the 1989 *Exxon Valdez* oil spill would be viewed unfavorably by PWSRCAC and the entities and communities that are members of this organization and would not be in the best interest of the public.


The PWSRCAC recognizes the serious challenges that the RCA has before it regarding the Application and stands ready to offer further comments as the RCA works to responsibly consider and act upon the Application, Docket no. P-19-017.

Thank you for your consideration of these comments.

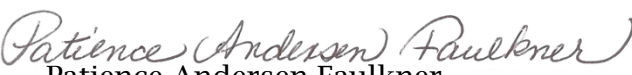
Sincerely,



Robert Archibald, President of
PWSRCAC and Executive Committee
Member, Representative from the City
of Homer



Wayne Donaldson, Treasurer of
PWSRCAC and Executive Committee
Member, Representative from the City
of Kodiak



Bob Shavelson, Secretary of PWSRCAC
and Executive Committee Member,
Representative from the Oil Spill Region
Environmental Coalition



Peter Andersen, Executive Committee
Member-at-Large, Representative from
the Chugach Alaska Corporation



Patience Andersen Faulkner,
Representative from Cordova District
Fishermen United


Amanda Bauer, Vice President of
PWSRCAC and Executive Committee
Member, Representative from the City
of Valdez


Thane Miller, Executive Committee
Member-at-Large, Representative from
the Prince William Sound Aquaculture
Corporation


Rebecca Skinner, Executive Committee
Member-at-Large, Representative from
the Kodiak Island Borough


Robert Beedle, Representative from the
City of Cordova

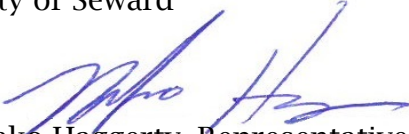

Michael Bender, Representative from
the City of Whittier



Rob Chadwell, Representative from the City of Seward



Dorothy Moore, Representative from the City of Valdez



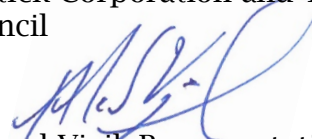
Mako Haggerty, Representative from the Kenai Peninsula Borough




Roy Totemoff, Representative from Tatitlek Corporation and Tatitlek IRA Council



Luke Hasenbank, Representative from the Alaska State Chamber of Commerce



Michael Vigil, Representation from Chenega Corporation and Chenega IRA Council



Conrad Peterson, Representative from the Kodiak Village Mayors Assn.



Kirk Zinck, Representative from the City of Seldovia

Enclosures:

Exhibit A: November 12, 2015 Alaska Oil and Gas Conservation Commission notification of proposed enforcement action

Exhibit B: April 10, 2013 Alaska Oil and Gas Conservation Commission Decision and Order

Exhibit C: December 2, 1999 Charter for Development of the Alaskan North Slope

Cc: The Honorable Mike Dunleavy, Governor of Alaska

Honorable Members of the Alaska State Senate, 31st Alaska State Legislature

Honorable Members of the Alaska House of Representatives, 31st Alaska State Legislature

Rich Novcaski, Vice President and Pipeline Manager
Harvest Alaska, LLC
3800 Centerpoint Drive, Suite 1400
Anchorage, Alaska 99503
rnovcaski@harvestmidstream.com

Michael S. McLaughlin
Guess & Rudd P.C.
1029 West Third Avenue, Suite 400
Anchorage, Alaska 99501
mmclaughlin@guessrudd.com



THE STATE
of ALASKA
GOVERNOR BILL WALKER

Alaska Oil and Gas
Conservation Commission

333 West Seventh Avenue
Anchorage, Alaska 99501-3572
Main: 907.279.1433
Fax: 907.276.7542
www.aogcc.alaska.gov

November 12, 2015

**CERTIFIED MAIL –
RETURN RECEIPT REQUESTED
7015 0640 0006 0779 5982**

Mr. David Wilkins
Senior Vice President
Hilcorp Alaska, LLC
3800 Centerpoint Drive, Suite 1400
Anchorage, AK 99503

Re: Docket No. OTH-15-025
Failure to Notify of Changes to an Approved Permit
Failure to Maintain a Safe Work Environment
Hilcorp Rig ASR1
MPU J-08A (PTD 1991170)

Dear Mr. Wilkins:

Pursuant to 20 AAC 25.535, the Alaska Oil and Gas Conservation Commission (AOGCC) hereby notifies Hilcorp Alaska, LLC (Hilcorp) of a proposed enforcement action.

Nature of the Apparent Violation or Noncompliance (20 AAC 25.535(b)(1)).

Hilcorp has violated the provisions of 20 AAC 25.507 (“Change of an approved program”) while performing workover operations with Automated Service Rig #1 (ASR1) at Milne Point Unit (MPU) well J-08A. Hilcorp has also violated the provisions of 20 AAC 25.526 (“Conduct of operations”) by failing to follow “good oilfield engineering practices” during those workover operations. In addition, Hilcorp has violated the provisions of 20 AAC 25.285 (“Secondary well control for tubing workover operations: blowout prevention equipment requirements”) by failing to report blowout prevention equipment test results within five days.

Basis for Finding the Violation or Noncompliance (20 AAC 25.535(b)(2)).

Hilcorp ASR1 commenced workover operations at MPU J-08A on September 24, 2015. Sundry approval 315-527 dated August 31, 2015 authorized Hilcorp to pull a failed electric submersible pump (ESP) and rerun a new ESP completion. As part of the workover procedure, a fill cleanout step was included prior to running the new ESP and 2-7/8-inch production tubing. Only seawater was referenced in the sundry work procedure for the planned fill cleanout. Daily

reports for September 24-25, 2015 show the following well work was completed in preparation for the fill cleanout: ESP completion had been removed; a fill cleanout string was run in the well to 6535 feet measured depth consisting of 3395 feet of 2-3/8-inch workstring and 3140 feet of 2-7/8-inch tubing; the annular preventer was closed on the 2-7/8-inch tubing; equipment was rigged up to perform the fill cleanout. The fill cleanout began pumping operations at 2:30 am on September 25, 2015.

Hilcorp notified AOGCC on September 25, 2015 of an incident at MPU J-08A which occurred earlier that day while performing a well cleanout with nitrogen. The incident was described as follows:

- three ASR1 personnel were reported to have been “overcome by something” in the enclosed mud trailer¹ and were evacuated from the rig;
- well status is shut-in;
- a safety shut down has been imposed on the rig;
- fluid returns from the well cleanout operation were designed to flow to outside tanks staged near the well;
- investigation is underway.

An AOGCC Inspector was sent to the location on September 25, 2015 to gather information about the workover operation and incident. Upon arrival he interviewed Hilcorp’s Wellsite Manager and others, checked records, observed how equipment was staged at the location, noted the position of choke manifold and blowout preventer stack valve positions, and attempted to determine the flowback piping arrangement from the well to the storage tanks (external and inside the mud trailer). The intended fill clean out approach was described to the AOGCC Inspector as pumping nitrogen and seawater to displace the well followed by 100 barrels of seawater pumped in two 50-barrel increments.² The Inspector’s review of the ASR1 rig files confirmed that the work procedure was the same as was attached to the AOGCC’s approved sundry. There was no written procedure available at the location that detailed the fill cleanout operation. Reports show that Halliburton finished pumping the nitrogen at 6:30 am September 25, 2015 and was released from the location before the AOGCC Inspector arrived. The AOGCC Inspector was also told the three injured workers had been evacuated from the location for further medical evaluation and had been released to go back to work.

¹ ASR1 mud trailer is a fully enclosed module consisting of mud tanks, fluid management equipment, and mud pumps. Mud tanks are housed in a separate from the choke and kill manifolds. A gas buster was also located inside the mud trailer with gas vent piped through the roof to outside.

² The well cleanout was designed to pump down the tubing-casing annulus with return flow to surface up the tubing (workstring) to an external flow back tank. Records of the cleanout operations indicate 200,000 standard cubic feet of nitrogen were pumped on 9/25/2015 (Halliburton Job Log #902780922) and that was mixed with 207 barrels of 8.5 pounds per gallon seawater (Hilcorp’s *Comprehensive List of Causes; Incident Investigation Events Sequencing Chart*). Hilcorp reports that the first 50-barrel seawater pill was successfully pumped (Hilcorp’s *Internal Incident Investigation*). Unexpected pressure was encountered after pumping approximately 4 barrels of the second 50-barrel seawater pill causing rig personnel to shut down the pumping operation, and realign the flow path to bleed pressure from tubing-casing annulus of MPU J-08A. Records show the flow path was adjusted to allow the returning well bore fluids to flow through the choke manifold valves, gas buster and finally to tanks all within the enclosed mud trailer (instead of bleeding to the exterior tank).

AOGCC notified Hilcorp by letter dated October 2, 2015 that it was investigating whether rig workover operations at MPU J-08A comported with the regulations. Information requested in the AOGCC letter was provided by Hilcorp on October 6, 2015. A second AOGCC request for information dated October 8, 2015 was responded to by Hilcorp on October 9, 2015. Hilcorp initially provided process and instrumentation diagrams for the fill cleanout of MPU J-08A on October 2, 2015. Diagrams that more accurately show the flow path for fluids pumped into and fluids returned from the well were provided on October 26, 2015.

Hilcorp ASR1 was equipped with a gas buster located in the enclosed mud trailer above the mud tanks. A gas buster is a simple separator vessel used to remove free or entrained gas from fluids circulated in the wellbore, such as mud used during drilling operations. The gas buster typically comprises a vessel containing a series of baffles with a liquid exit on the bottom and a gas-vent line at the top of the vessel.³ Investigation revealed that the gas buster dump valve was left open during the MPU J-08A workover. The open valve provided a flow path for the nitrogen in the return fluids to enter the enclosed mud trailer and displace oxygen to a deadly level.^{4,5}

Changes to an Approved Permit. Per 20 AAC 25.507 an operator may not undertake a change to an approved program or activity without AOGCC approval. Paragraph (a) of 20 AAC 25.507 further describes the information that must be submitted to AOGCC. To make a change, the well's current condition and proposed change must be provided to AOGCC for review and approval. Sundry 315-527 did not authorize the use of nitrogen for a cleanout out of MPU J-08A. As part of AOGCC's information gathering related to MPU J-08A, Hilcorp states that the use of nitrogen for a fill cleanout is a contingent plan executed only if well conditions warrant.⁶

Good Oilfield Practices. The hazards associated with the commercial uses of nitrogen are well documented and readily available.⁷ Safety training programs and standardized safety procedures required for working in North Slope oilfield operations emphasize not only the hazards represented by nitrogen but also the good oilfield operating practices that should be employed when nitrogen is part of a work activity.^{8,9} Hilcorp failed adequately to identify the hazards, to assess the hazards, and to implement actions to mitigate the hazards, and in doing so failed to maintain a safe work environment during the fill cleanout operations. AOGCC notes the following deficiencies to good oilfield practices:

- failure to engage in the formal hazards identification (process facilitated by hazards/risk experts) integral to the work planning process, including assessing the risks of using nitrogen in a fill cleanout on ASR1;

³ Schlumberger Oilfield Glossary; <http://glossary.oilfield.slb.com>; device is also commonly referred to as a "mud gas separator" or a "poor boy degasser"

⁴ U.S. Chemical Safety and Hazard Investigation Board, Safety Bulletin No.2001-10-B, *Hazards of Nitrogen Asphyxiation*; June 2003

⁵ North Slope Training Cooperative, *Range of O₂ Levels*

⁶ Hilcorp correspondence dated October 9, 2015

⁷ U.S. Chemical Safety and Hazard Investigation Board, Safety Bulletin No.2001-10-B, *Hazards of Nitrogen Asphyxiation*; June 2003

⁸ North Slope Training Cooperative, *Range of O₂ Levels*

⁹ 2014 Alaska Safety Handbook; adopted by Hilcorp for North Slope operations (October 6, 2015 letter from Hilcorp to AOGCC)

- failure to identify and implement safeguards to ensure personnel safety in the event of a nitrogen release for the fill cleanout operation;
- failure to provide and make available at the rig a detailed procedure for performing a fill cleanout with nitrogen including requirements for verification of the integrity of all barriers in the flow paths for wellbore fluids returning to surface during the fill cleanout operations;
- failure to have in place a robust “Stop Work Authority” that was clearly understood and readily implemented by ASR1;
- failure to provide a documented process for assessing and managing changes to approved sundries that potentially introduce new hazards or increase risk of existing hazards during a rig workover.

Documentation of the job safety analyses reference the potential for an oxygen-deficient environment; the only mitigation identified was avoidance (“stay away from lines”; “stay away from nitrogen clouds”; “keep out of N2 areas”). Job safety assessments conducted on ASR1 were not comprehensive enough to address the entire fill cleanout process (pumping nitrogen and seawater, and flowing back the wellbore fluids). The near deaths of three rig personnel indicate the job safety analyses and Hilcorp’s oilfield practices were woefully inadequate to address nitrogen-related hazards and the controls necessary to prevent an exposure incident.

The deficiencies noted above led to decisions based on assumptions rather than facts. The lack of audible gas alarms was interpreted by those assigned to work in the enclosed tank trailer as establishing the absence of any gas hazard (gas detection system capability was not understood). Despite symptoms from the initial exposure to the oxygen deficient atmosphere in the enclosed mud trailer, the same affected personnel returned to the trailer without taking appropriate precautions (testing the space with appropriate gas monitoring equipment). Exposure to the oxygen-deficient environment – which occurred because of the release of nitrogen from the open gas buster dump valve (valve position unknown) – resulted in three rig personnel losing consciousness. The events associated with subsequent entry into the oxygen-deficient space would have been fatal for three ASR1 personnel except for one worker’s good fortune to collapse into the fresh air environment outside of the enclosed trailer. Exposure could have been prevented.

The job safety analysis is just one component of the larger commitment of a safety and health management system that are part of good oilfield practices.¹⁰ Responsibility for assuring rig operations comply with good oilfield practices rests with Hilcorp management and engineering staff.

Blowout Prevention Equipment Testing. Hilcorp ASR1 blowout prevention equipment was tested on September 24, 2015 representing the initial test after rigging up on MPU J-08A. AOGCC witness of the blowout prevention equipment test was waived. By regulation, blowout prevention equipment test reports must be provided to AOGCC within five days after completing the test. AOGCC received the required test report three days past due on October 2, 2015.

¹⁰ OSHA 3071, *Job Hazard Analysis*; U.S. Department of Labor, Occupational Safety & Health Administration (2002 Revised)

The MPU J-08A violations are neither isolated nor innocent and are emblematic of ongoing compliance problems with Hilcorp rig workover operations. Hilcorp's compliance history in conducting hydrocarbon development activities in Alaska includes ongoing failures to obtain necessary approvals; failures to install, maintain, and test required well control safety systems; failures to perform required tests; and use of equipment that is unsuitable for the operating environment. Recent examples of noncompliant activities include:

- 1) Rig Operations with Failed Gas Detection System – On September 4, 2015 AOGCC sent a notice of investigation to Hilcorp questioning the decision to pull the tubing hanger off its seat in MPU F-96. Activities leading up to this were marked by operational problems and system faults in the gas detection equipment, culminating in the system failing to operate properly during performance testing of the blowout prevention equipment on August 4, 2015. Hilcorp notified AOGCC and stated the rig – Hilcorp ASR1 – would not pull the completion until the gas system was operational”. Less than one hour after providing that notice to AOGCC, Hilcorp made the decision to test if it was possible for ASR1 to pull the completion. Hilcorp's unapproved experiment successfully lifted the tubing hanger off seat and confirmed the rig's inability to pull the completion to surface. This was done in violation of AOGCC regulations (operating without approval; compromising a barrier that is in place to prevent the release of wellbore fluids from the well).
- 2) Other Hilcorp Rig Workovers Employing Nitrogen Well Cleanouts – A review of well workovers performed at MPU by Hilcorp-operated rigs reveal three wells that have performed fill cleanout operations using nitrogen without AOGCC approval. The disregard for regulatory compliance is endemic to Hilcorp's approach to its Alaska operations and virtually assured the occurrence of the incident at MPU J-08A. Hilcorp's conduct is inexcusable.¹¹
- 3) Failure to Report Use of Blowout Prevention Equipment – A rig workover performed with Nordic 3 in early May 2015 encountered the well flowing after running a packer in MPU I-03. The Weekly Operations Summary reports that the well was shut in and well pressures were monitored while waiting on additional fluid to kill the well. No report was filed with AOGCC describing the use of blowout prevention equipment to prevent the flow of fluids from the well. No record exists of Hilcorp testing the blowout prevention equipment that was used.¹²

Proposed Action (20 AAC 25.535(b)(3)).

On October 1, 2015 AOGCC ordered Hilcorp to suspend all rig workover operations until further notice. AOGCC developed a list of corrective actions imposed on Hilcorp prior to recommencing rig workover operations. The list was provided to Hilcorp on October 21, 2015 and followed up with a meeting on October 26, 2015. Hilcorp acceptance of the conditions was documented in responses dated October 27 and 28, 2015. Hilcorp was released to restart rig workover operations by email dated October 29, 2015 and reminded that AOGCC is performing a detailed review of

¹¹ Other Order 80

¹² 20 AAC 25.285(f)(2) and (f)(8)

existing approved well workover sundry applications. Hilcorp has been instructed to contact AOGCC before commencing workover operations on any well – regardless of a past approval.

For violating 20 AAC 25.507, 20 AAC 25.526, and 20 AAC 25.285 the AOGCC intends to impose civil penalties on Hilcorp under AS 31.05.150(a) as follows:

- **\$100,000** for changing the work procedure in Sundry approval 315-527 - performing the cleanout of MPU J-08A using an unapproved contingent plan (nitrogen);
- **\$600,000** for failure to maintain a safe work environment in accordance with good oilfield engineering practices. Included are:
 - o **\$100,000** for failure to engage in the formal hazards identification;
 - o **\$100,000** for failure to identify and implement safeguards to ensure personnel safety in the event of a nitrogen release;
 - o **\$100,000** for failure to provide and make available at the rig a detailed procedure for performing a fill cleanout with nitrogen, including requirements for verification of the integrity of all barriers in the flow paths for wellbore fluids returning to surface during the fill cleanout operations;
 - o **\$100,000** for failure to have in place a robust “Stop Work Authority” that was clearly understood and readily implemented by ASR1;
 - o **\$100,000** for failure to assess and manage changes that potentially introduce new hazards or unknowingly increase risk of existing hazards during a rig workover, and
 - o **\$100,000** for inadequate training of personnel on ASR1.
- **\$20,000** for failing to provide the results of a blowout prevention test to AOGCC within five days after completing the test on September 24, 2015. Included is \$10,000 for the initial event and \$5,000 per day for the remaining two days that elapsed until the test report was received.

The total proposed civil penalty is \$720,000. In addition to the potential severity of the outcome of Hilcorp’s actions, Hilcorp’s ongoing history of performing work outside of approved permits or management-of-change protocols, its history of compliance issues and the need to deter are factors in the AOGCC’s analysis.¹³ In imposing this penalty, the AOGCC notes a prior penalty of \$115,000 (Other Order 80) imposed upon Hilcorp for violations of essentially the same nature has had no significant impact on Hilcorp’s conduct.

Rights and Liabilities (20 AAC 25.535(b)(4))

Within 15 days after receipt of this notification – unless the AOGCC, in its discretion, grants an extension for good cause shown – Hilcorp may file with the AOGCC a written response that concurs in whole or in part with the proposed action described herein, requests informal review, or requests a hearing under 20 AAC 25.540. If a timely response is not filed, the proposed action will be deemed accepted by default. If informal review is requested, the AOGCC will provide Hilcorp an opportunity to submit documentary material and make a written or oral statement. If Hilcorp disagrees with the AOGCC’s proposed decision or order after that review, it may file a

¹³ AS 31.05.150(g) requires AOGCC to consider nine criteria in setting the amount of a civil penalty.

written request for a hearing within 10 days after the proposed decision or order is issued. If such a request is not filed within that 10-day period, the proposed decision or order will become final on the 11th day after it was issued. If such a request is timely filed, the AOGCC will hold its decision in abeyance and schedule a hearing.

If Hilcorp does not concur in the proposed action described herein, and the AOGCC finds that Hilcorp violated a provision of AS 31.05, 20 AAC 25, or an AOGCC order, permit or other approval, then the AOGCC may take any action authorized by the applicable law including ordering one or more of the following: (i) corrective action; (ii) suspension or revocation of a permit or other approval; and (iii) imposition of penalties under AS 31.05.150. In taking action after an informal review or hearing, the AOGCC is not limited to ordering the proposed action described herein, as long as Hilcorp received reasonable notice and opportunity to be heard with respect to the AOGCC's action. Any action described herein or taken after an informal review or hearing does not limit the action the AOGCC may take under AS 31.05.160.

Sincerely,



Cathy P. Foerster
Chair, Commissioner

7015 0640 0006 0779 5982

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee \$ _____

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ _____

Return Receipt (electronic) \$ _____

Certified Mail Restricted Delivery \$ _____

Adult Signature Required \$ _____

Adult Signature Restricted Delivery \$ _____

Postage \$ _____

Total Postage and Fees \$ _____

Sent To _____

Street and Apt. No., or PO Box No. _____

City, State, ZIP+4® _____

PS Form 3800, April 2015 PSN _____

Postmark Here

Mr. David Wilkins
 Senior Vice President
 Hilcorp Alaska, LLC
 3800 Centerpoint Dr., Ste. 1400
 Anchorage, AK 99503

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. David Wilkins
 Senior Vice President
 Hilcorp Alaska, LLC
 3800 Centerpoint Dr., Ste. 1400
 Anchorage, AK 99503



2. Article Number (Transfer from service label)
 7015 0640 0006 0779 5982

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) T. Spitzkaufsky

C. Date of Delivery 11/17/15

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

RECEIVED
 NOV 19 2015
 10900

3. Service Type
- Priority Mail Express®
 - Adult Signature
 - Registered Mail™
 - Adult Signature Restricted Delivery
 - Registered Mail Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Collect on Delivery
 - Signature Confirmation™
 - Collect on Delivery Restricted Delivery
 - Signature Confirmation Restricted Delivery
 - Registered Mail Restricted Delivery (over \$500)

Carlisle, Samantha J (DOA)

From: Carlisle, Samantha J (DOA)
Sent: Thursday, November 12, 2015 3:02 PM
To: David Wilkins
Cc: Foerster, Catherine P (DOA); Seamount, Dan T (DOA); Regg, James B (DOA)
Subject: OTH-15-025, Notice of Proposed Enforcement
Attachments: Hilcorp OTH-15-025, Notice of Proposed Enforcement.pdf

Importance: High

Dear Mr. Wilkins,

Please see the attached regarding Docket Number: OTH-15-025, Notice of Proposed Enforcement.

Thank you,

Samantha Carlisle
Executive Secretary II
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue
Anchorage, AK 99501
(907) 793-1223 (phone)
(907) 276-7342 (fax)

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, contains information from the Alaska Oil and Gas Conservation Commission (AOGCC), State of Alaska and is for the sole use of the intended recipient(s). It may contain confidential and/or privileged information. The unauthorized review, use or disclosure of such information may violate state or federal law. If you are an unintended recipient of this e-mail, please delete it, without first saving or forwarding it, and, so that the AOGCC is aware of the mistake in sending it to you, contact Samantha Carlisle at (907) 793-1223 or Samantha.Carlisle@alaska.gov.

This page intentionally left blank.

STATE OF ALASKA
ALASKA OIL AND GAS CONSERVATION COMMISSION
333 West Seventh Avenue, Suite 100
Anchorage Alaska 99501-3539

Re: Failure to Notify of Changes to an)
Approved Permit; and Failure to Test) Other Order No. 80
Blowout Prevention Equipment) April 10, 2013
Soldotna Creek Unit 44-33)
Hilcorp Alaska LLC.)

DECISION AND ORDER

On October 23, 2012, the Alaska Oil and Gas Conservation Commission (AOGCC) issued a Notice of Proposed Enforcement Action (Notice) stating that Hilcorp Alaska, LLC (Hilcorp) failed to notify AOGCC of changes to an approved permit to drill (PTD) and failed to test blowout prevention equipment (BOPE) in its operation of Soldotna Creek Unit 44-33 (SCU 44-33). The Notice proposed specific corrective actions and a \$115,500 civil penalty under AS 31.05.150(a). On November 2, 2012, Hilcorp requested informal review with the AOGCC to discuss the proposed enforcement.

Summary of Proposed Enforcement Action

Hilcorp was granted approval to drill well SCU 44-33 in PTD 2121430 dated October 3, 2012¹. Drilling commenced October 11, 2012 using *Doyon Rig 1* (also known as the *Doyon Arctic Fox*). The Notice identified violations of the provisions of 20 AAC 25.015 (“Changes to a program in a permit to drill”) and 20 AAC 25.035 (“Secondary well control for primary drilling and completion”). The violations occurred when (1) Hilcorp commenced sidetrack drilling of SCU 44-33 at a depth shallower than approved; (2) drilling encountered an over-pressured zone that caused the well to flow which required closure of BOPE; and (3) Hilcorp tripped its drilling assembly to surface to change out equipment and returned to continued drilling operations without testing the BOPE used for well control. The Notice proposed the following corrective actions by Hilcorp:

- (1) Within 2 weeks following the date of receipt of AOGCC’s final decision, Hilcorp shall provide a detailed description of its regulatory compliance program and a copy of its written management-of-change procedures;
- (2) Within 2 weeks following the date of receipt of AOGCC’s final decision, Hilcorp shall complete and provide AOGCC with the results of a root cause analysis addressing the violations.
- (3) Within 4 weeks following the date of receipt of AOGCC final decision, Hilcorp shall provide evidence that personnel responsible for drilling and workover rig management, and staff involved with permitting well operations (drilling and workovers) have been

¹ SCU 44-33 is an approved sidetrack from suspended well SCU 24-33. The Application for Sundry Approvals, Form 10-403, was approved by AOGCC allowing the well to be configured for sidetrack drilling of SCU 44-33.

- trained in AOGCC drilling and workover regulatory requirements, including the process for making changes to approved activities, testing, and reporting requirements;
- (4) Beginning immediately upon receipt of AOGCC's final decision, BOPE testing on all drilling and workover operations must be performed when installed, repaired, or changed and at intervals not to exceed seven (7) days between tests unless otherwise approved by AOGCC. When used for well control or other equivalent purposes, or routine use may have compromised equipment effectiveness, BOPE used must be tested before the next wellbore entry.

The Notice also proposed a civil penalty under AS 31.05.150(a) in the amount of \$115,500 as follows:

- \$75,000 for the initial violation – failure to maintain the wellbore in an overbalanced condition by increasing the drilling fluid weight prior to milling the casing window as required in the PTD;
- \$7,500 for failure to notify AOGCC of change in well plans; specifically, using a lighter weight drilling fluid for milling and initial drilling operations than approved in the PTD;
- \$3,000 for failure to notify AOGCC of a change in well plans; specifically, milling the casing window at a shallower depth than approved in the PTD;
- \$7,500 for each day October 14 through October 17, 2012 for failure to test BOPE used in well control operations.

Requirement to Notify of Changes; Requirement to Test BOPE after Use

Regulation 20 AAC 25.015(b) establishes requirements to change an approved PTD and states in relevant part:

“To change a program approved in a Permit to Drill or to change information under 20 AAC 25.005(c) after drilling operations start, the operator shall... (2) submit and obtain the commission’s approval of an Application for Sundry Approvals (Form 10-403)...; must set out the approved program, the current conditions of the well, and the proposed changes.” (emphasis added)

Regulation 20 AAC 25.035(e)(10)(C) establishes requirements when BOPE use is required for well control or other equivalent purposes and states in relevant part:

“if any BOP equipment components have been used for well control... the components used must be function pressure-tested before the next wellbore entry, to the required working pressure specified in the approve Permit to Drill...” (emphasis added)

Violations

Hilcorp provided a Notice of BOPE Use to AOGCC on October 12, 2012 after closing the upper pipe rams to control the flow of formation fluids. Receipt of Hilcorp's notice initiated a review of the approved drilling permit and a request for additional information, including daily drilling reports. In response, Hilcorp revealed that the SCU 44-33 sidetrack was started at a depth approximately 500 feet shallower than approved and the drilling mud weight was not increased

prior to commencing sidetrack drilling operations as required. Hilcorp drilling reports also indicate that the drilling assembly was tripped to surface on October 13, 2012 after BOPE was used to control SCU 44-33 and re-run in the well on October 14, 2012 without testing the used BOPE components.

Hilcorp's failure to comply was the result of either a lack of attention paid to the regulations or a lack of understanding regarding AOGCC expectations; in this particular case regulations with clearly worded expectations. The evidence shows that Hilcorp violated AOGCC regulations governing changes to an approved PTD and required BOPE testing.

Mitigating Circumstances

Mitigating factors considered by the AOGCC included (1) Hilcorp did not act in a willful or knowing manner; (2) the lack of injury to the public; (3) the absence of tangible benefits derived from the violations; and (4) Hilcorp's stated commitment to correct regulatory deficiencies.

During the informal review, Hilcorp's explanation for why no notice was given regarding the changes to the approved permit was that the changes were not deemed by Hilcorp to be significant enough to warrant notification to AOGCC. No explanation was offered for failure to test BOPE as required. Hilcorp accepted responsibility for the violations and has initiated corrective actions, including

- updating its management of change procedures (Facility Change Request) to incorporate AOGCC regulatory requirements;
- developing and implementing a regulatory compliance tracking spreadsheet;
- training and orientation;
- improving communications from Hilcorp including more detailed permit applications, timely notification of changes to approved permits by phone with proper written follow-up, and inquiries regarding regulatory requirements.

Findings and Conclusions

The aggressiveness with which Hilcorp is moving forward with operations appears to be contributing to regulatory compliance issues. Since Hilcorp commenced rig work in Alaska in April 2012, AOGCC Inspectors have observed rig crews unable to perform required BOPE component tests, rig crews not trained in use of well control equipment, and rigs with missing required equipment. Hilcorp's compliance history from April through December 2012 – including this enforcement action – shows 13 separate enforcement actions of varying severity since April 2012. Many of these actions were due to a failure to understand regulatory requirements. Strong evidence indicates that Hilcorp has not adequately prepared its personnel for operations in compliance with AOGCC regulatory requirements. Left unaddressed and uncorrected these and similar violations will be repeated.

For the reasons stated above, the AOGCC finds that Hilcorp violated regulations governing changes to an approved PTD and required BOPE testing. The seriousness of these violations, the number of prior violations, the need to deter similar behavior, and the need to trigger a

substantial change in Hilcorp's approach toward regulatory compliance warrant proceeding with these enforcement actions as proposed. However, BOPE installed on rigs engaged in development drilling will be allowed to continue testing at intervals not to exceed 14 days as currently authorized in 20 AAC 25.035 and 25.036 unless otherwise required by AOGCC in a PTD or based on BOPE performance. Since AOGCC issued the Notice, Hilcorp has provided the proper notification for required bi-weekly BOPE tests on rigs involved in development drilling, performed those tests in an acceptable manner, and provided test results to AOGCC as required. Imposing a more frequent BOPE test interval is unnecessary.

NOW THEREFORE IT IS ORDERED THAT:

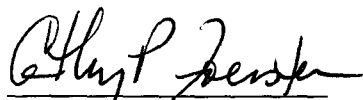
Hilcorp shall comply with the following corrective actions:

- 1) Within 2 weeks following the date of receipt of this final decision, Hilcorp shall provide a detailed written description of its regulatory compliance program and a copy of its written management-of-change procedures, including but not limited to examples of regulatory compliance tracking sheets and similar evidence that supports Hilcorp's compliance efforts specific to AOGCC regulations;
- 2) Within 2 weeks following the date of receipt of AOGCC's final decision, Hilcorp shall provide AOGCC with its complete root cause analysis and results addressing the violations outlined in this order.
- 3) By May 3, 2013, Hilcorp shall provide evidence that personnel responsible for drilling and workover rig management, and staff involved with permitting well operations (drilling, workovers, and well operational oversight) have been trained in AOGCC regulatory requirements, including the process for making changes to approved activities, notification procedures, testing, reporting, and record-keeping requirements. Records shall be maintained to substantiate completed training for Hilcorp and Hilcorp-contracted personnel.

In addition, Hilcorp shall pay a civil penalty under AS 31.05.150(a) in the amount of \$115,500 as follows:

- \$75,000 for the initial violation – failure to increase the drilling fluid weight prior to milling the casing window as required in the PTD;
- \$7,500 for failing to notify AOGCC of change in well plans; specifically, using a lighter weight drilling fluid for milling and initial drilling operations than approved in the PTD;
- \$3,000 for failing to notify AOGCC of a change in well plans; specifically, milling the casing window at a shallower depth than approved in the PTD;
- \$7,500 for each day October 14 through October 17, 2012 for failing to test BOPE used in well control operations.

Done at Anchorage, Alaska and dated April 10, 2013.



Cathy E. Foerster
Chair, Commissioner



Daniel T. Seamount, Jr.
Commissioner



Andrew K. Norman
Commissioner

RECONSIDERATION AND APPEAL NOTICE

As provided in AS 31.05.080(a), within 20 days after written notice of the entry of this order or decision, or such further time as the AOGCC grants for good cause shown, a person affected by it may file with the AOGCC an application for reconsideration of the matter determined by it. If the notice was mailed, then the period of time shall be 23 days. An application for reconsideration must set out the respect in which the order or decision is believed to be erroneous.

The AOGCC shall grant or refuse the application for reconsideration in whole or in part within 10 days after it is filed. Failure to act on it within 10-days is a denial of reconsideration. If the AOGCC denies reconsideration, upon denial, this order or decision and the denial of reconsideration are **FINAL** and may be appealed to superior court. The appeal **MUST** be filed within 33 days after the date on which the AOGCC mails, **OR 30** days if the AOGCC otherwise distributes, the order or decision denying reconsideration, **UNLESS** the denial is by inaction, in which case the appeal **MUST** be filed within 40 days after the date on which the application for reconsideration was filed.

If the AOGCC grants an application for reconsideration, this order or decision does not become final. Rather, the order or decision on reconsideration will be the **FINAL** order or decision of the AOGCC, and it may be appealed to superior court. That appeal **MUST** be filed within 33 days after the date on which the AOGCC mails, **OR 30** days if the AOGCC otherwise distributes, the order or decision on reconsideration. As provided in AS 31.05.080(b), "[t]he questions reviewed on appeal are limited to the questions presented to the AOGCC by the application for reconsideration."

In computing a period of time above, the date of the event or default after which the designated period begins to run is not included in the period; the last day of the period is included, unless it falls on a weekend or state holiday, in which event the period runs until 5:00 p.m. on the next day that does not fall on a weekend or state holiday.

I certify that on 4/10/13 copies of the above was faxed/mailed to each of the following at their addresses of record.

Samuel John

Paul Mazzolini, Hil corp

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

ANCHORAGE AK 99524-4027

7009 2250 0004 3911 3378

| | |
|--|---------------|
| Postage | \$ 0.66 |
| Certified Fee | \$3.10 |
| Return Receipt Fee (Endorsement Required) | \$2.55 |
| Restricted Delivery Fee (Endorsement Required) | \$0.00 |
| Total Postage | \$6.31 |



Sent To
 Street, Apt. No., or PO Box No.

Mr. Paul Mazzolini
 Drilling Manager
 Hilcorp Alaska LLC
 Post Office Box 244027
 Anchorage, AK 99524-4027

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

A. Signature Agent
 Paul Mazzolini Addressee

B. Received by (Printed Name) Date of Delivery
Nick Valle 4.15.13

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Mr. Paul Mazzolini
 Drilling Manager
 Hilcorp Alaska LLC
 Post Office Box 244027
 Anchorage, AK 99524-4027

2. Article Number
 (Transfer from service label)

7009 2250 0004 3911 3378

This page intentionally left blank.

CHARTER FOR DEVELOPMENT of the Alaskan North Slope

This Charter for Development of the Alaskan North Slope is entered between the State of Alaska, BP and ARCO on December 2, 1999.

BP and ARCO historically have been major participants in the development of oil resources on the North Slope of Alaska. ARCO discovered the giant Prudhoe Bay oil field in 1968. BP participated in the discovery of Kuparuk the following year. Both were leaders in building the Trans Alaska Pipeline System. Today, they are two of the largest interest owners and operators on the North Slope.

The environment for finding, developing and producing oil and gas is challenging and complex, in Alaska and the world. The giant Prudhoe Bay and Kuparuk fields are in decline. World energy markets continue to experience price volatility, competition for capital and opportunities, and financial and technical challenges to discover, develop and produce new fields. These challenges have led to large-scale industry consolidation in recent years.

Earlier this year, BP and ARCO proposed to merge. The merger and its potential impact on Alaska have been analyzed and discussed by the Governor, his Cabinet-level review team, the Legislature and the public in private, in hearings and in the media since the announcement.

There is potential both for benefit and risk to Alaska in the merger as initially proposed. In BP and ARCO's view, Alaska would benefit from the combination's financial strength and expertise, and the increased efficiencies and synergies of the combination would help make Alaska more attractive in a global oil marketplace. But Alaska would, in the State's view, lose a measure of competition, diversity and balance in the exploration, development and production of North Slope resources, and Alaska would lose the varied contributions of a leading corporate citizen.

The State of Alaska is committed to maintaining and enhancing competition, diversity and balance in the exploration, development and production of North Slope resources, sustaining and growing both oil and gas production, and ensuring that the State's natural resources are developed in an environmentally and socially sensitive and responsible manner. The State has determined therefore that its support for the merger must be conditioned upon BP and ARCO making substantial marketplace and community commitments to Alaska.

Therefore, in order to provide for greater competition, diversity, corporate responsibility, renewal and growth in the exploration, development and production of Alaskan North Slope oil and gas, the State, BP and ARCO agree to this Charter and its terms as set forth below.

I. BP and ARCO's Commitments Regarding Competition, Diversity and Growth.

A. Sale of Current Production. After the merger is completed, BP and ARCO will sell the following properties in the following manner:

1. **Sale of Production.** BP and ARCO will sell interests in North Slope properties producing in aggregate share not less than 175,000 barrels of gross working interest production per day to one or more purchasers. For purposes of this paragraph I.A., quantity will be measured by 1999 average daily production, except the Colville River Unit will be deemed to produce a total of 80,000 barrels of production per day.

2. **Sale of Interests including Kuparuk.** As part of the sale required by subparagraph 1, BP and ARCO will enter into a contract of sale with a single qualified company ("Buyer A") for at least 125,000 barrels of gross working interest production per day, including at least 50.01% of the Kuparuk River Unit total interest, and will take all reasonable available steps to enable that company to become the operator of that unit. In no event will BP or ARCO continue as operator of that unit after sale of the working interest production. For purposes of this subparagraph 2, "qualified company" means a company which is currently a joint interest owner in the Kuparuk River Unit, or a company primarily in the energy business with assets of not less than \$8 billion.

3. **Sale of Interest in Alpine.** As part of the sale required by subparagraph 1, BP and ARCO will enter into a contract of sale with a single qualified company ("Buyer B") for at least 40% of the total Colville River Unit interest and will take all reasonable available steps to enable that company to become the operator of that unit. In no event will BP or ARCO continue as operator of that unit after sale of the interest. For purposes of this subparagraph 3, "qualified company" means a company which is currently a joint interest owner in the Colville River Unit, or a company primarily in the energy business with assets of not less than \$3 billion.

4. **Sale of Share of Pipelines.** BP and ARCO will enter into a contract of sale with Buyer A and Buyer B for a commensurate interest in TAPS and intermediate pipelines as provided in paragraph H.

B. Sale of NPRA Lease Interests. BP and ARCO will sell not less than 220,000 net acres of their aggregate NPRA holdings to one or more purchasers. BP and ARCO will enter a contract of sale with either Buyer A or Buyer B for not less than 100,000 net NPRA acres, including at least 50.01% of BP and ARCO's combined interests in one of the sections of the NPRA designated on Exhibit A to this Charter, and will take all reasonable available steps to enable that company to become the exploration operator in that section.

C. Sale or Relinquishment of State Leases. BP and ARCO will sell or relinquish at least 400,000 net acres of undeveloped state leases, including sufficient interests in

onshore/non-unitized state leases to reduce their aggregate holdings in such leases to not more than 500,000 net acres. BP and ARCO will manage the sale of this acreage to result in two exploration operatorships other than BP or ARCO in material and significant geologic play fairways on the North Slope (lease groupings which the parties agree meet this requirement are listed in Exhibit B to this Charter). As part of this sale or relinquishment of State acreage, BP and ARCO will enter contracts of sale with Buyer A and Buyer B in the combined amount of not less than 250,000 net acres of undeveloped state leases, including a minimum of 75,000 net acres for each buyer. BP and ARCO agree to meet and confer with representatives of the Alaska Department of Natural Resources, beginning within 10 days after the merger is completed and continuing for the period reasonably necessary to review the number, status, prospectivity and possible transfer options for all such holdings, as well as intended marketing or relinquishment plans.

D. Terms of Sales. Contracts for the full aggregate amount of the interests sold under paragraphs I.A. and I.B. will be signed within 6 months after the merger is completed and those transactions will be closed not later than 12 months after the merger is completed. Transfers under paragraph I.C. will be made within the period prescribed by law. All transfers of whole or partial interests in the properties and pipelines referenced in paragraphs I.A.-I.C. will be absolute, in good faith and with no minimum price. BP and ARCO agree that they will not reacquire interests transferred under paragraphs I.A.-I.C. by any means without advance approval of the State. Except as specifically provided in paragraphs I.A.-I.C. and otherwise in this Charter, the sales contemplated in paragraphs I.A.-I.C. may be to various parties and include interests from various units and leases as determined by BP and ARCO. BP and ARCO may retain an interest in the units and leases it sells under paragraphs I.A.-I.C., subject to the requirement that any interest retained in exploration leases be subject to non-consent provisions permitting investment by other interest owners without BP or ARCO's consent. Any transfer under paragraphs I.A.-I.C. will be subject to all necessary state and federal regulatory approvals and other requirements. BP and ARCO will use their best efforts to secure such approvals.

E. Data Availability. After the merger is completed, BP and ARCO will make their proprietary North Slope seismic and well data publicly available for purchase by any person where they have the legal right to do so. Where they do not currently have the legal right to do so, they will diligently and in good faith seek permission from the other joint interest owners to make the data available. Unless otherwise approved by the State, BP and ARCO will make the data available by contracting with a third party company, acting as marketing agent for BP and ARCO, that will market the data at prices it independently determines; except that, with respect to data generated before 1975, BP and ARCO will make the data publicly available without charge in such reasonable manner as it may determine. BP and ARCO will ensure that the data is publicly available as soon as is reasonably practicable but in all events not longer than 3 months after the merger is completed. BP and ARCO will provide the State with (1) a list of which of their North Slope seismic and well data can be made available on their own and which requires the consent of parties other than BP or ARCO, and (2) a list or lists showing all of BP and

ARCO's North Slope seismic and well data from 1958 on indicating the acquisition area, the size of the acquisition area, the ownership status (sole, joint, group shoot, trade, purchase or license), when the data was acquired, the survey type, and the operator and the contractor. For data acquired after 1984, these lists will be provided as soon as is reasonably practicable but in all events before December 31, 1999. For data acquired before 1985, these lists will be provided as soon as is reasonably practicable but in all events within 3 months after the merger is completed. This paragraph applies to data generated prior to and through the date this Charter is first signed by the parties.

F. Facilities Access.

1. In the State's view, the Commissioner of Natural Resources possesses the statutory, regulatory and contractual authority to require working interest owners to provide others access to production and other facilities, on terms that are non-discriminatory, just and reasonable. The Commissioner may require access whenever necessary to maximize the economic and physical recovery of the State's oil or gas resources, maximize competition among parties seeking to explore and develop the resources, minimize the adverse effects of exploration, development, production and transportation activity, or otherwise to protect the best interests of the State. Binding arbitration between BP or ARCO and others under subparagraph 2 does not affect the Commissioner's authority to resolve questions of facility access.

2. BP and ARCO currently take no position on the State's view. BP and ARCO nevertheless commit that, after the merger is completed, neither BP nor ARCO will unreasonably withhold their voting support as facilities owners for allowing nearby satellites to have access to existing unit facilities on reasonable commercial terms. BP and ARCO agree that if a nearby satellite owner reasonably and diligently negotiates to unsuccessful impasse with facilities owners that include BP or ARCO, and after 90 day advance notice to BP and ARCO, BP and ARCO agree to subject themselves to binding arbitration governed by the rules of the American Arbitration Association on the question of reasonable commercial terms for that access.

G. Purchases From Qualified Producers . After the merger is completed, BP and ARCO agree to offer to purchase any qualified producer's ANS leasehold production on the terms reflected in the form purchase contract which is Exhibit C to this Charter. BP and ARCO may limit the total purchased under all such contracts to 30,000 barrels per day. For purposes of this paragraph I.G., "qualified producer" means a person or entity with assets of less than \$1 billion (all parents, subsidiaries, affiliates and controlling parties inclusive) which produces not more than 10,000 barrels of gross working interest ANS liquid hydrocarbons per day at the time of proposed contract entry. In the event that any purchase contract under this paragraph I.G. is in effect and no RIK sales are made in a month, the State agrees to calculate the average value it received for RIV in that month for use as an alternative reference marker, and to update that average monthly to reflect retroactive revisions. The parties agree that the price at which the crude oil is purchased, and the pricing formula components of Exhibit C, will not be precedent in any royalty or severance tax proceeding or matter between them.

H. Divestiture of TAPS and Feeder Lines.

1. In order to satisfy the State's concern that the purchasers of the production interests sold under paragraph I.A. of this Charter (the "Transferee(s)") be similarly situated to BP and ARCO by ownership in TAPS, within the time frame established for paragraph I.A. transfers, BP or ARCO will enter into a contract with each Transferee to sell a share of BP or ARCO's interest in TAPS sufficient to carry the production sold to that Transferee. For purposes of this paragraph I.H., production quantity will be measured in the same manner as under paragraph I.A. and TAPS capacity will be measured in accordance with the Amended and Restated Capacity Settlement Agreement in the fixed amount of 1380 mbd.

2. After all contracts contemplated in subparagraph 1 have been entered, and during the remaining term of this Charter, BP or ARCO will offer to sell additional interests in TAPS to any person requesting to purchase a share in TAPS, up to a total aggregate amount under this paragraph I.H. of 22.295% of total TAPS ownership. The additional transfers contemplated by this subparagraph 2 will be in minimum increments of 2% of total TAPS ownership, valued at not more than the ad valorem tax value as of the time of the offer, less 5%. The parties agree that the price at which the TAPS interest is sold will not be precedent in any property tax proceeding regarding the value of TAPS.

3. Within the time frame established for paragraph I.A. transfers, BP and ARCO will enter into a contract with each Transferee to sell to that Transferee a separate share of BP and ARCO's aggregate interest in the Oliktok pipeline and in each of the intermediate crude oil common carrier pipelines serving the specific units in which the production interests to be transferred to that Transferee are located (the "relevant intermediate pipelines"). The ownership interest in each relevant intermediate pipeline to be sold to each Transferee will be equal to the percentage which the production sold under paragraph I.A. to that Transferee flowing through that pipeline bears to the overall throughput of that pipeline. The relevant production and throughput levels will be measured in the same manner as under paragraph I.A. The percentage of the Oliktok pipeline to be sold will be equal to the percentage share of the KRU sold pursuant to subparagraph I.A.2.

4. Any transfer under this paragraph I.H. will be subject to all necessary state and federal regulatory approvals and any preference rights and required approvals of the other TAPS and relevant intermediate pipeline owners. BP and ARCO will use their best efforts to secure such approvals. BP and ARCO will vote their entire interest in TAPS and the relevant intermediate pipelines in support of any such transfer. In the event any other TAPS or relevant intermediate pipeline owner exercises its preference rights with respect to the sale of a pipeline interest pursuant to subparagraphs 1, 2 or 3 hereof, the sale to that other owner will be considered a sale satisfying the obligations of that subparagraph. BP and ARCO agree that they will not reacquire interests transferred under this paragraph I.H. by any means without advance approval of the State.

I. Offer to Sell Excess Jones Act Ships. If BP's and ARCO's combined long-term ANS Jones Act fleet requirements are such that one or more ships becomes surplus of

those requirements, BP or ARCO (as the case may be), will offer to sell the surplus ship or ships to other ANS producers on reasonable commercial terms. If BP or ARCO does not own the ship or ships, it will not object to arrangements by another ANS producer to acquire the ship or ships from the owner. Further, in the event that the purchaser of the ship or ships seeks ship operation services from the Alaska Tanker Company, Inc., BP will not object. Nothing in this paragraph requires BP or ARCO to assume any liability of another ANS producer concerning any of these transactions.

J. Natural Gas.

1. During the period after the merger is completed through December 31, 2003, BP and Arco shall negotiate in good faith to make available to third parties at a commercially reasonable fair market price or transportation charge that is mutually agreeable to BP and Arco, the third party and the State, Alaska North Slope natural gas in sufficient quantities to support a qualified treatment and transmission project to domestic and/or international markets. A qualified treatment and transmission project must have the demonstrated ability to:

- a. obtain project construction financing;
- b. provide reasonable financial security with respect to a long term 100% take or pay arrangement if the project requires a long term gas sales commitment from the producer(s) (including, if commercially reasonable, an assignment or other back-to-back pass-through of the purchaser's take-or-pay commitment from a creditworthy ultimate purchaser); and
- c. obtain necessary approvals from other field interest owners.

2. BP and ARCO shall make reasonable efforts to assist in obtaining the approvals specified in subparagraph 1.c.

3. The delivery point for gas committed to the project will be the residue gas discharge point of the Low Temperature Separators at the Prudhoe Bay Central Gas Facility, or such other point as agreed by the parties.

4. During this period, BP and ARCO will give fair consideration to all reasonable approaches, projects and plans proposed by the State, joint interest owners and others, including LNG projects developed or proposed by the newly established port authority, the gas sponsor group, Yukon Pacific Corporation and any others, pipelines to the lower 48 including those currently proposed, gas-to-liquids projects, and any other reasonable approach, project or plan for the commercialization of North Slope gas. In giving fair consideration to these various approaches, projects and plans, BP and ARCO will consider, among other things, (a) achieving the highest total project wellhead value for the State and for the sellers over the life of the project(s) and (b) other potential benefits to Alaska such as bringing gas infrastructure for the delivery of North Slope gas to communities in Alaska. BP and ARCO will meet and confer with project sponsors on reasonable request. Not less than every six months during this period, BP and ARCO will provide the Commissioner of Natural Resources with a report that identifies the

name of the contact person for each project sponsor which contacted BP and ARCO during the prior 6 month period and the general nature and current status of the sponsor's project, subject to confidentiality requirements of the sponsor.

5. The obligation to negotiate with third parties does not preclude BP and ARCO from proceeding with their own project or projects to commercialize Alaska North Slope gas.

6. The obligations imposed by this section terminate before December 31, 2003 if BP and ARCO enter into a contract or contracts before that date committing Alaska North Slope gas to a qualified treatment and transmission project or projects for volumes that in the aggregate would constitute BP and ARCO's share of a Major Gas Sale under Article 26, Section 26.002 of the Prudhoe Bay Unit Operating Agreement or if the Board of Directors of BP and ARCO sanction the construction of such a project or projects before that date.

7. The parties agree that the terms of paragraph I.J. of this Charter shall be enforceable exclusively by arbitration between the State and BP and ARCO under the rules of the American Arbitration Association.

II. BP and ARCO's Environmental and Community Commitments.

A. North Slope Environmental Commitments. After the merger is completed, BP and ARCO will take the following steps to improve and protect the environment on the North Slope.

1. Cleanup of Abandoned Sites. BP and ARCO will take a leadership role in the assessment and environmental clean up of the North Slope "orphan sites" identified in Exhibit D1 (as currently written and as modified in accordance with the terms of this paragraph II.A.1.), and will spend \$10,000,000 (or such greater amount as may be created by ADEC funding requests under paragraph II.A.7.) in performance of this commitment. In carrying out this role, BP and ARCO will consult with the Alaska Department of Environmental Conservation (ADEC) concerning site goals, standards and methods and will substantially complete the assessment and cleanup to the standards approved by ADEC under applicable law within six years after the merger is completed. In addition, BP and ARCO will work cooperatively with ADEC to develop a joint database of North Slope contaminated and solid waste "orphan sites" which includes the nature and location of the sites, the responsible parties and the relative priority for cleanup of each site based upon preliminary evaluation of the risk of harm to human health and the environment posed by the site. BP and ARCO will meet and confer with ADEC from time to time thereafter to arrange for priority re-ordering and substitutions and additions to Exhibit D1 as requested by ADEC, subject to the availability of funding in the spending amount identified above and to the further requirements that there is no known viable responsible party for any substitute or additional site and the site has been wholly vacated. The parties recognize that the available funding in the amount identified

above may not be sufficient to assess and cleanup in full all sites identified in Exhibit D1 now or as it may be amended, and nothing in this subparagraph II.A.1. shall preclude the State from pursuing other parties for reimbursement or from seeking other funding sources for additional assessment or cleanup on any orphan site.

2. Cleanup of Abandoned Empty Barrels. BP and ARCO will require contractors conducting seismic or exploration work for them to collect and deliver abandoned empty barrels to BP or ARCO operations for handling, to inventory and map locations of empty barrels and barrels containing product, and to report any visible signs of ground contamination associated with the barrels. BP and ARCO will periodically report to ADEC regarding this effort and provide ADEC with the inventory lists, maps and reports which are developed.

3. Cleanup of Existing BP and ARCO Sites. BP and ARCO will assess and clean to the standards approved by ADEC under applicable law the contaminated sites listed on Exhibit D2. BP and ARCO will work cooperatively with ADEC and the land manager to develop cleanup plans and schedules to complete required assessment and cleanup activities at these sites. Assessment and cleanup activities at sites which are currently accessible will be substantially completed by year-end 2005 for the sites listed as "high" priority sites in Exhibit D2 and by year-end 2007 for the remainder. Sites which due to operational restrictions cannot be fully cleaned until facility or equipment abandonment will be identified by BP, ARCO and ADEC for completion according to a mutually agreed schedule. Nothing in this paragraph is intended to eliminate or supercede any other obligations BP or ARCO may have to assess, cleanup or restore these or any other sites.

4. Closure of Inactive Reserve Pits. BP and ARCO will comply with the requirements of 18 AAC 60.440 with respect to their inactive reserve pit sites and will close the inactive reserve pits subject to the Order dated May 3, 1993 in *Natural Resources Defense Council Inc. v. ARCO Alaska, Inc.*, No. A88-287 CIV (D. Alaska) as amended within the designated time period established by the court in that matter, and will close other ARCO and BP inactive reserve pits listed on Exhibit D3A by the end of 2007 (except that in the event of currently unprojected operational delay affecting any BP site, that site may be completed on a separate mutually agreed schedule). BP and ARCO will close the ARCO and BP inactive reserve pits listed on Exhibit D3B according to a mutually agreed schedule that ends a reasonable period after work on the D3A sites has been completed.

5. Commitment to North Slope Spill Response. BP and ARCO will support, at their proportionate share, an independent professional North Slope spill response organization, such as Alaska Clean Seas or a substantially equivalent organization, and will encourage the fullest possible participation in this organization by all North Slope producers. BP and ARCO will support and vote in favor of funding to the North Slope oil spill response organization for an Arctic spill response research and development program (jointly agreed to by the spill response organization, BP, ARCO and ADEC) at

an average annual level of not less than \$200,000 during the 10 year period following completion of the merger.

6. Commitment to Corrosion Monitoring. BP and ARCO will, in consultation with ADEC, develop a performance management program for the regular review of BP's and ARCO's corrosion monitoring and related practices for non-common carrier North Slope pipelines operated by BP or ARCO. This program will include meet and confer working sessions between BP, ARCO and ADEC, scheduled on average twice per year, reports by BP and ARCO of their current and projected monitoring, maintenance and inspection practices to assess and to remedy potential or actual corrosion and other structural concerns related to these lines, and ongoing consultation with ADEC regarding environmental control technologies and management practices.

7. Additional Expenditure Commitment. BP and ARCO will pay or spend up to an aggregate total of \$500,000 each year during the 10 year period following completion of the merger for any combination of the following as requested annually in writing by the ADEC Commissioner: additional orphan site assessment or cleanup in excess of cap established in subparagraph 1; additional Arctic spill response research and development in excess of amount established in subparagraph 5; and/or an expert or experts chosen by ADEC to provide expert advice to ADEC regarding pipeline corrosion and/or other pipeline structural issues.

8. Payment of Unspent Funds. In the event that BP and ARCO fail to spend (or support and vote in favor of spending in the case of arctic spill response research and development) in the full amounts provided for under paragraphs II.A.1. (\$10,000,000), II.A.5. (\$2,000,000) or II.A.7. (\$5,000,000) when and as required in those paragraphs, then BP and ARCO will pay any unspent or unsupported balance as directed by the ADEC Commissioner.

B. Marine Environmental Commitments.

1. Renewed Commitment to OPA 90. BP and ARCO renew their commitment that neither of them will seek to be relieved of the vessel retirement or replacement requirements of the federal Oil Pollution Act of 1990 ("OPA 90"), nor will either of them lobby for a reduction in its current requirements, nor will they take any other action to extend the retirement dates of the non-double-hulled tankers in their combined fleet beyond the currently scheduled retirement dates. In the event that any trade association or other group of which BP or ARCO is a member takes a different or contrary position, BP and ARCO will, upon notification and request by ADEC, issue a statement clarifying that BP and ARCO do not join in that different or contrary position, and reaffirming the position stated in the first sentence of this paragraph.

2. Replacement Vessels. In furtherance of their continuing commitment to meet or exceed the OPA 90 standards and timetable, BP and ARCO will complete the purchase and delivery of the three ARCO Millennium class tankers on current order to replace

single hulled tankers now used in the combined ANS fleet, and will order and purchase additional tankers to meet their combined ANS fleet requirements on average one year earlier than required by OPA 90, with the expected result that the combined ANS fleet (including both owned and chartered vessels) will be entirely double-hulled by mid-year 2007. These additional purchased tankers will each have safety related attributes substantially equivalent to or better than Millennium or Cape class tankers, including new build double-hulls (wholly new construction), main power plant redundancy, twin propellers, twin rudders, twin independent sets of steering gear, and proven electronics (including navigation, course tracking, collision alarms, engine room monitoring, cargo and ballast monitoring, and fire and safety systems). In addition, BP and ARCO will continue to support a ship escort response vessel system for Prince William Sound at current or better levels of effectiveness.

3. Marine Operations. After the merger is completed, BP and ARCO will continue to encourage and support the company operating ANS tankers for them in using a performance management program for the regular review of its practices related to its management and operations including a safe environment, training and qualifications, and vessel operation, maintenance and management procedures. The parties expect this program will include meet and confer working sessions between the operating company and ADEC, scheduled on average once per year, reports at those working sessions by the operating company of their current and anticipated management and operations practices, ongoing consultation between the operating company and ADEC regarding ANS trade tanker management and operations practices, and the involvement of BP and ARCO in those sessions and consultations on a monitoring basis. In addition, BP and ARCO will encourage the operating company to allow the opportunity for ADEC to observe, and to be provided a copy of the written results of, management and vessel audits performed as part of a certification or re-certification process for the International Maritime Organization's International Safety Management Code or for the International Standards Organization.

C. Continued Commitment to Alaska Hire.

1. Alaska Hire Program. BP and ARCO agree that, after the merger is completed, they will continue with and extend their commitment to the people of Alaska to utilize a voluntary program to employ residents of Alaska and to use Alaska businesses. It is expected by the parties that this program will include the attributes that:

a. BP and ARCO will comply with all valid federal, State and local hiring laws in hiring Alaska residents and contractors and will not discriminate against Alaska residents or contractors, and within the constraints of law will employ Alaska residents and contractors to the extent they are available and qualified;

b. When recruiting for new hires, BP and ARCO will advertise for available positions locally and use Alaska job service organizations to notify the Alaskan public;

c. BP and ARCO will use best efforts to contract with Alaska firms and fabricate modules in Alaska whenever feasible (in determining feasibility, BP and ARCO will consider commercial, health, safety, and environmental conditions and requirements to ensure maintenance of BP and ARCO's operational standards); and

d. BP and ARCO will, to the extent permitted by law, encourage its contractors to employ, and train when necessary, residents of Alaska.

2. Reporting. BP and ARCO agree to submit to the Director, Division of Oil and Gas, for transmission to the Department of Labor, an annual report that details the specific measures that they and their contractors and subcontractors have taken or are planning to take to recruit qualified Alaska residents for available jobs, describes on-the-job training opportunities, and describes their efforts to use Alaska businesses for work in connection with their leases and associated activities. BP and ARCO will also furnish the Department of Labor a quarterly report regarding their employment of Alaska residents. The report will include statistical data concerning the number of resident personnel hired within the previous year.

3. Construction. The program and reporting described in this paragraph are intended to be fully consistent with the 1996 amendments to paragraphs 41 (1980 leases) and 31 (1983 lease) of the Northstar Unit leases between the State and BP.

4. Alaska Native Recruitment, Training and Hire. BP and ARCO further acknowledge their continuing support for the recruiting, training and hiring of Alaska Natives and the parties' common understanding of the desirability of providing Alaska's first citizens opportunities to participate in the economic benefits of oil and gas development, most of which takes place in rural Alaska.

D. Community Charitable Commitment. Within three months after the merger is completed, BP and ARCO will establish a charitable entity dedicated to funding organizations and causes within Alaska. The entity will provide 30% of its giving to the University of Alaska Foundation and the remainder to general community needs. Funding decisions by the entity will be made by BP and ARCO, with the advice of a board of community advisors. BP and ARCO will provide ongoing funding to this entity in an amount that is equal to .2% of BP's and ARCO's combined aggregate net Alaska liquids production after royalty times the price for WTI. Specific entity funding levels will be calculated annually, on the same date each year, referencing the liquids production and the average NYMEX WTI prompt month settlement price for the 12 months immediately preceding the calculation.

E. Annual Report. Once every year beginning in March 2001, and continuing thereafter for the term of this Charter, BP and ARCO will provide the State and the public with a written report describing BP and ARCO's performance of the commitments in this Section II during the prior calendar year. Public distribution will be accomplished by posting the report on a company internet site and such other reasonable means of public distribution as BP and ARCO may choose. The report provided for under subparagraph

II.C.2. will satisfy this paragraph II.E. as well with respect to its subject matter so long as that report is also publicly distributed, and timing differences will be disregarded so long as the II.C.2 report is provided and distributed according to the schedule applying to subparagraph II.C.2.

III. Alaska's Commitments.

The State of Alaska finds that this Charter adequately addresses the concerns raised by the State during its merger review, that this Charter will provide for greater competition, diversity, corporate responsibility, renewal and growth in the exploration, development and production of Alaskan North Slope oil and gas and is by virtue of these significant benefits in the best interest of Alaska and its people. The State accordingly agrees that, in exchange for BP's and ARCO's fulfillment of their obligations under this Charter, it will not seek to enjoin the merger or seek additional orders or judgments under AS 45.50.580 related to a claim that the merger is unlawful under AS 45.50.568.

IV. BP Amoco, p.l.c.'s Commitments.

BP Amoco, p.l.c. acknowledges that, after the merger is completed, it will be the ultimate parent company of the BP and ARCO corporate entities owning the Alaska assets which are the subject of this Charter and which accordingly are the primary parties with the State of Alaska herein. In order to provide further assurance to the State that the commitments made in this Charter by these primary parties are fulfilled in all respects, BP Amoco, p.l.c. guarantees that (1) these BP and ARCO corporate entities, or such other BP/ARCO Group companies to which the obligations under this Charter are assigned or otherwise transferred, will remain fully capable during the term of this Charter to fulfill all commitments made by them herein and (2) if for any reason a commitment made by them in this Charter goes unfulfilled past the time performance is due, BP Amoco, p.l.c. will cause that performance to be otherwise fulfilled.

V. General Provisions.

A. Definitions. As used in this Charter: "State" and "State of Alaska" means the State of Alaska, through its Governor, Attorney General and Commissioners of Natural Resources and Revenue; "BP" means BP Exploration (Alaska) Inc.; "ARCO" means ARCO Alaska, Inc.; "merger" means the proposed merger between BP and ARCO's parent companies; the merger is "completed" on the earliest of the date of closing, the effective date of the merger, or the first day after ARCO parent stock is exchanged for BP parent stock; "sell" and "transfer" mean divest; "gross working interest production" means BP and ARCO's share of actual liquid hydrocarbon production, including any State royalty share; "well data" includes, in digital and analog format, any mud log, lithology log, wireline well logs, conventional core and sidewall core descriptions, repeat formation tester, log curve, directional survey, velocity survey, vertical seismic profile, geologic markers, test result, test summary, porosity and permeability data, biostratigraphic data, palynology and paleontology data, geochemical data, vitrinite reflectance data, petrographic data, and

completion reports, regarding onshore or offshore exploration acreage west of the Canning River onshore and west of and including the Kuvlum prospect offshore; "seismic data" includes all seismic and ancillary data required to interpret or reprocess a seismic survey including digital files in standard exchange formats containing survey and location data, original field records, final stack and migrated processed data, final stacking and migration velocities, and a report describing the acquisition and processing of the data, regarding onshore or offshore acreage west of the Canning River onshore and west of and including the Kuvlum prospect offshore; "fair market" as used in paragraph I.J.1. will be determined with reference to the well-head netbacks pertinent to the available market(s) reasonably accessed by North Slope gas.

B. Enforcement. This Charter is governed by Alaska law. The parties agree that, except as provided in paragraphs I.J.7. and V.C., it may be enforced as a contract by (a) the Attorney General (for Alaska) and (b) its authorized representatives (for BP and ARCO) in any state or federal court in Alaska, the commitments made in this Charter may be specifically enforced, a trustee may be appointed by the court in such an action to effectuate any property transfers not accomplished as committed, and the court may also order any other appropriate remedy consistent with law. If BP, ARCO and the Federal Trade Commission enter into a consent decree or other agreement related to the merger, the terms of that decree or agreement that relate directly to or affect Alaskan assets or activities within or touching Alaskan waters may be incorporated by the State into this Charter by reference, and are enforceable by the State as though fully set forth herein. BP and ARCO acknowledge that they are subject to the personal jurisdiction of any state or federal court within the State of Alaska for the purposes of enforcing the terms of this Charter. BP Amoco, p.l.c. consents to the jurisdiction of any state or federal court within the State of Alaska for the purposes of enforcing its commitments under section IV of this Charter. No action alleging a failure of performance under this Charter may be commenced more than four years after the alleged failure, and no action alleging a failure of performance under this Charter may be commenced in any event after January 15, 2009, except that an action as provided in the final sentence of paragraph V.C. may be commenced through January 15, 2011.

C. Enforcement of Section II. Commitments. In the event that BP and ARCO fail to perform their commitments under subparagraph II.A.8. or paragraph II.E., the State may bring an action to enforce those provisions. The other provisions of Section II of this Charter are corporate citizenship commitments to the Alaskan community at large. The parties do not intend for these other commitments of Section II to be enforced by lawsuits, and no right of action is created with respect to them.

D. Construction. This Charter may be amended only in writing by the principals to this agreement or their successors. This Charter will be binding on the parties and their respective successors and assigns, and is not intended to confer any rights or remedies upon any other persons (as used herein, "assigns" includes a transferee of substantially all of the assets of BP or ARCO but does not otherwise include a transferee of property, under this Charter or otherwise). Except as otherwise provided in this Charter, nothing

herein shall be construed to impose a duty or obligation on BP or ARCO to make any additional agreements with or concessions to any other governmental or regulatory body. Where an act required of BP or ARCO under this Charter is subject to regulatory approval or action, the time limits stated in this Charter will be deemed extended as may be necessary to accommodate the time involved in securing those regulatory approvals if BP and ARCO have acted with reasonable diligence in obtaining those approvals.

E. Reporting, Notice and Access to Records.

1. BP and ARCO will submit an initial compliance report at the time they execute this Charter and will submit additional compliance reports beginning thirty (30) days from the date when this Charter is entered, and every thirty (30) days thereafter until the divestitures required under Section I have been completed or a trustee is appointed. Such reports will be in writing and each such report shall include, for each person who during the preceding thirty (30) days made an offer, expressed an interest or desire to acquire, entered into negotiations to acquire, or made an inquiry about acquiring any ownership interest in all or any portion of the divestiture assets, the name, address, and telephone number of that person and a detailed description of each contact with that person during that period. BP and ARCO will maintain full records of all efforts made to divest the assets under Section I.

2. BP and ARCO will notify the State of any proposed divestiture within two (2) business days following execution of a letter of intent or agreement for sale of the assets under Section I. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the divestiture assets. Within ten (10) days after receipt of the notice, the State may request additional information concerning the proposed divestiture, the proposed Purchaser, and any other potential Purchaser. BP Amoco and ARCO will furnish the additional information within ten (10) days of the receipt of the request. Within twenty (20) days after receipt of the notice or within ten (10) days after receipt of the additional information, whichever is later, the State will notify BP and ARCO in writing if it objects to the proposed divestiture. If the State fails to object within the period specified, or if the State provides notice that it does not object, then the divestiture may be consummated. If the State objects, the proposed divestiture may not be accomplished unless ordered by a court of competent jurisdiction.

3. For the purpose of determining or securing compliance with this Charter, and subject to any legally recognized privilege and reasonable notice, the State will be permitted access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of BP or ARCO relevant to BP or ARCO's compliance with this Charter. Subject to the reasonable convenience of BP and ARCO, and without restraint or interference from them, the State may interview their directors, officers, employees, and agents regarding any such matters. No information or documents

obtained by the State under this paragraph shall be divulged by any representative of the State to any person other than a duly authorized representative of the Attorney General, except in the course of legal proceedings to which the State is a party, or for the purpose of securing compliance with this Charter, or as otherwise required by law.

F. Effectiveness. This Charter shall be effective as of the date it is entered as written above. This Charter shall remain fully effective thereafter, except in the event that the merger agreement between BP and ARCO's parent companies is terminated, then any party may terminate this Charter by written notice to all other parties, in which event this Charter shall become null and void and of no effect, as if it were never entered.

G. Attorneys Fees. Within 30 days of the effective date of this Charter, BP and ARCO will pay the State \$1,512,198 as reimbursement for its attorney's fees and costs reasonably incurred in connection with the merger through the date of this Charter. In addition, BP and ARCO will make supplemental payments to reimburse the State for reasonable attorney's fees and costs incurred by the State related to Charter implementation and compliance between the date of this Charter and 12 months after the merger is completed. These supplemental payments will be made within 30 days after the State submits a reasonably supported written request to BP and ARCO for reimbursement.

H. Warranty of Authority. Each of the persons signing below on behalf of a corporate party represents and warrants that he has the authority to execute this Charter on behalf of the party for which he signs. Each of the persons signing below on behalf of the State represents and warrants that he holds the office shown and is authorized to exercise the powers of that office on behalf of the party for which he signs. In addition, BP and ARCO specifically warrant and represent that they are fully authorized and able to make, and to ensure the performance of, the commitments made herein and that, with respect to any Alaska assets currently owned by affiliates, they have taken or will take such steps as are necessary to ensure that the commitments they make herein are accomplished.

[TEXT CONTINUED ON NEXT PAGE]

I. **Other Obligations Not Reduced.** Nothing in this Charter is intended to reduce, eliminate or supersede any other obligations BP or ARCO may have under any State or federal law or regulation.

Signatures:

STATE OF ALASKA

by Tony Knowles
Tony Knowles, Governor

by _____
Bruce Botelho, Attorney General

by John Shively
John Shively, Commissioner of Natural Resources

by Wilson Condon
Wilson Condon, Commissioner of Revenue

BP EXPLORATION (ALASKA) INC.

by Richard Campbell
Richard Campbell, President

ARCO ALASKA, INC.

by Kevin O. Meyers
Kevin Meyers, President

BP AMOCO, p.l.c.

by _____
John Browne, CEO

by Rodney Chase
Rodney Chase, Deputy CEO

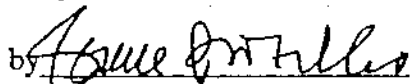
I. Other Obligations Not Reduced. Nothing in this Charter is intended to reduce, eliminate or supersede any other obligations BP or ARCO may have under any State or federal law or regulation.

Signatures:

STATE OF ALASKA

by _____

Tony Knowles, Governor

by 

Bruce Botelho, Attorney General

by _____

John Shively, Commissioner of Natural Resources

by _____

Wilson Condon, Commissioner of Revenue

BP EXPLORATION (ALASKA) INC.

by _____

Richard Campbell, President

ARCO ALASKA, INC.

by _____

Kevin Meyers, President

BP AMOCO, p.l.c.

by _____

John Browne, CEO

by _____

Rodney Chase, Deputy CEO

I. Other Obligations Not Reduced. Nothing in this Charter is intended to reduce, eliminate or supersede any other obligations BP or ARCO may have under any State or federal law or regulation.

Signatures:

STATE OF ALASKA

by _____
Tony Knowles, Governor

by _____
Bruce Botelho, Attorney General

by _____
John Shively, Commissioner of Natural Resources

by _____
Wilson Condon, Commissioner of Revenue

BP EXPLORATION (ALASKA) INC.

by _____
Richard Campbell, President

ARCO ALASKA, INC.

by _____
Kevin Meyers, President

BP-AMOCO, p.l.c.

by 
John Browne, CEO

by _____
Rodney Chase, Deputy CEO

**ADDENDUM TO THE CHARTER FOR DEVELOPMENT
Of the Alaskan North Slope**

This Addendum to the Charter for Development of the Alaskan North Slope ("Addendum") is entered between the State of Alaska, BP, ARCO, BP Amoco p.l.c. ("BP Amoco"), and Phillips Petroleum Company ("Phillips") on March 15, 2000, to confirm their common interpretation of the Charter in connection with anticipated divestitures. Words and terms have the same meaning in this Addendum as in the Charter.

1. The parties agree that the sale of ARCO as a going concern will satisfy the commitments made by BP and ARCO in Charter paragraph I.A. (Sale of Current Production), paragraph I.B. (Sale of NPRA Lease Interests), paragraph I.C. (Sale or Relinquishment of State Leases), subparagraphs I.H.1.-3. (Divestiture of TAPS and Feeder Lines), and paragraph I.I. (Offer to Sell Excess Jones Act Ships).

2. The sale of "ARCO as a going concern" under this Addendum means transfer to Phillips or a Phillips subsidiary of (a) all of the stock in (i) ARCO (subject to the requirement that ARCO's owned assets at the time of any stock sale be substantially the same as at the time the Charter was entered) and (ii) ARCO's affiliates owning associated North Slope feeder pipelines and TAPS, as well as (b) associated ANS shipping capacity.

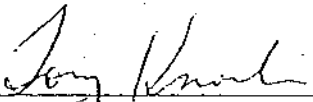
3. In the event of such a going concern sale, BP and ARCO may, where appropriate, provide for separate performance of the Charter commitments by BP and ARCO, so long as BP and ARCO each remain jointly and severally accountable for complete performance of their commitments under the Charter.

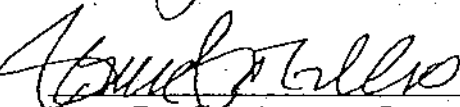
4. This Addendum does not change the notice and review provisions of Charter subparagraph V.E.2, or the commitments of ARCO, BP, and BP Amoco under any other Charter provision not specifically identified in paragraph 1 of this Addendum.

5. Phillips agrees that, if it is approved as the purchaser of ARCO as a going concern and completes that purchase, it will, subject to the terms of this Addendum, ensure ARCO's performance under the Charter to the same extent and in the same manner as BP Amoco has ensured the performance of BP and ARCO in Charter Section IV.

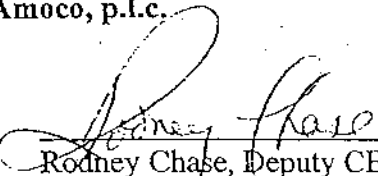
6. Subject only to the terms of this Addendum, the parties agree that the Charter is and will remain in full force and effect according to its terms.

State of Alaska

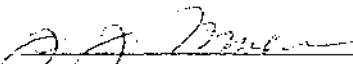
By 
Tony Knowles, Governor

By 
Bruce Botelho, Attorney General

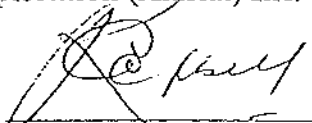
BP Amoco, p.l.c.

By 
Rodney Chase, Deputy CEO


Phillips Petroleum Company

By 
J.J. Mulva
President and
Chief Operating Officer

BP Exploration (Alaska) Inc.

By 
Richard Campbell, President

ARCO Alaska, Inc.

By 
Kevin Meyers, President