

CBJ DOCKS & HARBORS BOARD
FINANCE MEETING AGENDA
For Tuesday, June 25th, 2013

- I. Call to Order** (5:00 p.m. to 7:00 p.m.) in the **Room 224, City Hall.**
- II. Roll Call** (John Bush, Tom Donek, Kevin Jardell, Scott Spickler, Michael Williams, and Eric Kueffner).
- III. Approval of Agenda.**

MOTION: TO APPROVE THE AGENDA AS PRESENTED OR AMENDED.

- IV. Public Participation on Non-Agenda Items** (not to exceed five minutes per person, or twenty minutes total).
- V. Approval of May 28th, 2013 Finance Committee Meeting Minutes.**
- VI. Items for Action.**

- 1. Tram Appraisal Methodology
Presentation by the Port Director

Committee Questions

Public Comment

Committee Discussion/Action

MOTION: TO BE DEVELOPED AT THE MEETING

- 2. Norway Point Beach Access Use Agreement
Presentation by the Port Director

Committee Questions

Public Comment

Committee Discussion/Action

MOTION: TO BE DEVELOPED AT MEETING

- VII. Items for Information/Discussion.**

- 1. Taku Oil Letter

- VIII. Staff & Member Reports.**

- IX. Committee Administrative Matters.**

CBJ DOCKS & HARBORS BOARD
FINANCE MEETING AGENDA
For Tuesday, June 25th, 2013

1. Next Finance Committee Meeting July 23rd, 2013 in CBJ Room 224.

X. Adjournment.

CBJ Docks and Harbors Committee
Finance Meeting Minutes
For Tuesday, May 28th, 2013

I. Call to Order

Mr. Kueffner called the Finance Committee Meeting to order at 5:05 p.m. in CBJ Room 224.

II. Roll Call

The following members were present: John Bush, Tom Donek, Scott Spickler, Kevin Jardell, and Eric Kueffner.

Also in attendance were the following: Carl Uchytel – Port Director, Greg Fisk - consultant for Alaska Glacier Seafoods, Jim Erickson- co-owner of Alaska Glacier Seafoods.

III. Approval of Agenda

MOTION BY MR. KUEFFNER TO CHANGE AGENDA ITEMS FOR ACTION #1 AS #2 AND #2 AS #1 AND ASK UNANIMOUS CONSENT TO APPROVE AGENDA AS AMENDED.

Motion passed with no objection.

IV. Public Participation on Non-Agenda Items – None

V. Approval of the Finance Committee Meeting Minutes

Hearing no objection, the March 26th, 2013 Finance Committee Meeting Minutes were approved as presented.

VI. Items for Action

1. Termination of Amendment to Alaska Glacier Seafood Presentation by Port Director, Carl Uchytel.

Mr. Uchytel gave background of the two leases that Alaska Glacier Seafoods has with Docks & Harbors. The first lease is about .4 acres of tidelands for their icehouse. Docks & Harbors collects \$2,530.00 per year. The other lease is the uplands adjacent to the Auke Bay Loading Facility. The arrangements from 2010 lease agreement is they would build a retaining wall, Docks & Harbors would maximize the fill for the ABLF and they received back rent calculations for 25 years and make no payments to CBJ for rent. Mr. Fisk came forward on behalf of AGS to ask to amend the lease for 1 year. It expired 4/30/2013. There were

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specific guidelines that AGS would install a fence and jersey barriers. Carl said he gave a verbal yes to use a chain and then that was not even used. A letter was sent May 10th from Carl Uchtyl to AGS advising the amendments were not followed and the lease amendment is terminated. The original lease from April 21, 2010 is still in effect.

Committee Questions

Mr. Jardell asked what was the decision to bring this to the finance board?

Mr. Uchtyl advised this was the next meeting and Mr. Fisk said time was of the essence.

Mr. Kueffner asked the amendment to the lease was not related to rent just conditional use of the premises?

Mr. Uchtyl replied yes that was the intent.

Mr. Kueffner stated the amendment does not have any mention of a renewal?

Mr. Jardell said the previous board meeting regarding this subject there was talk about an amendment vs. a license for a year. He was not sure how it was finalized. There was discussion if you amend the lease you have to go back to the security plan. Mr. Simpson presented a revocable license with a lease modification with a trial period, a letter of agreement for 1 year that is renewable and Mr. Erickson said that was agreeable, and there was a concern with just 1 year term but it was to make sure the terms were honored. It would be evaluated each year.

Public Comment

Jim Erickson Juneau, AK Mike Erickson, AGS President's son and business partner is speaking on Mike Erickson's behalf. Mr. Greg Fisk is also speaking on behalf of AGS.

Mr. Fisk stated time is of the essence to get his resolved. There were violations of the stipulations of the amendment. The amendment was a huge help and AGS tried to work with DOT to get alternate access from the highway and it was not fruitful. If AGS leases the land they need access and would like an extension. Per Jim Erickson they have some jersey barriers in place, the chains have been

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down, and some of our employees have used forklifts on ABLF property and they did reprimand them. Per Jim Erickson, the cars have not been AGS employees and they did enforce this issue with their employees. He also stated AGS has failed on some issues but they have done some things right too.

Mr. Fisk advised the rules that were broken were not crucial.

Mr. Jim Erickson stated we have always had a good rapport with CBJ Docks & Harbors and CBJ is very important to their business.

Mr. Kueffner asked from the maps provided in the meeting, what is access way and is that the area to be used?

Mr. Jim Erickson stated yes that is what is at stake. He stated AGS is a much larger business and the semi-trailers need to use the access way to be more efficient when moving product.

Mr. Fisk stated it's too tough for semi-trailers not to be able to use the access way which is part of ABLF. AGS needs an arrangement.

Mr. Kueffner asked about the retaining wall location.

Mr. Jardell stated the AGS retaining wall helped CBJ build the ABLF ground fill up to the AGS retaining wall and they gave AGS a rent credit. The change of lease allowed the trucks to drive through ABLF to get in and out in a very busy season keeping AGS efficient.

Mr. Kueffner asked Mr. Uchtyl if he had any formal communication with AGS prior to the May 10th, 2013 letter about complying with the amendment?

Mr. Uchtyl stated he showed a video and spoke to Mr. Fisk about the violations last year. Mr. Uchtyl said he was frustrated since the lease is apparent.

Mr. Fisk stated the forklift is the only thing that is prohibited on the ABLF land and we can work that out.

Mr. Donek said let's go down the list and talk about the importance of each item. The lockable gate is important to keep AGS people out of ABLF.

Per Mr. Fisk, there are USCG rules and homeland security issues.

Mr. Bush stated a chain does not meet the security issues.

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Mr. Jardell said the value of the lease is access vs. no access and that makes the value different.

Mr. Donek said let's not cancel a lease over petty issues. If AGS is wrong, then let's evaluate.

Mr. Kueffner asked do we want to grant an extension after the fact? And we will bring it back to the full board.

Jim Becker, speaking on his own behalf, stated he has seen AGS grow significantly and CBJ Docks & Harbors needs to support them and the fishing industry.

Committee Discussion/Action

Mr. Kueffner said we need to do a new lease and asked for action.

Mr. Jardell said let's give a 1 month reprieve and we take this to the operations committee. We will talk about a conditional use permit and do a safety analysis.

Mr. Donek said a month is too short. With new board members and this being middle of fishing season let's give them 3 months.

MR. BUSH MOVED TO GIVE AGS 6 MONTHS EXTENSION AND MOVE IT TO THE FULL BOARD FOR APPROVAL.

MR. JARDELL MOVED TO HAVE A NEW AMENDMENT TO ENFORCE THE SAME REQUIREMENTS AND ALLOW ACCESS THROUGH THE ABLF UNTIL SEPTEMBER 30, 2013 AND MOVE IT TO FULL BOARD AND ASKED FOR UNANIMOUS CONSENT?

Mr. Kueffner said, with no objections, we will present to the full board.

2. Regulation Changes to 05 CBJAC 20 & 05 CBJAC 40
Presented by Port Director, Carl Uchytel

Mr. Uchytel said that the regulations changes went before the board and CBJ had a public hearing. The public was concerned with the Consumer Price Index (CPI) increase every year for some charges and not others. Should we be having all charges based on CPI?

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Committee Questions

Mr. Jardell asked to go through each item that is not linked to CPI increases.

Mr. Kueffner said we should have a statement that all our rates are subject to CPI.

Mr. Bush stated we should have a committee to go over all of the rates.

Mr. Uchytel read through the rates and the rounding rules in the CBJ regulations.

Mr. Jardell asked what the percentage of cash is in our revenue?

Ms. Raster, harbor employee, just guessed that maybe 20%. (correction – it is only about 1.5-2%)

Public Comment

Dennis Watson, Juneau, AK stated the cruise ships rates have not increased in 7 years. The locals are subject to CPI increases every year. The launch permit was arbitrarily increased to \$90.00 and it should be explained why to the public. The price increases are not consistent.

Committee Discussion/Action

Mr. Jardell said that raising rates every 3-5 years is too big of a jump for patrons. He said he can't justify why everything isn't CPI based rates. Statter Harbor parking lot has to be managed through a fee system since there is not enough parking and that's why that is separate. The Cruise Ships did not want a per head fee so the moorage and port development fees were increased and the head tax went through anyway. He stated all rates should be CPI.

Mr. Donek said smaller increases are easier for people to accept and some rates changing every 5-6 years can't be justified. We should do rate increases every 2 years. Mr. Donek said let's move forward and get DeHart's rates off the regulations and only have Statter Harbor for now.

Public Comment Re-Opened

Mike Peterson, Douglas, AK said the 5 years is a huge amount of time and makes a large increase. It should be every 2-3 years and we can deal with it personally and as a business owner.

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Mr. Kueffner asked how he felt about the launch ramp increase?

Mr. Mike Peterson said it was too abrupt of a change to go from \$70.00 to \$90.00.

Committee Discussion/Action

Mr. Jardell said recreational increases are every year but commercial rates have not been raised in 6 years. We should start another fee package review and use the CPI for everyone.

Mr. Spickler asked to see how other enterprise boards raise their fees, such as the airport. We should be consistent every year.

Mr. Uchtyl said we can't raise rates without making improvements.

MR. DONEK MOTIONED TO SEND THE REGULATIONS CHANGES AS IS FOR REMOVING DEHART'S INFORMATION TO THE FULL BOARD AND HAVE THE BOARD SEND BACK TO FINANCE COMMITTEE THE REVIEWING OF THE FEE PACKAGE FOR A LATER DATE.

Mr. Kueffner asked if any objections.

Motion passed.

VII. Items for Information/Discussion

1. Budget Update by Port Director

Mr. Uchtyl presented a combined Docks & Harbors Financial Summary by Department. He stated we are consistent with last year's figures. He explained the details of the figures.

Mr. Jardell asked what are the miscellaneous figures?

Mr. Spickler stated we need an accountant to get a better budget without such a high miscellaneous number. We need more month-to-month and YTD accurate figures.

Mr. Kueffner asked what are the possible miscellaneous amounts?

Mr. Uchtyl said it is probably leases and vender booth fees.

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2. Mt Robert Tram Update by Port Director

Mr. Uchytel said we are moving forward with Goldbelt picking a third appraiser for the tram lease from the approved list that was provided from Docks & Harbors and to please respond by June 12, 2013. Mr. Uchytel said the Goldbelt representative said thank you and they will take it under advisement.

Mr. Jardell asked Mr. Uchytel to make a friendly reminder phone call.

3. Boating Education Radio Advertisement

Mr. Uchytel said he was asked for Docks & Harbors to contribute money towards a safety message campaign and ads from Richard Burns at ABC Station.

Mr. Jardell said a state statute has us buy in to a federal program for boating safety and we purchase stickers on our boats to contribute.

Mr. Donek said this is not our core mission for the Docks & Harbors and we should not be involved in advertisements.

Mr. Kueffner said we should continue to support the "kids don't float" program.

VIII. Staff & Member Reports – None from staff members. Mr. Jardell made a comment and wanted to compliment the Docks & Harbor staff on how well they are all doing.

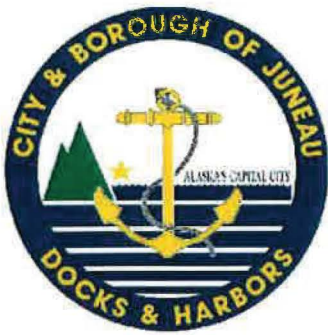
The planning commission is meeting at 7pm. The Statter Harbor launch ramp building permit re-consideration will be discussed.

IX. Committee Administrative Matters

1. The Next Finance Committee Meeting is June 25th, 2013.

X. Adjournment

1. The Finance Committee adjourned at 6:38 pm.



Port of Juneau

155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

May 10th, 2013

Goldbelt
3075 Vintage Blvd
Suite 200
Juneau, AK 99801

Dear Mr. Duncan,

Pursuant to discussions at the Docks & Harbors Finance Committee meeting of March 26th 2013, the parties agreed that additional appraisals in determining the Mount Robert's Tram market rent would not yield results acceptable to both interests. In cases where the parties cannot agree to the rent adjustment, paragraph 5.d(4) of the lease allows a third appraiser to choose the appraisal which most closely reflects the fair market value.

(4) A certified appraiser selected and compensated by the Assessor of the City and Borough of Juneau shall conduct each initial appraisal. If Lessee concurs in the result of the appraisal by the CBJ Assessor, the appraisal shall establish the fair market value for calculating the Base Rent. If Lessee does not concur in the result of the appraisal by the CBJ Assessor, Lessee shall hire an independent certified appraiser, and present the results to Lessor. If Lessor concurs in the results of the independent appraisal, the appraisal shall establish the fair market value for calculating the Base Rent. If Lessor does not concur, Lessor and Lessee shall negotiate in good faith to reach a fair market value between the results of the initial and independent appraisals. If Lessor and Lessee cannot agree, Lessor and Lessee shall engage and share in the cost of a third independent certified appraiser (acceptable to both parties) to determine the fair market value of the Leased Premises. The third appraiser shall be instructed to select either the initial appraisal or the independent appraisal as the one which most closely reflects the fair market value of the Leased Premises. The fair market value selected by the third appraiser shall be final, and shall establish the fair market value for calculating the Base Rent. In this section, "certified" means a regular member of the Society of Real Estate Appraisers or the American Institute of Real Estate Appraisers (or the successor body of either group) who has been properly designated MAI, SREA or SRPA, or any future similar designation which denotes proficiency in the appraisal of commercial real property.

Docks & Harbors has reviewed the Alaska Department of Natural Resource list of approved appraiser with MAI designation. The following list of five appraisers would be acceptable to Docks & Harbors as the third appraiser to facilitate the terms of the lease agreement. These appraisers have not been contacted by Docks & Harbors and have no knowledge of the pending desired service.

David M. Derry MAI Derry & Associates, Inc Box 2882 Kenai, AK 99611 derry@alaska.com Phone: (907) 260-8434	Eric G. Follett MAI Follett and Associates 903 W. Northern Lights Blvd Suite 206 Anchorage, AK 99503 appraiser.follett@alaska.net Phone: (907) 562-4279	Steven E. Carlson MAI Black-Smith, Bethard & Carlson, LLC 1199 East Dimond Street, Suite 200 Anchorage, AK 99503 bsr@ak.net Phone: (907) 274-4654
Alan G. Olson MAI Real Estate Appraiser 2701 Aspen Drive Anchorage, AK 99503 alolson@alaska.net Phone: (907) 243-6609	Steven J. MacSwain MAI MacSwain Associates 4401 Business Park Blvd., #22 Anchorage, AK 99503 s.macswain@macswain.com Phone: (907) 561-1965	

Docks & Harbors is requesting you choose one of the listed appraisers to move forward. I propose we meet with the appraiser you select on or about June 12th to provide the details necessary for the 3rd party determination of the market rent. When you provide me the selected name, I will draft a scope of work, for your review, pertaining to the services to be performed. I welcome any suggestions you have to this process.

Sincerely,



Carl Uchytel, PE
Port Director

Copy: Docks & Harbors Board
CBJ Law



June 3, 2013

Mr. Carl Uchtyl
Port Director
City and Borough of Juneau Docks and Harbors
155 S. Seward Street
Juneau, AK 99801

Re: Third Independent Appraiser Step

Mr. Uchtyl,

We are in receipt of your letter dated May 10th, 2013 which states that Docks and Harbors would like to move to the third independent appraiser step. Goldbelt was surprised to receive this notice as we thought this step would go to the full-board for deliberation. As you know, at the Docks and Harbor's Finance Committee on March 26th, 2013 a motion was passed recommending to the full board "for action to get a third appraiser". At the Thursday, March 28th board meeting, Chairman Jardell said the next step to move forward would be to put it before the full-board at the next meeting. Apparently, this never occurred as it was not on the April 25th board meeting agenda which leads us to believe that it is not a full-board decision, but an action of yours.

As noted in your letter, in cases where the parties cannot agree to the rent adjustment, paragraph 5(d)(4) of the lease allows a third appraiser to choose the appraisal which most closely reflects fair market value for calculating base rent. In this paragraph, it also states that the Lessor and Lessee shall negotiate in good faith to reach a fair market value between the results of the initial and independent appraisals before moving to the third independent appraiser step. Although Goldbelt has offered to negotiate and has proposed a rent which is higher than the current rent, we have yet to receive a proposal from Docks and Harbors which would indicate its willingness to negotiate. In Chairman Jardell's email to Goldbelt on February 1st, he stated that he could be convinced that an inferior comparable in Horan's appraisal could be a fair resolution; however, he was only speaking for himself and cannot speak to the other members of the subcommittee. In turn, Goldbelt believes that good faith negotiations have not yet occurred and that moving to the third independent appraiser step is premature.

If good faith negotiations were to occur and the parties were not able to reach a compromise between the appraisals, Goldbelt believes that the outstanding legal issue must be resolved before a third appraiser is selected and is forced to make a legal determination regarding the appropriate appraisal methodology, something most appraisers are not qualified to do. To date, Docks and

Harbors has not produced a written legal interpretation of the Tram lease but has relied on a verbal opinion by City and Borough of Juneau attorney, Amy Mead, which was given at a committee meeting sometime after its initial appraisal had been done. Goldbelt believes the scope of work for the third independent appraiser is outlined in the lease and is supported by its legal opinion by attorney, Bob Spitzfaden. It is evident that Docks and Harbors feels otherwise which makes it clear that both parties will have no success in selecting an appraiser which is mutually acceptable to both parties, a requirement as outlined in 5(d)(4) of the lease.

In addition, Goldbelt believes that royalty rent was permanently amended out of the lease and the percentage used in calculating the base rent was permanently dropped from 10% to 8% through its negotiations with Docks and Harbors in 2006. We understand that certain members of the finance committee don't agree and believe it is back on the table, but the full-board has not had an opportunity to weigh in on it. This further supports that moving to the third independent appraiser step is untimely and that both parties are far apart from resolving their issues.

Mr. Uchytel, Goldbelt would like to start the process of negotiating in good faith to reach a rental compromise which is fair to both parties, assuming that you and the Docks and Harbors board are willing to do so. We are also open to pursuing the trade of our Seadrome commercial waterfront property for the parcel in question so as to avoid this rental adjustment process again in the very near future. We have suggested mediation in the past as a possible way to resolve our differences and are still open to doing so.

Sincerely,



Derek Duncan
Vice President, Alaska Operations

cc: Docks and Harbors Board
Bob Loiselle, President & CEO, Goldbelt Inc.
Robert S. Spitzfaden, Attorney at Law

2013 Norway Point Beach Access Use Agreement

This use agreement sets forth guidance and requirements enabling Juneau residents the opportunity to launch and keep, on a seasonal basis, non-motorized, non-commercial sailing vessels with unique hull configuration on Docks & Harbor managed property.

The Docks & Harbors Mission Statement includes “promoting and accommodating marine recreation”. It is also recognized that types of non-powered, catamaran sailing vessel are not conducive to operating out of harbor slips and the laborious nature of prepping these vessels can hinder this form of marine recreation without appropriate facilities.

Docks & Harbors agrees to allow users access to the beach adjacent to Norway Point for the purpose of launching and maintaining privately owned and catamaran-configured sailing vessels at a fee rate of one-half of the annual skiff rate charged at CBJ harbors. (The skiff rate for 2013-14 is \$580). Users would be permitted to launch and maintain their vessels from April to October. Use agreements would be issued on a first come, first serve basis and managed by the Harbormaster. Existing harbor moorage regulations are not affected by this use agreement and users will comply with applicable regulations and ordinance. Harbormaster will determine the number of users allowed under this agreement and will have final discretion to facilitate safe and efficient operations. Docks & Harbors does not guarantee this agreement will be continued for one year to the next.

User Application:

Name: _____

Phone: _____

Address: _____

Vessel Name/Boat Registration # _____

For Aurora Harbor Staff Approval

OMS _____

ADMIN _____

HARBORMASTER _____



Port of Juneau

155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

June 7th, 2013

Jeff Hansen
Taku Oil
1076 Jacobsen Dr
Juneau, AK 99801

Dear Mr. Hansen,

You have requested clarification from my staff regarding the \$0.05 per gallon surcharge which is assessed to fuel deliveries at the Auke Bay Loading Facility. I have reviewed the following regulation and have consulted with the CBJ Legal Department regarding its interpretation:

05 CBJAC 20.175 – Fee for delivery and sale of fuel at the Auke Bay Loading Facility.

- (a) Definition. Fee assessed on each gallon of fuel sold to a vessel using the Auke Bay Loading Facility for refueling a vessel.
- (b) A fee of \$0.05 per gallon of fuel will be assessed to all retailers selling fuel to a vessel at the Auke Bay Loading Facility.
- (c) Retailers selling fuel shall register with the Harbormaster. The Harbormaster is authorized to issue permits with reasonable conditions concerning insurance, operations, and the payment of fees.

This regulation does apply to all fuel deliveries to vessels utilizing the CBJ-owned Auke Bay Loading Facility. The reason for the surcharge is to recover Docks & Harbors costs for operations and reasonable wear & tear to our infrastructure. The wear on our facilities is irrespective of whether trucks are delivering directly to the vessel or lightering to onboard portable tanks. My plan is to remove paragraph (a) through a regulation change as I believe it adds confusion to the intent.

Please contact me with any questions.

Sincerely,


Carl Uchytel, PE
Port Director

Copy: CBJ Law



June 7, 2013

Carl Uchytel, PE
Port Director
City & Borough of Juneau
155 S Seward Street
Juneau, AK 99801

Dear Mr. Uchytel,

Thank you for your letter attempting to clarify the \$0.05 per gallon surcharge assessed to fuel deliveries at the Auke Bay Loading Facility. I do however disagree with your interpretation of the written regulation and I am surprised that the CBJ Legal Department could possibly agree with the imposition of the surcharge for fuel being loaded into containers and transported out of town.

You mentioned that paragraph (a) of **05 CBJAC 20.175** adds confusion to the intent, but I maintain that it provides perfect clarity as to what activity can be charged as the regulation is currently written.

(a)Definition. Fee is assessed on each gallon of fuel sold to a vessel using the Auke Bay Loading Facility for refueling a vessel.

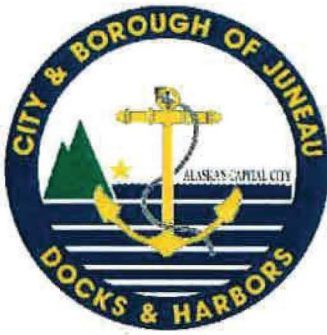
The activity that Taku Oil Sales has been assessed the surcharge for did neither sell to a vessel nor refuel a vessel. Taku Oil sells fuel directly to our out of town customer. We transport the fuel into containers that are located on and near the landing craft Liteweight for transportation to our customers. As you know, the Liteweight is already being charged a fee for the use of the loading facilities during this transfer of fuel.

Taku Oil received a statement a couple of days ago for fuel we loaded onto the Liteweight in Auke Bay during the month of May. We believe that Docks and Harbors should not have the ability to assess this surcharge based solely upon their feeling that the intent of the regulation is different than it is actually written.

If it is Docks and Harbor's intent to impose the surcharge on all fuel transferred at the Auke Bay Loading Facility then the regulation needs to be changed to reflect that. Until that time Taku Oil expects to conform to the existing regulations and collect the \$0.05 per gallon surcharge only on the amount of fuel pumped into the fuel tanks of any vessel.

Thank you,


Jeff Hansen, President
Taku Oil Sales, Inc



Port of Juneau

155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

June 11th, 2013

Jeff Hansen
Taku Oil
1076 Jacobsen Dr
Juneau, AK 99801

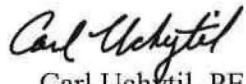
Dear Mr. Hansen,

I have reviewed your letter of June 7th and agree with your position. Docks & Harbors should not assume the most prescriptive position when the intentions of the regulation are in question. I will address this issue with the Docks & Harbors Board in the near future and will provide you notice when I do. In the meantime, you are not required to pay the nickel per gallon surcharge when delivering fuel to a vessel for resale purposes.

The surcharge which is assessed to refueling vessels (for purpose of propulsion) at the Auke Bay Loading Facility remains in effect.

Please contact me with any questions.

Sincerely,


Carl Uchytel, PE
Port Director

Copy: CBJ Law