STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTHCENTRAL REGION LAND OFFICE

PRELIMINARY BEST INTEREST FINDING
AQUATIC FARMSITE LEASE RENEWAL

APPLICANT: DAVID CHIPMAN
ADL #226332
LOCATION: WINDY BAY

The Department of Natural Resources is accepting public comment on the following preliminary decision document for the renewal of an existing aquatic farm site. **Written comments must be received on or before 5:00 p.m., Friday, November 14, 2008.**

PROPOSED ACTION: The applicant is requesting **renewal of his existing aquatic farm site lease**. The applicant currently holds a lease consisting of two sites. Site #1 is an area measuring 200 ft. x 500 ft. for shellfish culture, including an area measuring 20 ft x 50 ft. for shellfish hardening containing approximately 2.32 acres, more or less. Site #2 is an area measuring 175 ft. x 475 ft. for shellfish culture, including an area measuring 50 feet by 50 feet for shellfish hardening containing approximately 1.97 acres, more or less.

The total combined acreage of Site 1 and Site 2 is 4.29 acres, more or less.

The applicant has been successfully culturing Pacific oysters and has met or exceeded the required commercial use threshold which is a requirement to renew an existing aquatic farm tideland lease.

The farm site location is only accessible by boat or floatplane. A location map is attached to this decision.

AUTHORITY: AS 38.05.035; AS 38.05.070; AS 38.05.075; AS 38.05.083; AS 38.05.127; AS 38.05.128; 11 AAC 63.020

This decision addresses and is based on those issues under the authority of the Department of Natural Resources (DNR) under Title 38. While other issues may be addressed that are not within the scope of DNR's responsibilities, this decision's purpose is to determine whether or not to issue a DNR lease and does not make any determinations whatsoever on the issuance of other agency authorizations that are necessary for aquatic farming activities. Information included in the original preliminary decision document may not be included in this document if conditions have not been altered. Original preliminary decisions for this lease can be obtained by contacting the aquatic farm program manager for the DNR in Anchorage.

ADMINISTRATIVE RECORD: The administrative record for the application submitted is file number ADL 226332.

LOCATION:

USGS MAP COVERAGE: Cordova C-6

NAUTICAL CHART: 16709 Prince William Sound

LEGAL DESCRIPTION: Township 15 South, Range 04 West, Copper River Meridian,

And more specifically described as:

Section 17: SW ¼, within Windy Bay, approximately 6 miles northwest of Cordova, Alaska, and further described as Site #1: an area measuring 200 ft. x 500 ft. for shellfish culture, including an area measuring 20 ft x 50 ft. for shellfish hardening, according to the site drawings attached, containing approximately 2.32 acres, more or less; and Site #2: an area measuring 175 ft. x 475 ft. for shellfish culture, including an area measuring 50 feet by 50 feet for shellfish hardening, according to the site drawings attached hereto containing approximately 1.97 acres, more or less, according to the drawings attached to this document and labeled as Attachment B, containing approximately 4.29 acres, more or less.

GEOGRAPHIC: The proposed farm site is located on state-owned tide and submerged lands off the north side of Hawkins Island in Windy Bay approximately 9 miles north and west of the City of Cordova.

POLITICAL INFORMATION:

BOROUGH/MUNICIPALITY: This application is outside of an organized borough.

COASTAL DISTRICT: The application lies outside of an approved coastal district. The nearest coastal district is the City of Cordova.

REGIONAL CORPORATION: Chugach Alaska Corporation

FISH AND GAME ADVISORY COMMITTEES: Southcentral Region Fish and Game Advisory Committees.

PLANNING AND CLASSIFICATION:

LAND MANAGEMENT PLAN: Prince William Sound Area Plan, Management Unit 26, Hawkins Island, Subunit 26B – Windy and Cedar Bays, Adopted in 1988, amended on April 3, 2007.

SURFACE CLASSIFICATION: The Prince William Sound Area Plan designates state owned tidelands at the proposed location as public recreation, wildlife habitat and harvest, and forestry.

SURFACE MINERAL ORDERS: The proposed site is closed to mineral entry.

ALASKA COASTAL MANAGEMENT PROGRAM: The proposed aquatic farm was found consistent with the Alaska Coastal Management Program (ACMP) on December 19, 1994, under State I.D. No. AK 9405-20AA. The applicant's request to renew and amend his lease does not require another consistency review.

SURVEY AND APPRAISAL:

SURVEY: A survey is not required by law before issuing a 10-year negotiated lease. However, the department has the right to require one in the future, at the applicant's expense, if boundary conflicts or disputes over acreage arise.

APPRAISAL: The Division of Mining, Land and Water has approved an administrative lease fee schedule for aquatic farm sites that meet the conditions listed within the schedule. The most current lease fee schedule will be used to establish the fair market rental each lessee must pay. The applicant has the option to have a site-specific appraisal done, at the applicant's expense, before the lease is

issued, if he or she does not wish to use the fee schedule. If an applicant opts for a site-specific appraisal, the division-approved appraisal will establish the rental for the lease and the fee schedule will no longer be an option.

PUBLIC/AGENCY NOTICE AND COMMENTS: Public notice of the proposal has been sent to various newspapers, post offices, agencies, boroughs/cities, native corporations, , Fish and Game Advisory committees, etc. Public and agency comments are welcome during the comment period and will be considered in the final best interest finding. Only those who provide written comments during the comment period or who testify at a public hearing will be sent a copy of the final best interest finding and will be eligible to appeal. The final best interest finding will include an explanation of the appeal process. The public comment period begins on October 13, 2008 and will end on November 14, 2008.

The preliminary best interest finding is subject to public comments received during the comment period. The final best interest finding will consider and address any comments related to the subject proposal and will be available on or about December 8, 2008. If significant changes occur to this decision as a result of public comments received, additional notice will be sent to those who provided comments, either in writing or by testifying at a public hearing.

ENVIRONMENTAL RISK ASSESSMENT: The applicant has submitted a signed environmental risk questionnaire. The questionnaire asks for information on potentially hazardous materials, such as plans for onsite storage of fuel or chemicals. The applicant has indicated that no on-site use, storage, transport, disposal, or otherwise, of any petroleum products will be used during the course of the proposed activities.

BONDING AND INSURANCE:

BONDING: Bonding, or another form of security, is required under AS 38.05.083 and 11 AAC 63.080. The bond must cover the costs of site cleanup and restoration, any associated cleanup costs after termination of the lease, including any unpaid rentals or other obligations accruing until site restoration is complete. The regulations require the minimum security amount of $2,500 (or $1,250 with an association bond) for an aquatic farm lease. Factors such as location and amount of improvements at the site are taken into consideration when the bond amount is determined. Please refer to the Recommendation section at the end of this decision for the bond amount that was determined appropriate for this proposal.

INSURANCE: At this time the DNR does not require this type of activity to have general liability insurance. General liability insurance may be required in the future depending on the aquatic farming operations and the procedures of the department at the time changes are made to the lease or a renewal lease is issued. The lessee is responsible for acquiring other types of insurance, such as Workman's Compensation Insurance that may be required under other local/state/federal laws.

POTENTIAL CONFLICTS/PENDING INTERESTS: There are no known pending interests at the location of the proposal.

TRADITIONAL USE FINDING: The existing aquatic farm has caused no known disruption of traditional and/or existing uses of the area, such as commercial and sport fishing, subsistence activities, boat travel, and recreation. Through agency and public input, more traditional and existing use information may surface. If such information becomes available, any potential and/or existing conflicts will be addressed in the final best interest finding.

PRINCE WILLIAM SOUND AREA PLAN INFORMATION SPECIFIC TO THIS PROPOSAL: This farm site lies within Management Unit 26, Hawkins Island, subunit 26B – Windy and Cedar Bays. The Eyak Corporation expects to harvest timber in this area during the life of the plan. A log transfer site will probably be needed on the state-owned tidelands. The state-owned tidelands are designated public recreation, wildlife habitat and harvest, and forestry. The state tidelands should be used to preserve anchorages and public use of the beaches. As much as practical state land management should maintain the quality of views from the marine route while allowing suitable tideland areas to be used for a log transfer site.

Upland Owner/Management Intent: The land status of the uplands on Hawkins Island is complex. The eastern two-thirds of Hawkins Island has been selected by the Eyak Corporation. The state has made three selections within that same area, but relinquished one near Windy Bay to resolve land status conflicts (see Chapter 5). The western third of the island will remain in the National Forest. The federal land is open to mineral entry, but contains no areas with significant known mineral values. The state owns the tidelands surrounding the island. Over the course of the 10-year lease there have been no known conflicts between upland owners and the lessee.

CONSIDERATIONS: The following criteria, set out in 11 AAC 63.050(b), has been considered and represents what is known at this time:

Land Management: There are no known land management policies or designations, other than those in the Alaska Coastal Management Program, the Prince William Sound Area Plan, and potentially the Chugach National Forest Land and Resource Management Plan that may impact this proposal. Measures taken to mitigate impacts on the resources identified in the above-mentioned plans are listed below.

Pending/Existing Uses:

1. There are no known pending use conflicts or potential impacts to nearby communities or residential land due to the placement of this farm at the proposed location.

2. Information available suggests the aquatic farm has not disrupted traditional and existing uses of the site for use as an anchorage, commercial and sport fishing, recreation, and tourism.

3. There are no historic and cultural resources known to exist in the area.

4. There are no commercial or industrial facilities known to exist in the area.

Public Access: Public access has been and will be protected in accordance with 11 AAC 63.050(b)(6) and 11 AAC 53 and will be addressed in any resultant lease agreement.

Public Trust Doctrine: Any resultant lease agreement is subject to the principles of the Public Trust Doctrine in order to protect the public's right to use navigable waters and the land beneath them for navigation, commerce, fishing, and other purposes.

Mitigation Measures: In addition to the mitigation measures identified above under Pending/Existing Uses, paragraph 2, any resultant lease renewal may include additional stipulations necessary to mitigate conflicts identified during the public/agency comment period

Social, Economic, and Environmental Concerns: There are no known significant social, economic,

and environmental effects from the existing lease.

Surface Area: The proposal does not encumber more than a third of the surface area of a bay, bight, or cove in accordance with 11 AAC 63.050(c).

This aquatic farm has provided opportunities to increase income and diversify the state's economy by utilizing state tide and submerged lands for this purpose. The advantage of renewing this lease on state owned tide and submerged lands is the continued employment opportunities as well as any secondary jobs created or increased from businesses involved in marketing, transport or sale of the farmed products.

After 10-years of successful operation of this site there seems to be no obvious disadvantages of renewing this activity on state owned tide and submerged lands. The public should be aware that access through the site, as well as access to any of the common property resources not being cultured at the site are public uses that remain intact. Therefore, and as mentioned above, any resultant lease would stipulate the requirement that signs be posted informing the public of their rights at the aquatic farm site.

RECOMMENDATION: Considering the information known at this time and described within this decision, it appears to be in the state's best interest to renew the lease for approximately 4.29 acres more or less to the applicant for intertidal culture. Any resultant lease will include stipulations that may be identified as a result of public comments. Approval of the application is recommended with a security bond set at $2,500 or $1250 with an association bond.

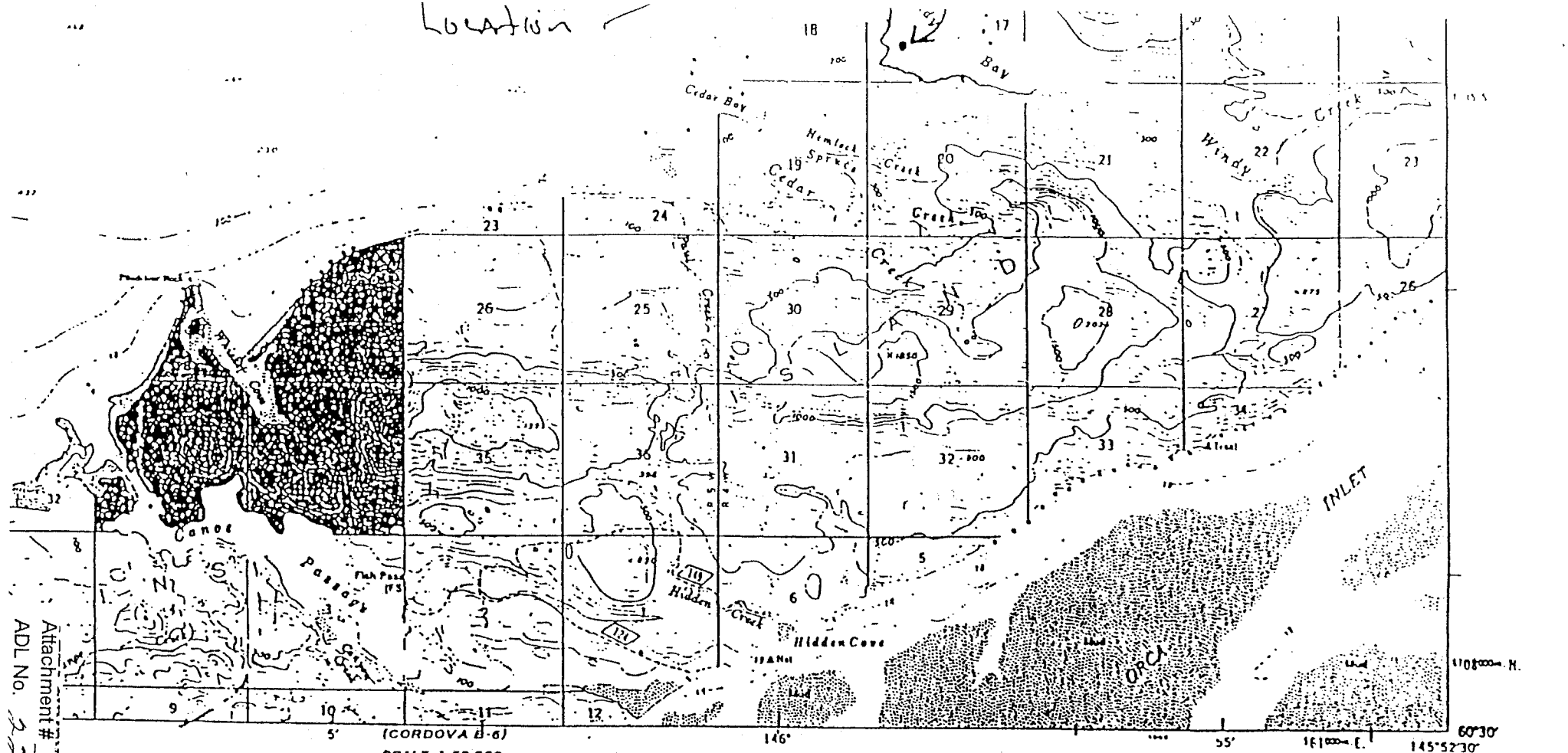
John S. Thiede

John S. Thiede, Aquatic Farm Program Manager

10/1/08

Date

Location



SCALE 1:63 360

MILES

FEET

KILOMETERS

CONTOUR INTERVAL 100 FEET
DEPTH CURVES AND SOUNDINGS IN FEET - DATUM IS MEAN LOWER LOW WATER
SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE ON MEAN HIGH WATER
THE MEAN RANGE OF TIDE IS APPROXIMATELY 11 FEET

LEGEND

National Forest Boundary

Alienated Lands within the National Forest Boundary

OWNSHIP AND SECTION LINE CLASSIFICATION

Surveyed

Surveyed, Location Doubtful

Unsurveyed, Protraction

Alaska Marine Highway

Primary Highway

Secondary Highway

Improved Road, Paved

Improved Road

Unimproved Road

Trail

Road, Location Approximate

Trail, Location Approximate

State Highway

Primary Forest Route

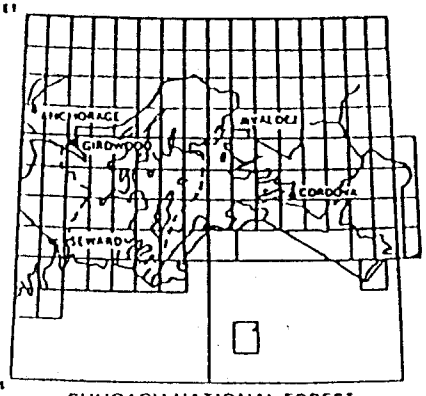
Forest Road

Forest Trail

Seaplane Base with, without facilities

Heliport, Helispot

Terminal Transportation Facility



CHUGACH NATIONAL FOREST

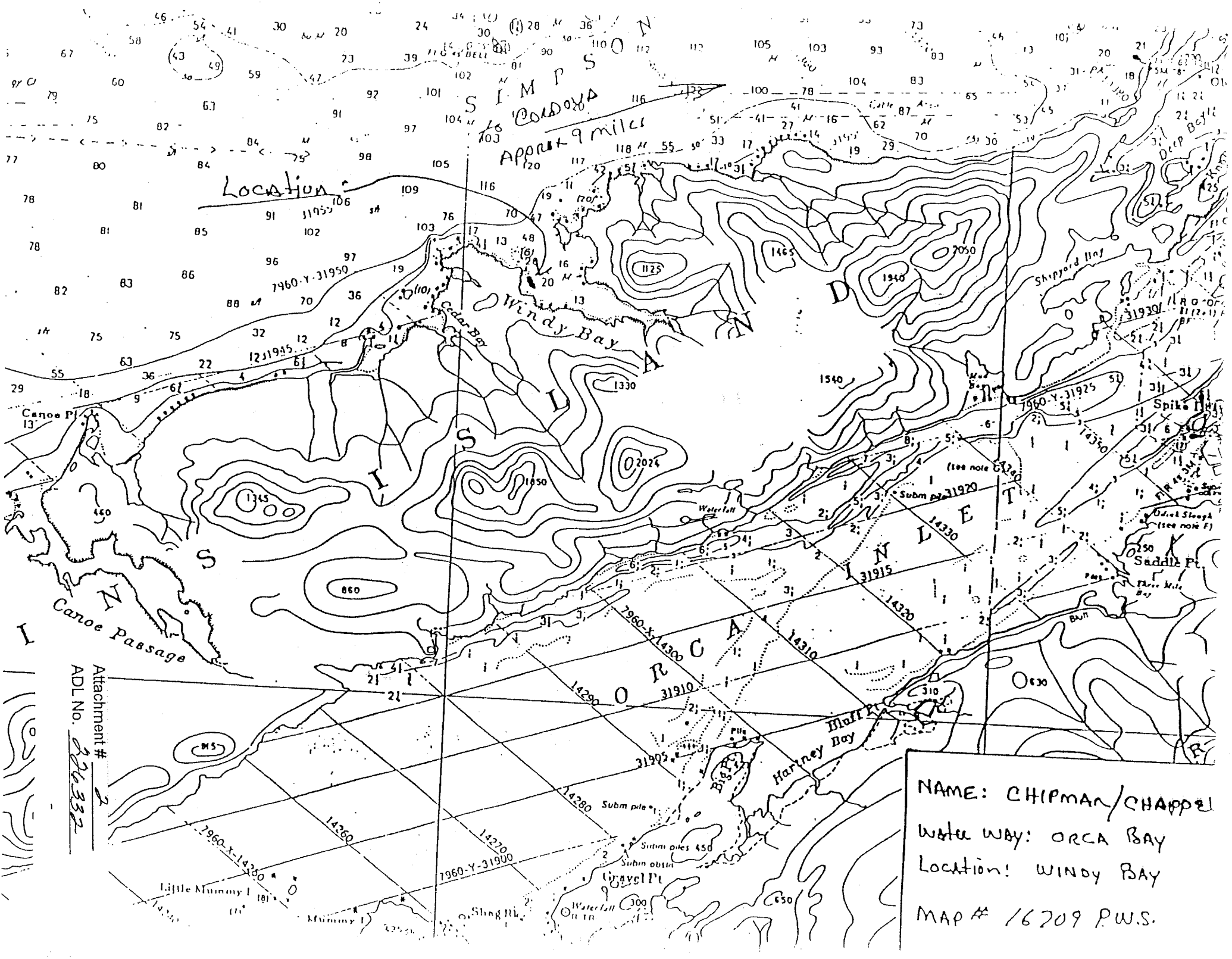
PRIMARY BASE SERIES
1989

CORDOVA (C-6), ALASKA
N6030—W14552.5/15x22.5

1950
LIMITED REVISION 1987

TITLE BLOCK
NAME CHIPMAN/CHAPP
WATERWAY ORCA BAY
LOCATION WINDY BAY

Attachment #
ADL No. 226332



Attachment #
ADL No. 226332

LAND OWNER.
FEDERAL GOV.
to BE CONVEYED
to Eyak Corp

HARDNING AREA 50x20

12' 1" MHHW
11' 1" MHW
0' MLLW

MLLW 113'
50'
200'
MLLW 125'
MLLW 125' +
MLLW 111'
500'
400'
MLLW 120'
MLLW 108'
50'
20R
MLLW 115'

FLOOD
EBB

HAWKINS Island

Attachment # 3
ADL No. 226332

50' 100' 200' 500'

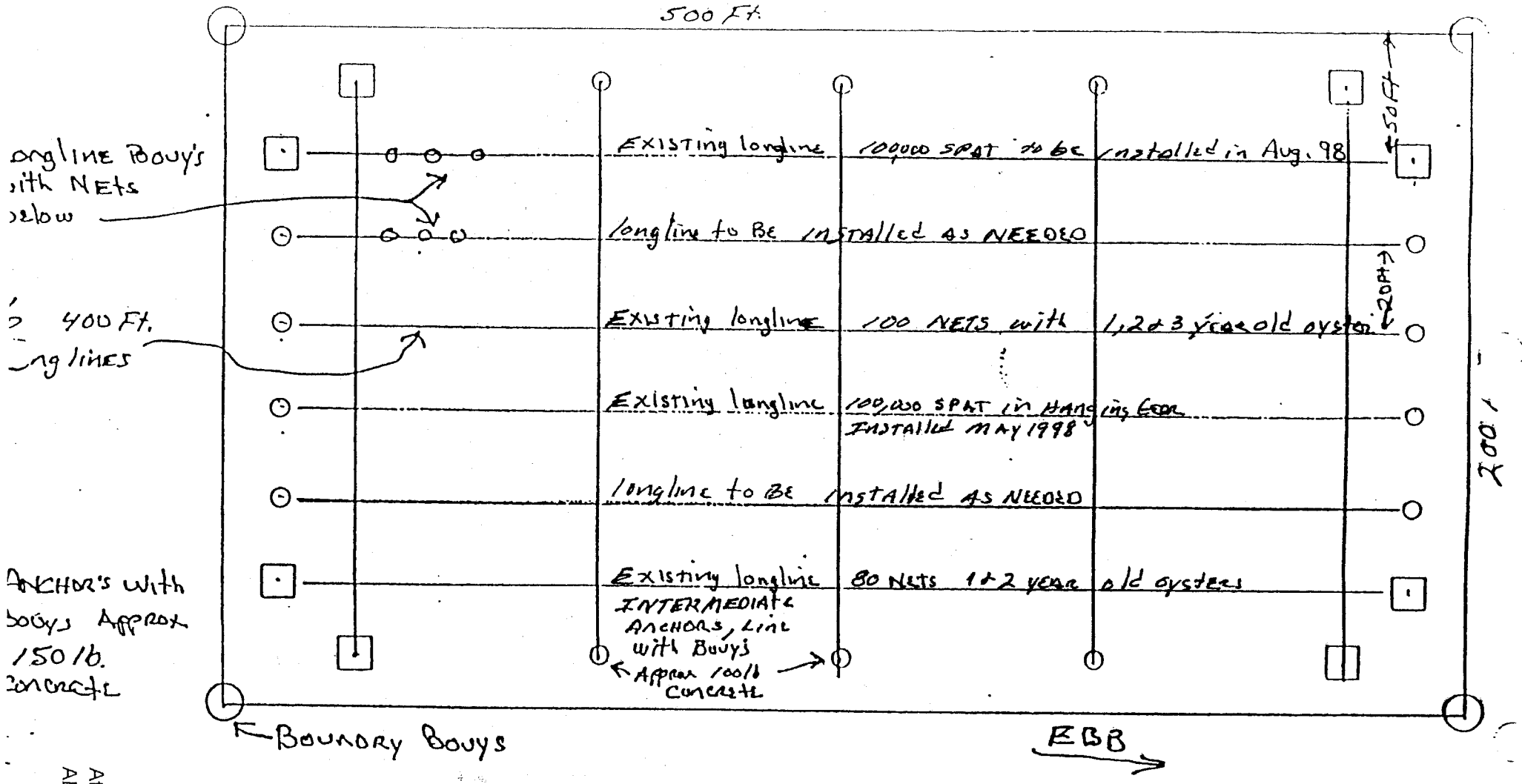
ORCA BAY
to CORDOVA
9 MILES
WINDY BAY
HAWKINS IS.

SITE PLAN AND VICINITY

CHIPMAN/CHAPPELL
WINDY BAY
LONG. 145° 58.5'
LAT. 60° 34'

DATUM MLLW
ADJACENT property owner:
FEDERAL GOV
to BE CONVEYED
to Eyak CORP.

PROPOSED Aquatic Farm
IN Prince William Sound
AT WINDY BAY
SECTION 17
COPPER RIVER MERIDIAN



500 x 200 = 100,000 SF Farm site
50 x 20 = 1,000 SF Hardening Area
101,000 SF

2.31 Acres

Attachment # 4 REVISED 98
ADL No. 226332

CHIPMAN/CHAPPELL
WATERWAY. ORCA BAY
Location. WINDY BAY
REVISED to show existing conditions 7-98
REVISE 8-2-94

C. C. OYSTER CO.
P. O. Box 484
Cordova, AK 99574-0484
(907) 424-5733
Fax (907) 424-5276

RECEIVED
JUL 30 1998
DIVISION OF LAND
SOUTHCENTRAL REGION

July 27, 1998

Subject: Development Plan Narrative for C.C. Oyster Co.

In March. 1995, David Chipman and Warren Chappell received an Aquatic Farm Permit under AS38.05.856. ADL No. 226332. Shortly thereafter we started C.C. Oyster Co., Business License #248330, for the purpose of raising and selling oysters. To date, we have installed four longlines with related nets and bouys, and 400,000 oyster spat. We plan on another 100,000 oyster spat in August of this year. See Attachment E.

In September, 1997, we received our permit from DEC to operate as shellfish shippers, Permit No. 612455. To date, we have sold approximately 1800 dozen oysters, with revenue of approximately $9,900.00, which meets the minimum of $3,000.00 per acre. Our current permit is for 2.31 acres.

Our development plan shows a maximum of six long lines, with a maximum of 500,000 oysters, 600 nets with stocking density of 600 to 1000 oysters, depending on age and size. Our minimum spat acquisition will be 100,000 with a maximum of 300,000. A maximum of 6 longlines are required to operate at maximum capacity of 500,000 oysters.

Our farm is located on Windy Bay, approximately 9 miles from Cordova, and is tendered by boat. All cleaning and sorting is done on the boat in Windy Bay. Mature oysters are transported by boat to Cordova and held in refrigeration while waiting for testing results. After approval of testing, the oysters are ready for sale.

Attachment # 5
ADL No. 226332

DEVELOPMENT PLAN

Species OYSTER'S

C. C. OYSTER CO.
PO BOX 484
CORDOVA AK 99574

YEAR (1998, etc)	MINIMUM PRODUCTION/ SEED ACQUISITION	MAXIMUM PRODUCTION/ SEED ACQUISITION	MINIMUM GEAR(ie., longlines, racks)	MAXIMUM GEAR (ie., longlines, racks)	ESTIMATED SALES
1 1998	100,000	300,000	4 Longlines 300 Nets	6 longlines 600 Nets	1700 Doz 9,350.00
2 99	100,000	300,000	4 longlines 300 Nets	6 longlines 600 Nets	2500 Doz. 13,750-
3 2000	100,000	300,000	4 longlines 300 Nets	6 longlines 600 Nets	4000 Doz 22,000.00
4 01	100,000	300,000	4 longlines 300 Nets	6 longline 600 Nets	5000 Doz 27,500-
5 ** 02	100,000	300,000	4 longlines 300 Nets	6 longline 600 Nets	27,500
6 03	100,000	300,000	4 longline 300 Nets	6 longlines 600 Nets	27,500
7 04	100,000	300,000	4 longlines 300 Nets	6 longlines 600 Nets	27,500
8 05	100,000	300,000	4 longlines 300 Nets	6 longlines 600 Nets	27,500
9 06	100,000	300,000	4 longlines 300 Nets	6 longlines 600 Nets	27,500
10 07	100,000	300,000	4 longlines 300 Nets	6 longlines 600 Nets	27,500

**Three thousand dollars per acre or fraction of an acre, or $15,000 per farm, worth of product must be sold in years 5 to 10 of the lease agreement.

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Attachment # 6
ADL No. 226332