

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6498 SENATE RESOURCES

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Each chapter opens with applicable goal statements, followed by a set of objectives, and a short narrative. As specific issues are addressed, proposed policies derived from the discussion appear in *italic*. These policies constitute the Summary following this Preface. The reader should note that the first appearance of unfamiliar terms appears in bold face. A glossary of these terms begins on page 95. Also note two chapters of this report, *A strategic plan for managing transition land assets*, and *Economic models and evaluation* contain many technical terms and concepts. We have made every attempt to make these sections as readable and accessible as possible.

# State laws significant to the Transition Lands Program

## The State Environmental Policy Act (RCW 43.21C)

The department is required to follow the guidelines and procedures specified in Chapter 43.21C RCW in planning and decision-making. This program document constitutes the first phase of State Environmental Policy Act compliance for the Transition Lands Program. Designation by the Board of Natural Resources of properties as urban (RCW 79.66.080) requires separate State Environmental Policy Act review. The department will also comply with the substantive requirements of State Environmental Policy Act by site-specific environmental review and analysis.

## The Multiple Use Act (RCW 79.68)

The department is directed to use a multiple use concept in managing and administering department-managed lands when in the best interests of the state and the general welfare of the citizens and consistent with applicable trust provisions.

## Urban lands - Cooperative planning, development (RCW 79.01.784)

The department is directed to cooperate with applicable local governments when planning management activities for state-owned urban lands.

The department shall contact those local governments which have planning, zoning, and land-use regulation authority over areas where urban lands under department jurisdiction are located, thus facilitating annual or other meetings.

## This statute defines urban lands as:

*... those areas which within ten years are expected to be intensively used for locations of buildings, structures, and usually have urban governmental services.*

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## Identification of transition lands

DNR will use these definitions in the transition lands identification and designation process:

**Transition Lands:** Land currently being managed for natural



resource production that has characteristics indicating an opportunity for more efficient management to obtain a higher economic return by the conversion of the land to another use.<sup>1</sup>

DNR is required to designate certain transition lands as urban under RCW 79.66.080. DNR will be guided by the following definition:

**Urban Lands :** Land expected to be urban due to designation as "urban " by local land use plans; or authorization for commercial, industrial or residential uses by local government; or where capital improvements and services exist or are scheduled to be available.

## Transition lands identification and urban designation process

Based on these definitions the department will identify and inventory transition lands. Periodically reviewing and identifying the trust land base for changing circumstances allows DNR, the public and other governmental agencies to examine alternative opportunities.

The process contains three major activities:

- o Department trust land asset evaluation process
- o Transition Lands Program process
- o Urban designation process

These three major activities and steps are in Figures 3-4 on pages 24-26 to illustrate the timing of each action and how the transition lands identification and urban designation processes will be implemented.

By using this identification and designation process DNR intends to:

- o Show the department's perception of changing land uses or values.
- o Recognize changes in local zoning/comprehensive plan designation.
- o Provide opportunity for comment and input about appropriate interim management strategies.
- o Provide notice to local government and other state agencies to facilitate their acquisition, if desired.
- o Provide notification to the public regarding urban designated properties.

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<sup>1</sup> Some indicators of opportunities for higher economic returns include: changing land values, market forces of supply and demand, urban land use trends, demographic projections and surrounding land uses.

## Figure 3 Major Steps

### Transition land identification and urban designation process

#### IDENTIFICATION PROCESS

##### Department trust land asset evaluation process

The department will develop an overall asset management program to guide trust land allocation and management strategies. The asset evaluation process will be an integral part of this program. While overall program formation will occur outside the scope of the Transition Lands Program, discussion of a conceptual asset evaluation process will demonstrate generally how properties will be assigned to the Transition Lands Program.

- 1 Statewide land use evaluation.
- 2 Perform preliminary physical/environmental inventory and assessment on trust parcels utilizing existing information from federal, state and local agencies and programs.
- 3 Intradepartment review.
- 4 Review information with state and local government agencies to assess potential uses and environmental elements of parcels.
- 5 Present information and gather comments through appropriate public forums.
- 6 Perform property evaluation and determine range of alternative uses.
- 7 Designation of appropriate management regime and functional responsibility.  
(Asset allocation)

Department of Natural Resources management functions:  
Agriculture land management  
Forest land management  
Transition/urban land management  
Mineral land management  
Sale for conservation/preservation  
Disposal to other public or private entities

##### Transition lands program process

- 1 Parcel assigned to Transition Lands Program through trust land asset evaluation and allocation process.
- 2 Department develops management plan for parcel to guide management in the short- and long-term.
- 3 Continued management of parcel for interim uses.
- 4 Increased monitoring of local land use activities to note changes indicating residential, commercial, or industrial land use trends in surrounding areas.
- 5 Based on noted changes above, update physical/environmental inventory.
- 6 Update land use inventory.
- 7 Evaluate updated information and (1) propose for urban designation; or (2) maintain parcel in transition land management status; or (3) assign to other functional program.

## **URBAN DESIGNATION PROCESS**

### **Public and governmental input process**

- 1 Notify state and other government entities of pending public hearings on the proposed designation of urban lands.
- 2 Notify affected government and local officials of proposed urban land additions to inventory and pending public hearings.
- 3 Notify local planning departments, elected officials, and the general public of pending hearings on the proposed designation of urban lands.
- 4 Hold public hearings on action to designate urban lands. Evaluate comments of public and local government.
- 5 Set aside socially or politically sensitive properties for further study to result in either: (1) mitigation actions or (2) removal from current consideration for urban land designation, or (3) determination of another method of disposal.

### **State Environmental Policy Act process**

- 1 Complete environmental checklists for each proposed urban land parcel.
- 2 Make threshold determination of environmental significance.
- 3 Defer from current consideration specific sites that may need more analysis.
- 4 Issue Determinations of Environmental Nonsignificance for nonsensitive sites for 15-day comment period.
- 5 Receive and evaluate comments on Determinations of Nonsignificance.
- 6 Defer from current consideration specific sites that may need more analysis based on comments.

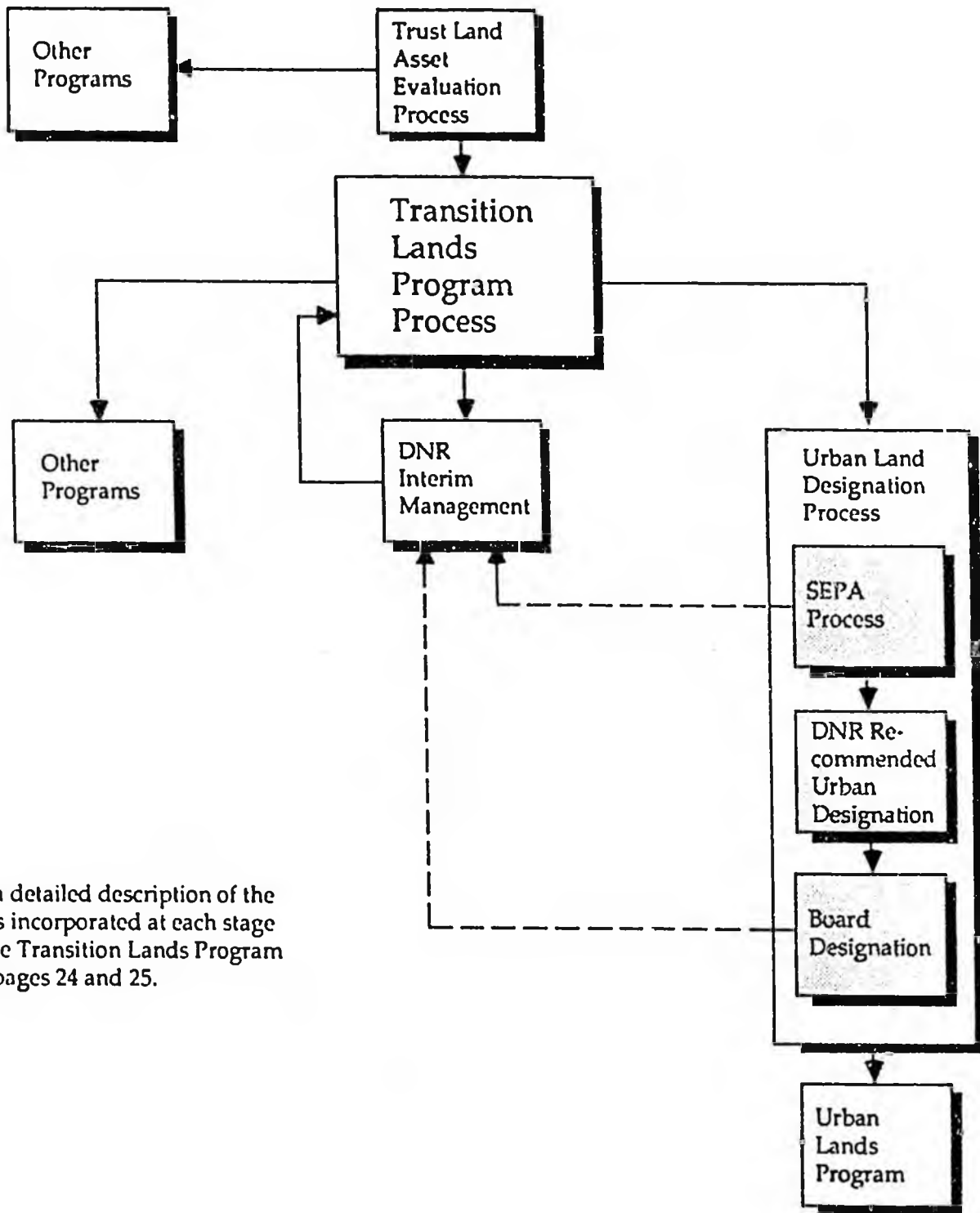
### **Department and Board of Natural Resources action**

- 1 Recommend to Board of Natural Resources specific sites for urban designation.
- 2 Send maps of sites proposed for designation to affected governments and resource agencies identified in RCW 79.66.
- 3 Designate urban properties by resolution of Board of Natural Resources.
- 4 Notify county, city or town where designated lands are located.
- 5 Notify local governments at regular meetings of proposed management actions.

### **Urban Lands program**

- 1 Management of property as urban land.

**Figure 4 Transition Lands Program Process**



For a detailed description of the steps incorporated at each stage of the Transition Lands Program see pages 24 and 25.



## A strategic plan for managing transition land assets

### Applicable goals :

*Effectively manage transition lands to enhance the financial performance of trust assets.*

- o *Manage transition land to optimize land value.*
- o *Manage land assets to achieve an optimum relationship between income and risk.*
- o *Increase the level of financial support to trust beneficiaries.*
- o *Diversify further the sources of income to trust beneficiaries.*
- o *Balance short- and long-term needs of the trust beneficiaries.*

### Objectives :

- o *Develop a strategic plan for the transition land assets.*
- o *Identify appropriate investment objectives for these assets.*
- o *Prescribe a framework for managing these assets.*
- o *Provide direction for creating and composing a commercial real estate portfolio.*

The department initially focused its attention on the underlying assets of the various trusts (the trust portfolios). These assets provide the basis from which a strategic plan is developed. Historically, the trust assets managed by the department have been natural resource-producing real estate. The financial assets of the Permanent Fund are managed by the State Investment Board. The department now has the opportunity to purposefully reposition certain land assets and acquire other properties with income production potential to more effectively meet its fiduciary obligations.

In formulating a strategic plan, the department adopts the principles of modern portfolio management<sup>2</sup>, particularly the need to consider individual investments as components of an overall portfolio. Accordingly, policies relating to transition lands need to be developed in light of overall asset management objectives. The land assets held by the department for proprietary management purposes are a composite of the

<sup>2</sup> The means by which the portfolio is operated is called a plan formulated to achieve objectives. Responsible asset management also requires a system of performance evaluation be established to monitor and evaluate the effectiveness of the plan in achieving its goals. The modern theory of portfolio management is a set of perspectives for analyzing investment opportunities and managing portfolios. The conceptual framework is designed around the notion of maximization of the present value of net cash flows (income which includes changes in asset values); that efficient investment analysis requires a consideration of all achievable opportunities; that estimates of future earnings are of a probabilistic nature; and that an efficient portfolio is one in which diversifiable risks associated with any given income expectation are minimized. (C. D'Amrosio, *Principals of Modern Investment*; Haley and Schall, *The Theory of Financial Decisions*.)

decisions spanning more than 130 years. Initially, the state received an endowment of lands at statehood. This ownership has been modified, supplemented or decreased by numerous decisions to buy, sell or exchange lands. The development of this policy plan provides an appropriate opportunity for the department to re-evaluate these land assets.

Modern portfolio theory is consistent with both legislative directive to the department and common law duties of a trustee. RCW 79.01.095 directs that:

Periodically at intervals to be determined by the Board of Natural Resources, the Commissioner of Public Lands shall cause an economic analysis to be made of those state lands held in trust, where the nature of trust makes maximization of the economic return to the beneficiaries of income from state lands the prime objective. The analysis shall be by specific tracts, or where such tracts are of similar economic characteristics, by groupings of such tracts.

The most recently made analysis shall be considered by the Department of Natural Resources in making decisions whether to sell or lease state lands, standing timber or crops thereon, or minerals therein, including but not limited to oil and gas and other hydrocarbons, rocks, gravel and sand.

The economic analysis shall include, but shall not be limited to the following criteria: (1) Present and potential sale value; (2) present and probable future returns on the investment of permanent state funds; (3) probable future inflationary or deflationary trends (4) present and probable future income from leases or the sale of land products; and (5) present and probable tax income derivable therefrom specifically from potential private development of land currently used primarily for grazing and other similar low priority use; such private development would include, but not be limited to, development as irrigated agricultural land. (emphasis added)

Various statutory directives also constrain the range of alternative investments to be considered. For example, RCW 79.66.010 recognizes that:

...it may be desirable for the department of natural resources to sell state lands which have low income potential for natural resource management or low income-generating potential or which, because of geographical location or other factors, are inefficient for the department to manage. However, it is also important to acquire lands for long-term management to replace those sold so that the publicly owned land base will not be depleted and the publicly owned forest land base will not be reduced.

Although individual parcels may be disposed of, a primary activity of the department will remain forest land management.

*In managing and relocating trust lands, the department will neither deplete the publicly-owned land base nor reduce the publicly-owned forest land base.*



## General considerations in developing an asset plan for transition lands

The goals for the Transition Lands Program need to be consistent with the objectives of the portfolios of the various trusts. Actions taken on transition land assets of the trusts will affect the overall performance of the portfolio. The plan for transition lands must recognize and work with management plans for other portfolio assets, such as the timber production plans embodied in the Forest Land Management Program, and how those plans relate to the overall trust objectives.

Viewing the portfolio of the trust as a whole, rather than treating different classes of assets as relatively distinct, isolated or separately managed activities has the advantage of integrating actions taken regarding specific trust assets to advance overall trust objectives. This approach recognizes that the policies of the Transition Lands Program can affect overall portfolio performance.

The following considerations are part of the investment objectives upon which this strategic plan will be based.

- o Expected income from assets
- o Financial risk
- o Asset value
- o Timing of income
- o Management costs

*The department will develop an overall asset management program for the trusts incorporating overall financial objectives in accordance with the economic analysis statute (RCW 79.01.095).*

### Expected income from assets

The department recognizes that financial risk and expected rate of return are interrelated and adopts a policy of optimizing the income of the trusts relative to that risk.

*The department will optimize the income of the trusts relative to financial risk.*

### Financial risk

The department has been relatively risk-averse (e.g., being conservative in relation to risk) (*Forest Land Management Program*, p. xiii). Historically, the focus of asset management plans has been on the natural resource issues involved. Since there is a necessary relationship between the degree of acceptable financial risk and the expected rate of return, the department requires a policy that explicitly recognizes the relationship between expected income and financial risk.

*The department will establish a policy defining acceptable levels of financial risk and develop an asset management strategy consistent with that policy.*

## Asset value

Most assets held by the trusts were received at statehood from the federal government without cost. Because these assets were managed for resource production, valuation of these trust assets was not seen as a significant concern. However, the authority granted the department to dispose of certain assets, or to use assets for purposes other than resource management (RCW 79.66) raises this issue. If certain trust assets have higher and better uses than natural resource production, in many instances this will be indicated by their underlying asset values. To determine the total rate of return on capital employed both the value of an asset and any additional capital to be invested should be accounted for.

Asset valuation involves a range of methods from basic staff estimates to a formal appraisal process. Currently, the department establishes value of land assets before requesting capital budget funds for lease, sale or exchange activities. In the future, the values of transition land assets need to be established when assets are assigned to the program. A primary advantage of valuation is the role these values play in identifying assets that can be put to better uses. Asset valuation will also help the department make more rational investment decisions by directing additional capital investments where the returns, balanced against appropriate risks, are expected to be highest. Regular or periodic valuations measure the effectiveness of management activities in meeting overall objectives of the trusts.

Large parcels currently devoted to forest use represent the highest and best use because of location or other factors. For these holdings, asset valuation is not worth the cost of establishing this information. Although the forest base must be maintained, the location or use of individual components of that base may change over time for a variety of reasons. The definition of transition lands (p. 22) suggests there may be many characteristics leading to considering a parcel transitional. Some characteristics that suggest the need for asset valuation include resource management conflicts, strategic location of a parcel near commercial activity or proximity to a major transportation corridor.

Valuation of assets allows the department to make more rational investment decisions, assists in allocating its resources and provides a basis for determining how effective management activities are in meeting overall objectives of the portfolio.

Such policy implementation requires developing procedures to determine when and how asset valuation should be accomplished. Assets in the transition land base must be valued at the start.

*In accordance with RCW 79.01.095(1), the department will establish asset values for each individual asset or for grouping of assets in the transition lands portfolio as soon as possible.*

## Timing of income: the trade-off between capital gains and current income

In a typical private trust, there are income beneficiaries and holders of remainder interests. Income beneficiaries receive the income generated

from investment of trust assets; holders of remainder interests receive the assets of the trust at the time the trust terminates. What a benefit accruing to such a trust is called can have important financial consequences for the holders of these different interests. If a benefit is called income, it would be available for distribution to the beneficiaries. If it is called principal, it would ultimately be distributed to the holders of the remainder interests in the trust.

Because the state constitution does not consider distribution of the assets of trusts managed by the department to trust beneficiaries, whether receipts are considered income or principal only affects the timing of income between current income beneficiaries and future income beneficiaries. The value of trust assets has increased substantially since being placed in trust at the time of statehood. There are no specific legal restrictions on increasing the total dollar value of the assets held in trust.

Economists define income as not only cash receipts minus the expenses of earning the income, but also net changes in asset values. In contrast, normal business accounting practices treat positive changes in asset values as income, but only when the assets are sold. The department treats increases in asset values (capital gains) as additions to principal. When real estate assets of the trusts are sold for cash, the proceeds are added to the principal balance of the permanent fund. When real estate assets are exchanged, any increase in the value of disposed property is reflected in the value of the property acquired by the exchange. This practice is consistent with the requirements of the Washington Principal and Income Act.

Regarding replacement investments for the real estate portfolio, trust managers often can structure the transaction so the total expected return can be allocated (to varying degrees) between income during the life of the investment and increases in capital value which can be realized when the investment is disposed of. Ground leasing transactions, for example, adjust readily to this variable structuring. If income can be shifted from one period to another within the life of the investment, it can affect the timing of the beneficiaries' receipt of income. The amount of current income foregone in favor of increasing asset values reduces cash flow during the life of the investment. However, increases in the value of the assets of the trust presumably increase the potential income to be received by future beneficiaries when these assets are disposed of and the proceeds reinvested. Portfolio management policies guide trust managers in structuring the portfolio in relation to this trade-off between current income and capital gains. Within the portfolio of a specific trust, different assets can be structured in different ways regarding this trade-off. The net present value analysis used by the department in making investment decisions evaluates overall gain from the investment, but does not provide an answer about which investment is preferred for cash flow reasons. Pricing the existing assets in the real estate portfolio must also be considered since it is difficult to determine an appropriate current income/capital gains trade off without knowledge of how much appreciation is occurring with existing assets.

Varying needs of the beneficiaries of the various trust assets managed by the department suggest that different policies are appropriate for different periods of time for managing the various trusts. Likewise, within the portfolio of a specific trust, different assets can be structured in different ways. Different policy alternatives concerning the trade-off between current income and capital appreciation include:

- o Manage assets of the trusts for reasons independent of the effect that management has on the current income/capital appreciation trade-off.
- o Structure investments to maximize cash flow (current income).
- o Aggressively structure assets to increase total asset values recognizing that this implies corresponding reduction in income available for current distribution to trust beneficiaries.
- o Structure investments to balance current income and asset appreciation.

*For transition lands, structuring investments to balance current income and asset appreciation will be the preferred policy.*

## Management costs

Historically, the department was limited to acquiring assets for natural resource production. The ability to acquire commercial income-producing property gives the department various options for replacing underproductive assets with more productive assets. However, different assets with similar income/risk characteristics can vary markedly in the amount of management required. Certain assets have attractive rates of return, but when management costs are considered, the returns are significantly diminished.

Life cycle management costs can also significantly affect the net return of a given investment. The financial analysis of alternative investments should include these costs.

*When considering acquiring new trust assets, the department will acquire assets that minimize life cycle management costs for given levels of income/risk.*

## Risk

The economic analysis statute, court decisions (such as *Skamania vs. Washington*), and other precedents, require that the prime objective of trust land management is the maximization of the economic return to the beneficiaries of income from state lands. However, all forms of trust management involve certain levels of risk. Since expected returns and risk rise together, it is important that asset managers have a well-defined set of objectives on risk and income as well as an understanding of the many forms that risk may assume in any given transaction.

There are two primary forms of financial risk to trust assets: the risk that an asset will not produce the expected income and the risk that the value of trust assets may decline. Focusing on the rate of return based solely on cash receipts for a particular period does not address the risks of negative (or possible positive) change in asset values. The risk of change also varies over time. For instance, renewable resource trust assets may require capital inputs, such as reforestation and competition control costs, to sustain their income production. Therefore, the analysis of investment alternatives should include risk in view of expected rates of return.





## Economic models and evaluation

### *Applicable goals :*

- o *Manage transition land to optimize land value.*
- o *Manage land assets to achieve an optimum relationship between income and risk.*
- o *Seek interim uses that fully utilize the current potential of the property yet preserve and enhance the qualities that attract higher and better uses.*

### *Objectives :*

- o *Develop a framework for economic evaluation that identifies the highest and best use for each tract of transition land.*
- o *Select an economic model(s) for evaluating investment alternatives.*
- o *Identify an appropriate discount rate, time period and means to incorporate risk and uncertainty when evaluating trust investments.*
- o *Determine a method of comparing actual and expected economic performance for evaluating trust investments.*
- o *Determine a method of comparing actual and expected economic performance of transition lands assets.*

## Economic analysis

Commercial real estate management is a complex segment of the department's total land management operation. Economic modeling is needed in planning new or enlarged projects and in evaluating and comparing both current projects and new opportunities. Within each of these areas, the department makes decisions relating to:

- o Disposal: sale or exchange, with or without value enhancement
- o Leasing: marketing, promotion and negotiation
- o Acquisitions: feasibility analysis
- o Property management: future impacts

Economic analysis is needed to determine whether the above activities are cost effective for the benefits sought. Economic analysis also assists the department in determining holding costs for lands held in the transition lands inventory. Finally, economic analysis and performance review allows the department to estimate the time required to recover

capital investments made to enhance property value in preparation for disposal or leasing.

Economic models are systematic methods of measurement from which business decisions are drawn while considering other related information and professional expertise. The department recognizes it cannot develop exacting economic models for each type of transaction contemplated or for each investment decision.

Economic models used by the department must satisfy statutory requirements and aid in the selection of the highest and best uses for tracts of trust land. Models selected should allow sensitivity analysis of the values imparted by possible alternative uses of the tract. When a preferred use is selected, the department should be able to determine the appropriate intensity of use, as well as the appropriate level of improvement for the tract in question. Tests of varying degrees of investment by the department should show which level of investment and development generates the highest level of revenue for the trust consistent with other adopted policies.

During the entire process of managing trust properties, cost and price projections must be tested. Specific questions need to be asked. For example:

- o How accurate are the plans and projections?
- o Is the project profitable?
- o How can the department improve the management of similar properties in the future?

The answers to these questions guide the department to improve future activities and policies.

Limitations exist in the development process. These may be physical, technical, economic, legal or institutional and may limit the activity, thus increasing costs and/or reducing revenue production. The models chosen to evaluate each activity should be able to measure in some way the impact of each constraint. For example, exposure to risks, timing of events, market activities and liabilities incurred under different contractual arrangements all are potentially constraining.

Economic methodology must reflect costs and benefits or revenues that result from investment choices and policy decisions. In making investment decisions, the department is obligated to identify the highest and best uses for each tract of trust land. Alternative management proposals are evaluated and produce the information necessary to accept, reject or condition a proposal.

By comparing the rates of return for each property management option, the most suitable economic development strategy can be determined—that which provides the department the highest positive net present value on feasible projects, consistent with acceptable levels of risk and other considerations.

## Management options

Economic analysis must address whether the department should retain full responsibility for future use/management of any specific property or groups of properties. If so, at what level of involvement and at what costs or benefits to the trust.

One result of the transition lands program process (p.22) is an inventory of land parcels which could be converted from current natural resource uses to higher and better economic uses. The inventory process provides an orderly mechanism for periodically reviewing the most appropriate use(s). When a property is allocated to the program, the department will consider the socio-economic environment, the characteristics of the land parcel and the staff and financial resources available for management. The department will also review the priority of other projects underway or planned, the staff skill levels and market demands the parcel could serve. The department will then select the option which best serves the trusts from a range of management options.

The following management alternatives should be considered each time such an evaluation is conducted:

- o Active operational management by the department
- o Passive management through ground leases
- o Active joint proprietary management
- o Exchange or sale of property asset

### Active operational management by the department

Active operational management can range from one or more direct management activities, such as planting and fertilizing trees to complete vertical integration. For any land use activity undertaken by the department a decision must be made as to the appropriate level of involvement (stages of production) or extent of vertical integration. Economic modeling can be useful in determining incremental impacts of proceeding to each added step toward more complete vertical integration of management.

### Passive management via ground lease

The current policy of retaining ownership of land with the department administering commercial ground leases to provide for rental incomes represents a passive position regarding vertical integration and degree of participation in proprietary functions. Such leases represent a decision that alternative land uses other than natural resource production are the most economically viable for the specific land parcel or site, but that the department should play only a minimal role in the ongoing proprietary function.

The distinguishing feature of this management alternative is that the department be dissociated from the ongoing functional management

once the improvements, if any, are made. The proprietary management functions are contracted through a lease to other parties. Conditional restrictions can be placed on the lessee about use, management activities, etc., as deemed desirable to maximize the economic value to the trusts. Economic analysis must permit the department to distinguish between the relative advantages of such ground leases and passive management from other management alternatives. It must also permit evaluating the most appropriate level of capital receipts and the scope of conditional lease restrictions.

## Active joint proprietary management

If the department has decided about the appropriateness of proprietary management for a specific use, it must also decide about department management of specific proprietary functions.

The economic analysis will be capable of discriminating between functional land uses most advantageous for specific sites, and stages of production (vertical integration) and level of participation most advantageous once a functional use is identified. Within constraints of legality and other policies in this plan, the option for department retention and full or partial participation should be explicitly evaluated. Economic analysis should be capable of indicating when such an involvement is in the best interest of the trust.

## Disposal of property assets

Specific assets may have negative or reduced returns to the state under either continued management by the department or through retained owner/passive management ground leases. As indicated in the *Strategic Plan* section, the state may be best served through disposal of the land/assets. Replacement land is acquired and the future use of the disposed property is determined by the new owner (public or private).

The economic analysis should distinguish between the reasons for asset disposal. If the reasons for rejecting retained ownership are economic, the underlying reasons leading to this will be reflected in the net asset value obtainable by the state through disposal.

The distinguishing characteristic of this option is that the disposal decision is based on the economic evaluation of future management potential of the property independent of any reinvestment decision.

The land exchange alternative represents two separate decisions undertaken jointly for expediency, or to overcome other constraints, such as limited cash flows for investment.

First, a decision is implied that specific assets subject to disposal are either unproductive under alternative management options or less profitable than another available option.

They are deemed *unsatisfactory performers* in the current portfolio due to either current (and projected) economic circumstances and/or constraints placed on department management programs. By law and policy, the asset cannot be disposed of for less than fair market value. Subject to this, once disposal is judged as the appropriate course of action the department must determine how the assets will be reinvested.

Second, a reinvestment decision is implied; the asset is acquired through exchange or trade representing a *preferred* way of reinvesting capital resources released through the disposal decision.

Investment decisions will represent a conscious choice of a more productive option available to the department. Such acquisitions must be thoroughly evaluated, trust-quality assets. With careful analysis, an exchange of land assets can simultaneously meet the requirements of both disposal and investment decisions.

Usually it is preferable that the economic analysis of the disposal decision and the investment decision be made on separate grounds. The analysis should identify any constraints requiring an exchange in preference to separable decisions. It should also identify the opportunity cost (if any) represented by the loss of value incurred because of limitations placed on considering other alternatives. This option provides a desirable way to diversify various trust portfolios.

Diverse expectations will be placed on the evaluation of any management alternative. The economic models used for the Transition Lands Program require that the range of management alternatives be evaluated and contrasted before a specific option is chosen. A program of complete economic analysis, using the appropriate economic methodology for the issues involved, combined with evaluating noneconomic factors, can enhance overall economic results of trust management. This will require not only *planning* analysis for decision-making, but also adequate monitoring and reporting to permit performance evaluation and review of actual results.



## Selection of economic models

### Economic modeling

Economic modeling provides a logical and consistent means for evaluating investment alternatives supporting the goals and objectives of transition land management. Net present value, internal rate of return and benefit-cost analysis are the most useful for this program. In addition, some quasi-economic formulations, such as the pay back period and the break even period, may be useful for certain analyses.

Time is critical in evaluating measures of economic value—because a dollar today has more value than a dollar at a later time, all future values (both costs and benefits) must be discounted to their present value. The discount rate (or interest rate) is a measure of this difference in value. Properly applied, net present value, internal rate of return and benefit-cost ratio all depend on discounted values. Net present value is calculated by subtracting the sum of discounted costs from the sum of discounted benefits or revenues. Internal rate of return is the interest rate at which the sum of discounted costs equals the sum of discounted revenues. That is the interest rate at which net present value equals zero. The benefit-cost ratio is determined by dividing discounted benefits by discounted costs.

Net present value or present net worth models analyze the values in a project with the proper measurement of the impact of time preference.

The net present value model maintains a measure of the magnitude of the values in the computations. When different time periods are involved in the projects being compared, there is a tendency (when discount rates are high) for projects with shorter time spans to be favored over projects with long time spans. When discount rates are low, long-term is favored over short-term. These biases can be overcome by using a modification to annualize the results. One input variable in the calculation is the alternate rate of return or discount rate selected by the agency for similar projects.

Net present value appears to measure the return to the trusts in the most comprehensive and direct way. It always shows the magnitude of the projects and the discounted value. It can reflect results without time-span bias, can be used to compare diverse activities and will always show the proper order of economic desirability. However, measures such as internal rate of return, financial internal rate of return, benefit-cost ratio and pay back period may be best suited for some specific questions.

*The department will use net present worth as the primary model for evaluating investments.*

## Discount rate

Using the net present value model requires the selection of a discount rate to bring all costs and returns to the present. The discount rate or alternate rate of return chosen should reflect the next most desirable rate available in the market. Several alternatives considered were: the prime rate, State Treasurer's Money Management Fund rate, bank rates, Permanent Fund rates for new funds and trust permanent fund portfolio average rates.

Trust Permanent Fund rates on new funds show the rates that can be earned by money invested in current low risk securities markets. Securities purchased for the Permanent Fund accounts normally mature in 5 to 30 years. Yields reflect current investor expectations about the impact of inflation on rates of return. This provides an objectively determined opportunity cost of capital that can be revised periodically from the portfolio lists of the trust Permanent Fund. Current portfolio composition reflects the market opportunity cost of capital for long-term projects on trust lands.

*The current market yield on the Permanent Funds portfolio will be used by the department as a minimum acceptable discount rate.*

## Time period

The time period of investments is an important consideration because the comparison between net present values for various management alternatives must be comparable. For instance, a comparison of the net present value of a 20-year investment with the net present value of a 50-year investment may distort the priority ranking of projects. In general, if investment periods extend at least 50 years, the net present values will not be affected by benefits and costs that occur beyond that time.

*The department will review investment decisions by annualizing the values, placing values in terms of an infinite time period, or by taking them to a common point in time.*

## Risk and uncertainty

Risk and uncertainty are two measures of impacts that cause other than expected results from a project. Risk is defined to include occurrences happening in a repetitive sequence that can be described statistically, such as long-term appreciation trends, inflation, financial rates of return, market absorption and rental rates. Uncertainty contains all occurrences that cannot be statistically described.

Risk analysis is an important consideration in trust management. The department wants to make prudent investments which will receive yields commensurate with the level of risk.

Sensitivity analysis changes assumptions for variables, such as inflation and other factors. Exploring various alternatives provides information about how the final outcomes would be affected under different assumptions. Generally, the most *robust* option (that alternative least sensitive to changing assumptions) will be chosen.

*Sensitivity analysis, rather than discount rate adjustment or ad hoc handling of risk, will be the technique chosen by the department for assessing the impacts of risk.*

## Performance review

The department must be able to evaluate options before decision-making. However, it is also essential that the department be able to review decisions after they have been made to know how well the decision-making process works and to adjust the analysis where weaknesses appear. The analysis of the results of past decisions can be a powerful tool for making better decisions in the future.

Performance review entails periodic analysis of each project to compare its actual performance with the expected performance under the economic assumptions made to justify the project. Since some projects have an economic life of 50 years or more, this is a long-term process. Such comparisons will be made using appropriate economic models selected to measure the assumed costs, prices, constraints and actual results.

The department can analyze the progress of the transition lands portfolio by using a periodic financial report that includes an income statement. Conventional accounting methods will be employed that identify sources of realized income and known expenditures, as well as estimates of asset value. As a further evaluation tool, select projects will be isolated and accounted for individually. This will also apply to specific project evaluation. By evaluating projects separately (for an optimum relationship between economic return and risk), the portfolio income will be enhanced. Separate project accounting also provides a history which allows for more informed future decision-making.

*The department will maintain records that trace (1) the return on past capital investments (2) the status of current investment and (3) plans for future capital investment. The department will prepare a periodic financial report for the transition lands portfolio.*

ATTACHMENT D  
U.S. Forest Service Special Use Application Regulation  
36 C.F.R. Ch. 11 § 251.54

Forest Service (see § 212.10 of this chapter);

(k) Permits under the Land and Water Conservation Fund Act of September 3, 1964, 78 Stat. 897, as amended (16 U.S.C. 4601-6a(c)), for recreation events and other specialized recreation uses;

(l) Permits, leases and easements under the Federal Land Policy and Management Act of 1976, 90 Stat. 2776 (43 U.S.C. 1761-71) for rights-of-way for:

(1) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) Pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or refined product produced therefrom and for storage and terminal facilities in connection therewith;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) Systems and related facilities for generation, transmission, and distribution of electric energy, except that the applicant, in addition to obtaining Forest Service special use authorization, shall also comply with all applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act of 1935, as amended, 49 Stat. 838 (16 U.S.C. 791 et seq.);

(5) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals and other means of communication;

(6) Roads, trails, highways, canals, roads, canals, tunnels, tramways, ways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities;

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way cover-

upon, under, or through National Forest System lands; and

(8) Any Federal department or agency for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any product produced therefrom;

(m) Permits under the Archaeological Resources Protection Act of 1979, 93 Stat. 721 (16 U.S.C. 470aa).

45 FR 38327, June 6, 1980; 45 FR 43167, June 26, 1980, as amended at 49 FR 25449, June 21, 1984)

#### § 251.54 Special use applications.

(a) *Preapplication activity.* When occupancy and/or use of National Forest System land is desired, a proponent is encouraged to contact the Forest Service office(s) responsible for management of the affected land as early as possible so potential constraints may be identified, the proposal can be considered in land management plans, and processing of an application can be tentatively scheduled. The proponent will be given guidance and information about: (1) Possible land use conflicts as identified by review of land management plans, landownership records, and other readily available information sources; (2) application procedures and probable time requirements; (3) applicant qualifications; (4) fees, charges, bonding and security requirements; (5) necessary associated clearances, permits, and licenses; (6) environmental and management considerations; (7) special conditions; and (8) identification of on-the-ground investigations which will require temporary use permits. If requested by the proponent, the Forest Service officer will, to the extent reasonable and authorized by law, not disclose project and program information revealed during preapplication contacts.

(b) *Filing applications.* Applications for special uses will be filed with the District Ranger or Forest Supervisor having jurisdiction over the affected land (§ 200.2 of this chapter) except:

(1) Applications for projects on lands under the jurisdiction of two or more administrative units of the Forest Service may be filed at the most convenient Forest Service office having jurisdiction over part of the project

and the applicant will be notified where subsequent communications should be directed;

(2) Applications for cost-share and other road easements to be issued under § 251.53(j) will be filed in accordance with regulations in § 212.10 (c) and (d) of this chapter; and

(3) Applications for oil and gas pipeline rights-of-way crossing Federal lands under the jurisdiction of two or more Federal agencies shall be filed with the State Office, Bureau of Land Management, pursuant to regulations in 43 CFR 2882.

(c) *Coordination of applications.* Authorizations for use of National Forest System land may be conditioned to require State, county, or other Federal agency license, permit, certificate or other approval document, such as Federal Communication Commission license, Federal Energy Regulatory Commission license, State water right, or county building permit. Applicants filing applications with such agencies for a project, will simultaneously file an application with the Forest Service under this section. To minimize duplication, pertinent information from the application made to the other agency can be attached and referred to in the Forest Service application.

(d) *Rights of applicants.* No rights or use privileges are conveyed without a special use authorization.

(e) *Application content.* As a minimum, applications shall include the information contained in paragraphs (e)(1) through (5) of this section.

(1) *Applicant identification.* Identification of the applicant shall be sufficient that the Government will know the true identity of the entity and/or individuals applying. The authorized officer shall give due deference to the findings of another agency such as a public utility commission, the Federal Energy Regulatory Commission, or the Interstate Commerce Commission, in lieu of another detailed finding. If this information is already on file with the Forest Service, it need not be refiled if reference is made to the previous filing date, place and case number. The applicant's name and address is required and, if the applicant is not an individual, the name and address of



authorized officer to determine the feasibility of the project or activity proposed, its impacts on the environment, any benefits provided to the public, the safety of the proposal, the lands to be occupied or used, the terms and conditions to be included, and whether the proposal will comply with applicable laws, regulations and orders.

**Environmental protection plan.** The applicant's proposed measures for the protection and rehabilitation of the environment during construction, operation, maintenance, and termination of the project shall be included.

**Additional information.** The authorized officer may require any other information and data necessary to determine the feasibility of the project or activity proposed; impacts on the environment; compliance with applicable laws, regulations, and orders; compliance with requirements for associations, certificates, permits, orders; and suitable terms and conditions to be included in the authorization. Requests for additional information if needed will be in writing.

**Processing applications.** The authorized officer will acknowledge the application in writing. The authorized officer will assess the applicant's qualifications; conduct an environmental analysis; present and/or an environmental impact statement under the National Environmental Policy Act of 1969; determine compliance with other applicable laws, regulations and orders; consult with other agencies, local officials, or interested parties and hold public meetings upon reasonable notice when sufficient interest warrants the time and expense; and, if any other action necessary, evaluate and make a decision to approve or deny the application and prescribe suitable terms and conditions.

Federal, State, and local government agencies and the public will be given adequate notice and an opportunity to comment upon special use applications in accordance with Forest Service practices established under the National Environmental Policy Act, in the appropriate direction.

(g) **Special application procedures.**

(1) Oil and gas pipeline rights-of-way. These will include the citizenship of the applicant(s) and disclose the identity of its participants as follows:

(i) Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of the United States, shall not own an appreciable interest in any oil and gas pipeline right-of-way or associated permit; and

(ii) The authorized officer shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources promptly upon receipt of an application for a right-of-way for a pipeline twenty-four (24) inches or more in diameter, and no right-of-way for such a pipeline shall be granted until sixty (60) days (not counting days on which the House of Representatives or the Senate has adjourned for more than three (3) days) after a notice of intention to grant the right-of-way, together with the authorized officer's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees, unless each committee by resolution waives the waiting period.

(2) **Electric power transmission lines 66 KV or over.** Each application for authority to construct and maintain a facility for the generation of electric power and energy or for the transmission or distribution of electric power and energy of 66 kilovolts or higher under this section shall be referred to the Secretary of Energy for consultation.

(h) **Denial of applications for a special use other than a special event.** An application for a special use other than a special event may be denied if the authorized officer determines that:

(1) The proposed use would be inconsistent or incompatible with the purpose(s) for which the lands are managed, or with other uses; or

(2) The proposed use would not be in the public interest; or

(3) The applicant is not qualified; or

(4) The use would otherwise be inconsistent with applicable Federal and State laws; or

(5) The applicant does not or cannot demonstrate technical or financial capacity.

(i) **Denial of application for special event.** An application for a special event shall be granted unless the authorized officer determines that:

(1) The special event would conflict with another use which has been previously approved by special use authorization, contract, or approved operating plan, under this part or Part 222, 223, or 228 of this chapter; or

(2) The special event would present a clear and present danger to the public health or safety; or

(3) The special event would be of such nature or duration that it could not reasonably be accommodated in the particular place and time applied for; or

(4) The application proposes activities that are contrary to the provisions of Part 261 of this chapter or the provisions of any other Federal or State criminal law.

When an application is denied on the basis of paragraph (i)(1) or (i)(3) of this section, the authorized officer shall provide the applicant the opportunity to accept an alternative site or time selected by that officer.

145 FR 38327, June 6, 1980; 45 FR 43167, June 26, 1980, as amended at 48 FR 29122, June 24, 1983; 49 FR 25449, June 21, 1984; 49 FR 46895, Nov. 29, 1984

§ 251.55 Nature of interest.

(a) A holder is authorized only to occupy such land and structures and conduct such activities as is specified in the special use authorization. The holder may sublet the use and occupancy of the premises and improvements authorized only with the prior written approval of the authorized officer, but the holder shall continue to be responsible for compliance with all conditions of the special use authorization.

(b) All rights not expressly granted are retained by the United States, including but not limited to (1) continuing rights of access to all National Forest System land (including the subsurface and air space); (2) a continuing right of physical entry to any part of the authorized facilities for inspection,

ATTACHMENT E  
U.S. Forest Service, "Portage Lake Tour  
Boat Prospectus"



United States  
Department of  
Agriculture

Forest Service

Alaska  
Region  
R10-MB-25



# Portage Lake Tour Boat Prospectus

## Chugach National Forest



PROSPECTUS

Portage Lake Tour Boat Operation  
USDA Forest Service  
Chugach National Forest  
Alaska Region

October 1987

The information in this prospectus is from generally reliable sources but no warranty as to the accuracy thereof is made. Each bidder is expected to make their own appraisal of the business opportunities offered by this proposal.

USDA Forest Service  
Chugach National Forest  
Anchorage Ranger District  
Monarch Mine Road  
P.O. Box 129  
Girdwood, Alaska 99587

(907)783-3242

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PROSPECTUS  
Portage Lake Tour Boat Operation

I INTRODUCTION

This prospectus solicits bid proposals from private interests for the development and operation of a tour boat concession and support facilities/services on National Forest System lands on the western shore of Portage Lake, approximately 55 miles southeast of Anchorage, Alaska (see Map 1).

The objective is to expand the overall recreational and interpretive opportunities available to the public in Portage Valley and to complement and support the exhibits, movie and interpretive programs in the Begich, Boggs Visitor Center (BBVC). A boat tour will provide visitors the opportunity to see, first hand, many of the physical features described in the BBVC. Sightseeing and photography will be important activities that must be considered in the boat design. Portage Valley receives high visitation during the summer months and this prospectus seeks to add to the overall variety of opportunities in which visitors may participate. Prospective bidders are advised to read the prospectus and sample special use permit carefully and make their own estimates of development, operation and maintenance costs. The Forest Service estimates total investment for this project at \$1,000,000 to \$2,000,000. This prospectus and the accepted bid proposal shall become part of the special use permit for the tour boat concession and support facilities.

The bidder selected will be issued a special use permit for the development and operation of a tour boat and associated facilities on Portage Lake with an annual fee based on: (1) graduated rates applied to the concessionaires' gross sales and (2) a surcharge expressed as a percentage of the basic fee calculated in (1) above.

Many of the stipulations described in this prospectus are the result of an Environmental Assessment and a Decision Notice completed in 1986. The Portage Glacier Access Environmental Assessment and Decision Notice and Finding of No Significant Impact shall, by reference, be a part of this prospectus. That Assessment and the Decision Notice established certain criteria that must be followed in the development of this prospectus and in implementation by the eventual permit holder. The Environmental Assessment and Decision Notice are available for review at the Anchorage Ranger District, Monarch Mine Road, Girdwood, AK.

II DESCRIPTION OF THE PROJECT

Purpose and Location

The intent of the tour boat concession is to provide an interpretive opportunity to Forest visitors by taking them close to the face of Portage Glacier and providing information on glaciology and other designated topics.

## II DESCRIPTION OF THE PROJECT (cont)

The proposed site is about 55 miles southeast of Anchorage via the Seward and Portage Highways (see Map 2). The dock and other base facilities necessary for the tour boat operation will be based on the western shore of Portage Lake, about 1 mile south of the Begich, Boggs Visitor Center (BBVC) and 1/2 mile from the Byron Glacier Trailhead. No roads exist to the proposed site.

The exact area of the permitted site will be determined after acceptance of a bid proposal, issuance of a permit, and after a survey is done to identify and mark the permit boundaries. Lake operation will begin at the site, with travel restricted to the western shore of the lake, to the Portage Glacier and across its face, returning via the same route.

### Service/Activity to be Offered

Services to be provided through this prospectus are the operation and maintenance of a tour boat on Portage Lake for the interpretation of glaciology and related features unique to Portage Lake and Portage Glacier. The boat will be capable of carrying 125 to 200 passengers. The permit holder will be permitted to construct the necessary facilities to support such an operation. All development to successfully meet the requirements will be the responsibility of the permit holder. Prospective bidders will need to consider the number of visitors that will be served and the fee to be charged.

## III DESCRIPTION OF THE SETTING

### Climate

The Portage area is noted for its severe weather. Annual precipitation near BBVC is about 60 inches; near the glacier, it's about 100 inches. Many of the storms that come through Portage Valley have very strong winds. Winds of more than 100 mph are not uncommon. Temperatures are generally cool, with average summer days getting up to 60-65 degrees at best, and evenings are around 45-50 degrees.

Related to the weather, one of the main attractions at the lake is the large number and size of icebergs. These float about the lake at the whim of the wind. Most often, they are massed in front of the BBVC. Prevailing winds are from the east, but westerly winds will move the icebergs all across the lake. Bidders must take into account the unpredictable nature of the icebergs including their constant movement on the lake and their ability to roll at any time without warning.

### III DESCRIPTION OF THE SETTING (cont)

#### Area Management

The entire area identified in this prospectus is within the Chugach National Forest. All of Portage Valley is within the boundaries of the Municipality of Anchorage.

#### Recreation Use

Portage Valley, and more specifically the BBVC site, is the most visited recreation attraction in the state of Alaska. Last year, 1986, the Forest Service estimates that 610,000 people visited the Portage Lake area. Of those, more than 400,000 went into the Visitor Center. Most visitation is by individuals or families travelling by private vehicle. However, an ever increasing number of visitors arrive via motorcoach, based out of Anchorage. Tour company visitation for 1986 was estimated at 20,000 people.

In addition to the BBVC, there are 3 campgrounds in Portage Valley with a total of 48 campsites, 3 short trails totalling about 2.3 miles, and interpretive sites along the highway. The average stay in the valley was about 2 hours, but ranged from about 15 minutes for those passing through, to 24 hours or more for those camping in the valley.

In 1986 there were a number of private concession operations under special use permit in the Valley. The largest is the Portage Glacier Lodge. Services provided are food (hot and cold) and gift sales. Portage Glacier Lodge has been in operation many years and is in the process of planning for future expansion. Another operation under special use permit in the valley is a Portage Creek rafting/float trip. There is one other small outfitter/guide offering ice climbing/mountaineering in and around Byron Glacier. Several motorcoach tours, usually based out of Anchorage, operate under special use permits and provide package tours of 1/2 to 3 days that include Portage Valley. In addition, all three campgrounds in Portage Valley are operated for the Forest Service by a concessionaire.

#### Other Resource Information

The site proposed for development of the base facilities for the tour boat operation is located near a lateral moraine. The terrain is very dissected with small areas of standing water and minor drainage channels toward Portage Lake. Vegetation over most of the area is alder brush, about 15 to 20 feet high. Scattered cottonwood and an occasional spruce tree are found in the area.

A small number of moose have been sighted in the area. Bear, coyote, wolf, sheep and goat are known to occur in the general area, but are not known to reside on the area proposed for development. There is no known resident fish population in Portage Lake. A small salmon run occurs in the fall with fish headed for Placer Creek on the north shore of Portage Lake.

III DESCRIPTION OF THE SETTING (cont)

Cultural Resources

A survey was done as part of the Environmental Assessment for this project. At that time, no cultural resources or historical features were found. If, at any time during construction, any cultural or historical resources are discovered, all work or operation will be halted or modified until the discovery is evaluated and mitigation measures developed.

Access

Access to Portage Valley is via the Seward Highway from either the north or south and then via the Portage Highway. Anchorage is 55 miles and Girdwood is about 15 miles away. Both are to the northwest.

This project will require the construction of about 1/2 mile of road, including a bridge across Byron Creek, from the end of the existing Byron Glacier Road to directly access the area available for development.

IV SPECIAL USE PERMIT

Term/Area: A twenty (20) year term special use permit will be issued to the successful bidder. The permit will include authorization to use a certain portion of Portage Lake and will cover the area required for the on-shore site of the tour boat operation. The on-shore site is estimated to be 15 acres.

Services Authorized: The following are the only services that will be authorized under this permit:  
Sale of tickets for boat tour of Portage Glacier

Services Prohibited: Prohibitions include, but are not limited to:  
Gambling  
Pornography  
Peddling, soliciting, selling or otherwise providing goods (including film), services or activities not specifically approved by the Forest Service.  
Alcoholic or non-alcoholic Beverages  
Gift Sales  
Food Service  
Automotive products (i.e. gas, oil)

IV SPECIAL USE PERMIT (cont)

**Construction:** The construction of the on-shore facilities may be divided into stages, and if so, it shall be necessary to obtain approval from the Forest Service before the next stage can be started. The maximum time allowable for completion of all the construction is twenty-four (24) months after the issuance of the special use permit.

**Inspection** The Forest Service reserves the right to inspect the area, all facilities and the operation on the lake at any time and upon written notification to the permit holder may suspend such operations that are not in full compliance with the terms of the special use permit.

**Fees** During the construction period, the fees will be based on the amount that would be owed, using the Graduated Rate Fee System described below, on gross revenue up to the break-even point with Gross Fixed Assets of \$1,500,000. This fee is estimated to be \$7,500/yr.

After operation begins, fees for this use will be calculated using the Graduated Rate Fee System (GRFS).

Fees based on sales, the Graduated Rate Fee System, which is used in determining concession fees, operates by applying a selected rate from an established schedule of graduated rates to the concessionaire's gross sales. The rate, or rates to be used is determined by the relationship of the sales to the permit holder's Gross Fixed Assets (GFA). GFA is defined as the total of the original undepreciated cost of the permit holder's investment in improvements and fixtures, plus the cost of equipment necessary to generate sales or other income. See clauses in sample special use permit for further discussion of the fee system.

The annual fee due the United States under this use shall be calculated according to the schedule shown in clause 21 in the sample special use permit (subject to nation-wide rate redetermination upon the availability of more current information).

A weighted average break-even point (called the break-even point) and a weighted average base rate (called the base rate) will be calculated and used when applying the schedule to mixed business. The fee on sales below the break-even point will be calculated using 50 percent of the base rate. The fee on sales between the break-even point and twice the break even point will be calculated using 150 percent of the base rate. The fee on sales above twice the break-even point will be calculated using the balance of sales rate.

IV SPECIAL USE PERMIT (cont)

Fees (cont)

The use of Forest Service Form 2700-19 will simplify computation; a sample is shown in Appendix C.

Gross sales by sub-lessees will be reported by the permit holder and included in the above mentioned fee calculations.

In addition to the fee calculated from the schedule described above, each bidder will indicate the surcharge they are willing to pay. This surcharge will be expressed in terms of a percentage to be applied to the basic fee. Such a surcharge will apply for the full term and will apply to this use whether ownership changes or not.

V INTERPRETIVE PROGRAM

Interpretation of glaciers and their effect on life and the landscape is the overall theme of any development or activity in Portage Valley. This theme is best seen in the Begich, Boggs Visitor Center, but also applies to other sites in the Valley. The interpretive program on the tour boat on Portage Lake will expand on that overall theme. Bidders shall be required to provide the support necessary to present a high quality interpretive program to the public.

Following are the minimum requirements bidders must consider in developing their bid proposal:

**Interpreters:** The Forest Service will recruit, train and supervise the interpreters and provide the interpretive program for all trips. These interpreters will wear Forest Service uniforms and be paid by the permit holder through a collection agreement between the Forest Service and the permit holder. This will require a minimum of three (3) GS-4 "Forest Interpreters". These individuals presently receive a salary of \$76 per day. In addition, a thirty-five (35) percent overhead assessment will be made to cover administrative costs.

**Stage:** A cleared area with a minimum dimension of six feet (6') by six feet (6') must be provided on-board the tour boat to accommodate interpretive programs. The bidder should include as part of the bid proposal the percentage of passengers who will have a clear and unobstructed view of the area. The intent of the Forest Service is to have maximum visibility available to a minimum of 50% of the passengers.

V INTERPRETIVE PROGRAM (cont)

## Stage (cont)

The bidder should provide for the comfort and convenience of both the interpreters and the passengers in the area in any kind of weather.

Microphone  
& Speaker  
System:

A two channel microphone and speaker system must be included on the tour boat. The microphone must be of the cordless type and speakers should be spaced close enough together so volumes may be kept to a minimum. This is important so noises are not heard off the tour boat by individuals on the shore. Speakers on the boat should be placed so that everyone on board can hear the interpretive message even though they may not be able to see the interpretive presentation.

Storage  
Space:

Storage space must be provided on board the tour boat and on shore for interpretive materials. On shore, a minimum space of three feet wide (3') by four feet deep (4') by eight feet high (8') is required. On the tour boat, a space of three feet wide (3') by three feet deep (3') by four feet high (4') is required. These spaces must be secure and inaccessible to the public.

Advertising  
Literature:

No distribution of commercial literature or any other marketing material, other than that for the Portage Lake tour boat operation, will be permitted to be on display. No other commercial advertising or endorsements will be permitted on the tour boat or on or in any of the shore facilities.

Additional  
Exhibits:

Bidders may provide additional static interpretive exhibits either on the tour boat or on shore. Such exhibits must stay within the theme of the Valley. Bidders are encouraged to describe any proposed exhibits including the topic, method of display, and approximate location. Any exhibits that are proposed must be reviewed and approved by the Forest Service. Topics may include, but are not limited to:

Human History of Portage Valley  
Evidence of Glacial Activity  
Biology/Wildlife of Portage Valley

Lake Safety  
Weather/Climate

VI DESCRIPTION OF TOUR BOAT OPERATION

This section is divided into two parts. The first specifies the physical design requirements of the tour boat to be utilized for lake travel. The second part addresses the operational aspects of the boat while performing its intended purpose. After issuance of a special use permit, the permit holder shall be required to submit all plans and designs to the Forest Service for approval before any development is authorized.

Because Portage Lake is classified as a non-navigable lake and the U.S. Coast Guard has no jurisdiction over boats operating there, the Forest Service will use the American Bureau of Shipping standards as minimum requirements for the design and construction of the tour boat. The Forest Service will adopt the U.S. Coast Guard standards as the minimum acceptable for the operation of the tour boat.

Physical Design Requirements for Tour Boat

- |                       |   |
|-----------------------|---|
| Tour Boat Size:       | Maximum overall length shall not exceed eighty (80) feet. The boat will be restricted to one level enclosed seating with the maximum height of the upper deck restricted to 15' (fifteen feet). An open upper deck for outside viewing would be in keeping with these restrictions.<br>No size limit shall be established for the beam.<br>Maximum passenger capacity (not including crew members) shall not exceed 200 individuals.<br>Minimum passenger capacity (not including crew members) shall be 125 individuals.<br>Seating must be provided for a minimum of 75% of the passenger capacity of the boat. |
| Tour Boat Speed:      | Normal cruising speed shall not exceed 6 to 8 mph. Top design speed may be higher, but would only be utilized in emergency situations.  |
| Tour Boat Safety:     | The permit holder shall be responsible for all aspects of the tour boat design as related to passenger safety. The tour boat design shall meet the American Bureau of Shipping (ABS) rules for building and classing vessels under two hundred feet, and the finished boat shall be certificated by the ABS.  |
| Passenger Protection: | Tour boat shall be designed so all passengers can be sheltered from the weather. This protection shall, to the extent possible, not restrict the viewing of the area or the ability to take photographs.  |

VI DESCRIPTION OF TOUR BOAT OPERATION (cont)

- Wake:** Hull shall be designed to create the least wake possible at the normal cruising speed. Bidder should indicate the height of the wake one hundred (100) feet behind the tour boat at normal operating speed.
- Materials:** Construction material for the tour boat is the choice of the bidder. It is expected that any material selected shall be of the highest quality and intended to insure public safety for the intended purpose. Materials selected, including windows, shall minimize reflection as seen from the side.
- Color:** Tour boat shall be colored so as to blend with the surrounding area and minimize reflection. Recommended colors are tones of grey or brown.
- Engines:** A minimum of two (2) engines shall be required for safety purposes. Both do not have to run simultaneously.
- Restrooms/  
Heads:** Tour boat shall have at least 4 heads (2 men, 2 women) with an approved marine sanitation system. One men's and one women's restroom must have handicapped access. No dumping of effluent into Portage Lake will be permitted at any time under any circumstances. There is no dump site anywhere on the Chugach National Forest. Disposal plans must meet State of Alaska requirements as found in their Wastewater Disposal Regulations, 18 AAC 72, and their Solid Waste Management Regulations, 18 AAC 60. All of these are published by the State of Alaska Dept. of Environmental Conservation. The proposed method for disposal should be included in the bid proposal.
- Water and  
food:** Tour boat shall have fresh drinking water available for passengers. A drinking fountain is preferred to eliminate cups or glasses. No food or beverage service will be permitted on the tour boat, and clients and crew will not be permitted to bring food or beverages onboard.
- Lights:** Only those running lights required in the U.S. Coast Guard navigation rules for inland waters will be permitted. No interior lights will be permitted except those required for passenger safety. The tour boat exterior and interior lighting should be designed to minimize visibility from the BBVC area.
- Handicap  
Access:** Tour boat shall be designed to fully accommodate handicapped access in the loading and unloading facilities and throughout the public space of the tour boat.

VI DESCRIPTION OF TOUR BOAT OPERATION (cont)

- Inter-pretation: Tour boat shall be designed to include space for interpretive presentations and talks. Interpretation requirements are more thoroughly described in Section II, Interpretive Program.
- Exhaust/Noise: Noise from water or engines shall be kept to a minimum. A major concern of visitors to the Portage Valley is the amount of noise and exhaust a tour boat will add. Designs should seek ways to minimize the noise the tour boat produces and eliminate visible exhaust. Noise from the tour boat shall not be heard from the vicinity of the BBVC. Also, the noise should not be loud enough to interfere with the interpretive presentation on the tour boat.

Bidders may submit drawings, photos, or models to fully describe the type, size and capacity of the tour boat included in the bid proposal. At a minimum the design specifications submitted with the bid proposal shall address: ice strengthening, stability (use exposed waters standards), adequate subdivision to survive a collision with an iceberg which opens at a minimum 2 adjacent compartments, fire protection/prevention, machinery standards, electrical standards, lifesaving appliances, rescue boat/platform, and passenger ingress and egress. Additionally, bidders should indicate whether the tour boat described already exists or will be designed and built for this operation. In designing or locating a tour boat, consider that there is no major water access to Portage Lake and transportation of the tour boat will have to occur overland for at least a portion of the delivery. Bidders must determine the best means of boat delivery, including the identification of limiting factors such as road and bridge widths. Partial on-site construction of the boat may be approved.

Bidders should include information on how they intend to get the tour boat to Portage Lake, how it will be launched, what methods of mooring will be utilized, and how the boat will be pulled and/or stored for maintenance and winter storage. Bidders should also describe how they plan to protect the docked tour boat from iceberg damage.

Operational Requirements for Tour Boat

- Area of Operation: Tour boat operation will be limited to a direct route between the base facilities and the glacier face along the western shore and across the face of the glacier. The tour boat will not be allowed to operate within one mile of the BBVC and must stay a minimum of 250 to 300 yards away from the face of the glacier.
- Calving: There shall be no use of noise to cause calving of the glacier.

VI DESCRIPTION OF TOUR BOAT OPERATION (cont)

- Safety Plan:** An outline for a safety plan shall be required as part of the bid. Items to include, as a minimum, are: passenger comfort and convenience; tour boat breakdown; person overboard and rescue; medical emergency; fire; flooding; loss of propulsion; sea sickness; ship to shore and landline communication; lifeboats/life jackets; safe operating distances from the shoreline, glacier face and icebergs; weather limitations in relation to iceberg movement, strong winds at docking, wind and wave action on the tour boat at the glacier, gale and hurricane conditions, etc.; lake level fluctuations; safe storage of tour boat during non-operation; passenger loading and unloading; weather conditions that will require service to be interrupted or halted (winds, waves, icebergs, etc.); posting of fire control-lifesaving plans. Pending approval of an Interagency Agreement, the U.S. Coast Guard will review the safety plan to Coast Guard regulations as adopted by the Forest Service. Bidders should propose those Coast Guard regulations which should apply. Acceptance of minimum proposed safety standards will be the sole discretion of the Forest Service.
- Tour Boat Operators:** All tour boat operators shall be U. S. Coast Guard licensed for the capacity and size proposed as if operated on navigable waters.
- Oil/Fuel Spills:** Permit holder shall provide for the containment and clean up of oil or fuel spills on land and water. The permit holder shall obtain oil spill clean up insurance in an amount large enough to clean up the maximum quantity of oil possible to spill.
- Hazardous Materials:** Permit holder shall provide for bilge water treatment and other hazardous materials.
- Inter-pretation:** Interpretation of glaciology and related subjects is the primary purpose of the boat operation. In scheduling tour boat trips, a minimum of 20 minutes shall be spent at the face of the glacier allowing time for photographs, sightseeing, and ample time for an interpretive program to be completed.
- Reservations:** A reservation system may be used. Bidder should describe any reservation system to be used. No more than 40% of the tour boat capacity (on a per trip basis) may be reserved by tour companies, booking agents or other commercial operators.
- Tour Boat Speed:** Tour boat speed shall be limited to 6-8 miles per hour.

VI DESCRIPTION OF TOUR BOAT OPERATION (cont)

- Trips per Day: Trips shall not begin prior to 9:00 am on any day and the last trip shall end by 7:00 pm. Maximum number of trips per day shall be seven (7).
- Number of Tour Boats: Only one tour boat will be authorized. A second tour boat will not be permitted. Bid proposals that include a second tour boat, either for immediate use or long range plans, will be considered non-responsive to this prospectus and will be rejected in total. The exception to this will be the need for some type of rescue/emergency boat. This boat, if needed, shall be fully described in the safety plan. It cannot ever be substituted for the tour boat normally used for lake operation.
- Operating Season: Minimum operating season shall be seven days per week between Memorial Day weekend through Labor Day weekend excluding close-down periods for extreme weather conditions. Bidders should fully describe the proposed season of operation including scheduled out-of-service maintenance days.

Bidders are encouraged to operate a service that can accommodate the greatest number of visitors for a reasonable price and provide a service of the quality commensurate with the BBVC.

VII DESCRIPTION OF ON-SHORE/SUPPORT OPERATION

This section will describe shore based facilities or services that will be permitted and may be a part of any bid proposal. The primary purpose of the shore facilities is to provide a waiting area for passengers prior to loading and after unloading the tour boat. Secondary to that, but of some importance, are the needs for service and maintenance of the tour boat and shore facilities. The base area is within the Municipality of Anchorage, therefore Municipality Building Codes and requirements for construction apply to these facilities. Portage Valley is in earthquake Zone 4.

This prospectus describes the maximum level of development that will be permitted. If the bidder intends to phase any development, this should be clearly described in the bid proposal. Bidders are encouraged to look for options that may reduce the amount of development required.

Shore and Lakeside Facilities: The following structures may be permitted:

- Storage Building: One building for storage of equipment and maintenance related to the tour boat, shore facilities and road will be permitted. This facility may be about 900 square feet in size.

VII DESCRIPTION OF ON-SHORE/SUPPORT OPERATION (cont)

- Tour Boat Launching & Dry Docking: A marine way or similar method of launching and dry docking the tour boat will be permitted. The bidder should describe the method and structures needed. Dry docking will be required every 3 years so that the bottom of the tour boat can be inspected.
- Ticket Sales/Waiting Building: One building will be permitted. This facility may be about 6,500 square feet in size. Public restrooms shall be provided. This building must accommodate 100% of the maximum passenger capacity of the tour boat. Seating must be provided for a minimum of 50% of the maximum tour boat passenger capacity. Drinking water shall be provided. A water fountain is preferred. If desired, an apartment may be constructed in this building to provide housing for a caretaker/security person.
- Parking Area: A paved parking area to accommodate 5 buses and 115 vehicles of which 20% are RV-type vehicles shall be developed. A parking lot of this capacity requires about 62,000 square feet.
- Access Road: Permit holder shall be required to extend the Byron Glacier Road to the shore facilities site. This road would be approximately 3,400 feet in length. It shall also be necessary to construct a bridge across Byron Creek. The approximate location of this extension is shown on Map 2. The design standard should be fully described in the bid proposal.

VIII DESIGN REQUIREMENTS FOR ON-SHORE DEVELOPMENT

The above facilities are the only on-shore facilities that will be permitted. Bid proposals that reduce the number of facilities or the size of development are encouraged.

Prior to any development, the permit holder shall be required to submit all plans to the Forest Service for approval.

Following are the design limits that will be required, as a minimum, in developing the on-shore facilities.

- Inspections The permit holder shall be required to provide all construction inspections and testing for all facilities, roads, bridges, etc. constructed as a result of this prospectus and provide certified reports to the Forest Service for their approval.

VIII DESIGN REQUIREMENTS FOR ON-SHORE DEVELOPMENT (cont)

Visibility: All on-shore facilities and land modifications shall be designed so they are not visually evident from the Begich, Boggs Visitor Center and are compatible with the surrounding landscape.

Parking Area: The minimum requirements for the parking area are 4 inches of crushed aggregate base paved with 2 inches of bituminous surface. The parking area shall contain planter islands.

Byron Glacier Road: The extension of Byron Glacier Road shall be a part of all bid proposals. The permit holder shall be responsible for the construction and design of the road from the present Byron Glacier Trailhead to the proposed site. The permit holder shall be responsible for the maintenance of the road past the location of the new trailhead and to the proposed site. A gate may be erected to limit access when the facility is not operating.

The road shall be built to the same standard as the existing Byron Glacier Road (Forest Highway #802) as a minimum requirement. The standards for the existing road are: 28 foot subgrade, 24 foot travel way, 20 foot paved with 2 inches of bituminous surface over 4 inches of crushed aggregate base. Bidders should describe the road standard and expected use in the bid proposal. Gravel for construction may be acquired from a source adjacent to Portage Creek, approximately Milepost 2 of the Portage Highway (referred to as the Airport Pit). Removal of gravel shall be done according to designs approved by the Forest Service which enhance fish habitat. The Forest Service makes no representation as to the quality or quantity of gravel from this source. A separate mineral materials permit will be issued to the firm developing the gravel source. Permit holder shall be responsible for development of the source and restoration/revegetation after completion. Bidders should indicate in their bid proposals if this source will be used.

Byron Creek Bridge: A bridge will be required to cross Byron Creek. The permit holder shall be responsible for the design, construction, operation and maintenance of the bridge. The bridge design and construction shall be in accordance with the Standard Specifications for Highway Bridges, thirteenth edition with all current interim specifications, published by the American Association of State Highway and Transportation Officials.

VIII DESIGN REQUIREMENTS FOR ON-SHORE DEVELOPMENT (cont)

## Byron Creek Bridge (cont)

Bridge design criteria are: 24 foot minimum width, curb to curb; HS 20-44 live load; length as necessary to provide a waterway capable of passing a 50 year flood with a suitable freeboard. Operation and maintenance of the bridge shall be in accordance with the intent of the National Bridge Inspection Standards (23 CFR 650), except that the permittee shall have the responsibility normally assigned to the State Highway Department, and shall report all inspections and load ratings, as required, to the Forest Service.

- Byron Glacier Trailhead:** The Byron Glacier Trailhead must be relocated, redesigned and reconstructed by the permit holder. Minimum requirements for the trailhead are 4 inches crushed aggregate base paved with 2 inches of bituminous surface. It must have the capacity for 25 cars and 5 car/trailers. Adequate space must be provided for turn-around of large vehicles. This will require an area of approximately 16,000 square feet.
- Byron Glacier Trail:** The Byron Glacier Trail may be shortened to provide the necessary road access to the site. As part of the trailhead reconstruction, any trail alteration must be explained in the bid proposal. The trail shall be rebuilt to the same standard as presently exists.
- Reveg/Rehab Erosion Plans:** All land altering activities shall include a complete revegetation/rehabilitation plan. An erosion plan shall be completed and approved by the Forest Service.
- Utilities:** All utilities shall be placed underground.
- Height:** The maximum height for any facility shall be 1 1/2 stories above grade.
- Colors:** Colors for all buildings and facilities shall be earth-tone. Materials shall be compatible to the area.
- Facility Design & Weather:** Facility design should take in to account the extremely variable and sometimes violent weather that occurs in Portage Valley. Facilities shall be designed with a snow load capacity on horizontal surfaces of at least 60 pounds per square foot and wind loading for vertical walls for 150 mph winds. Uplift should also be considered in the design of any facility. Facility design shall meet municipal building code requirements.
- Handicap Access:** The Ticket Sales/Waiting Building and parking areas shall be designed to fully accommodate handicapped access.

VIII DESIGN REQUIREMENTS FOR ON-SHORE DEVELOPMENT (cont)

- Employee Housing: Employee housing on the site will be limited to one small efficiency apartment not to exceed nine hundred (900) square feet to provide on-site security. This apartment, if needed, must be constructed within the Ticket Sales/Waiting Building. No other on-site housing shall be authorized. All other employees, sub-lessees or persons otherwise involved in the operation are to be housed off National Forest System Lands. Facilities for this security housing should be described in the bid proposal.
- Fuel Storage: On-site fuel storage will be permitted. Storage tanks must be placed underground. Permit holder shall be required to meet all State and Federal permit requirements and standards for storage of fuels. Permit holder must also submit a plan to the Forest Service for containment of any fuel or oil spill. Permit holder may propose off-site, mobile fuel sources.
- Permits: Permit holder shall be required to obtain all necessary permits from State or Federal agencies as needed. Some permits that may be required are from the Army Corps of Engineers, Municipality of Anchorage and State of Alaska Department of Fish and Game. It shall be the permit holder's responsibility to obtain, in advance, the necessary permits for any development that occurs.
- Human & Solid Waste: Bidders shall describe how they intend to handle both human and solid waste. On-site disposal of solid waste will not be approved. Water supply and waste disposal plans must meet State of Alaska requirements as found in their Drinking Water Regulations, their Wastewater Disposal Regulations, 18 AAC 72, and their Solid Waste Management Regulations, 18 AAC 60. All of these are published by the State of Alaska Dept. of Environmental Conservation.
- Processing: Bidders shall describe how people will be processed for entering and exiting the tour boat.
- Restrooms: A minimum of 6 restroom stalls (2 men with 2 urinals, 4 women) shall be provided in or near the waiting area. At least one men's and one women's stall shall provide access for the handicapped.

VIII DESIGN REQUIREMENTS FOR ON-SHORE DEVELOPMENT (cont)

- Signing: Off site directional signing will be limited to one (1) sign at the junction of the Byron Glacier and Portage Highways. On site signing will be limited to one (1) sign on the entrance road, just prior to entry to the boat development parking area. Other signs for traffic control may be required. All signage will be subject to Forest Service approval.
- Survey: The permit holder shall be required to survey and mark the approved permit boundaries after the development plan is accepted by the Forest Service. This must be done by a licensed surveyor of the State of Alaska and shall become a part of the special use permit.

IX MISCELLANEOUS REQUIREMENTS

In addition to the specific requirements described previously, there are several general requirements that will apply to any bid proposal and special use permit.

- Advertising: Advertising outside of the buildings included as part of the special use permit shall be restricted to attractive and approved signs that simply state the services available at the site. Advertising on National Forest System lands shall be limited to the number and location as described previously in Section VIII.

Publicity materials shall indicate that this operation is located on National Forest System Lands of the Chugach National Forest, and is operated under a special use permit from the U.S.D.A. Forest Service. No mention of the U.S. Coast Guard shall appear in any advertising.

- Insurance: The holder shall have in force public liability insurance covering: (1) property damage in the amount of \$25,000 and (2) damage to persons in the minimum amount of \$500,000 in the event of death or injury to one individual and the minimum amount of \$1,000,000 in the event of death or injury to more than one individual.

The coverage shall extend to property damage, bodily injury, or death arising out of the holder's activities under the permit including, but not limited to, the occupancy or use of the land and the construction, maintenance, and operation of the structures, facilities, or equipment authorized by this permit. Such insurance shall also name the United States as additional insured and provide for specific coverage of the holder's contractually assumed obligation to indemnify the United States.

IX MISCELLANEOUS REQUIREMENTS (cont)

Insurance: (cont)

The policy shall also contain a specific provision or rider to the effect that the policy will not be cancelled or its provisions changed or deleted before thirty (30) days written notice to the Forest Supervisor, 201 E. 9th Avenue, Suite 206, Anchorage, AK 99501, by the insurance company. Upon issuance of the special use permit, the successful bidder must be able to provide proof of liability insurance for each phase of the development, from construction through full operation.

Performance  
Bond:

To guarantee the satisfactory construction of the on site facilities at Portage Lake, the permit holder must furnish the Forest Service a Surety Bond in the sum of \$1,000,000. The bond is to be furnished within 30 days after the permit holder is selected and prior to issuance of the permit. The bidder must show proof of ability to furnish such bonds as a part of the bid proposal.

Nondis-  
crimination:

The permit holder will be required to comply with all nondiscrimination provisions set forth in the special use permit. These regulations assure that the permit holder will not discriminate against any bidder, must consider all qualified bidders, and will treat all employees without regard to race, color, religion, sex, or national origin. It also assures that the permit holder shall send a representative of the workers to each labor union with which he has a collective bargaining agreement or understanding. The permit holder shall include and require compliance with the nondiscrimination provisions in any subcontracts made with respect to operation under this permit. The permit holder is required to post in a conspicuous place as directed by the Forest Service, notices setting forth the provisions advising workers of the commitments or understandings he has with these labor unions.

The permit holder shall not discriminate in the services offered the public in accord with Title VI of the Civil Rights Act.

XI MISCELLANEOUS REQUIREMENTS (cont)

## Nondiscrimination: (cont)

In the event of the permit holder's noncompliance with the nondiscrimination clause of this permit or any such rules, regulations or orders, this permit may be cancelled in whole or part and the permit holder may be declared ineligible for any further government contracts.

Charges to  
the Public:

Charges for use of the area by the public shall be limited to boarding of the tour boat for the lake tour. No other charges may be placed on access or services provided under this permit.

X QUALIFICATIONS OF BIDDER AND PROPOSAL REQUIREMENTS

The permit holder will be selected from all bidders based on an evaluation to determine who in the judgment of the Forest Service is best qualified to construct, operate and maintain an interpretive boating opportunity on Portage Lake based on, but not limited to, evidence submitted by bidders covering items listed below.

All costs incurred by the bidder for items submitted for this bid proposal shall be the sole responsibility of the bidder.

Managerial  
Experience &  
Background:

Of primary interest when a public service is to be performed is the permit holder's ability to perform according to the permit terms.

The bidder should describe their experiences in the development and operation of this type or similar enterprises or related business or have, within the active directorate of a corporation, such expertise. The demonstrated ability to implement and operate the project described in this prospectus is a prime requisite. Business knowledge, experience, and "know-how" is an asset necessary to ensure a reasonable profit. Any operations previously conducted under a Forest Service special use permit should be identified.

At least three character references must be submitted with the bid proposal.

Financial  
Ability:

Bidder shall submit a complete financial plan describing resources available for development of this project and operation. Bidders can anticipate that no revenue generating operation will be in place until the summer of 1989.

X QUALIFICATIONS OF BIDDER AND PROPOSAL REQUIREMENTS (cont)

Financial Ability (cont)

It will be important for each bidder to provide financial information that will allow the Forest Service to evaluate their bid proposal. This information will remain confidential, and should be detailed enough for complete evaluation of the bid proposal. The financial information should contain two primary sections: a Credit Package and a Projected Performance Statement.

The Credit Package should describe the bidder's ability to finance the project. This should include the following: a current credit statement from a recognized credit reporting agency; current financial statement including assets, liabilities, and net worth; credit references; letter(s) of intent from financial institutions if financing is proposed; and appropriate documentation describing business partnerships and/or agreements if applicable, such as major shareholders, limited partners, etc. The credit statement and the letter(s) of intent from the financial institutions must be mailed directly to the Forest Service and must be notarized or embossed with the company seal.

The Projected Performance Statement should describe the anticipated profit and/or loss. This should be a detailed description by quarter for the first three (3) operating years and annually for the life of the financing period or a minimum of ten (10) years. The Performance Statement should include construction, financing, design, and operation and maintenance costs; fees to be paid the government including surcharges if proposed; number of visitors served; fees to be charged (including any variable fees); and the estimated down time (maintenance, repairs, etc.).

The financial plan should also describe the operating season, if different than that stated in the prospectus.

Operation  
Specifications  
& Development  
Schedule:

Bidder shall make a bid proposal specifying how and when all of the aspects of this project will be provided. The bid proposal shall include as a minimum, the seasonal and daily schedule, type and quality of service, an estimate of the average number of visitors that will be able to ride the tour boat per trip, a description of the interpretive program to be provided (if more than the Forest Service provided interpretive program), conceptual plans for the tour boat to be used, a layout of the shore facilities and road, the architectural style to be used, and a development schedule.

X QUALIFICATIONS OF BIDDER AND PROPOSAL REQUIREMENTS (cont)

- Charges to the Public: Bidder shall submit a proposed fee to be charged the public for access to the tour boat. Any differential price structure should also be described (e.g. children, military, senior citizens, weekend, weekdays, etc.). It is the primary objective of the Forest Service to provide satisfactory public service at moderate rates. Rates determined, by the Forest Service, to be excessive will not be considered.
- Fees: Fees are discussed in section IV, Special Use Permit. The bidder shall state if a surcharge is offered, and if so, the percentage offered.
- Sublease Arrangements: Bidders shall state if any of the development, facilities, or operation are to be subleased and if so, provide details. All subleases must be approved by the Forest Service and the permit holder is responsible for their compliance with the terms of the special use permit.

XI SUBMISSION OF PROPOSAL AND BID

All bid proposals must be submitted in writing to:

Chugach National Forest  
Anchorage Ranger District  
Monarch Mine Road  
P.O. Box 129  
Girdwood, Alaska 99587

All proposals and bids must be received by 2:00 p.m., Alaska Standard Time, January 15, 1988. Bidders must submit a minimum of twenty (20) copies of their proposal and bid. Incomplete proposals will not be returned to the bidder for more information. Material submitted with proposals, with the exception of financial information, will not be returned to the bidder.

A Pre-Bid Meeting will be held at 10 a.m. on November 4, 1987, in Room 106/108 in the Forest Supervisor's Office, 201 E. 9th Avenue, Anchorage, Alaska. The purpose of this meeting is to clarify items unclear in the prospectus and answer questions pertaining to this proposal. The day after the pre-bid meeting a trip to Portage Lake to review the site will be available. A boat trip on Portage Lake to the face of the glacier will be offered. Only one representative from each bidding group will be able to participate in the boat trip. This will be the only trip authorized on the lake prior to issuance of the special use permit.

PROSPECTUS

XII EVALUATION CRITERIA, ACCEPTANCE OF PROPOSAL AND AWARD

Proposals will be evaluated by the Forest Service on the following criteria and those items discussed in Sections IV thru XIII of the prospectus.:

- Cost to the public
- Minimization or minimizing negative impacts of the land based development on Portage Valley and the Begich, Boggs Visitor Center
- Qualifications of the bidder, any consultants, or corporate backing
- Overall service to the public
- Safety Plan outline
- Special use permit fee
- Strength of the conceptual design for the tour boat and on-Shore facilities
- Strength of the financial plan/package

Within 60 days after the closing date for receipt of proposals, the Forest Service will determine the most qualified bidder. If clarification of the proposal is required, such persons, partnerships, or corporations will then be notified that they may be required to submit, within 15 days of the date of notification, clarifying evidence, satisfactory to the Forest Service, that verifies the bidder's ability to complete the development and operation as proposed.

Final acceptance for the bid proposal will not be made until such evidence is presented and is satisfactory to the Forest Service.

At that time, a special use permit covering the development, operation and service to be provided will be issued to the successful bidder. A sample copy of the special use permit is attached to this prospectus (Appendix A). Bidders should read this sample special use permit very carefully.

XIII SPECIAL CONDITIONS

Consideration of Bids: The government reserves the right to reject any or all proposals.

Verbal Modification: Any oral statement made by a representative of the Government modifying or changing any condition of this prospectus is an expression of opinion only and confers no rights upon any bidder.

Profitability: The Forest Service cannot ensure a profitable operation to the successful bidder. Therefore, each bidder is encouraged to make their own economic appraisal of the opportunity offered through this prospectus.

XIII SPECIAL CONDITIONS (cont)

Site Conditions: No technical exploration has been done on the site such as soil or water table level testing. Bidders should consider construction techniques based on their own site analysis.

APPENDIX A  
SAMPLE SPECIAL USE PERMIT



4. Development plan, any plans; construction, reconstruction, or installation of improvements; or revision of layout or construction plans for this area must be approved in advance and in writing by the forest supervisor. Trees or shrubbery on the permitted area may be removed or destroyed only after the forest officer in charge has approved, and has marked or otherwise designated that which may be removed or destroyed. Timber cut or destroyed will be for by the permittee as follows: Merchantable timber at appraised value; young-growth timber below merchantable size at current damage appraisal value; provided that the Forest Service reserves the right to dispose of the merchantable timber to others than the permittee at no stumpage cost to the permittee. Trees, shrubs, and other plants may be planted in such manner and in such places about the premises as may be approved by the forest officer in charge.

5. The permittee shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the forest officer in charge.

6. This permit is subject to all valid claims.

7. The permittee, in exercising the privileges granted by this permit, shall comply with the regulations of the Department of Agriculture and all Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit.

8. The permittee shall take all reasonable precaution to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during the closed season established by law or regulation without a written permit from the forest officer in charge or his authorized agent.

9. The permittee shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit, and shall pay the United States for any damage resulting from negligence or from the violation of the terms of this permit or of any law or regulation applicable to the national forests by the permittee, or by any agents or employees of the permittee acting within the scope of their agency or employment.

10. The permittee shall fully repair all damage, other than ordinary wear and tear, to national forest roads and trails caused by the permittee in the exercise of the privilege granted by this permit.

11. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

12. Except as provided in Clause 16 below, upon abandonment, termination, revocation, or cancellation of this permit, the permittee shall remove within a reasonable time all structures and improvements except those owned by the United States, and shall restore the site, unless otherwise agreed upon in writing or in this permit. If the permittee fails to remove all such structures or improvements within a reasonable period, they shall become the property of the United States, but that will not relieve the permittee of liability for the cost of their removal and the restoration of the site.

13. This permit is not transferable. If the permittee through voluntary sale or transfer, or through enforcement of contract, foreclosure, tax sale, or other valid legal proceeding shall cease to be the owner of the physical improvements other than those owned by the United States situated on the land described in this permit and is unable to furnish adequate proof of ability to redeem or otherwise reestablish title to said improvements, this permit shall be subject to cancellation. But if the person to whom title to said improvements shall have been transferred in either manner above provided is qualified as a permittee, and is willing that his future occupancy of the premises shall be subject to such new conditions and stipulations as existing or prospective circumstances may warrant, his continued occupancy of the premises will be authorized by a permit to him, which may be for the unexpired term of this permit or for such new period as the circumstances justify.

14. The permittee may sublease the use of land and improvements covered under this permit and the operation of concessions and facilities authorized; Provided the express written permission of the Forest Supervisor has been secured. The permittee shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet.

15. This permit may be revoked upon breach of any of the conditions herein.

16. If during the term of this permit or any extension thereof, the Secretary of Agriculture or any official of the Forest Service acting by or under his authority shall determine that the public interest requires termination of this permit, this permit shall terminate upon thirty days' written notice to the permittee of such determination, and the United States shall have the right thereupon to purchase the permittee's improvements, to remove them, or to require the permittee to remove them, at the option of the United States, and the United States shall be obligated to pay an equitable consideration for the improvements or for removal of the improvements and damages to the improvements resulting from their removal. The amount of the consideration shall be fixed by mutual agreement between the United States and the permittee and shall be accepted by the permittee in full satisfaction of all claims against the United States under this clause: *Provided*, That if mutual agreement is not reached, the Forest Service shall determine the amount and if the permittee is dissatisfied with the amount thus determined to be due him he may appeal the determination in accordance with the Appeal Regulation (36 C.F.R. 211.20 - 211.37) and the amount as determined on appeal shall be final and conclusive on the parties hereto; *Provided further*, That upon the payment to the permittee of 75% of the amount fixed by the Forest Service, the right of the United States to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

~~17. The permittee agrees that the amount which the United States shall be required to pay for improvements in accordance with Clause 16 shall in no event exceed \$ \_\_\_\_\_, and that this instrument may be introduced in any judicial proceedings for the acquisition of such improvements by the United States as the stipulation of the permittee and the United States with regard to the maximum amount which the United States shall be required to pay for the taking thereof.~~

18. In case of change of address the permittee shall immediately notify the forest supervisor.

19. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provisions thereof, the following clauses will control.

SAMPLE SPECIAL USE PERMIT

20. Definitions, Graduated-Rate Fee System. (A-2) (cont)

(9) Assets owned by and leased from others.

As of \_\_\_\_\_ (date) \_\_\_\_\_, the initial GFA under this ownership has been determined to be \$ \_\_\_\_\_ as shown in detail on attached schedule (identify the schedule). If an error is found in the GFA amount, it shall be changed to the correct amount retroactive to the date the error occurred.

2. Sales. For the purpose of fee calculation, include  
(1) revenue derived from all goods and services sold which are related to operations under this permit, and  
(2) the value of gratuities not excluded by item (g). Gratuities include such goods, services, or privileges as discounts, gifts, dividends, or benefits that are furnished to such individuals as stockholders, owners, creditors or other obligees, officers, employees or their families, at rates or under conditions not available to the general public. Such gratuities shall be sales-priced by the holder at the current price to the public.

The following items shall be excluded from gross receipts or revenue to arrive at sales:

- a. Refunds from returned merchandise and receipts from sales of real and nonrental personal property used in the operation. Sales of property, such as rental equipment, previously used for generating operating revenue, when sold on the premises, shall be included in gross receipts. Examples of this are such rental items as boats, motors, skis, or boots, which may be sold periodically and replaced. If such equipment is traded in or sold off premises, the value or revenue shall be excluded from sales.
- b. Rents paid to the holder by sublessees, even if based on sales. (The gross sales of sublessees are included as provided under item (1).)
- c. Amounts received from goods sold, services rendered, or privileges granted at a price lower than the holder's current price to the public. (The full value is included as provided under item (2).)
- d. Sales taxes and Federal and State gasoline taxes collected from customers that were paid or are payable directly to taxing authorities.
- e. Amounts paid or payable to a Government licensing authority or recreation administering agency from sales of hunting or fishing licenses and recreation fee tickets.
- f. Value of sales where the holder is serving as a collection or sales agent for businesses not directly associated with the permitted operation. This includes such things as bus or sightseeing-ticket sales for trips not related to activities on the permitted area, telephone-toll charges, and accident-insurance sales.

20. Definitions, Graduated-Rate Fee System. (A-2) (cont)

g. Items listed in a policy statement prepared by the holder pertaining to gratuities previously approved in writing by the Forest Supervisor. The policy statement will describe how gratuities are to be recorded. A record of all gratuities shall be kept by the holder as a part of the records under this permit.

h. Franchise receipts. Defined as amounts paid the holder by sublessees, as determined at the time franchise operations are authorized, solely for the opportunity to do business at a specific location, possibly in addition to a stated rental fee. Franchise receipts may be in the form of fixed amounts of money or reduced prices for the franchiser's product or service. No franchise operations will be undertaken until approved, in advance, by the Forest Supervisor.

i. Commission payments received by the holder for serving as an agent or providing services such as those described in items e and f above.

21. Other Stipulations (Graduated-Rate Fee System) (A-3)

An annual flat fee shall be due the United States during the construction period (and until exceeded by fees determined by the Graduated-Rate fee System described below); Thereafter, the annual fees due the United States for those activities authorized by this permit shall be calculated on sales according to the schedule below.

Kind of Business	Break-even point (Sales to GFA) (Percentage)	Rate Base (Percentage)	Balance of sales rate (Percentage)
Outfitting, guiding	50	2.00	2.65

A weighed-average break-even point (called the break-even point) and a weighted-average rate base (called the rate base) shall be calculated and used when applying the schedule to mixed business. If the holder's business records do not clearly segregate the sales into the business categories authorized by this permit, they will be placed in the most logical category. If sales with a different rate base are grouped, place them all in the rate category that will yield the highest fee. Calculate the fee on sales below the break-even point using 50 percent of the rate base. Calculate the fee on sales between the break-even point and twice the break-even point using 150 percent of the rate base. Calculate the fee on sales above twice the break-even point using the balance of sales rate.

A surcharge of \_\_\_\_\_ percent will be applied to and added to the basic fee. The surcharge will be applied for \_\_\_\_\_ years beginning with the year that sales first occur under this operation.

SAMPLE SPECIAL USE PERMIT

21. Other Stipulations (Graduated-Rate Fee System) (A-3) (cont)

To the above basic fee will be added the fee for commissions calculated by applying the weighted average fee rate to revenue collected as commissions. The weighted average fee rate is derived by dividing the total basic fee by sales.

To the above fees will be added \_\_\_\_\_ percent of franchise receipts.

The minimum annual fee for this use, which is due in advance and is not subject to refund, will be equal to the fee that would result when sales are 40 percent of the break-even point. This fee will be calculated and billed by the Forest Service during the final quarter of the holder's fiscal year using the most recent GFA figure and previously reported sales data for the current year, plus, if the operating season is still active, estimated sales for the remainder of the year.

22. Rate Redetermination. (A-4).

Upon determination by the Chief of the Forest Service that sufficient changes have occurred in conditions relating to specific kinds of business to warrant review, break-even points and rates will be reexamined and, if appropriate, new schedules will be prepared by the Forest Service to be effective in all permits authorizing such business or businesses. The charges for this permit will be developed according to the new schedule, as of, and effective on, the beginning of the holder's business year following approval of the revised rate scheduled.

Provided, however, that the method of fee determination and/or the annual flat fee may be adjusted when determined necessary by the Forest Service in order to place the charges on a basis commensurate with the value of use authorized by this permit.

23. Concession Payment, Graduated-Rate Fee System. (A-5)

Reports and deposits required as outlined above shall be tendered in accordance with the schedule below. They will be sent or delivered to the Collection Officer, Forest Service, USDA, at the address furnished by the Forest Supervisor. Checks or money orders will be payable to "Forest Service, USDA."

The holder will pay a flat fee of \_\_\_\_\_ for the period from the effective date of this permit to December 31, 19\_\_, and \$7,500.00 per annum thereafter until sales occur and fees are determined by the Graduated-Rate Fee System). Thereafter,

- (1) During the final fiscal quarter, pay within 15 days of billing by the Forest Service, the annual minimum fee for the next year.
- (2) The holder shall send to the Forest Supervisor on or before (give date which shall be 30 days after the close of the holder's fiscal year) of each year a statement of sales as defined in the Sales Terms and Conditions of this permit for itself and each sublessee for the same period.

SAMPLE SPECIAL USE PERMIT

23. Concession Payment, Graduated-Rate Fee System. (A-5) (cont)

The holder must also provide within three (3) months after close of its operating year a balance of its business year, and annual operating statement reporting the results of operations including yearend adjustments for itself and each sublessee for the same period, and a schedule of gross fixed assets adjusted to comply with the terms of this permit in a format and manner prescribed by the Forest Service.

If the holder fails to report all sales in the period they were made or misreports gross fixed assets and the Forest Service determines that additional fees are owed, the holder shall pay the additional fee plus interest. Such interest shall be assessed at the rate specified in clause 24 and shall accrue from the date the sales or correct gross fixed assets should have been reported and fee paid until the date of actual payment of the underpaid fee.

(3) Within 15 days of receipt of a statement from the Forest Supervisor, pay any additional fee required to correct fees paid for the past year's operation.

(4) Report sales, calculate fees due and make payment each calendar month and periods in which no sales take place and the holder has notified the Forest Service that his operation has entered a seasonal shutdown for a specific period. Reports and payments will be made by the 15th of the month following the end of each reportable period.

The Forest Supervisor, prior to March 1, will furnish the holder with a tentative rate which shall be applied to sales in the fee calculation (item (4)), such rate to be one that will produce the expected fee based on past experience. The correct fee will be determined at the end of the year and adjustment made as provided under item (3). Any balance that may exist will be credited and applied against the next payment due.

All fee calculations and records of sales and GFA are subject to periodic audit. Errors in calculation or payment will be corrected as needed for conformance with those audits.

24. Late Payment Interest Charge. (A-6)

Pursuant to the Federal Claims Collection Act of 1966, as amended, 31 USC 3101, et seq., and regulations at 7 CFR Part 3, Subpart B, an interest charge shall be assessed on any payment not made by the payment due date. Interest shall be assessed using the most current rate prescribed by the United States Department of the Treasury's Fiscal Requirements Manual (TFRM-6-8020.20). Interest shall accrue from the date the payment was due. In addition, the cost of processing and handling the overdue payment shall be added to the amount due.

A penalty of 6 percent per year shall be assessed on any payment overdue in excess of 90 days from the payment due date.

SAMPLE SPECIAL USE PERMIT

24. Late Payment Interest Charge. (A-6) (cont)

Payments will be credited on the date received by the designated collection officer or deposit location. If the payment due date(s) falls on a nonworkday, the interest and penalty charges shall not apply until the close of business of the next workday.

25. Access to Records. (A-7)

For the purpose of administering this permit (including ascertaining that fees paid were correct and evaluating the propriety of the fee base), the holder agrees to make all the accounting books and supporting records to the business activities, as well as those of sublessees operating within the authority of this permit, available for analysis by qualified representatives of the Forest Service or other Federal agencies authorized to review the Forest Service activities. Review of accounting books and supporting records will be made at dates convenient to the holder and reviewers. Financial information so obtained will be treated as confidential as provided by law (5 U.S.C. 552) and in regulations issued by the Secretary of Agriculture (7 CFR 1.1).

The holder will retain the above records and keep them available for review for three years after the end of the year involved, unless disposition is otherwise authorized by the Forest Service in writing.

26. Accounting Records. (A-8)

The holder shall follow generally accepted accounting principles in recording financial transactions and in reporting results to the Forest Service. When requested by the Forest Service, the holder at own expense, will have the annual accounting reports audited by a public accountant acceptable to the Forest Service. The holder will require sublessees to comply with these same requirements. The minimum acceptable accounting system will include:

(1) Systematic internal controls and recording by kind of business the gross receipts derived from all sources of business conducted under this permit. Receipts should be recorded daily and, if possible, deposited into a bank account without reduction by disbursements.

Receipt entries should be supported by such source documents as cash-register tapes, sale invoices, room-rental records, and cash accounts from other sources.

(2) A record of all disbursements, including capital items, and a permanent record of investments in facilities (gross fixed assets).

(3) Preparation and maintenance of such special records and accounts as may be specified by the authorized forest officer.

(4) Bank accounts will be maintained separately for the businesses conducted under this permit and not comingled with those for other businesses of the holder.

27. Fee Clause (A-9)

The fees due the United States for this use shall be deposited with the Unit Collection Officer, Chugach National Forest, 201 E. 9th Avenue, Suite 206, Anchorage, AK 99501, in the form of check, draft, or money order made payable to "Forest Service, USDA".

28. Nondiscrimination, Employment. (B-1)

In connection with the performance of work under this permit, the holder agrees as follows:

1. The holder will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The holder will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The holder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Forest Service setting forth the provisions of the nondiscrimination clause.
2. The holder will, in all solicitations or advertisements for employees be placed by or on behalf of the holder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The holder will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Forest Service, advising the labor union or worker's representative of the holder's commitment under this clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The holder will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 31, 1967, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The holder will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Forest Service and the Secretary of Labor for the purposes of investigation to ascertain compliance with such rules, regulations and orders.

SAMPLE SPECIAL USE PERMIT

28. Nondiscrimination, Employment. (B-1) (cont)

6. In the event of the holder's noncompliance with the discrimination clauses of this permit or with any of such rules, regulations, or orders, this permit may be cancelled or terminated in whole or part and the holder may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be invoked and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

7. The holder will include the provisions of the foregoing paragraphs (1) through (6) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The holder will take such action with respect to subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the holder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Forest Service, the holder may request the United States to enter into such litigation to protect the interests of the United States.

29. Nondiscrimination, Services. (B-2)

During the performance of this authorization, the holder agrees that:

1. The holder and employees shall not discriminate by segregation or otherwise against any person on the basis of race, color, or national origin by curtailing or refusing to furnish accommodations.
2. Title VI attaches coverage to the holder's employment practices if discrimination in employment impeded the delivery of services and benefits to people on the basis of their race, color, or national origin.
3. The holder shall include and require compliance with this nondiscrimination provision in any subcontract made with respect to the operations under this authorization.
4. Signs setting forth this policy of nondiscrimination, to be furnished by the Forest Service, will conspicuously be displayed at the public entrance to the premises, and at other exterior or interior locations as directed by the Forest Service.

30. Boating Safety Plan. (B-4)

A comprehensive safety plan shall be jointly prepared by the holder and the authorized officer in charge and the provisions thereof will be executed and enforced by the holder. This plan shall be reviewed annually and revised as needed. It will include consideration of all hazards involved in the use and enjoyment of the permitted area and lake facilities.

30. Boating Safety Plan. (B-4) (cont)

It will include provisions for adequate instructions, signs, warnings, signals, banners, buoys, and other safety precautions necessary to provide public safety regarding mechanical equipment and other sources of personal injury.

31. Indemnification of United States. (B-8)

The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of National Forest lands under this permit.

32. Insurance Clause. (B-10)

The holder shall have in force public liability insurance covering: (1) property damage in the amount of twenty-five thousand dollars (\$25,000.00), and (2) damage to persons in the minimum amount of five-hundred thousand dollars (\$500,000.00) in the event of death or injury to one individual and the minimum amount of one-million dollars (\$1,000,000.00) in the event of death or injury to more than one individual. The coverage shall extend to property damage, bodily injury, or death arising out of the holder's activities under the permit including, but not limited to, the occupancy or use of the land and the construction, maintenance, and operation of the structures, facilities, or equipment authorized by this permit. Such insurance shall also name the United States as additional insured and provide for specific coverage of the holder's contractually assumed obligation to indemnify the United States. The holder shall send an authenticated copy of its insurance policy to the Forest Service immediately upon issuance of the policy. The policy shall also contain a specific provision or rider to the effect that the policy will not be cancelled or its provisions changed or deleted before thirty (30) days written notice to the Forest Supervisor, 201 E. 9th Avenue, Suite 206, Anchorage, AK 99501, by the insurance company.

33. Risks and Hazards. (B-24)

Avalanches, rising waters, high winds, falling limbs or trees, and other hazards are natural phenomena in the Forest that present risks which the holder assumes. The holder has responsibility of inspecting site, lot, right-of-way, and immediate adjoining area for dangerous trees, hanging limbs, and other evidence of hazardous conditions and, after securing permission from the Forest Service, of removing such hazards.

34. Construction Safety. (B-25)

The holder shall carry on all operations in a skillful manner, having due regard for the safety of employees; and shall safeguard with fences, barriers, fills, covers, or other effective devices, pits, cuts, and other excavations which otherwise would unduly imperil the life, safety, or property of other persons.

SAMPLE SPECIAL USE PERMIT

35. Area Maintenance. (B-31)

The permitted area will be maintained to present a clean, neat, and orderly appearance. Trash, debris, unusable machinery, improvements, etc., will be disposed of currently. Building materials, firewood, etc., will be neatly stacked.

36. Sanitation. (B-33)

The operation and maintenance of all sanitation, food service, and water-supply methods, systems, and facilities shall comply with the standards of the local department of health and the United States Public Health Service. The holder shall dispose of all garbage and refuse in a place and manner specified by the Forest officer in charge.

37. Refuse Disposal. (B-34)

The holder shall dispose of refuse resulting from this use, including waste materials, garbage, and rubbish of all kinds, in the following manner: removal from the site and deposit in a Municipality of Anchorage solid waste facility.

38. Site Development Schedule. (C-1)

As a part of this permit, a schedule for the progressive development of the permitted site and installation of facilities shall be prepared jointly by the holder and the Forest Service. Such a schedule shall be prepared by (180 days after permit issued), and shall set forth an itemized priority list of planned improvements and the due date for completion. This schedule shall be made a part of this permit. The holder may accelerate the schedule date for installation of any improvements authorized, provided the other scheduled priorities are met; and provided further, that all priority installations authorized are completed to the satisfaction of the Forest Service and ready for public use prior to the scheduled date.

All required plans and specifications for site, improvements and structures included in the development schedule shall be submitted to the Forest Service at least forty-five (45) days before the construction date stipulated in the development schedule. In the event there is agreement with the Forest Service to expand the facilities and services provided on the areas covered by this permit, the holder shall jointly prepare with the Forest Service a development schedule for the added facilities prior to any construction. Such schedule shall be made a part of this permit.

39. Site plan. (C-2)

The holder shall prepare site plans to show the location of all buildings, service areas, roads, and structures. Such plan shall be on a scale of 1"=20' with one (1) foot contour intervals. The holder is encouraged to consult with the authorized officer during the preparation of the site plan to ensure that it is adequate and to gain multiple-use compliance. No construction shall be undertaken prior to site plan approval.

40. Site Grading Plans. (C-4)

The holder shall prepare grading plans, profiles, and cross-sections to show precise elevations, excavations, and other details related to the installation of buildings, structures, or improvements on the permitted-use area.

Such plans shall include provisions for drainage, retaining structures, seeding, and planting, to be made for the prevention and control of erosion on the permitted area and the National Forest lands adjacent to the permitted area, insofar as the latter may be influenced by the permitted us.

41. Building and Service System Plans. (C-6)

All plans and specifications for buildings shall be prepared by an architect licensed in the State in which the building will be located. The plans shall be in accordance with the Uniform Building Code.

Building plumbing shall be in accordance with the National Plumbing Code. The electrical system shall be in accordance with the National Electrical Code. Other systems shall be designated in accordance with recognized standards.

Plans shall be submitted to the authorized officer for approval prior to the beginning of construction.

The holder shall submit to the authorized officer a certification by the architect or engineer who inspected construction that the building has been constructed in accordance with the approved plans before the building is approved for use.

42. Plan, Map, and Specification Language. (C-13)

All plans, maps, and specifications shall be written in English and shall use American standards of measurement.

43. Site Development Plans. (C-16)

This permit is contingent upon the installation, layout, and development plans as submitted by the holder and approved as a part of this permit for this specific location. Any and all subsequent relocations, alterations, revisions, additions, construction, or reconstruction of housing and mounting facilities, including antenna towers or masts, shall require advance notification and approval of the Forest Service and advance modification of this permit.

44. Environmental Standards. (C-25)

Holder shall conduct all activities associated with the Portage Lake Tour Boat Operation in a manner that will avoid or minimize degradation of air, land, and water quality. In the construction, operation, maintenance, and termination of the Portage Lake Tour Boat Operation, holder shall perform its activities in accordance with applicable air and water quality standards, related facility siting standards, and related plans of implementation, including but not limited to standards adopted pursuant to the Clean Air Act, as amended (42 USC 1857) and the Federal Water Pollution Control Act, as amended (33 USC 1321).

SAMPLE SPECIAL USE PERMIT

45. Bonds, Performance. (C-3)

As a further guarantee of the faithful performance of the provisions of the attached construction plan, the holder agrees to deliver and maintain a surety bond in the amount of one million dollars (\$1,000,000). Should the sureties or the bonds delivered under this permit become unsatisfactory to the Forest Service, the holder shall, within thirty (30) days of demand, furnish a new bond with surety, solvent and satisfactory to the Forest Service. In lieu of surety bond, the holder may deposit into a Federal depository, as directed by the Forest Service, and maintain therein, cash in the amounts provided for above, or negotiable securities of the United States having a market value at time of deposit of not less than the dollar amounts provided above.

The holder's surety bond will be released, or deposits in lieu of bond, will be returned thirty (30) days after certification by the Forest Service that priority installations under the development plan are complete, and upon furnishing by the holder of proof satisfactory to the Forest Service that all claims for labor and material on said installations have been paid or released and satisfied. The holder agrees that all moneys deposited under this permit may, upon failure on his part to fulfill all and singular the requirements herein set forth or made a part hereof, be retained by the United States to be applied to satisfy obligations assumed hereunder, without prejudice whatever to any rights and remedies of the United States.

Prior to undertaking additional construction or alteration work not provided for in the above terms and conditions or when the improvements are to be removed and the area restored, the holder shall deliver and maintain a surety bond in an amount set by the Forest Service, which amount shall not be in excess of the estimated loss which the Government would suffer upon default in performance of this work.

46. Site Planting Plans. (C-5)

The holder shall submit planting plans to reasonably restore or protect all areas disturbed during construction. Such plans will identify plant material by botanical name, size, and location. Each stage of construction will be considered complete only upon completion and acceptance of the successful seeding and planting in the vicinity of construction. All seeding and planting required on the permitted area shall be completed according to the development schedule.

47. Water Pollution. (D-2)

No waste or by-product shall be discharged into water if it contains any substance in concentrations which will result in harm to fish and wildlife, or to human water supplies.

Storage facilities for materials capable of causing water pollution, if accidentally discharged, shall be located so as to prevent any spillage into waters or channels leading into water, that would result in harm to fish and wildlife or to human water supplies.

48. Esthetics. (D-3)

The holder shall protect the scenic esthetic values of the area under this permit, and the adjacent land, as far as possible with the authorized use, during construction, operation, and maintenance of the improvements.

49. Surveys, Land Corners. (D-4)

The holder shall protect, in place, all public land survey monuments, private property corners, and Forest boundary markers. In the event that any such land markers or monuments are destroyed in the exercise of the privileges authorized by this permit, depending on the type of monument destroyed, the holder shall see that they are reestablished or referenced in accordance with (1) the procedures outlined in the "Manual of Instructions for the Survey of the Public Land of the United States," (2) the specifications of the county surveyor, or (3) the specifications of the Forest Service.

Further, the holder shall cause such official survey records as are affected to be amended as provided by law. Nothing in this clause shall relieve the holder's liability for the willful destruction or modification of any Government survey marker as provided at 18 U.S.C. 1858.

50. Vandalism. (D-5)

The holder will take reasonable measures to prevent and discourage vandalism or disorderly conduct, and when necessary, will call in the appropriate law enforcement officer.

51. Erosion Control. (D-6)

Slope stabilization and the prevention of soil erosion and gulying throughout the permitted area and adjacent lands will be accomplished by carrying out the provisions of an erosion control plan prepared by the holder and approved by the authorized officer.

52. Revegetation, Surface Restoration of Ground Cover. (D-9)

Holder shall be responsible for prevention and control of soil erosion and gulying on lands covered by this permit and adjacent thereto, resulting from construction, operations, maintenance, and termination of the permitted use. Holder shall so construct permitted improvements to avoid the accumulation of excessive heads of water and to avoid encroachment on streams. Holder shall revegetate or otherwise stabilize all ground where the soil has been exposed and shall construct and maintain necessary preventive measures to supplement the vegetation.

53. Revegetation, Surface Restoration, Seeding or Planting. (D-11)

Seeding or planting will be done at a time of the year, in a manner, and with species which the District Ranger considers offer the best chance of success and will be repeated annually until such areas are accepted in writing by the District Ranger as satisfactorily revegetated and stabilized.

62. Implied Permission. (X-3)

Nothing in this permit shall be construed to imply permission to build or maintain any structure not specifically named on the face of this permit, or approved by the authorized officer in the form of a new permit or permit amendment.

63. Animals and Fowl. (X-7)

No animals or fowl, other than household pets, shall be kept upon the premises.

64. Services Not Provided. (X-14)

This permit is for the occupancy of land for the purposes stated and does not provide for the furnishing of road maintenance, water, fire protection, or any other such service by a Government agency, utility, association, or individual.

65. Archeological-Paleontological Discoveries. (X-17)

If, during excavation or other ground disturbing activities, historic, prehistoric, or paleontological objects or sites are discovered, the holder must cease such activities in the area of the discovery. The holder must then notify the Forest Service, and must not resume excavation or other ground disturbing activities there until written approval is given.

The holder is responsible for the protection of any discovered resource, and the alteration of project plans to avoid further disturbance of the discovered resource, as the Forest Service determines is necessary after consultation with the holder. The holder may perform the salvage of the discovered resource if, and in the manner, approved by the Forest Service.

Items of historic, prehistoric, or paleontological value are protected under various Federal laws, including the Antiquities Act of 1906 (16 USC 433), the Archeological Resources Protection Act of 1979 (16 USC 470ee), and Federal regulations. Failure to comply with this clause may result in criminal prosecution of the holder for violation of a Federal law or regulation.

66. Area Access. (X-19)

The holder agrees to permit the free and unrestricted access to and upon the premises at all times for all lawful and proper purposes not inconsistent with the intent of the permit or with the reasonable exercise and enjoyment by the holder of the privileges thereof.

67. Regulating Services and Rates. (X-22)

The Forest Service shall have the authority to check and regulate the adequacy and type of services provided the public and to require that such services conform to satisfactory standards. The holder may be required to furnish a schedule of prices for sales and services authorized by the permit. Such prices and services may be regulated by the Forest Service: Provided, that the holder shall not be required to charge prices lower than those charged by comparable or competing enterprises.

75. Performance by Other Than Holder. (X-69)

The acquisition or assumption by another party under an agreement with the holder of any right or obligation of the holder under this permit shall be ineffective as to the Forest Service unless and until signed by the authorized Forest Officer. A subsequent acquisition or assumption shall not:

1. Operate to relieve the holder of the responsibilities or liabilities they have assumed hereunder, or
2. Be given unless such other party
  - (a) Is acceptable to the Forest Service as a holder, and assumes in writing all of the obligations to the Forest Service under the terms of this permit as to the incomplete portion thereof, or
  - (b) Acquires the rights in trust as security and subject to such conditions as may be necessary for the protection of the public interests.

76. Holder representative. (X-71)

The holder or a designated representative shall be present on the premises at all times when the facilities are open to the public. The holder will notify the District Ranger in writing who the representative will be.

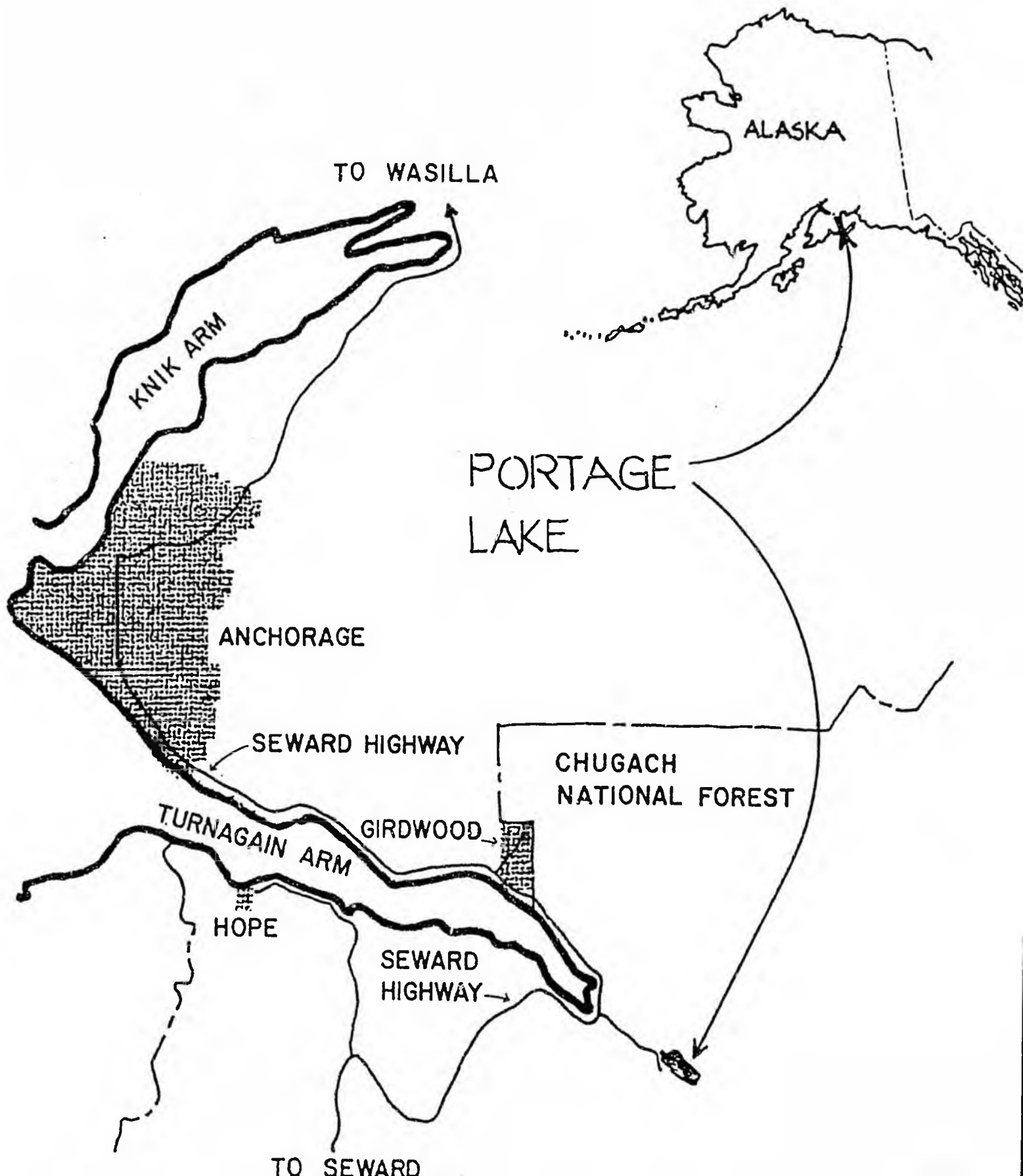
77. Designation of Holder Representative. (X-201)

The holder must designate in writing to the Forest Supervisor, the name and title of the person who is authorized to act in all matters connected with the privileges authorized by this permit. In the event the designated representative is to be changed for any reason, the Forest Supervisor must be notified of the replacement as soon as possible.

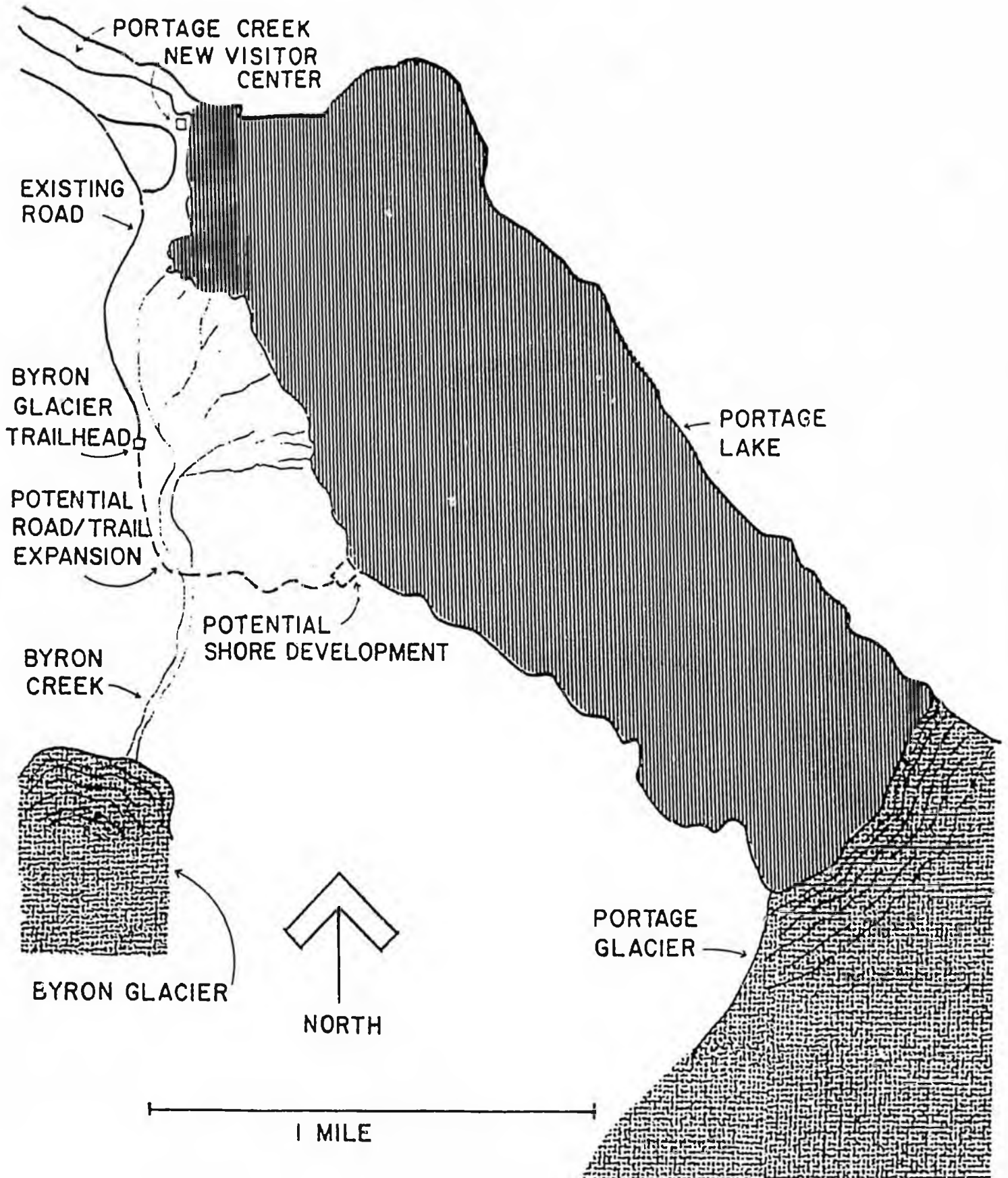
APPENDIX B

MAPS

# LOCATION MAP 1



# PORTAGE LAKE MAP 2



APPENDIX C

FOREST SERVICE FORM 2700-19  
(Fee Calculation for Concession Permits)



APPENDIX D

FOREST SERVICE FORM 6500-24  
(Financial Statement)



**PART A. BALANCE SHEET**

	CURRENT YEAR (MO/DA/YR)	PAST YEAR (MO/DA/YR)	THIRD YEAR (MO/DA/YR)
<b>YEAR ENDED</b>	/ /	/ /	/ /
<b>ASSETS</b>			
<b>CURRENT ASSETS:</b>			
CASH			
RECEIVABLES-TRADE			
LESS ALLOWANCES FOR DOUBTFUL ACCOUNTS	(            )	(            )	(            )
INVENTORIES (LIST MAJOR CATEGORIES):			
SUPPLIES AND MISCELLANEOUS			
MARKETABLE SECURITIES			
PREPAID EXPENSES			
SUPPLIES INVENTORY			
OTHER CURRENT ASSETS:			
TOTAL CURRENT ASSETS			
<b>FIXED ASSETS:</b>			
LAND			
BUILDINGS			
MACHINERY AND EQUIPMENT			
PLANT			
LEASEHOLD IMPROVEMENTS			
OTHER			
LESS ALLOWANCE FOR DEPRECIATION	(            )	(            )	(            )
BOOK VALUE-FIXED ASSETS			
<b>OTHER ASSETS</b>			
DEPOSITS-CASH			
DEPOSITS-SECURITIES			
TOTAL-OTHER ASSETS			
<b>TOTAL ASSETS</b>			

LIABILITIES AND OWNER EQUITY	CURRENT YEAR	PAST YEAR	THIRD YEAR
<b>CURRENT LIABILITIES:</b>			
ACCOUNTS PAYABLE - TRADE			
ACCRUED PAYROLL			
ACCRUED PAYROLL TAXES AND INSURANCE			
NOTES PAYABLE			
INCOME TAXES - CURRENT			
OTHER TAXES			
CURRENT PORTION OF LONG-TERM DEBT			
OTHER CURRENT LIABILITIES (SPECIFY):			
<b>TOTAL CURRENT LIABILITIES</b>			
<b>OTHER LIABILITIES:</b>			
DEFERRED INCOME TAXES			
LOANS FROM OFFICERS/PARTNERS			
LONG-TERM OBLIGATIONS - LESS CURRENT AMOUNT			
<b>TOTAL OTHER LIABILITIES</b>			
<b>TOTAL LIABILITIES</b>			
<b>OWNER EQUITY:</b>			
CAPITAL STOCK OUTSTANDING			
RETAINED EARNINGS (DEFICIT)			
PARTNERS' INVESTMENT (DEFICIT)			
<b>TOTAL OWNER EQUITY</b>			
<b>TOTAL LIABILITIES AND OWNER EQUITY</b>			

**PART B. SUPPLEMENTAL DATA**

THIS STATEMENT IS ON THE -CASH BASIS \_\_\_\_\_ ACCRUAL BASIS \_\_\_\_\_

INVENTORIES ARE -LIFO \_\_\_\_\_ FIFO \_\_\_\_\_ COST OR MARKET WHICHEVER IS LOWER \_\_\_\_\_

NAMES OF CONTRACTORS OR SUB-CONTRACTORS USED (IF ANY):


**ATTACHMENT F**  
**Washington State Sample Lease**



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**

BRIAN BOYLE  
Commissioner of Public Lands

Real Estate Division  
1450 Metropolitan Park Building  
1100 Olive Way  
Seattle, Washington 98101  
Tele (206) 464-6416



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**

Brian Boyle - Commissioner of Public Lands

Real Estate Division  
1450 Metropolitan Park Building  
1100 Olive Way  
Seattle, Washington 98101

To:

**SAMPLE LEASE**

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SAMPLE LEASE

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
BRIAN J. BOYLE, COMMISSIONER OF PUBLIC LANDS

GROUND LEASE

THIS GROUND LEASE AGREEMENT (hereinafter referred to as "this Lease") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 198\_\_\_\_, by and between STATE OF WASHINGTON, acting through the Department of Natural Resources (hereinafter referred to as "State"), and \_\_\_\_\_

a \_\_\_\_\_  
(hereinafter referred to as "Lessee").

WHEREAS, State is the owner of that certain real property [and certain personal property thereon as set forth in Exhibit \_\_\_\_\_] located in [the City of \_\_\_\_\_] \_\_\_\_\_ County, Washington [commonly known as \_\_\_\_\_], the legal description of which is set forth in Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, Lessee desires to lease, hire, and rent the real [and personal] property from State, and State desires to lease, hire and rent the real [and personal] property to Lessee;

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, the parties hereto agree as follows:

1. PREMISES

For and in consideration of Lessee's covenant to pay the rental and other sums for which provision is made in this Lease, and the performance of the other obligations of Lessee hereunder, State leases to Lessee and Lessee leases from State, that certain real property [and personal property] described above, together with all rights of State, if any, in and to the streets adjacent to the real property (excluding any reversionary rights in and to streets or rights-of-way which may subsequently be vacated or abandoned), and together with all existing rights of air, light and view, for Lessee, its customers, invitees, sublessees, and employees. Subject to easements and encumbrances of record as of the date hereof as noted in the records of \_\_\_\_\_ County, and/or on file in the Office of the Commissioner of Public Lands, Olympia, Washington. Not included herein are any mineral rights, rights to remove merchantable timber, water rights or any other right to excavate or withdraw minerals, gas, oil or other material, except as specifically granted herein. State further reserves reasonable access to its adjacent real property, if any, and the right to grant easements on the real property which is the subject of this Lease, provided such grants do not unreasonably interfere with Lessee's use of the Property or with a Project approved by State pursuant to Section 6 below. Said property and rights leased hereby are hereinafter referred to as "the Property."

4.1 Utilities. From and after the Commencement Date, Lessee shall pay all charges for electricity, water, gas, telephone and all other utility services used on the Property. Lessee shall indemnify and hold State harmless against and from any loss, liability or expense resulting from any failure of Lessee to pay all such charges when due.

4.2 Leasehold Taxes. From the Commencement Date and continuing throughout the Term, Lessee shall pay to State the tax ("Leasehold Tax") established and defined in Chapter 82.29A R.C.W. Any delinquent taxes shall be a debt to State, and in the event any penalties or interest are due because of the failure of Lessee to timely pay the Leasehold Tax, such penalties shall be payable by Lessee to State.

4.3 Taxes and Assessments.

(a) The term "Taxes," as used herein, shall mean all taxes and other governmental charges, general and special, ordinary and extraordinary, of any kind whatsoever, applicable or attributable to the Property and Lessee's use and enjoyment thereof, excluding Assessments as defined below. Lessee shall pay when due all Taxes commencing with the Commencement Date and continuing throughout the Term.

(b) The term "Assessments," as used herein, shall mean all assessments for public improvements or benefits which heretofore or during the Term shall be assessed, levied, imposed upon, or become due and payable, or a lien upon the Property, any improvements constructed thereon, the leasehold estate created hereby, or any part thereof. Lessee shall not cause or suffer the imposition of any Assessment upon the Property, without the prior written consent of State. In the event any Assessment is proposed which affects the Property, Lessee shall promptly notify State of such proposal after Lessee has knowledge or receives notice thereof. Any Assessment upon the Property shall be made in compliance with all applicable statutes, including, but not limited to, Chapter 79.44 R.C.W. Lessee shall pay the total amount of all Assessments levied with respect to the Property and the leasehold estate created hereby. In no event shall State be obligated to pay any Assessment or any portion thereof levied or created during the Term, irrespective of whether such Assessment or any portion thereof was specifically allocated to the Property or State's reversionary interest therein. No Assessment shall be payable in installments without State's prior written consent, which State may condition upon the posting by Lessee of a satisfactory bond guaranteeing the payment of such installments as they become due.

4.4 Payment Date and Proof. All payments to State by Lessee for Leasehold Tax, Taxes, and/or Assessments shall be made by Lessee on or before ten (10) days before the last day on which such payments or any installments thereof permitted hereunder may be made without penalty or interest. Lessee shall furnish to State receipts or other appropriate evidence establishing the payment of such amounts. Lessee may comply with this requirement by retaining a tax service to notify State when the taxes have been paid.

4.5 Failure to Pay. In the event Lessee fails to pay any of the expenses or amounts specified in this Section 4, State may, but shall not be obligated to do so, pay any such amount and the amounts so paid shall immediately be due and payable by Lessee to State and shall thereafter bear interest at the rate specified in Section 22.7 below. Any failure to pay any expense or amount specified in this Section 4 or any other amount to be paid by Lessee under the terms of this Lease shall be a

changes and alterations to the Project or any part thereof so long as such changes and alterations are not substantial and do not change the character of the Project. Changes and alterations to the Project or any series or group of changes or alterations involving a cost in excess of Fifty Thousand Dollars (\$50,000) within any twelve (12) month period may be made only with the prior written consent of State and shall be subject to the following:

(a) The plans or specifications for such changes or alterations, including amendments of such plans or specifications, shall be submitted to State for its approval. Within twenty (20) days after receipt of said plans or specifications, State shall, in writing, either approve or disapprove the plans or specifications or inform Lessee of the additional time required to complete the review thereof. If State fails to disapprove or inform the Lessee in writing of the need for additional time within the twenty (20) day period, State shall be deemed to have approved the plans or specifications as submitted.

(b) No such change or alteration shall be made except under the supervision of an architect or engineer selected by Lessee and approved in writing by State.

(c) Lessee shall provide State, at Lessee's sole expense, a completion bond in form and substance satisfactory to State as required in Section 6.3 below, in an amount not less than the total projected cost of such changes or alterations.

No change or alteration shall be undertaken until Lessee shall have procured and paid for all required permits, licenses and authorizations and shall have furnished State evidence thereof. All changes and alterations shall be made in a good and workmanlike manner and in compliance with all applicable building and zoning codes and other legal requirements. Upon completion of construction, Lessee shall furnish State with a certificate of substantial completion executed by the architect for the Project, and a complete set of "as built" plans for the Project. Lessee shall thereafter furnish State with copies of the updated plans showing all changes and modifications thereto. Lessee shall also furnish to State copies of Certificates of Occupancy or other similar documents issued to certify completion of construction in compliance with applicable requirements.

6.2 Fixtures and Equipment. In constructing the Project upon the Property, Lessee and its sublessees may place or install in the Project such trade fixtures and equipment as Lessee or its sublessees shall deem desirable for the conduct of business therein. Personal property, trade fixtures and equipment used in the conduct of business by Lessee and its sublessees (as distinguished from fixtures and equipment used in connection with the operation and maintenance of the Project) placed by Lessee or its sublessees on or in the Project shall not become part of the real property, even if nailed, screwed or otherwise fastened to the improvements or buildings of the Project, but shall retain their status as personal property. Such personal property may be removed by Lessee or its sublessees at any time and so long as Lessee is not in default under this Lease and so long as any damage to the property of State occasioned by such removal is thereupon repaired. All other fixtures, equipment and improvements (including but not limited to the Project and all fixtures and equipment necessary for its operation and maintenance) constructed or installed upon the Property shall be deemed to become part of the real property