

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
Southeast Regional Land Office

Final Decision
ADL 109130
Niblack Project LLC
Application for Lease
AS 38.05.070(b)

This Final Finding and Decision, and all attachments hereto, supplement the Preliminary Decision dated February 1st, 2021, and comprise the record of decision for this disposal of interest under AS 38.05.070(b).

Summary of Agency and Public Comments Received During the Public Notice Period:

United States Army Corps of Engineers (USACE): USACE has no comments regarding the Preliminary Decision (PD) but notes that a Department of the Army (DA) permit is required if additional fill is placed below the High Tide Line, or if any structures are modified or added below the Mean High-Water mark.
DMLW Response: None required.

Modifications to the Preliminary Decision: The performance guaranty (bond) amount as noted in the PD for ADL 109130 has changed.

The applicant previously submitted \$30,000 in bonding to DMLW under ADL 107544¹ for the placement of fill and installation of permanent infrastructure on state land. Because of the additional fuel being stored on the barge in above-deck containers under ADL 109130, the PD required that the applicant submit an additional \$22,500 in bonding, bringing the total bond amount to \$52,000.

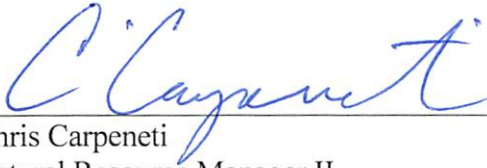
The \$22,500 bond amount was contingent upon DMLW's receipt of an approved spill plan from the Department of Environmental Conservation (DEC) Oil and Hazardous Substance Prevention and Contingency Plan for the fuel and hazardous materials stored within the leasehold. The applicant will not be submitting an approved spill plan. As such, the required bond amount has increased to reflect this change.

Under ADL 109130, the applicant must submit an additional \$45,000 in bonding, bringing the total bound amount to \$75,000.

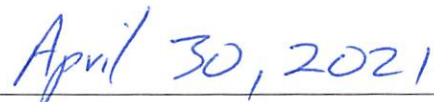
DMLW has re-affirmed that the case file is complete and the requirements of all applicable statutes and regulations have been satisfied. It is the finding of the Commissioner of the Department of Natural Resources that it is in the best interest of the State to proceed with this disposal of interest under the authority of AS 38.05.070.²

¹The applicant was previously authorized a 10-year tideland lease under ADL 107544 to construct and operate a marine terminal, including a barge landing area, landing craft ramp, seaplane float, dock and camp barge. ADL 107544 expired in July of 2019. The requested use under ADL 109130 is for the same marine terminal and leasehold area as previously authorized under ADL 107544; only the fuel amount and storage location has changed.

²Authority to sign on behalf of the Commissioner has been delegated by memorandum dated September 28th, 2001 to the Director of the Division of Mining, Land and Water, and redelegated from the Director to the Regional Managers.



Chris Carpeneti
Natural Resource Manager II
On behalf of Lee V. Cole, Jr., Southeast Regional Manager



Date

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a) and (b). If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the Department on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources.