



# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

*Coast Guard City, USA*

## Planning and Community Development Department

Date: September 14, 2016

From: PCDD Staff

To: Planning Commission

Re: McNamee Tideland Lease Renewal Request

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### GENERAL INFORMATION

Applicant: Kevin McNamee

Property Owner: City and Borough of Sitka

Property Address: Adjacent 4401 Halibut Point Road

Legal Description: 27,893 of ATS 979

Parcel ID Number: Adjacent to 2-5790-001 & 2-5800-001

Size of Existing Lot: 34,412 square feet

Zoning: C-2 General Commercial

Existing Land Use: Commercial

Utilities: City utilities

Access: Halibut Point Road and by water

Surrounding Land Use: Commercial and residential

### MEETING FLOW

- Report from Staff
- Applicant comes forward
- Applicant identifies him/herself – provides comments
- Commissioners ask applicant questions
- Staff asks applicant any questions
- Floor opened up for Public Comment
- Applicant has opportunity to clarify or provide additional information
- Comment period closed - brought back to the board
- Findings
- Motion of recommendation

## **ATTACHMENTS**

Attachment A: Vicinity Map  
Attachment B: Aerial Vicinity Map  
Attachment C: Zoning Map  
Attachment D: Survey  
Attachment E: Parcel Pictures  
Attachment F: Application  
Attachment G: Current Lease  
Attachment H: Mailing List  
Attachment I: Proof of Ownership  
Attachment J: Proof of Payment

## **PROJECT DESCRIPTION**

Kevin McNamee approached the Planning and Community Development Department with a request to renew a lease of tidelands adjacent 4401 Halibut Point Road for 50 years. The request includes 27,893 square feet of ATS 979, divided into two tracts, for the purpose of continuing operations at Island View Lodge.

Following the Planning Commission meeting, the request will be presented to the Assembly for preliminary approval. After the Assembly grants preliminary approval, the proposal will return to Planning Commission for a final recommendation of approval. A final lease ordinance will be authorized by the Assembly.

## **BACKGROUND**

In 1986, the State of Alaska leased ATS 979, approximately 0.79 acres of tidelands, to Gary Erb for \$2300 per year. In 1997, the State of Alaska transferred the tidelands to the City and Borough of Sitka, so CBS became Erb's landlord. In 2003, Erb sold the upland property, 4401 Halibut Point Road, to Kevin and Tina McNamee. At this time, Erb also transferred the tideland lease to Mr. and Mrs. McNamee. The current lease amount is \$2415 per year. McNamee is current on lease payments. The current lease expires September 30, 2016.

McNamee requests to lease two portions of the prior lease tract, and does not wish to lease a third portion. Parcel A is a 27,893 square foot portion which houses an existing float and a shelter. Parcel B is a 5146 square foot portion that contains approximately half of the main house. The applicant does not wish to lease a third portion of 6343 square feet. McNamee requests a 50 year lease for Parcel A and Parcel B.

McNamee has informally requested to purchase the tidelands; however, due to the details of the tidelands conveyance, CBS is not permitted to sell ATS 979 tidelands.

A competitive bid process will not be required, as McNamee is the upland property owner.

No city staff have expressed concern about the proposed tideland lease.

## **ANALYSIS**

**Project / Site:** The proposed tidelands are immediately adjacent 4401 Halibut Point Road. It is approximately 27,893 square feet of occupied submerged tidelands that are next to the current Island View Lodge.

**Amount of vehicular traffic to be generated and impacts of the traffic on nearby land uses:** Same amount of vehicular traffic as currently observed. No increase is expected.

**Amount of noise to be generated and its impacts on surrounding land use:** As the proposed lease is a renewal, noise would be similar to present use.

**Odors to be generated by the use and their impacts:** Odors from gas and boat exhaust should be anticipated. No increase expected.

**Hours of operation:** A lodge is a 24 hour operation.

**Effects of vehicular and pedestrian safety:** No concerns.

**Ability of the police, fire and EMS personnel to respond to emergency calls on the site:** Same as present.

**Effects of signage on nearby uses:** No change to signage.

**Conformity with Comprehensive Plan:** Conforms to Comprehensive Plan Section 2.6.2(K), which supports facilities to accommodate visitors that do not impact surrounding residential neighborhoods any more than typical residential uses, by facilitating the continued operation of a long-standing lodge.

## **RECOMMENDATION**

It is recommended that the Planning Commission adopt staff's analysis and move to recommend preliminary approval of the tideland lease adjacent 4401 Halibut Point Road.

If the Planning Commission recommends preliminary approval of the proposed tideland lease renewal the process would be: 1) preliminary Assembly approval, 2) recommendation of Planning Commission approval, 3) land lease ordinance by Assembly.

### **Recommended Motions:**

- 1) I move to recommend preliminary approval of the proposed tideland lease adjacent to 4401 Halibut Point Road by Kevin McNamee.

# Attachment A



Parcel B Parcel A

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road





Parcel B

Parcel A

**McNamee**  
 Tideland Lease Request  
 4401 Halibut Point Road

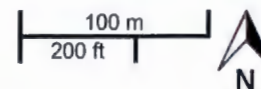




## City & Borough of Sitka, Alaska

Selected Parcel: 4401 HALIBUT POINT ID: 25790001

Printed on 8/18/2016 from <http://www.mainstreetmaps3.com/ak/sitka/internal.asp>

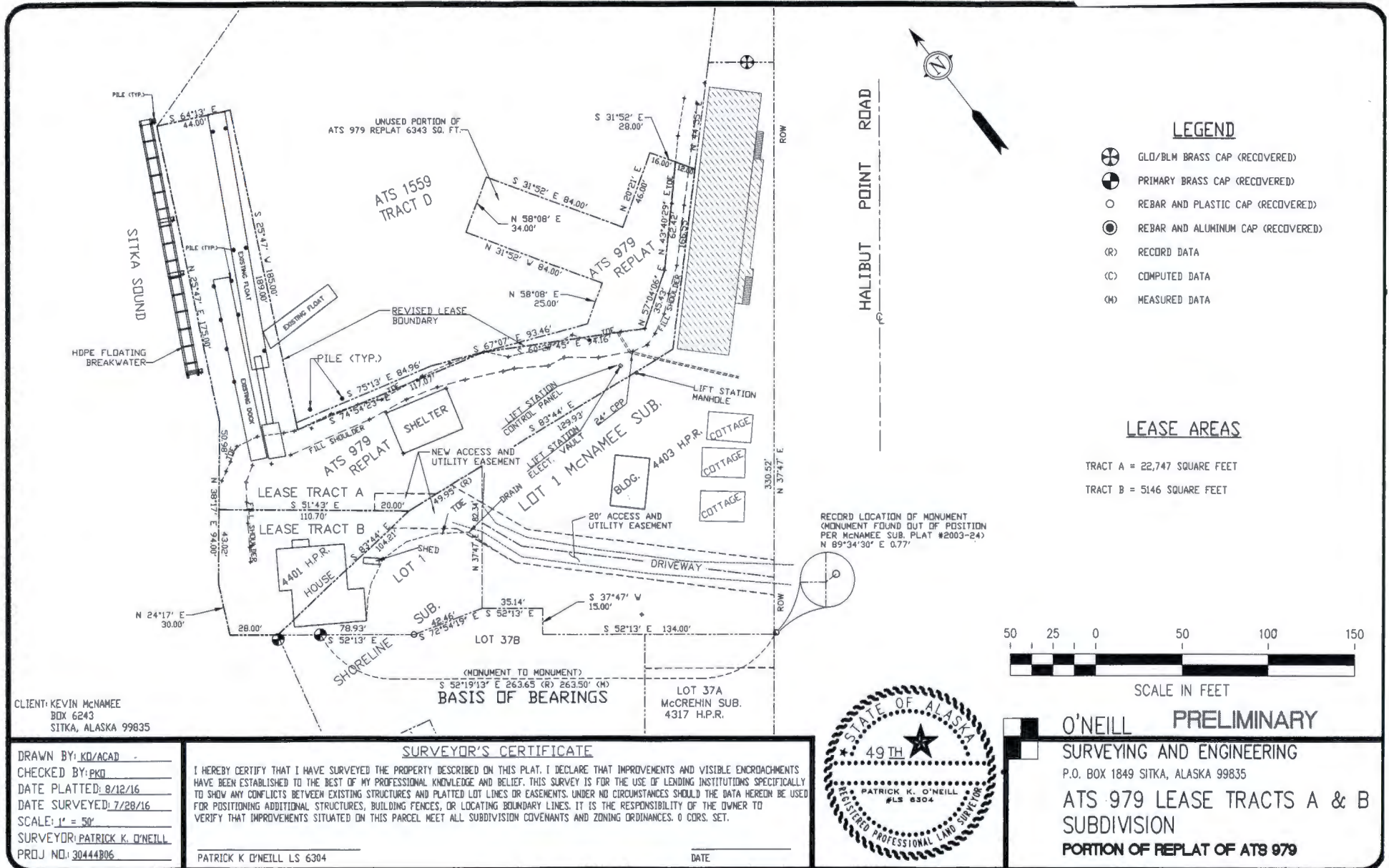


This map is for informational purposes only. It is not for appraisal of, description of, or conveyance of land. The City & Borough of Sitka, Alaska and MainStreetGIS, LLC assume no legal responsibility for the information contained herein.

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road



# Attachment D

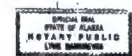


# OWNERSHIP CERTIFICATE

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE DIRECTOR, DIVISION OF TECHNICAL SERVICES, AND THAT THE STATE OF ALASKA IS OWNER OF A.T.S. NO. 979. I HEREBY APPROVE THIS SURVEY AND PLAT FOR THE STATE OF ALASKA.  
DATE: 3/1/86  
[Signature]  
DIVISION OF TECHNICAL SERVICES

## NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SHOWN BEFORE ME THIS 17th DAY OF March  
FOR: [Signature]  
[Signature]  
NOTARY PUBLIC FOR ALASKA  
MY COMMISSION EXPIRES 11/1/86



## CERTIFICATE OF APPROVAL BY THE BOARD

I HEREBY CERTIFY THAT THE REPLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SURVEYING REGULATIONS OF THE CITY AND BOROUGH OF SITKA PLATTING BOARD, AND THAT SAID PLAT HAS BEEN APPROVED BY THE BOARD BY PLAT NO. 12, DATED JAN. 17, 1986, AND THAT THE PLAT SHOWN HEREON HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE DISTRICT COURT, 2d JUDICIAL DISTRICT, SITKA, ALASKA.

DATE: 3/1/86  
[Signature]  
ATTEST:  
[Signature]  
SECRETARY

## LESSOR CERTIFICATE

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE LESSOR AS SHOWN HEREON. I HEREBY APPROVE THIS SURVEY AND PLAT.

DATE: 12/1/85  
[Signature]  
[Signature]  
[Signature]

## NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SHOWN BEFORE ME THIS 19th DAY OF December, 1985  
FOR: Gary H. Ceb  
[Signature]  
NOTARY PUBLIC FOR ALASKA  
MY COMMISSION EXPIRES 11/1/86



MONUMENT 2



MONUMENT 1



TYPICAL CAP MARKING

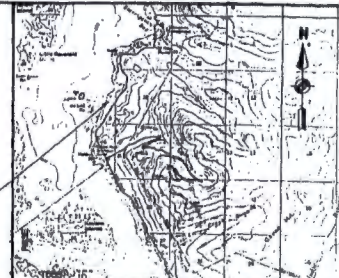


## TYPICAL PRIMARY MONUMENT

MONUMENTS SET THIS SURVEY CONSISTED OF A 1" DIAMETER METAL PIPE 36" LONG WITH A 4" FLANGE ON TOP BUTTERED. A 3" DIAMETER METAL MONUMENT CAP WAS PLACED ON TOP.



THIS REPLAT



## VICINITY MAP

USGS QUAD SITKA A-3 & A-4, 1981  
1" = 1 MILE

## BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS THE TRUE LINE BETWEEN CORNER NO. 3, LOT 20 AND W.S.N.C. NO. 1, S. LOT 41, U.S.S. 3482 OFFICIALLY REPORTED AS N 52° 13' W

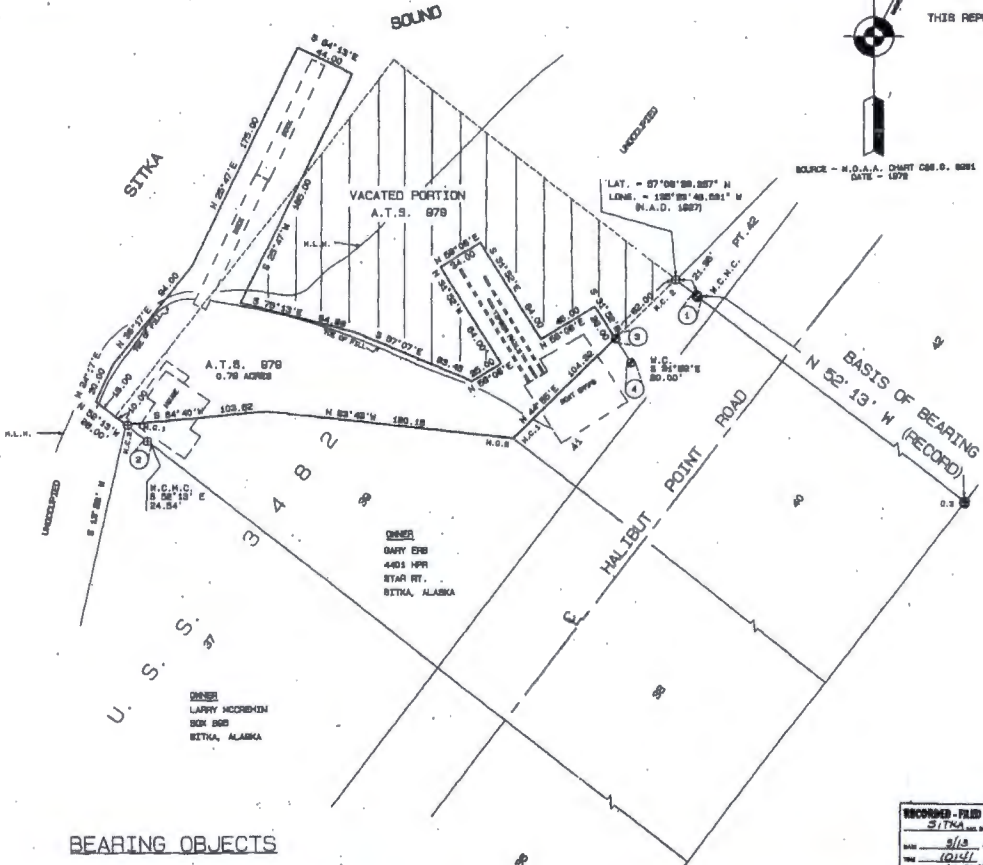
## NOTES:

1. ALL BEARINGS SHOWN ARE TRUE BEARINGS AS ORIENTED TO THE BASIS OF BEARING.
2. ALL DISTANCES SHOWN ARE REDUCED TO HORIZONTAL FIELD DISTANCES.

## LEGEND

- 1. GLO-BLM MONUMENT RECOVERED
- 2. PRIMARY BRASS CAP MONUMENT RECOVERED
- 3. PRIMARY MONUMENT SET THIS SURVEY

## SCALE: 1" = 40'



## BEARING OBJECTS

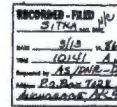
EAST CORNER OF BOAT SHOP BEARS S 17° 01' E 46.30' FROM MON. 3  
NORTH CORNER OF BOAT SHOP BEARS N 57° 50' W 35.48' FROM MON. 3  
EAST CORNER OF BOAT SHOP BEARS S 04° 10' E 30.78' FROM MON. 4  
NORTH CORNER OF BOAT SHOP BEARS N 59° 30' W 39.30' FROM MON. 4



## SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THE MONUMENTS SHOWN THEREON ACTUALLY SET BY ME OR UNDER MY SUPERVISION, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT.

DATE: 3/24/86  
[Signature]  
REGISTERED LAND SURVEYOR



DATE OF SURVEY RECORDED: 3/1/86 FILED: 3/1/86		NAME OF SURVEYOR BENJAMIN W. HARRIS P.O. BOX 400 SITKA, ALASKA 99761
DEPARTMENT OF ALASKA DIVISION OF TECHNICAL SERVICES NORTH SIDE		REPLAT OF A.T.S. NO. 979 LOCATED WITHIN PHOTOGRAPHED SECTION T 5S & R 6S E. C.R.N.
DRYAN, R.T. CRO DATE: 3/24/86 SCALE: 1" = 40'	APPROVAL RECOMMENDED [Signature] REGISTERED LAND SURVEYOR [Signature] A.T.S. - 979	

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road

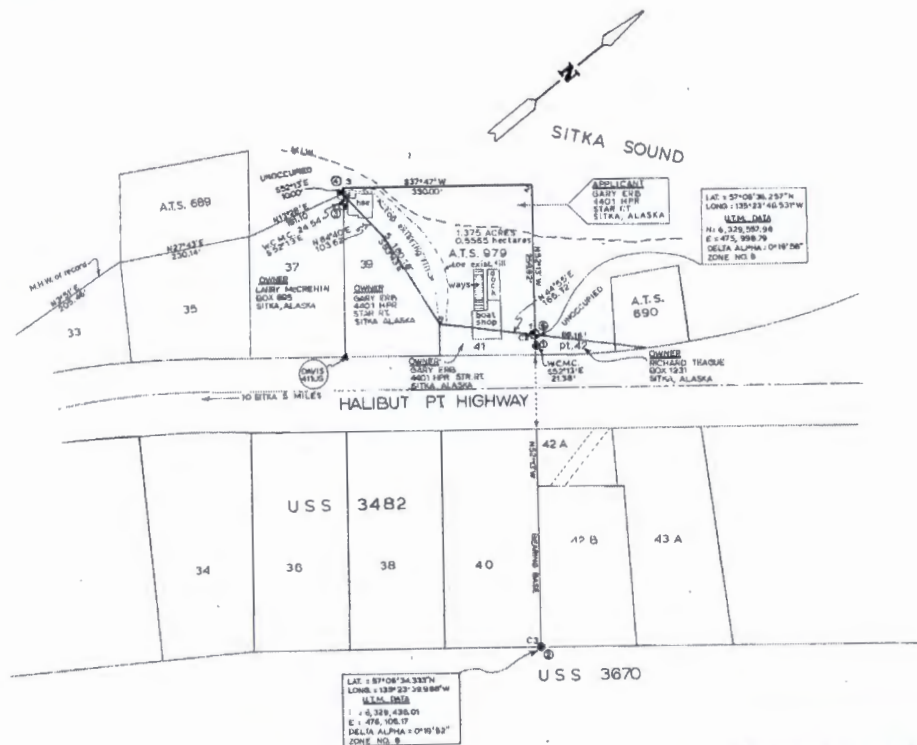
PLAT 86-6



# NOTES

THE UTM AND METRIC DATA IS BEING SHOWN  
HEREON FOR INFORMATION PURPOSES ONLY.

TRACT IS SUBJECT TO A 50 FOOT LINEAR PEDESTRIAN ACCESS  
EASEMENT EXTENDING ALONG THE SEAWARD SIDE OF THE LINE  
OF MEAN HIGH WATER. AT LESSEE'S OPTION, AND WITH  
CONCURRENCE OF LESSOR, ALTERNATE REASONABLE ACCESS  
MAY BE DELINEATED AND PROVIDED FOR ON UPLANDS.



## MONUMENT ACCESSORIES

MON. NO. 1  
N.E. COR. OF HOUSE BEARS N 33°07'W A DIST. OF 130.0 FEET  
S.E. COR. OF HOUSE BEARS S 80°05'E A DIST. OF 135.0 FEET

MON. NO. 2  
N.E. COR. BOAT SHOP BEARS S 29°58'W A DIST. OF 90.0 FEET  
NORTH COR. BOAT SHOP BEARS S 40°05'W A DIST. OF 93.0 FEET  
N.W. COR. BOAT SHOP BEARS S 60°45'W A DIST. OF 100.0 FEET

## BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS THE TRUE LINE BETWEEN FORMER NO. 3, LOT 40 AND  
W.C.M.C. NO. 2, LOT 41, U.S.S. 3482, OFFICIALLY REPORTED AS N 52°13'W.

## LEGAL DESCRIPTION OF A.T.S. 979

A PARCEL OF LAND LYING WITHIN THE FIRST JUDICIAL DISTRICT STATE OF ALASKA, WITHIN PROTRACTED  
SECTION 9, 1556, RANGE 7, COOPER RIVER MERIDIAN, AT CORNER NO. 1 LAT. S 10°58'38.297" W,  
LONG. 139°23'46.531" W, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT BRASS CAP MON. (W.C.M.C. NO. 3 OF LOT 41, U.S. SURVEY 3482) THENCE  
N 52°13'W A DISTANCE OF 25.30 FEET TO THE TRUE POINT OF BEGINNING AND COR. NO. 1 OF THIS  
DESCRIPTION THENCE N 52°13'W A DISTANCE OF 286.82 FEET TO COR. NO. 2; THENCE S 77°47'W A  
DISTANCE OF 330.00 FEET TO COR. NO. 3; THENCE S 55°19'E A DISTANCE OF 100.00 FEET TO COR. NO. 4  
AND ALSO BEING COR. NO. 1 OF LOT 38 OF THE APPOISED SURVEY THENCE N 84°40'E A DISTANCE  
OF 103.62 FEET TO COR. NO. 5; THENCE S 83°43'E A DISTANCE OF 180.18 FEET TO COR. NO. 6;  
THENCE S 44°19'E A DISTANCE OF 166.32 FEET TO COR. NO. 7 AND THE TRUE POINT OF BEGINNING  
OF THIS SURVEY. THE ABOVE DESCRIBED TRACT OF TIDELANDS APPLIED FOR CONTAINS  
1378 ACRES. (0.5565 HECTARES).

1 U.S. ACRE = 0.4047 HECTARE

## OWNERSHIP CERTIFICATE

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE DIRECTOR, ALASKA DIVISION OF  
TECHNICAL SERVICES, AND THAT THE STATE OF ALASKA IS OWNER OF A.T.S. 979  
AS SHOWN HEREON. I HEREBY APPROVE THIS SURVEY AND PLAT FOR THE STATE OF  
ALASKA.

DATE 10-22-81 DIRECTOR DIVISION OF TECHNICAL SERVICES

## NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 10th DAY OF OCTOBER, 1981,  
NOTARY PUBLIC FOR THE STATE OF ALASKA

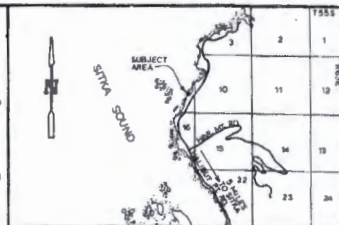
MY COMMISSION EXPIRES 10-10-84

## LEGEND

- UNLOC. AND/OR BLM. MON. RECOVERED
- ▲ PRIMARY BRASS CAP MON. SET THIS SURVEY
- ▲ REBAR & PLASTIC (FOUND)
- ① MONUMENT IDENTIFICATION NUMBER

81-2031  
RECORDED - FILED  
DATE 11/3/81  
BY [Signature]  
NOTARY PUBLIC  
STATE OF ALASKA  
OFFICE: [Address]  
[Signature]  
[Signature]

Plat # 81-42



## VICINITY MAP

U.S.S. QUAD, SITKA (A-51)

SCALE 1" = 1 MILE

## LESSEE CERTIFICATE

I, THE UNDERSIGNED HEREBY CERTIFY THAT I AM THE LESSEE AS  
SHOWN HEREON. I HEREBY APPROVE THIS SURVEY AND PLAT

DATE 10-22-81

WITNESSES [Signatures]

NOTARY PUBLIC FOR THE STATE OF ALASKA [Signature]

MY COMMISSION EXPIRES 10-10-84

## NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 10th DAY OF OCTOBER, 1981,  
NOTARY PUBLIC FOR THE STATE OF ALASKA [Signature]

## SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM REGISTERED TO PRACTICE LAND SURVEYING  
IN ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR  
UNDER MY DIRECT SUPERVISION AND THE MONUMENTS SHOWN THEREON  
ACTUALLY EXIST AS LOCATED AND THAT ALL DIMENSIONS AND OTHER  
DETAILS ARE CORRECT.

DATE 10-22-81 REGISTRATION NO. 4110-8

[Signature] SURVEYOR

DAVIS & ASSOC. INC.



## BAR SCALE

0 100 200 300  
Feet  
SCALE 1" = 100'  
1 INCH = 3,280.833 U.S. SURVEY FEET  
1 U.S. ACRE = 0.4047 HECTARE

ADL NO. 65550

PLAT PREPARED JANUARY 31, 1981

DATE OF SURVEY 3 MARCH 1981 NAME OF SURVEYOR  
DAVIS & ASSOC. INC.  
BY 3 MARCH 1981 BOB 1849  
SITKA, ALASKA

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF TECHNICAL SERVICES  
CORPORATE ALASKA

ALASKA TIDELANDS SURVEY NO. 979  
WITHIN PROTRACTED SEC. 9, T55S, R83E, CRM.

DRAWN BY [Signature]

DATE 31 JAN 1981 SURVEY RECORDED [Signature]

SCALE 1" = 100' CHECKED [Signature] FILE NO. [Signature]

ATS-979

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road

















# Memorandum

**TO:** Maegan Bosak, Planning and Community Development Director

**FROM:** Wendy Lawrence, Assessing Director *Wendy Lawrence*

**SUBJECT:** City and Borough of Sitka Tidelands Lease Application – ATS 979 (which is adjacent and ancillary to:  
PID: 2-5790-001 – 4401 HPR (6,000sf owned filled tidelands)  
PID: 2-5800-001 – 4403 HPR (31,681 sf owned filled tidelands)

**DATE:** September 7, 2016

The real property described below was inspected on November 30, 2015, for the tideland lease application noted above. The City and Borough of Sitka owns 34,412sf of ATS 979 consisting of a combination of filled and submerged city-owned tidelands addressed as 4401 HPR. This parcel is located due north and directly adjacent to two other filled tideland lots owned by the lease applicants which are noted as 4401 HPR (PID 2-5790-001) and 4403 HPR (PID 2-5800-001 aka Island View Lodge). Island View Lodge is owned and operated by the lease applicants, and this leased parcel is necessary and ancillary to this business. This leased parcel contains floating docks and rock fill area which is used for guest parking and dock access.

The applicant is requesting a lease renewal of 27,893 square feet of ATS 979 outlined as Parcels A & B within the lease application. Parcel A has been classified to consist of approximately 12,322sf of filled tidelands, 3,525sf of sloping tidelands, and 6,900sf of submerged tidelands. Parcel B consists of 5,146sf of tidelands classified as filled for this valuation.

Tidelands within the City and Borough of Sitka are valued according to their classification and upland land modeling, with value ranges for uplands at \$7.70-\$25.85/sf. Upland and filled tidelands are valued according to the regular land modeling of the area, sloping tidelands are valued at thirty percent of the upland rate, and submerged tidelands are valued at fifteen percent of the upland rate. This standard of valuation is used throughout assessment departments in Alaska, with price variances according to upland land values. This property falls within the lower end of this range with the following per square foot prices: \$7.82/sf per upland/filled, \$2.35/sloping, and \$1.17/submerged.

**Recommended conclusion of value is as follows: land modeling for the Halibut Point Rd-North area yields an assessed valuation of \$152,900 for this parcel, on which the annual lease rate shall be determined according to CBS code.**

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road



**Samantha Pierson**

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**From:** Lindsey Vilandre  
**Sent:** Thursday, August 18, 2016 2:11 PM  
**To:** Samantha Pierson  
**Subject:** Re: McNamee Tideland Lease

**Good Afternoon,**

**The current payment is \$2,415.00 per year. Yes he paid in 2015 for a year. Next billing is in October of this year.**

**Thank you  
Have a great day  
Lindsey ☺**

---

**From:** Samantha Pierson  
**Sent:** Thursday, August 18, 2016 9:36:12 AM  
**To:** Lindsey Vilandre  
**Subject:** McNamee Tideland Lease

Lindsey,

Could you tell me the current payment amount for Kevin McNamee's tideland lease at 4403 Halibut Point Road, and if he is current on his payments?

*Sam*

Samantha Pierson  
Planner I  
City and Borough of Sitka  
100 Lincoln Street  
Sitka, AK 99835  
(907) 747-1814

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road



**CITY AND BOROUGH OF SITKA**  
PLANNING AND COMMUNITY DEVELOPMENT DEPAR  
LAND MANAGEMENT APPLICATION FORM

**Attachment F**

1. Request projects at least FOURTEEN (14) days in advance of next meeting date.
2. Review guidelines and procedural information.
3. Fill form out completely. No request will be considered without a completed form.
4. Submit all supporting documents and proof of payment.

**APPLICATION FOR:**

TIDELAND

LEASE

LAND

PURCHASE

**BRIEF DESCRIPTION OF REQUEST:** Applying to renew tideland ~~is~~ lease for another 50 years. Requesting to separate the portion that falls under the house (4401 HPR) and the parking/dock section. See drawing attached for detail on lease tract A & B.

**PROPERTY INFORMATION:**

CURRENT ZONING: C-2 ARE YOU THE UPLAND PROPERTY OWNER? yes

CURRENT LAND USE(S): Residential/Commercial PROPOSED LAND USES (if changing): Same

**APPLICANT INFORMATION:**

PROPERTY OWNER: Kevin McNamee

PROPERTY OWNER ADDRESS: 4403 HPR Cabin "D" 99835

STREET ADDRESS OF PROPERTY: 4401 / 4403 / 4405 HPR SITKA, AK. 99835

APPLICANT'S NAME: Kevin McNamee

MAILING ADDRESS: Box 6243 SITKA, AK. 99835

EMAIL ADDRESS: Kevin-mcnamel@yahoo.com DAYTIME PHONE: (907) 738-6541

**PROPERTY LEGAL DESCRIPTION:**

TAX ID: 2-5800-001 LOT: \_\_\_\_\_ BLOCK: \_\_\_\_\_ TRACT: \_\_\_\_\_

SUBDIVISION: \_\_\_\_\_ US SURVEY: ATS 979

**OFFICE USE ONLY**

COMPLETED APPLICATION		SITE PLAN	
NARRATIVE		CURRENT PLAT	
FEE		OWNERSHIP	

**REQUIRED SUPPLEMENTAL INFORMATION:**

- ☒ Completed application form
- ☐ Narrative
- ☐ Site Plan showing all existing and proposed structures with dimensions and location of utilities (See Plat).
- ☒ Proof of filing fee payment (See \$ 8.)
- ☐ Proof of ownership (If claiming upland preference)
- ☐ Copy of current plat

**CERTIFICATION:**

I hereby certify that I desire a planning action in conformance with Sitka General Code and hereby state that all of the above statements are true. I certify that this application meets SCG requirements to the best of my knowledge, belief, and professional ability. I acknowledge that payment of the review fee is non-refundable, is to cover costs associated with the processing of this application, and does not ensure approval of the request. I understand that public notice will be mailed to neighboring property owners and published in the Daily Sitka Sentinel. I further authorize municipal staff to access the property to conduct site visits as necessary.



Applicant



Date

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road



**Attachment G**

**Consent to Assignment**


The City and Borough of Sitka, a municipal corporation of 100 Lincoln Street, Sitka, Alaska 99835 as Successor Lessor, pursuant to a transfer to the Successor Lessor from the State of Alaska DNR, hereby consents to the assignment by Assignor above to Assignee above of the right, title and interest of Gary H. Erb in said lease (ADL No. 6550) recorded April 6, 1987 in Book 77 at Page 718, the following parcel of land described as follows:

Alaska Tidelands Survey 979, located within protracted Section 9, township 55 South, Range 63 East, Copper River Meridian, according to Plat No. 86-6, Sitka Recording District, First Judicial District, State of Alaska.

Dated this 6<sup>th</sup> day of August, 2003

*All terms of original lease apply to McNamee.*

**CITY AND BOROUGH OF SITKA**



**HUGH BEVAN**  
Its:

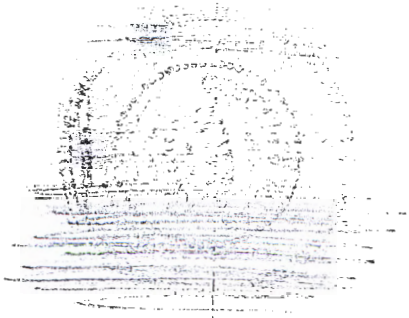
On this day personally appeared before me **THE CITY AND BOROUGH OF SITKA**, by and through its City Administrator, **Gary Paxton**, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed as in his official capacity as the duly authorized agent of, and as the free and voluntary act and deed of the City and Borough of Sitka, for the uses and purposes therein mentioned.

Given under my hand and official seal this 6<sup>th</sup> day of August, 2003.



Notary Public in and for Alaska

My Commission expires: 4-15-07



**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road

### Assignment of Lease

This assignment is made this \_\_\_\_ day of \_\_\_\_\_, 2003 by and between Gary H. Erb and Ann C. Erb of 3820 Q Avenue, Anacortes, WA 98221 and Kevin McNamee and Tina McNamee of P.O. Box 6243, Sitka, Alaska 99835

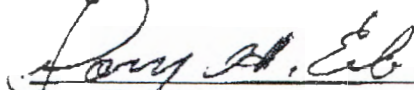
In consideration of the sum of Ten dollars (\$10.00) and other valuable consideration, receipt of which is hereby acknowledged, the Assignor hereby assigns to the Assignee all rights, title and interest, held by Assignor in a certain Tidelands Lease Agreement, being ADL No. 65550, dated October 1, 1986, wherein Gary H. Erb is the lease holder and the City and Borough of Sitka is the Lessor, covering the following property:

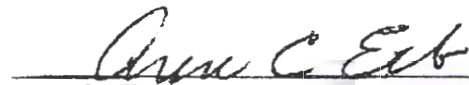
Alaska Tidelands Survey 979, located within protracted Section 9, Township 55 South, Range 63 East, Copper River Meridian and contains .79 acres more or less, according to the survey plat filed in the Sitka Recording District, on March 13, 1986 as Plat 86-6, First Judicial District, State of Alaska.

The parties agree that this assignment is made for the purpose of allowing Assignees, their heirs and assigns for the remainder of the above mentioned term, to have and enjoy all rights of possession and use, and to undertake all responsibilities and obligations, which might otherwise flow to or be incumbent upon the Assignor under said lease, subject to the rents, covenants, conditions and provisions therein stated.

If at any time a default shall be made by the Assignees in payment of any sum due hereunder upon that Deed of Trust for security purposes between the parties of even date, it shall be lawful for the Assignor to foreclose thereunder as permitted by law. The Assignor may maintain such other remedies as the law and this instrument may afford.

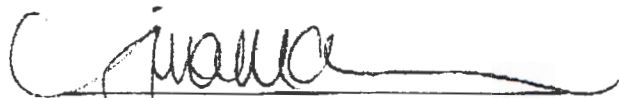
Assignor:

  
\_\_\_\_\_  
Gary H. Erb

  
\_\_\_\_\_  
Ann C. Erb

Assignee:

  
\_\_\_\_\_  
Kevin McNamee

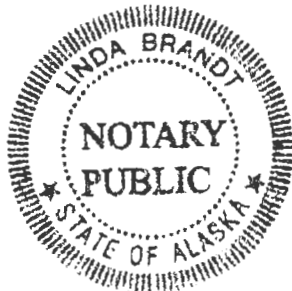
  
\_\_\_\_\_  
Tina McNamee

**McNamee**  
Tidelands Lease Request  
4401 Halibut Point Road

STATE OF ALASKA )  
 ) ss,  
 First \_\_\_\_\_ Judicial District )

THIS IS TO CERTIFY that on this 7th day of April, 2003, before me the undersigned Notary Public, personally appeared Kevin McNamee and Tina McNamee known to me and to me known to be the individual(s) described in and who executed the foregoing instrument and they acknowledged to me that they signed the same freely and voluntarily for the uses and purposes therein set forth.

WITNESS my hand and official seal.



Linda Brandt  
 Notary Public in and for Alaska  
 My commission expires: 6/07/2006

STATE OF WASHINGTON )  
 ) ss:  
 County of Skagit )

THIS IS TO CERTIFY that on this 31st day of March, 2003, before me the undersigned Notary Public, personally appeared Gary H. Erb and Ann C. Erb, individually known to me and to me known to be the individual(s) described in and who executed the foregoing instrument and they acknowledged to me that they signed the same freely and voluntarily for the uses and purposes therein set forth.

WITNESS my hand and official seal.



Laura L. Iles  
 Notary Public in and for Washington  
 My commission expires: 2-17-07

**McNamee**  
 Tideland Lease Request  
 4401 Halibut Point Road



ATS 979

TONY KNOWLES, GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES**

SOUTHEAST REGIONAL OFFICE  
DIVISION OF LAND

400 WILLOUGHBY AVENUE, SUITE 400  
JUNEAU, ALASKA 99801  
PHONE: (907) 465-3400  
FAX: (907) 586-2954

August 20, 1997

Gary Erb  
3820 Q. Ave.  
Anacortes, WA 98221

Re.: Transfer of Tideland Lease ADL 65550 to the City and Borough of Sitka


Dear Lessee:

This is to inform you that the above identified tideland lease has been transferred to the City and Borough of Sitka. This makes the City and Borough of Sitka your new landlord and all responsibilities and obligations for your lease are now due to the City and Borough of Sitka.

You will no longer receive a State courtesy billing notice and timeliness of payment will have to be observed by you. We thank you for your business with the State of Alaska and wish you a successful partnership with the new landowner.

Sincerely,

Andrew W Pekovich,  
Southeast Regional Manager

by:   
Elizaveta H.C. Shadura  
Natural Resource Manager

cc: City and Borough of Sitka

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road

STATE OF ALASKA Sitka Recording District  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF LAND AND WATER MANAGEMENT

Pouch 7-005  
Anchorage, Alaska 99510

ADL No. 65550**LEASE AGREEMENT**

This Lease Agreement is made and entered into this 1st day of October, 1986,  
between the State of Alaska, by and through the Director of the Division of Land and Water Management  
with the consent and concurrence of the Commissioner of Natural Resources (hereinafter referred to as "the  
Lessor"), and Gary H. Erb

whose address is 4401 Halibut Point Road, Sitka, Alaska 99835

(hereinafter referred to as "the Lessee").

**WITNESSETH:**

WHEREAS, the Lessor has undertaken the necessary administrative actions under applicable laws and  
regulations to fully authorize and enable the lease of the Parcel described herein, which is acknowledged by  
the Lessee by his signature hereto;

WHEREAS, the Lessee is aware of the provisions of Title 38, Alaska Statutes, Title 11, Alaska  
Administrative Code, and other applicable laws, regulations, and ordinances, and fully understands the duties  
and obligations of the Lessee under this Lease, and the rights and remedies of the Lessor,

NOW THEREFORE, the Lessor and the Lessee, in consideration of the mutual covenants and conditions  
stated in this Lease, agree as follows:

The Lessor agrees to lease to the Lessee the following parcel of land (hereinafter referred to as "the Parcel")  
which is situated in the State of Alaska and is described as follows:

Alaska Tidelands Survey 979, located within protracted Section  
9, Township 55 South, Range 63 East, Copper River Meridian and  
contains .79 acre more or less, according to the survey plat  
filed in the Sitka Recording District on March 13, 1986 as  
plat 86-6.

EXCEPTING AND RESERVING THEREFROM, to the Lessor and its assigns during the term of this Lease, the following specific interests, which shall be in addition to and not in derogation of any general reservations to the Lessor which are required by law and which may be stated elsewhere in this Lease:

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

TO HAVE AND TO HOLD the said demised premises for a term of thirty ( 30 ) years commencing on the 1st day of October, 19 86 and ending at 12 o'clock midnight on the 30th day of September, ~~19~~ 2016, unless sooner terminated as hereinafter provided.

The Lessee shall pay to the Lessor rental as follows: Equal annual payments, in advance, on or before the \_\_\_\_\_ day of \_\_\_\_\_ of every year during said term at the rate of two thousand three hundred dollars (\$ 2,300.00 ) per annum, such annual rental payments to be subject to adjustment following expiration of the initial 25-year period of this lease and at each 10-year period thereafter pursuant to AS 38.05 as enacted, or as may be hereafter amended.

It is agreed that the covenants, terms and agreements herein contained shall be binding upon the successors and assigns of the respective parties hereto.

THE LESSOR AND THE LESSEE FURTHER COVENANT AND AGREE AS FOLLOWS:

1. Use of Parcel. The Lessee shall use and occupy the Parcel in compliance with all applicable laws, regulations, ordinances, and orders which a public authority has promulgated or may promulgate, including those of a building or zoning authority and those relating to pollution and sanitation control. The Lessee shall not permit any unlawful occupation, business, or trade to be conducted on the Parcel. The Lessee shall properly locate himself and his improvements on the Parcel, and shall not commit waste of the Parcel, whether ameliorated or otherwise. Notwithstanding such laws, regulations, ordinances, and orders, the Lessee shall maintain the Parcel in a reasonably neat and clean condition, and take all prudent precautions to prevent or suppress pollution of the ground, surface water, air, or land, and to prevent or suppress grass, brush, or forest fires, and to prevent erosion or destruction of the land.

2. Permanent Improvements. The Lessee must within 90 days of completion of any site improvements including, but not limited to, structural improvements, clearing, leveling, excavation, and backfill, file with the Lessor adequate and reasonable documentation of such improvements, setting forth all applicable costs and quantities. Failure to provide such documentation will result in loss of credit for such improvements in determination of the original condition of the Parcel for reappraisal purposes.

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road



3. Encumbrance of Parcel. The Lessee, during the term of this Lease, shall not encumber or cloud the Lessor's title to the Parcel, or any portion thereof, nor enter into any lease, easement, or other obligation of the Lessor's title without the prior written consent of the Lessor; and any such act or omission, without the prior written consent of the Lessor, shall be void against the Lessor.

4. Assignment of Parcel. The Lessee may not assign or sublet the Parcel, without the prior written approval of the Lessor. The Lessor may approve such assignment or subletting if the Lessor finds it to be in the best interest of the State. No assignment or subletting of the Parcel shall be approved until the assignee agrees to be subject to and governed by the provisions of this Lease in the same manner as the original Lessee. No such assignment or subletting will be effective until approved by the Lessor in writing. No assignment or subletting of the Parcel, or any portion thereof, by the Lessee shall annul the Lessee's obligation to pay the rent herein required for the full term of this lease. Except as provided in this lease, no subdivision of the leasehold interest, including any exposed airspace thereon, shall occur.

5. Denial of Warranty Regarding Conditions. The Lessor makes no warranty, express or implied, nor assumes any liability whatsoever, regarding the social, economic, or environmental aspects of the Parcel, to include, without limitation, the soil conditions, water drainage, natural or artificial hazards which may exist, or the profitability or fitness of the Parcel for any use.

6. Agreement to Terms of Lease Documents. (a) The Lessor and the Lessee agree and recognize that each of the covenants and conditions in this Lease and any attachments thereto are merged and incorporated into this agreement and shall be binding upon themselves and upon their respective successors and assigns and shall inure to their benefit. The Lessor and the Lessee further agree and recognize that this Lease shall be conditioned upon satisfactory performance by the Lessor and the Lessee of all covenants contained herein.

(b) If all or part of said Parcel has been tentatively approved, but not yet patented, by the United States to the Lessor, then this Lease shall be conditioned upon receipt by the Lessor of such patent. If for any reason the Lessor does not receive patent, any rental payments made to the Lessor under this Lease will not be refunded. Any prepaid lease rentals on lands to which patent is denied the Lessor shall be refunded to the Lessee of record and any properly recorded lienholder, if any, jointly. The money refunded shall, however, be limited to the prorata portion of the unexpired term. The Lessor shall have no further liability to the Lessee for the termination of the Lease.

7. Payment of Taxes and Assessments. The Lessee shall pay all taxes and assessments accruing against the Parcel during the term of the Lease.

8. Right-of-Way for Public Highways and Utilities. In the event that the Parcel borders or includes one or more section lines, the Lessor hereby expressly reserves unto itself and its successors and assigns a right-of-way 100 feet wide and centered on such section line or lines.

9. Navigable and Public Waters. The Lessor reserves an easement 50 feet wide for public access along the mean high water line or ordinary high water mark of all water bodies listed in this Lease which are bordering on or included within the Parcel. Public easements to and along listed water bodies are reserved for all of those uses and purposes normally associated with or incident to an easement for access to the public resources of the water body to and along which the easement has been reserved. No public access easement may be obstructed or otherwise rendered by the Lessee incapable of reasonable use by the public for the purposes for which it was reserved. No public access easement may be vacated, abandoned, or extinguished without approval of the Lessor.

10. Reservation of Easements. The Lessor expressly reserves the right to take for the use of the State of Alaska and the right to grant to third parties, easements or rights-of-way of unlimited size across the Parcel herein leased if it is determined to be in the best interests of the State to do so, even though the creation of the easement or right-of-way terminates the entire leasehold estate; provided, however, that the Lessee shall be entitled to compensation for all improvements or crops which are damaged or destroyed as a direct result of such easement or right-of-way.

11. Condemnation of Leasehold or Improvements. With the exception of the taking of easements or rights-of-way which is governed by paragraph 10 above, if the whole or any part of the Parcel is taken by any authorized body or person vested with the power of eminent domain, by negotiation, court action, or otherwise, the following provisions control:

(a) Taking of the entire premises. If all of the premises are taken by condemnation, the terms of the Lease and all rights of the Lessee will immediately terminate, and the rent must be adjusted so that it is due only until the date the Lessee is required to surrender possession of the premises. The Lessor is entitled to all the condemnation proceeds, except that the Lessee will be paid the portion of the proceeds attributable to the fair market value of the buildings or improvements placed on the condemned premises by the Lessee.

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

(1) If the taking by condemnation reduces the ground area of the Parcel by at least 30 percent or materially affects the use being made by the Lessee of the Parcel, the Lessee has the right to elect to terminate or not to terminate the Lease by written notice to the Lessor not later than 180 days after the date of taking.

(2) If the Lessee elects to terminate, the provisions in (a) of this subsection govern the condemned portion of the Parcel and the terms of the Lease govern disposal of the remainder of any buildings or improvements made by the Lessee.

(3) If the Lessee elects not to terminate, the Lease continues and the Lessor is entitled to the full condemnation proceeds except the portion attributable to the fair market value of the buildings or improvements placed on the condemned portion of the premises by the Lessee. Rent at the existing rate will terminate on the date of taking. Except as it may be adjusted from time to time under the terms of the Lease and applicable statutes, rent for the balance of the term will be adjusted by the Lessor to reflect the taking.

(c) Taking of insubstantial part of premises. If the taking by condemnation reduces the ground area of the Parcel by less than 30 percent and the Lessor determines that the taking is of such an insubstantial portion that the Lessee's use of the Parcel is not materially affected, the provisions of (b)(3) of this subsection will govern.

12. Access. The Lessor makes no representations or warranty that it will construct or maintain access to the Parcel.

13. Valid Existing Rights. This Lease is entered into and made subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land in existence on the date of execution of this Lease.

14. Inspection. The Lessor shall have reasonable access to the Parcel for purposes of inspection regarding the faithful performance of the covenants and conditions of this Lease and for the performance of other lawful requirements.

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road



15. Mineral Reservations. The Lessor hereby expressly saves, excepts, and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every name, kind or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils. The Lessor also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, drilling and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes, hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

Provided, however, that no rights reserved hereunder shall be exercised by the Lessor or its subsurface lessees, until provision has been made by the Lessor or its subsurface lessees to pay to the Lessee of the land upon which the rights are herein reserved, full payment for all damages sustained by said Lessee by reason of entering upon said land; and provided that, if said Lessee for any cause whatever refuses or neglects to settle said damages, the Lessor or its subsurface lessees, or any applicant for a subsurface lease, contract or option from the Lessor or its subsurface lessee for the purpose of exploring for or extracting valuable minerals, coal, petroleum, natural gas, or geothermal resources shall have the right, after posting a surety bond with the Lessor issued by a corporation qualified to do business in Alaska and licensed to sell insurance in Alaska, or after posting with the Lessor a sufficient bond executed by one or more individual sureties approved by the Lessor and after due notice and an opportunity to be heard, to exercise rights granted to it for reasonable use of the surface required for the full enjoyment of the reserved subsurface rights which it holds. Each surety bond shall be sufficient in amount and security to secure the affected rights of the surface Lessee, and such Lessee and the Lessor or its subsurface lessee shall have the standing which may be necessary to determine the damages which the surface Lessee of such lands may suffer, and the security appropriate to hold the surface Lessee harmless in relation thereto.

16. Surface Reservations. Unless otherwise stated in this Lease or in an attachment or amendment hereto, the Lessee shall not sell or remove for use elsewhere any of the surface resources of the parcel, e.g., stone, gravel, sand, peat, topsoil, timber, or any other material valuable for building or commercial purposes; provided, however, the Lessee may make reasonable personal use of such materials on the site.

17. Appropriation or Disturbance of Waters. (a) During the term of this Lease, the Lessee shall have the right to apply for an appropriation of ground or surface water on the Parcel in accordance with the Alaska Water Use Act. All water applied for and appropriated during the term of this Lease shall remain appurtenant to the Parcel during said term, and such water and water rights shall not be severed or transferred from the Parcel or any part thereof during said term without the prior consent of the Lessor. The Lessee's rights under any permit or certificate of appropriation shall revert to the Lessor upon termination of the Lease or forfeiture of the Lease for cause.

(b) If the Lessee desires to use the Parcel to construct any form of hydraulic project or employ any equipment or engage in any activity which will use, divert, obstruct, pollute, or change the natural flow or bed of any anadromous fish river, lake or stream, the Lessee shall, prior to the commencement of any such operation, procure the approval of the Commissioner of the Department of Fish and Game.

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road



18. Acquisition of Rights or Interests. Any right or interest acquired during the term of this Lease and accruing to the benefit of the Parcel shall remain appurtenant to the Parcel during that term, and shall not be severed or transferred from the Parcel without the prior consent of the Lessor. In the event of termination or forfeiture of this Lease, any such right or interest shall revert to the Lessor along with the Parcel.

19. Land Alterations Due to Natural or Artificial Causes. The Parcel described herein shall constitute the entire Parcel of property to be leased by the Lessor to the Lessee pursuant to this agreement. If, through natural or artificial causes, accretion or reliction of land occurs contiguous to the Parcel, the Lessee shall have no right to occupy or use such accreted land unless a separate lease is entered with the Lessor with respect to such lands. The parties agree and stipulate that the rules of law usually applicable to accretion or reliction of land shall not apply to this Lease, nor to the Parcel leased hereunder, in order that the parties may give effect to the provision agreed upon herein.

20. Waiver or Forebearance. The receipt of rent by the Lessor, with or without knowledge of any breach of the Lease by the Lessee, or of any default on the part of the Lessee in the observance or performance of any of the terms, conditions or covenants of this Lease, shall not be deemed to be a waiver of any provision of this Lease. No failure on the part of the Lessor to enforce a condition or covenant of this Lease, nor the waiver of any right hereunder by the Lessor, unless in writing, shall discharge or invalidate the application of such term or covenant; nor shall any forbearance or written waiver affect the right of the Lessor to enforce any term or covenant in the event of any subsequent breach or default. The receipt by the Lessor of rent or any other sum of money, or the termination in any manner of the Lease, or the giving by the Lessor of any notice hereunder to effect such termination, shall not reinstate, continue, or extend this Lease nor destroy or in any manner impair the validity of any such notice of termination which may have been given hereunder by the Lessor to the Lessee prior to the receipt of any such sum of money or other consideration, unless the contrary effect shall be expressed in writing and signed by the Lessor.

21. Breach and Remedies. (a) Time is of the essence in the Lease Agreement. If the Lessee shall breach the performance of any of the terms, covenants, conditions or stipulations contained herein or attached hereto, and said breach shall not be remedied within 60 days after written notice of such breach has been served upon the Lessee and the holder of a security interest by the Lessor, the Lessee shall be subject to such legal action as the Lessor shall deem appropriate, including, but not limited to, the termination of this Lease, provided that no improvements now upon the Parcel, or which may be placed thereon during the term of this Lease, may be removed therefrom during any time in which the Lease may be in breach. In the event that this Lease is terminated for breach of any of the covenants or conditions contained herein or attached hereto, all rents paid by the Lessee shall be forfeited to and retained by the Lessor not as a penalty but as liquidated damages. The Lessor shall not be liable for any expenditures made by the Lessee or undertaken by the Lessee under this Lease prior to termination.

(b) If the Lessee fails to cure or remedy a breach of default within the time allowed in (a) of this paragraph, the holder of a security interest who has received notice under (a) of this paragraph may cure or remedy the breach or default if the breach or default can be cured by the payment of money or, if this cannot be done, by performing or undertaking in writing to perform the terms, covenants, restrictions and conditions of the lease capable of performance by the holder. The holder shall act within 60 days from the date of receipt of notice under (a) of this paragraph, or within any additional period which the Lessor may allow for good cause.

(c) In the event that this Lease is terminated, or in the event that the Parcel, or any part thereof is abandoned by the Lessee during the term of this Lease, the Lessor may immediately, or at any time thereafter, enter or re-enter and take possession of said Parcel, or any part thereof, and without liability for any damage therefor, remove all persons and property therefrom either by summary proceedings or by suitable action at law; provided, however, that the words "enter" and "re-enter" as used herein are not restricted to their

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road

technical legal meaning. Any entry or re-entry, possession, repossession, or dispossession by the Lessor, whether taken by summary proceedings or otherwise, shall not be deemed to absolve, relieve, release or discharge the Lessee, either in whole or part, for any monetary liability under the Lease.

22. Disposition of Improvements and Chattels After Termination. (a) The Lessee shall, within 60 days after termination of the Lease by the Lessor or by operation of law, remove all improvements and chattels located on the Parcel, provided that the Lessor first determines that such removal will not cause injury or damage to the Parcel or seriously impair its redispisal. Following such removal, the Lessee shall leave the Parcel in a safe and clean condition acceptable to the Lessor. The Lessor may, in its discretion, extend the time for removal of improvements under this subparagraph where undue hardship is demonstrated.

(b) If any improvements or chattels having an appraised value exceeding \$10,000.00, as determined by the Lessor, are not removed from the Parcel within the time allowed, they shall, upon 30 days prior written notice to the Lessee, be sold at public auction under the direction of the Lessor. The proceeds of sale shall inure to the Lessee who placed the improvements or chattels on the land, after deduction for the benefit of the Lessor of all monies due and owing under this Lease and all expenses incurred in administering the termination and conducting the sale. If there are no other bidders at such sale, the Lessor is authorized to bid on such improvements or chattels. In such event, the Lessor shall acquire all rights, both legal and equitable, which any other purchaser could acquire by reason of said sale and purchase.

(c) Any chattels or improvements having a total appraised value of \$10,000.00 or less, as determined by the Lessor, and which are authorized for removal by the Lessor but are not removed within the time allowed, shall become the absolute property of the Lessor upon the expiration of the time allowed.

(d) Authorized improvements of the Lessee which the Lessor determines have become fixtures of the Parcel shall be purchased by the subsequent purchaser or lessee. There will be no compensation to the Lessee for improvements which were not authorized under the Lease.

23. Indemnity to Lessor. During the term of the Lease the Lessee shall indemnify and hold the Lessor harmless from and against all claims and demands for loss or damage, including property damage, personal injury, wrongful death, and wage or employment claims, arising out of or in connection with the use or occupancy of the Parcel by the Lessee or by any other person holding under the Lessee, or at its sufferance or invitation; and from any accident or fire on the Parcel; and from any nuisance made or suffered thereon; and from any failure by the Lessee to keep the Parcel in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and from any assignment, sublease, or conveyance, attempted or successful, by the Lessee of the Parcel or any part thereof or interest therein contrary to the conditions and covenants of this Lease. The Lessee will hold all goods, materials, furniture, fixtures, equipment, machinery and other property whatsoever on the Parcel at the sole risk of the Lessee, and will save the Lessor harmless from any claim of loss or damage thereto by any cause whatsoever.

24. Surrender of Leasehold. Upon the expiration, termination or cancellation of this Lease the Lessee shall quietly and peaceably leave, surrender and yield up unto the Lessor all of the Parcel.

25. Notices. All notices required or permitted under this Lease Agreement shall be made by certified mail, postage prepaid, to the parties at the following addresses:

To the Lessor: Alaska Division of Land and Water Management  
Pouch 7-005  
Anchorage, Alaska 99510

To the Lessee: Gary H. Erb  
4401 Halibut Point Road  
Sitka, Alaska 99835

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road

Any notice or demand which must be given or made by the Lessor or the Lessee shall be in writing and shall be complete if sent by United States certified mail to the address shown in the Lease Agreement, or to such other address as each of the parties may designate in writing from time to time. A copy of any such notice shall be forwarded to the Lessor, and to the holder of any security interest in the Parcel who has properly recorded its interest in the Lease with the Lessor.

26. Service Charges. The Lessee shall pay a service charge for any late payment or returned check issued by it as follows:

(a) Late Payment Penalty: A service charge plus annual interest (twice the interest rate charged on installment payments at the prevailing rate for real estate mortgage loans made by the Federal Land Bank for the farm credit district for Alaska) on the amount due will be charged on a past-due account until payment is received by the Lessor or until the Lease Agreement termination date is reached. Acceptance of a late payment or of a service charge for a late payment is subject to the Lessor's rights under paragraphs 20 and 21 of this Lease.

(b) Returned Check Penalty: A service charge of \$10.00 will be assessed for any check on which the bank refuses payment. If the bank refuses payment, the default termination date remains the same. Late penalties under (a) of this paragraph shall continue to accumulate.

27. Integration and Modification. This Lease, including all attachments and documents which by reference are incorporated herein or made a part hereof, contains the entire agreement between the parties hereto.

This lease may not be modified or amended except by a document signed by both parties hereto, and any purported amendment or modification shall be without legal effect until reduced to writing and signed by both parties hereto.

28. Severability of Clauses of Lease Agreement. If any clause, or provision, herein contained, shall be adjudged to be invalid, it shall not affect the validity of any other clause or provision of this Lease or constitute any cause of action in favor of either party as against the other.

IN WITNESS WHEREOF the State of Alaska, as Lessor, acting through the Director of the Division of Land and Water Management of the Department of Natural Resources or his lawfully-designated representative, and otherwise being lawfully authorized, and the Lessee have caused these presents to be executed in duplicate, and have hereunto set their respective hands, agreeing to keep, observe and perform the applicable statutes, as amended, the rules and regulations promulgated thereunder, and the terms, conditions and provisions herein contained or attached, which on the Lessor's or the Lessee's respective parts are to be kept, observed and performed.

LESSEE:

Darryl H. Sil

LESSOR:

Paula Burger  
by DIRECTOR  
Division of Land and Water Management

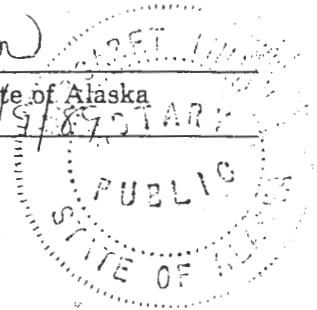
APPROVED:

Paula Burger  
COMMISSIONER  
Department of Natural Resources

**McNamee**

Tideland Lease Request  
4401 Halibut Point Road



STATE OF ALASKA )  
 ) ss.  
First Judicial District )THIS IS TO CERTIFY that on this 17 day of March, 1987,  
before me appeared Gary H. Erb, to me known  
and known to me to be the person named in and who executed the Lease and acknowledged voluntarily signing  
the same.Margaret Inun  
Notary Public in and for the State of Alaska  
My Commission expires: 4/9/87STATE OF ALASKA )  
 ) ss.  
Third Judicial District )THIS IS TO CERTIFY that on this 31<sup>st</sup> day of March, 1987,  
before me personally appeared Paula Burgess of the Division  
of Land and Water Management of the Department of Natural Resources of the State of Alaska, who  
executed the foregoing Lease and acknowledged voluntarily signing the same.Barbara W. Bartoo  
Notary Public in and for the State of Alaska  
My Commission expires: June 7, 1988

APPROVED AS TO FORM:

Barbara W. Bartoo  
Assistant Attorney GeneralDate: 7/3/80

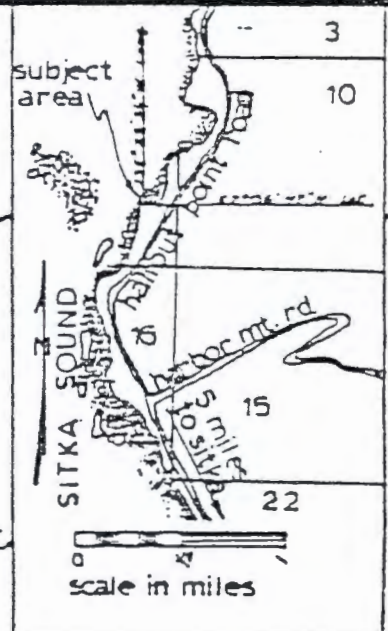
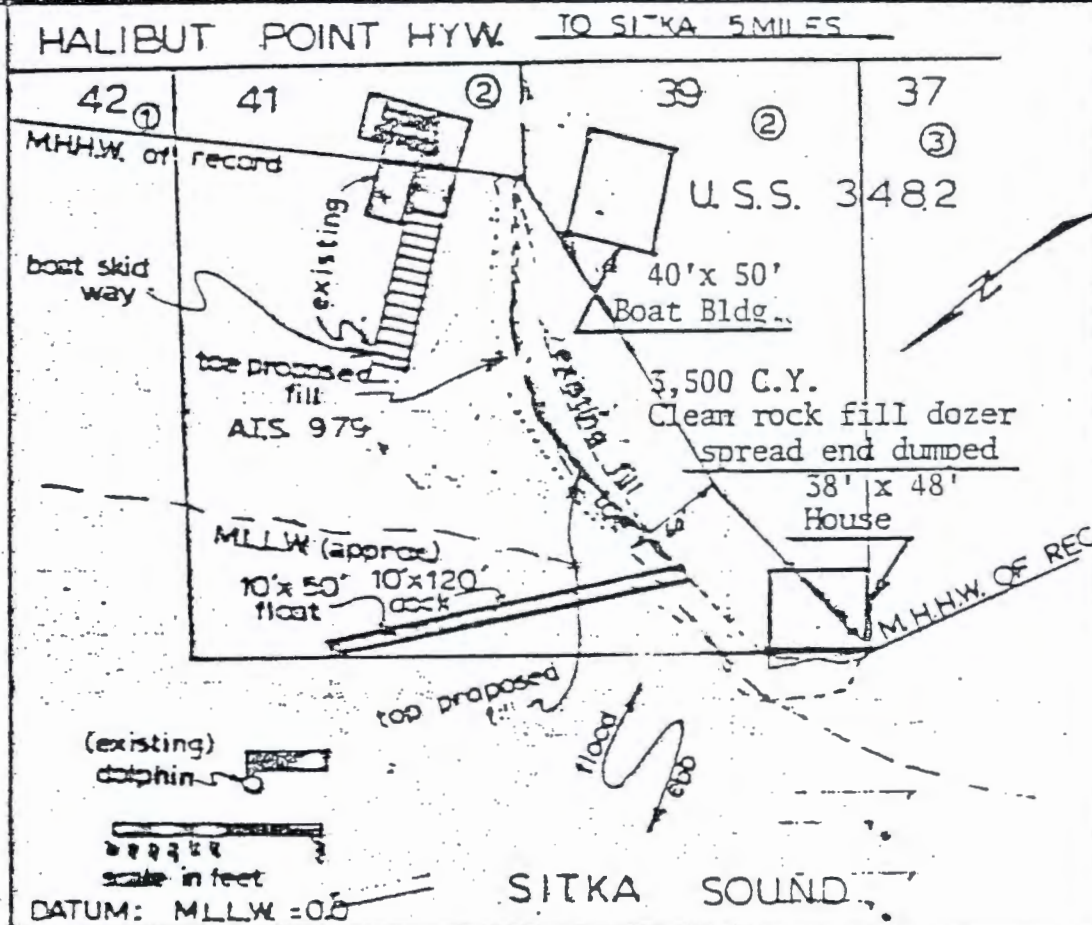
ATTACHMENT A  
TO  
LEASE AGREEMENT ADL 65550

1. For the purpose of this lease, the development plan shall be limited in form and scope to those improvements shown on Attachment B, unless approved in writing by the lessor prior to the installation or construction. Use of the area for purposes other than those specified herein shall constitute a breach of this lease.
2. This lease shall be utilized for the purpose described in the development plan. Failure to make substantial use of the land, consistent with the development plan, within 5 years, shall, in the Director's discretion, constitute grounds for cancellation of this lease agreement. (11 AAC 58.510)
3. Upon issuance of this lease the 10 foot pedestrian access easements along the easterly and westerly boundaries of Lot 41 of USS 3482 will be in effect. These access easements will be in effect until the lease expires or is terminated. (Attachment C)

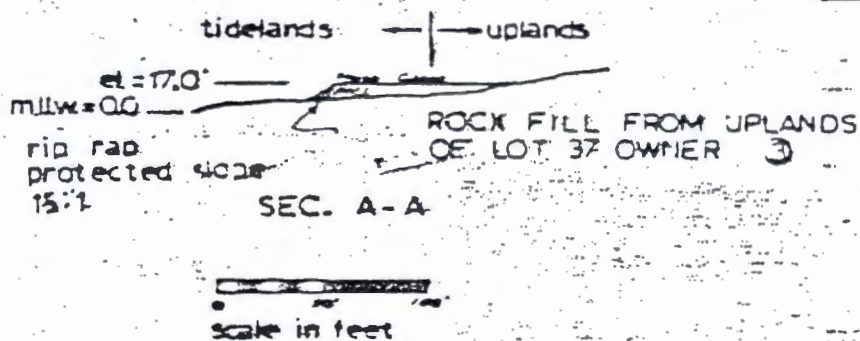
**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road



ATTACHMENT B



VICINITY MAP



SITKA SOUND 153

ADJACENT PROPERTY OWNERS

① RICHARD TEAGUE  
 BOX 1231  
 SITKA ALASKA

② GARY ERB  
 STAR ROUTE  
 SITKA ALASKA

McNamee

Tideland Lease Request  
 4401 Halibut Point Road

— PROPOSED FILL, FLOAT & RAMP, AND DOCK

SITKA SOUND  
 SITKA, ALASKA  
 ACTION BY: GARY ERB

BOOK 77 PAGE 729  
Sitka Recording District

For and in consideration of the sum of one dollar (\$1.00) in hand paid and other valuable consideration received, I (We) Ann C Erb and Gary H. Erb

lawful owners of Lot 41 of U.S.S. 3482, grant to the State of Alaska the temporary right to use of a portion of said Lot 41 for the sole purpose of two (2) pedestrian access ways each being ten feet in width; one located within and along the easterly side boundary of Lot 41, the other located within and along the westerly side boundary of Lot 41 as shown on the attached map made part hereof. The right herein granted shall commence upon date of issue and shall expire upon termination or expiration of that certain tideland lease serialized ADL 65550 and further described as A.T.S. 979.

The State of Alaska by action of issuing the tideland lease agrees that no permanent rights shall vest to the State, public, or individuals, by reason of use made hereunder.

Tom J. Hawkins  
State of Alaska

22 Sept 86  
Date

Ann C Erb  
x Gary H. Erb  
Owner(s) Signature

x July 21, 1976  
Date

UNITED STATES OF AMERICA     )  
State of Alaska                     ) ss.

THIS IS TO CERTIFY that on the 22<sup>nd</sup> day of September, 1986, before me, the undersigned Notary Public, personally appeared Tom J. Hawkins known to me and known by me to be the Director of the Division of Lands of the Department of Natural Resources, and acknowledged to me that he executed the foregoing lease for and on behalf of said State, freely and voluntarily for the use and purposes therein set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

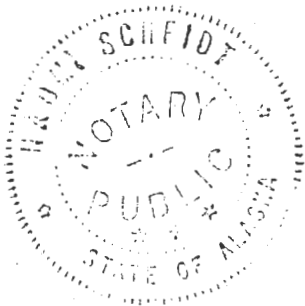
Karen J. Wood  
Notary Public in and for the State of Alaska  
My commission expires November 19, 1989

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road

UNITED STATES OF AMERICA     )  
State of Alaska                ) ss.

THIS IS TO CERTIFY that on this 21<sup>st</sup> day of July, 1976,  
before me, the undersigned, a Notary Public in and for Alaska duly commissioned  
and sworn, personally appeared Ann C. and Gary H. Erb  
to me personally known to be one of the persons described in and who executed the  
within instrument and the said persons  
acknowledged to me that he signed and executed the same freely and voluntarily  
for the uses and purposes therein mentioned.

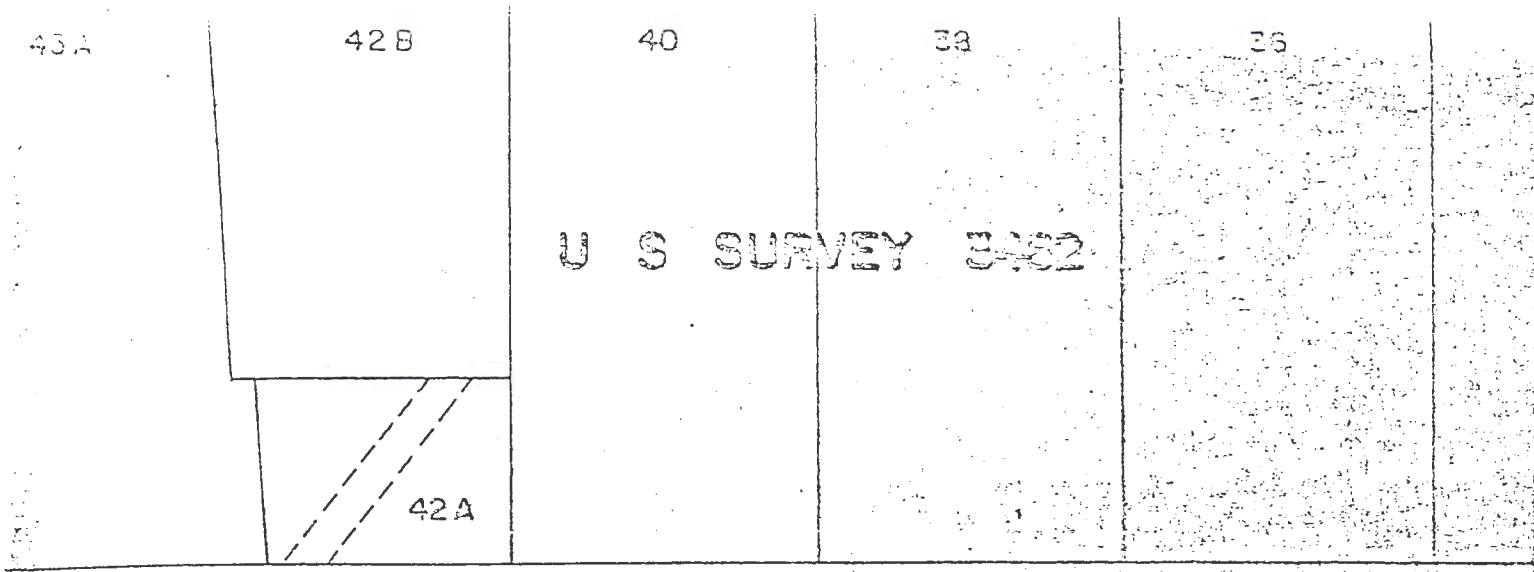
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my  
official seal, the day and year in this certificate first above written.



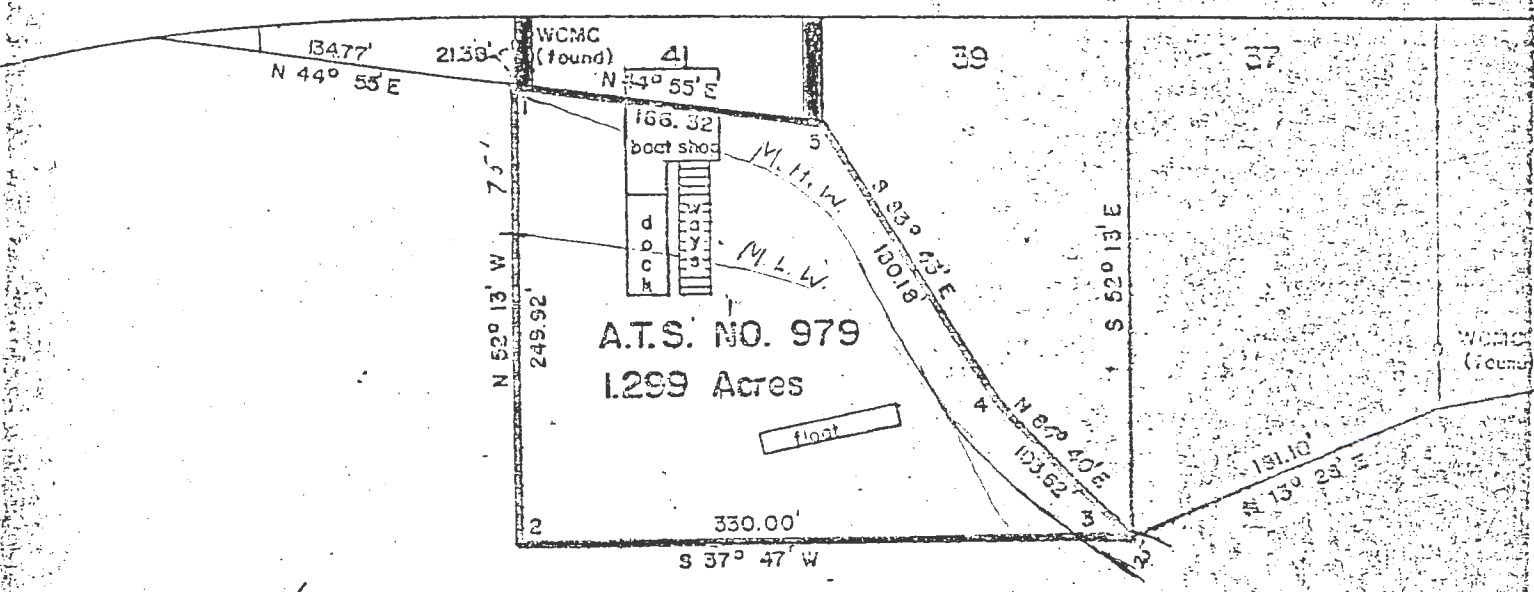
Naomi Scheidt  
Notary Public in and for the State of Alaska

My commission expires 11-14-76





— HALIBUT POINT STATE HIGHWAY —



1" = 100'

**McNamee**  
 Tideland Lease Request  
 4401 Halibut Point Road

**SURVEYOR'S STATE**  
 I hereby certify that I am

BOOK 77 PAGE 732  
Sitka Recording District

Return To:

Southeast Regional Office  
Division of Land & Water Management  
400 Willoughby Avenue  
Juneau, Alaska 99801

8 7-0 7 5 1

N/c

~~RECORDED-FILED~~  
SITKA REC.  
DISTRICT

APR 6 12 10 PM '87

REQUESTED BY AS/DNR

ADDRESS Jmw

## Attachment H

Parcel ID: 25769002  
AMYEE OEN  
OEN, AMYEE, M.  
P.O. BOX 938  
ARCATA CA 99518-0938

Parcel ID: 25770002  
RONALD/BARBARA WORKMAN  
C/O O.P.A.  
WORKMAN, RONALD, W./BARBARA, E.  
P.O. BOX 110225  
JUNEAU AK 99811

Parcel ID: 25770003  
LARRY/ROBYN MCCREHIN  
MCCREHIN, LARRY, W./ROBYN, J.  
P.O. BOX 895  
SITKA AK 99835-0895

Parcel ID: 25773000  
DENTON PEARSON  
PEARSON, DENTON  
713-B SAWMILL CREEK RD  
SITKA AK 99835

Parcel ID: 25774000  
JEFFREY KELLY  
KELLY, JEFFREY, D.  
P.O. BOX 2306  
SITKA AK 99835-2306

Parcel ID: 25775000  
GALE KEHRES  
KEHRES, GALE, E.  
103 VIKING WAY  
SITKA AK 99835

Parcel ID: 25777000  
GERALD DZUGAN  
DZUGAN, GERALD, W.  
4319 VALHALLA DR  
SITKA AK 99835

Parcel ID: 25780000  
~~LARRY/ROBYN MCCREHIN~~  
~~MCCREHIN, LARRY, W./ROBYN, J.~~  
~~P.O. BOX 895~~  
~~SITKA AK 99835-0895~~

Parcel ID: 25781000  
~~LARRY/ROBYN MCCREHIN~~  
~~MCCREHIN, LARRY, W./ROBYN, J.~~  
~~P.O. BOX 895~~  
~~SITKA AK 99835-0895~~

Parcel ID: 25782000  
~~LARRY/ROBYN MCCREHIN~~  
~~MCCREHIN, LARRY, W./ROBYN, J.~~  
~~P.O. BOX 895~~  
~~SITKA AK 99835-0895~~

Parcel ID: 25785001  
JAMES/EILEEN SWIFT/GALLAGHER  
SWIFT, JAMES/GALLAGHER, EILEEN  
P.O. BOX 1193  
SITKA AK 99835-1193

Parcel ID: 25786001  
J & S PROPERTIES, LLC  
J & S PROPERTIES, LLC  
P.O. BOX 936  
SITKA AK 99835-0936

Parcel ID: 25786002  
DEL STENGL  
STENGL, DEL  
4322 VALHALLA DR  
SITKA AK 99835

Parcel ID: 25790001  
KEVIN/TINA MCNAMEE  
MCNAMEE, KEVIN & TINA  
P.O. BOX 6243  
SITKA AK 99835-6243

Parcel ID: 25791000  
ARTWIN/LINDA SCHMIDT  
SCHMIDT, ARTWIN/LINDA BERGDOLL  
4406 HALIBUT POINT RD  
SITKA AK 99835

Parcel ID: 25795000  
ARTWIN/LINDA SCHMIDT/BERGDOLL  
SCHMIDT, ARTWIN/BERGDOLL, LINDA  
4406 HALIBUT POINT RD  
SITKA AK 99835

Parcel ID: 25800001  
~~KEVIN/TINA MCNAMEE~~  
~~MCNAMEE, KEVIN & TINA~~  
~~P.O. BOX 6243~~  
~~SITKA AK 99835-6243~~

Parcel ID: 25805000  
ERIC/JEANNINE HOLMLUND/KIVISTO  
HOLMLUND, ERIC/KIVISTO, JEANNINE  
4416 HALIBUT POINT RD  
SITKA AK 99835

Parcel ID: 25810001  
BRUCE/MARGARET GIPPLE  
GIPPLE, BRUCE, A./MARGARET, L.  
2210 W. MAIN ST, STE 107-312  
BATTLE GROUND WA 98604

Parcel ID: 25811000  
~~BRUCE/MARGARET GIPPLE~~  
~~GIPPLE, BRUCE, A./MARGARET, L.~~  
~~2210 W. MAIN ST STE, 107-312~~  
~~BATTLE GROUND WA 98604~~

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road

**P&Z Mailing**  
October 7, 2016





2003

Recording Di  
4/8/2003 10:

Attachment I

A  
L  
A  
S  
K  
A



STATUTORY WARRANTY DEED

cc

203-0092

THE GRANTOR, GARY H. ERB and ANN C. ERB, husband and wife, individually and as Trustees of the GARY H. ERB AND ANN C. ERB LIVING TRUST, of 3820 "Q" Avenue, Anacortes, Washington 98221 for and in consideration of Ten Dollars (\$10.00) and other valuable consideration, in hand paid, conveys and warrants to KEVIN McNAMEE and TINA McNAMEE, husband and wife as tenants by the entirety, of P.O. Box 6243, Sitka, Alaska 99835, the following described real property to-wit:

Lots One (1) and Two (2), Shoreline Subdivision according to Plat 98-24, and Lot Forty-one (41), U. S. Survey 3482, and A leasehold estate in and to Alaska Tidelands Survey 979, according to Plat 86-6,

All in the Sitka Recording District, First Judicial District, State of Alaska.

Commonly referred to as 4401, 4403 and 4405 Halibut Point Road, Sitka, Alaska 99835.

SUBJECT TO:

U. S. Patent reservations, State of Alaska patent reservations, easements, conditions of record, and 2003 City and Borough of Sitka taxes.

DATED this 3~~rd~~ day of March, 2003.

GARY H. ERB and ANN C. ERB LIVING TRUST

By: Gary H. Erb, trustee  
Gary H. Erb, Trustee

By: Ann C. Erb, trustee  
Ann C. Erb, Trustee

Gary H. Erb  
Gary H. Erb, individually

Ann C. Erb  
Ann C. Erb, individually

STATE OF WASHINGTON )

COUNTY OF Skagit )

: ss.

THIS IS TO CERTIFY that on this 31st day of March, 2003, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared **GARY H. ERB and ANN C. ERB, individually and as Trustees of the GARY H. ERB AND ANN C. ERB LIVING TRUST**, to me known and known to me to be the persons named in and who executed the within and foregoing instrument, and they individually acknowledged to me that they signed the same freely and voluntarily for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.



Laura L. Iles  
Notary Public, State of Washington  
My commission expires: 2-17-07

After recording return to:

GRANTEE  
Mr. and Mrs. Kevin McNamee  
P.O. Box 6243  
Sitka, AK 99835



# Attachment J

CITY & BOROUGH OF SITKA  
100 LINCOLN STREET  
SITKA, AK 99835-1540

Merchant ID: 000000002754907  
Term ID: 04000014  
409200114035

8/10/2016  
-00007177  
t Counter  
N MCNAMEE

## Phone Order

VISA	300.00
XXXXXXXXXXXX7877	18.00
Entry Method: Manual	318.00
Apprvd: Online Batch#: 000965	318.00
08/10/16 09:36:32	318.00
CVV2 Code: M	318.00
Inv #: 000004 Appr Code: 07275G	
Total: \$	318.00

Customer Copy

**McNamee**  
Tideland Lease Request  
4401 Halibut Point Road