

ORIGINAL



0000082237

RECEIVED

02

ARIZONA CORPORATION COMMISSION FEB 28 11:30



AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
DOCKETED

FEB 28 2008

**RATE APPLICATION  
FOR WATER COMPANIES  
WITH ANNUAL GROSS OPERATING REVENUES  
(INCLUDING REQUESTED RATE RELIEF)  
OF LESS THAN \$250,000  
PER ARIZONA ADMINISTRATIVE CODE R14-2-103  
Details at website: www.cc.state.az.us**

DOCKETED BY nr

Fisher's Landing Water and Sewer Works, LLC  
UTILITY NAME

WS - 04047A 01-0700  
DOCKET NO(S).

12-31-06

TEST YEAR ENDED

**Required invoices to be submitted are listed in the checklist on page 1.**

You must complete ALL items in the application according to the instructions provided. If you have any questions regarding the application, call the Chief of Accounting and Rates at (602) 542-0743 for Staff assistance or see our website at: [www.cc.state.az.us](http://www.cc.state.az.us)

**IN ORDER TO PROCESS YOUR APPLICATION  
FORWARD THE ORIGINAL AND FIFTEEN COPIES OF THE  
APPLICATION AND COVER SHEET PLUS THREE  
PACKETS WITH COPIES OF  
CHECKLIST ITEMS 5-11 (PAGE 1)  
TO DOCKET CONTROL CENTER  
1200 WEST WASHINGTON STREET  
PHOENIX, ARIZONA 85007**

**Note: Please refer to the checklist on page 1 for the required attachments.**

FISHER'S LANDING WATER AND SEWER WORKS, LLC  
P. O. BOX 72188  
YUMA, AZ 85365

February 4, 2008

Elijah Abinah  
Financial & Regulatory Analysis Section  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Re: Application for rate increase  
Docket # WS-04047A 07-0700 (Water)  
Docket # WS-04047A 07-0708 (Sewer)

Dear Mr. Abinah:

We have reviewed your letters of insufficiency dated January 22, 2008 regarding the above referenced water and sewer rate applications. In response to the list of deficiencies, please find the following:

**WATER:**

1. The monitoring frequency as required by ADEQ for Lead & Copper, HAA5 and TTHM is annually; the monitoring frequency for Nitrate is quarterly. (See attached testing results from ADEQ website.)
2. The 1,989,000 gallons of surface water as reported on p.16 was obtained from the Colorado River and was measured through a separate river intake meter. The surface water and the water pumped from the master well during the test year were both included in the 45 acre-feet of water allotted to Fisher's Landing under their lease with the Arizona State Land Dep't. There is no separate charge or expense to Fisher's Landing for the water they pump out of the Colorado River.

In 2007 Fisher's Landing, Inc. did purchase an additional water allotment of 53 acre-feet from the Bureau of Reclamation at \$.25 per acre-foot, however, this was not in effect for the test year ended 12-31-06.

3. The 3000-gallon storage tank listed on page 16 was an error. The only tanks listed should have been the 10,000-gallon storage tank and the 3000-gallon pressure tank. Page 16 of the application has been corrected and is being resubmitted.

4. Fisher's Landing, Inc. filed an application with the Arizona State Land Dep't. January 3, 2007 to approve the installation of tanks providing 100,000 gallons of water storage. The application was denied March 5, 2007. (See copy attached.) Fisher's Landing Water and Sewer Works, LLC filed for approval to install the additional water storage tanks with ADEQ and was issued a certificate of approval on December 5, 2006. After Fisher's Landing, Inc. received the denial of approval to place improvements from ASLD, Fisher's Landing Water and Sewer Works applied for and was granted an extension of time to begin construction of the water tanks until December 5, 2008.
5. As stated in item 2. above, Fisher's Landing, Inc. is allotted 45 acre-feet of Colorado River water annually under its lease with the Arizona State Land Dep't. (See "Colorado River Addendum to Leases" and p. 21 of Commercial Lease No. 03-101133 attached.)
6. Fisher's Landing, Inc. had a 10-year lease with the Arizona State Land Dep't. which expired May 31, 2007. (See attached copy of lease between Fisher's Landing, Inc. and the Arizona State Land Department.) Fisher's Landing filed an application for a long-term lease in 2003 (see letter from Sandra Kelley, Arizona State Land Dep't.). A new lease has not been granted at this date and Fisher's Landing remains in negotiations with the Arizona State Land Dep't. Fisher's Landing continues on the leased land under the holdover provisions of the lease (see lease and email from Sandra Kelley).

**SEWER:**

1. The monitoring frequency required by ADEQ for the sewer system, including monitoring well, is quarterly (see attached Aquifer Protection Permit.)
2. The composite depreciation rate as per Darren Carlson at the Utilities Division of the Arizona Corporation Commission is determined by dividing the depreciation expense for the test year by the total original cost of plant assets in use during the test year. The total "Depreciation Expense" for the test year ended 12-31-06 (as stated on p.16 of rate application) was \$10,921. The total "Original Cost" (as stated on p.16 of rate application) was \$307,126. \$10,921 divided by \$307,126 is .0356 or 3.56% - the composite depreciation rate stated on p. 3 of our original application. The composite depreciation rate was provided only because the rate application requested it. The composite depreciation rate was not used to compute depreciation expense for the sewer company as reported on the rate application. The actual depreciation rates used are shown on page 16 of the application and conform to the rates stipulated in the original decision (No. 64998).

Sincerely,

Don Fisher, Partner

Company Name: Fisher's Landing Water & Sewer Works, LLC	Test Year Ended: 12-31-06
--	------------------------------

**WATER COMPANY PLANT DESCRIPTION**

**WELLS**

ADWR ID Number*	Pump Horsepower	Pump Yield (gpm)	Casing Depth (Feet)	Casing Diameter (inches)	Meter Size (inches)	Year Drilled
55-63872	7.5	100	350	8	2	1974

\* Arizona Department of Water Resources Identification Number

**OTHER WATER SOURCES**

Name or Description	Capacity (gpm)	Gallons Purchased or Obtained (in thousands)
Surface Water	25	1,989

**BOOSTER PUMPS**

Horsepower	Quantity
25	2

**FIRE HYDRANTS**

Quantity Standard	Quantity Other
0	0

**STORAGE TANKS**

Capacity	Quantity
10,000	1

**PRESSURE TANKS**

Capacity	Quantity
3,000	1

Arizona Department of Environmental Quality		Water Quality Division		Safe Drinking Water	
County Map of Arizona		Water System Search			
<b>Water System Detail Information</b>					
Water System No.:	AZ0414039	Federal Type:	C		
Water System Name:	FISHERS LANDING INC	Federal Source:	GW		
Principal County Served:	YUMA	System Status:	A - MAP		
Principal City Served:	YUMA	Activity Date:	10-01-1948		

<b>Sample Number: 6070202-02</b>									
<b>Other Chemical Sample Results</b>									
Analyte Code	Analyte Name	Date	Sample Point	Less Than Ind.	Level Type	Reporting Level	Concentration	MCL	MP
2456	TOTAL HALOACETIC ACIDS (HAA5)	07-06-2006	DS001				.0054 MG/L	.06MG/L	01-01-2006 12-31-2006
2950	TTHM	07-06-2006	DS001				.0163 MG/L	.08MG/L	01-01-2006 12-31-2006

Arizona Department of Environmental Quality		Water Quality Division		Safe Drinking Water	
County Map of Arizona		Water System Search			
<b>Water System Detail Information</b>					
Water System No.:	AZ0414039	Federal Type:	C		
Water System Name:	FISHERS LANDING INC	Federal Source:	GW		
Principal County Served:	YUMA	System Status:	A - MAP		
Principal City Served:	YUMA	Activity Date:	10-01-1948		

<b>Sample Number: 6011159-01</b>									
<b>Other Chemical Sample Results</b>									
Analyte Code	Analyte Name	Date	Sample Point	Less Than Ind.	Level Type	Reporting Level	Concentration	MCL	MP
1040	NITRATE	01-25-2006	EPDS001				1.04 MG/L	10MG/L	
1038	NITRATE-NITRITE	01-25-2006	EPDS001	10MG/L					
1041	NITRITE	01-25-2006	EPDS001	<	MRL	0.1 MG/L		1MG/L	

Arizona Department of Environmental Quality		Water Quality Division		Safe Drinking Water	
County Map of Arizona		Water System Search			
<b>Water System Detail Information</b>					
Water System No.:	AZ0414039	Federal Type:	C		
Water System Name:	FISHERS LANDING INC	Federal Source:	GW		
Principal County Served:	YUMA	System Status:	A - MAP		
Principal City Served:	YUMA	Activity Date:	10-01-1948		

<b>Sample Number: 6040631-02</b>									
<b>Other Chemical Sample Results</b>									
Analyte Code	Analyte Name	Date	Sample Point	Less Than Ind.	Level Type	Reporting Level	Concentration	MCL	MP
1040	NITRATE	04-11-2006	EPDS001				1.45 MG/L	10MG/L	
1038	NITRATE-NITRITE	04-11-2006	EPDS001				1.45 MG/L	10MG/L	
1041	NITRITE	04-11-2006	EPDS001	<	MRL	0.1 MG/L		1MG/L	

<b>Arizona Department of Environmental Quality</b>		<b>Water Quality Division</b>		<b>Safe Drinking Water</b>	
<b>County Map of Arizona</b>		<b>Water System Search</b>			
<b>Water System Detail Information</b>					
Water System No.:	AZ0414039	Federal Type:	C		
Water System Name:	FISHERS LANDING INC	Federal Source:	GW		
Principal County Served:	YUMA	System Status:	A - MAP		
Principal City Served:	YUMA	Activity Date:	10-01-1948		

<b>Sample Number: 6100375-01</b>									
<b>Other Chemical Sample Results</b>									
Analyte Code	Analyte Name	Date	Sample Point	Less Than Ind.	Level Type	Reporting Level	Concentration	MCL	MP
1040	NITRATE	10-04-2006	EPDS001				1.56 MG/L	10MG/L	
1038	NITRATE-NITRITE	10-04-2006	EPDS001				1.56 MG/L	10MG/L	
1041	NITRITE	10-04-2006	EPDS001	<	MRL	0.1 MG/L		1MG/L	

SELF MONITORING REPORT FOR  
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Facility Name: FISHERS LANDING RESORT Latitude: 32 58 34.743 Facility ID: 1000  
 Contact: \_\_\_\_\_ Longitude: 114 26 45.726 ADEQ Permit Number: 14219  
 Address: \_\_\_\_\_ Section: 20 Lab ID: \_\_\_\_\_  
 \_\_\_\_\_ Township: 5 Lab Name: \_\_\_\_\_  
 \_\_\_\_\_ Range: 21 Reporting Period: \_\_\_\_\_  
 \_\_\_\_\_ Quarter: c a Date Prepared: \_\_\_\_\_

Monitoring Point ID: 10447 Monitoring Name: FISHERS LANDING RESORT - DOWNGRADIENT WELL

Sampling/Reporting Frequencies: Quarterly Monitoring/QUARTERLY

STORET: <u>00600</u>	Permit Limit: AL: <u>3</u>	DL: <u>RSVD</u>	AQL: <u>N/A</u>	MIN: _____	MAX: _____
Chemical: <u>TOTAL NITROGEN AS N 1</u>	Method: _____		Units: <u>MG/L</u>		
/ / / /					
STORET: <u>00620</u>	Permit Limit: AL: <u>N/A</u>	DL: <u>10</u>	AQL: <u>N/A</u>	MIN: _____	MAX: _____
Chemical: <u>NITRATE-NITRITE AS N 2</u>	Method: _____		Units: <u>MG/L</u>		
/ / / /					
STORET: <u>00625</u>	Permit Limit: AL: <u>N/A</u>	DL: <u>RSVD</u>	AQL: <u>N/A</u>	MIN: _____	MAX: _____
Chemical: <u>TOTAL KJELDAHL NITROGEN</u>	Method: _____		Units: <u>MG/L</u>		
/ / / /					

I CERTIFY UNDER PENALTY OF LAW THAT I HAVE PERSONALLY EXAMINED AND AM FAMILIAR WITH THE INFORMATION SUBMITTED HEREIN AND BASED ON MY INQUIRY OF THOSE INDIVIDUALS IMMEDIATELY RESPONSIBLE FOR OBTAINING THE INFORMATION I BELIEVE THE SUBMITTED INFORMATION IS TRUE ACCURATE AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION INCLUDING THE POSSIBILITY OF FINES AND IMPRISONMENT.  
 SIGNATURE OF PRINCIPLE EXECUTIVE OFFICER OR AUTHORIZED AGENT \_\_\_\_\_ DATE \_\_\_\_\_

*Drinking water  
 Monthly Bacteria  
 Annual Nitrate  
 Lead & copper  
 all tests are run  
 the first of  
 each month*

STATE LAND DEPARTMENT OF THE STATE OF ARIZONA  
BEFORE THE STATE LAND COMMISSIONER

IN THE MATTER OF APPLICATION TO  
PLACE IMPROVEMENTS ON COMMERCIAL  
LEASE NO. 03-101133 (DATED JANUARY 4,  
2007) FOR THE STATE LAND DESCRIBED AS:

ORDER NO. 193-2006/2007

M&B IN SE, SECTION 19, TOWNSHIP 5 SOUTH,  
RANGE 21 WEST, 63.34 ACRES, YUMA  
COUNTY, ARIZONA.

DENIAL OF  
APPLICATION TO PLACE  
IMPROVEMENTS

LESSEE: FISHERS LANDING INC.

FINDINGS OF FACT

Fishers Landing Inc. submitted an Application to Place Improvements on Commercial Lease No. 03-101133 to the Arizona State Land Department (the "Department") on January 3, 2007, for the purpose of increasing the capacity of the existing well site.

A review of the application and Department records reflect the following facts:

- 1) The proposed improvements (additional water storage tanks) will serve land other than Trust land.
- 2) The current lease expires May 31, 2007.
- 3) Applicant (lessee) seeks to place improvements having a cost in excess of \$200,000.00.
- 4) The water storage tanks are to be used by an off-site utility, which is an entity other than the Department's lessee.
- 5) Not only does the current lease expire in the near future, but the Department is preparing to lease or sell some or all of the leased property, which may include the parcel on which the applicant seeks to place the proposed improvements. It would not be in the best interest of the Trust to burden property that is about to be auctioned with improvements that do not enhance the value of the property, and if reimbursable would probably decrease the value of the property at auction.

With regard to obtaining approval from the Department prior to placing improvements on leased Trust land, pursuant to A.R.S. § 37-321(A) in part, "...The application shall be allowed or rejected as the best interest of the state requires as determined by the department...". It is clearly not in the best interest of the Trust to approve the proposed improvements.

Arizona  
State Land Department  
1916 WEST ADAMS  
PHOENIX, ARIZONA 85007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Order No. 193-2007/2007  
Denial of Application to Place Improvements  
Page 2

ORDER

IT IS ORDERED that the Application to Place Improvements on Commercial Lease No. 03-101133 submitted January 3, 2007, is hereby denied.

GIVEN under my hand and the official seal of the Arizona State Land Department this 5th day of March, 2007.



MARK WINKLEMAN  
State Land Commissioner

by: [Signature]

Notice of Appealable Agency Action

This is an appealable agency action. Pursuant to A.R.S. § 41-1092.03, if you are directly or adversely affected by this decision, the party may request a hearing within thirty (30) days of the date the notice is received. A request for a hearing must be in writing and filed with the Department, and must state the appellant's name and address, the specific action or actions of the Department which are the basis of the hearing request, and a concise statement of the reasons for this appeal. The appellant also has the right to an informal settlement conference pursuant to A.R.S. § 41-1092.06, if it is requested in writing and filed with the Department no later than twenty (20) days before the hearing.

The request must be sent to the State Land Department, Attention: Director, Land Information Title & Transfer Division. If the request for a hearing is not timely filed, the decision of the Commissioner may be final and not subject to further review.

In accordance with Title II of the Americans with Disabilities Act (ADA), the Arizona State Land Department does not discriminate on the basis of disability in the provision of its programs, services and activities.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter by contacting the Department's ADA Coordinator at (602) 542-2636. Request should be made as early as possible to allow time to arrange the accommodation.

Order No. 195-6/2007  
Denial of Application to Place Improvements  
Page 3

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Copy of the foregoing mailed/  
delivered this 5th day of  
March, 2007, to:

Certified No. 91 7108 2133 3931 8305 9952

**FISHERS LANDING INC  
ATTN DON FISHER  
P O BOX 72188  
YUMA AZ 85365**

Copy to: **Attorney General's Office, Natural Resources Section/attn: Mary Grier  
Real Estate Div./Sales & Commercial Leasing Sect./attn: Ruben Ojeda  
Real Estate Div./Sales & Commercial Leasing Sect./attn: Sandy Kelley  
File No. 03-101133**

*Dawn Sullivan*



**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY  
CERTIFICATE OF APPROVAL TO CONSTRUCT  
WATER FACILITIES**

Page 1 Of 2

<b>ADEQ File No:</b> 20060798	<b>LTF No:</b> 41442
<b>System Name:</b> Fisher'S Landing Water Co	<b>System Number:</b> 14039
<b>Project Owner:</b> Gregory M. Brown	
<b>Address:</b> 10765 Woodside Ave., Ste. A; Santee, CA 92071	
<b>Project Location:</b> Yuma	<b>County:</b> Yuma
<b>Description:</b> FISHER'S LANDING WATER AND SEWER WORKS, LLC. INSTALLATION OF FOUR (4) NEW 25,696 GALLON/EACH STEEL WATER STORAGE TANKS AND ASSOCIATED PIPING. TO INCREASE WATER STORAGE CAPACITY FROM APPROXIMATELY 10,000 GALLONS TO 90,000 GALLONS.	

*Approval to construct the above-described facilities as represented in the approved documents on file with the Arizona Department of Environmental Quality is hereby given subject to provisions 1 through 8 continued on page 2 through 2*

1. This project must be constructed in accordance with all applicable laws, including Title 49, Chapter 2, Article 9 of the Arizona Revised Statutes and Title 18, Chapter 5, Article 5 of the Arizona Administrative Code.
2. Upon completion of construction, the engineer shall fill out the Engineer's Certificate of Completion and forward it to the Central Regional Office located in Phoenix. If all requirements have been completed, that unit will issue a Certificate of Approval of Construction. R18-5-507(B), Ariz. Admin. Code. At the project owner's request, the Department may conduct the final inspection required pursuant to R18-5-507(B); such a request must be made in writing in accordance with the time requirements of R18-5-507(C), Ariz. Admin. Code.
3. This certificate will be void if construction has not started within one year after the Certificate of Approval to Construct is issued, there is a halt in construction of more than one year, or construction is not completed within three years of the approval date. Upon receipt of a written request for an extension of time, the Department may grant an extension of time; an extension of time must be in writing. R18-5-505(E), Ariz. Admin. Code.
4. Operation of a newly constructed facility shall not begin until a Certificate of Approval of Construction has been issued by the Department. R18-5-507(A), Ariz. Admin. Code.

Reviewed by:

By:

*Kwame A. Agyare*  
Kwame A. Agyare, P.E.  
Manager, Drinking Water and  
Wastewater Engineering Review  
Water Quality Division

12/25/06

Date

cc: File No: 20060798  
Regional Office: Central  
Owner: Gregory M. Brown  
County Health Department: Yuma  
Engineer: James Davey & Associates  
Planning and Zoning/Az Corp. Commission  
Engineering Review Database - Etr021

**APPROVAL TO CONSTRUCT  
STORAGE TANKS  
ADEQ FILE No. 20060798  
PAGE 2 OF 2: PROVISIONS CONTINUED**

5. Approval of Construction (AOC) will not be issued until data is obtained and verified for Pressure and Leakage Tests and Disinfection Sampling of constructed water lines and all other facilities. It is recommended that the Engineer's Certificate of Completion (ECC) Data Required Sheet be completed in full, showing actual pressures and sampling data. Data required with ECC sheet can be found under heading - Safe Drinking Water and subheading - Technical Engineering/Plan Reviews  
<http://www.azdeq.gov/function/forms/appswater.html#sdw>.
6. The public water system shall ensure that backflow-prevention is in accordance with A.A.C. R18-4-115.
7. Operation of a newly constructed facility shall not begin until a Certificate of Approval of Construction has been issued by the Department.
8. Before construction of a modification, expansion, or alteration of this distribution system begins, a separate Approval to Construct applicable to each addition must be obtained. A.A.C. R18-5-505(B).



Janet Napolitano  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street - Phoenix, Arizona 85007  
(602) 771-2300 - azdeq.gov



Stephen A. Owens  
Director

November 28, 2007

Daniel E. Long, P.E.  
James Davey and Associates  
204 S. 1<sup>st</sup> Ave.  
Yuma, AZ 85364

Re: Fisher's Landing Water & Sewer Works, LLC  
Time Extension for Approval to Construct (ATC)  
ADEQ File No. 20060798  
LTF #46162

Dear Mr. Long:

Your request dated November 27, 2007 for a time extension of the above referenced ATC is approved and the time limit to begin construction is extended up to December 5, 2008. All the work should be consistent with the plans and specifications approved by ADEQ and the approval certificate issued on December 5, 2006. Please be advised that time extensions are not automatic or certain. If this time extension approval expires, a new ATC may be required to be obtained.

If you have any questions, please call (602) 771-4677.

Sincerely,

Kwame Agyare, P.E., Manager  
Engineering Review Unit  
Drinking Water Section

KA:cc

cc: Mr. Gregory M. Brown, FLW&SW, LLC

Northern Regional Office  
1515 East Cedar Avenue • Suite F • Flagstaff, AZ  
86004

Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ  
85701

STATE LAND DEPARTMENT  
STATE OF ARIZONA

AMENDMENT TO COMMERCIAL LEASE  
NO. 03-101133

The Commercial Lease between the State of Arizona, Lessor, and \_\_\_\_\_

FISHER'S LANDING, INC., an Arizona corporation  
Lessee, by mutual consent, has been amended as follows:

0.08 acres for a water well site has been added to Section 19, Township 5 South,  
Range 21 West, as requested.

This Commercial Lease Amendment, when executed by the State Land Commissioner  
(Lessor) and the above mentioned Lessee and is affixed to the original Commercial Lease,  
shall be in full force and effect. All other terms and conditions of the Commercial Lease  
shall remain in full force and effect.

IN WITNESS HEREOF, the parties hereto have signed this Document effective the day and year set forth  
below.

STATE OF ARIZONA, LESSOR  
Arizona State Land Commissioner

FISHER'S LANDING, INC.

LESSEE

By Jerry M. Brown Date 6/30/06

By Katalin Godan Date 7-6-2006



#4-Comm 9/92

By P.O. Box 72188 Address

By Yuma State ARZ Zip 85365

06

STATE LAND DEPARTMENT  
STATE OF ARIZONA

AMENDMENT TO COMMERCIAL LEASE

NO. 03-101133

The Commercial Lease between the State of Arizona, Lessor, and \_\_\_\_\_

FISHER'S LANDING, INC., an Arizona corporation, Lessee, by mutual consent, has been amended to include the enclosed:

**COLORADO RIVER ADDENDUM, and**

**THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, BOULDER CANYON PROJECT CONTRACT WITH THE ARIZONA STATE LAND DEPARTMENT FOR DELIVERY OF COLORADO RIVER WATER FOR DOMESTIC USE to certain lands included in your lease.**

This Commercial Lease Amendment, when executed by the State Land Commissioner (Lessor) and the above mentioned Lessee and is affixed to the original Commercial Lease, shall be in full force and effect. All other terms and conditions of the Commercial Lease shall remain in full force and effect.

IN WITNESS HEREOF, the parties hereto have signed this Document effective the day and year set forth below.

STATE OF ARIZONA, LESSOR  
Arizona State Land Commissioner

By: Theresa Nash 4-11-05  
Date

Fisher's Landing Inc.  
LESSEE  
[Signature]  
By \_\_\_\_\_ Date \_\_\_\_\_

P.O. Box 72188  
Address \_\_\_\_\_  
Yuma Az. 85365  
City State Zip



#4-Comm1 9/92

## COLORADO RIVER ADDENDUM TO LEASES

1. Lessee acknowledges that the Leased Land is provided with surface water and/or ground water that is considered by the United States, Department of the Interior, Bureau of Reclamation (Reclamation) to be Mainstream Water from the Colorado River, and the use of which is subject to the provisions of Contract No. 7-07-30-W0358 executed by Reclamation and the Arizona State Land Department ("ASLD") on August 19, 2004, for the Delivery of Colorado River Water for Domestic Use ("Contract"), all of the terms and conditions of the Contract are incorporated into this Lease by reference and are binding upon Lessee, who is the "Designated User" as defined by the Contract, to the extent applicable. (Lessee acknowledges that Lessee has received a copy of the Contract.)

2. Failure of the Lessee to comply with all applicable provisions of the Contract may constitute a breach of the lease which may result in the termination of the lease by ASLD, as well as any other appropriate remedies allowed by law. The Contract requires certain actions by ASLD and its "Designated User"(Lessee), including but not limited to the actions more specifically described in this Addendum, and Lessee agrees to perform these actions on or before the dates specified below, or if not specified, upon ASLD's request.

2.1 Lessee shall only be entitled to divert Mainstream Water as specified in the Contract for domestic use on the Leased Lands in an amount that does not exceed the amount allocated to the Leased Land by the Contract, as stated in Exhibits A, B, and C to the Contract. Lessee shall comply with the annual written schedule of diversions referenced in Article 8 of the Contract, as ASLD may amend from time to time.

2.2 Before diverting Mainstream Water, Lessee shall install and thereafter maintain in a manner satisfactory to Reclamation's Contracting Officer and at no expense to the United States or to ASLD, all measuring and controlling devices or automatic gages required to measure water diverted, pumped or used by Lessee. Such devices may be inspected by the United States or its representative upon reasonable notice to Lessee. If any such device is found to be defective or inaccurate, the Lessee shall upon notification by ASLD, either promptly make any and all necessary repairs, or replace the device. Should Lessee fail to repair or replace any device found to be defective or inaccurate, Reclamation's Contracting Officer may cause the repairs to be made and the cost thereof shall be paid by Lessee within fifteen (15) days following receipt of a Bill for Collection.

2.3 Lessee shall maintain a record of the volume and source of all water used on the Leased Land, and the point of diversion of such water. Lessee shall submit this record to ASLD monthly, no later than the 10th day of the month following the diversion or use of water.

2.4 If Lessee uses more water than is allowed by the annual written schedule of diversions referenced in Article 8 of the Contract or as amended by ASLD, this use may constitute a breach of the Contract that would entitle Reclamation to pursue remedies against ASLD. Lessee agrees to indemnify and hold ASLD harmless against the consequences of any breach of the Contract that results from the action or inaction of Lessee, and to take all action that may be required to remedy such breach.

2.5 Lessee shall divert or permit the diversion of water only at the diversion points listed in Exhibit C to the Contract that are located on or adjacent to the Leased Land. Lessee shall not use or construct any diversion or delivery facilities without first obtaining written permission from the owner of the land, whether ASLD, Reclamation, or a third party.

2.6 No later than two years after the execution of the Contract, Lessee shall install, if not already in place, and thereafter shall maintain in a manner satisfactory to Reclamation's Contracting Officer and ASLD all wells, turnouts, gates, pumps, pipelines, equipment, meters and appurtenances of whatever nature necessary to divert, pump and transport the Mainstream Water diverted for use on the Leased Land from the point of diversion to the place of use.

2.7 The Mainstream Water shall only be used on the Leased Land, and shall be used solely for beneficial domestic use, except as may be otherwise agreed in writing by Reclamation's Contracting Officer.

2.8 Lessee shall maintain a written record of the Return Flow Water from the Leased Land and submit to ASLD, no later than the 10th day of the month following the Return Flow Water metering. The volume of Return Flow Water shall be measured or estimated according to a methodology approved by the United States' Contracting Officer. Lessee shall be responsible for assuring that the quality of Return Flow Water complies with all applicable state and federal water quality laws, and for obtaining and complying with the terms of any required discharge permits.

2.9 Lessee shall construct and operate new and/or replacement wells according to A.R.S. § 45-596(C)(11), as amended. Additionally, new wells require ASLD's approval.

2.10 Lessee shall pay directly or reimburse ASLD for costs imposed on ASLD by Reclamation pursuant to the Contract, other than the annual administrative fee paid by ASLD to Reclamation.

2.11 Lessee shall comply with all applicable water and air pollution laws and regulations of the United States and the State of Arizona and shall obtain and comply with all required permits or licenses from the appropriate federal, state or local authorities.

2.12 Lessee acknowledges that Lessee's use of Mainstream Water on the Leased Lands is a temporary privilege granted by ASLD and cannot be retained or assigned by Lessee. ASLD retains the rights to any effluent that results from the treatment of water used under the Contract, unless ASLD agrees otherwise.

3. ASLD has granted or will grant Reclamation and its authorized representatives a right-of-access to the Leased Land for the purpose of inspecting and checking any diversion facilities, including any wells and associated pumping facilities, and any other works utilized by Lessee in the diversion, processing, storage, distribution and return of Mainstream Water. Lessee agrees to cooperate with ASLD and Reclamation in connection with any such inspection, and to allow Reclamation reasonable access to any diversion facilities, wells, pumping facilities and other works, whether such facilities are on Leased Land or on other land owned, possessed or otherwise controlled by Lessee.

4. Lessee agrees to indemnify and hold harmless the United States and State of Arizona, and their employees, agents, subcontractors, successors or assigns, from any liability or responsibility whatsoever for the following: the groundwater level associated with the diversion of Mainstream Water or the maintenance thereof; the surface elevation of the Colorado River; the quality, composition or contents of Mainstream Water diverted or for any lack of fitness of such water for any use thereof, either at the point of delivery, in the delivery system, or at the place of use; the damages when suspensions or reduction in delivery of Mainstream Water occur for any reason; and the claims, damages or alleged causes of action claimed to have resulted from the termination of the Contract.

5. Lessee agrees to indemnify and hold harmless ASLD and its employees, agents, subcontractors, successors and assigns, from and against any liability or responsibility of Reclamation States or to any third party arising from or related to Lessee's use of Mainstream Water and any action, event or occurrence connected therewith, including but not limited to charges that are or may be imposed upon ASLD by Reclamation for expenses reasonably incurred to perform activities pursuant to the Contract, to the extent that such charges are related to Lessee's use or diversion of Mainstream Water.

# COMMERCIAL LEASE NO. 03-101133

## ARIZONA STATE LAND DEPARTMENT

THIS COMMERCIAL LEASE is entered into by and between the State of Arizona as "Lessor" by and through the Arizona State Land Department and FISHER'S LANDING INC., an Arizona Corporation as "Lessee". In consideration of the payment of rent and the performance by the parties of each of the provisions set forth herein, and intending to be legally bound, the parties agree as follows:

### ARTICLE 1 PARCEL

1.1 Agreement. Lessor hereby leases to Lessee for the term, at the rent, and in accordance with the provisions set forth herein, the Parcel described in Exhibit "A" attached hereto (the "Parcel") for the uses and purposes specified below, subject to the provisions of Article 4.

1.2 Use. The Parcel shall be used solely and exclusively for recreational facilities dependent upon and incident to the use of the Colorado River at Martinez Lake limited to an RV park, mobile home park, campsite, store, bar, gas station, boat docks, boat and motor rental, tackle shop, boat storage and maintenance and other appurtenant facilities.

1.3 Parcel leased "as is". Lessee makes use of the Parcel "as is" and Lessor makes no express or implied warranties as to the physical condition of the Premises.

1.4 Definition. "Premises" means the Parcel together with all rights appurtenant thereto expressly granted by this Lease, Improvements, Removable Improvements, and personal property located on, below or above the parcel.

1.5 Stored Water. In addition to the provisions of paragraph 1.2, the Lessee may store and treat water on the leased Premises.

### ARTICLE 2 TERM

2.1 Commencement; Expiration. The term of this Lease commences on June 1, 1997, and ends on May 31, 2007, unless terminated earlier as provided in this Lease.

**ARTICLE 3**  
**RENT**

**3.1 Advance Payment.** Lessee shall pay base rent to Lessor annually in advance on the commencement date and, each year thereafter on the anniversary of the commencement date of this Lease for the use and occupancy of the Premises during the term of this Lease without offset or deduction except as provided hereafter and, without notice or demand.

**3.2 Greater of Base or Percentage.** Annual rent shall be the base ground rent or the applicable percentage of gross receipts, whichever is greater, as herein defined.

**3.3 Rental.** A base ground rent for the first Lease year shall be Five Thousand Dollars (\$5,000.00). Ground rent for subsequent Lease years shall be determined according to the following schedule:

<b>LEASE YEAR</b>	<b>BASE GROUND RENT</b>
Year 2	\$10,000
Year 3	\$15,000
Year 4	\$20,000
Year 5	\$25,000
Year 6	\$30,000
Year 7	\$35,000
Year 8	\$40,000
Year 9	\$45,000
Year 10	\$45,000

The percentage rental shall be paid according to the following schedule:

Boat storage, boat dock, boat and motor rental, tackle shop, boat maintenance and repair shop, bar, restaurant, grocery and gas receipts - two percent (2%) of gross receipts as defined in 3.4 except that if at any time the bar ceases to be subleased to an unrelated third party or a new sublease is entered into, the percentage due for the bar shall be the amount due under "all other receipts".

Sales for the bar does not include food, i.e., grocery or package liquor sales which are subject to the two (2) percent provision for gross receipts whether or not subleased.

All other receipts as defined in 3.4 as follows:

- Lease Years 1 thru 3 - three percent (3.0%)
- Lease Years 4 thru 6 - seven and one-half percent (7.5%)
- Lease Years 7 thru 10 - eight and one-half percent (8.5%)

**3.4 Gross Receipts Defined.** "Gross Receipts" shall mean the selling and leasing price of all goods, wares and merchandise and receipts of all transactions and the charges for all services performed at, from, within or from any part of the demised premises including all departments and concessions therein and subtenancies, where permitted, pursuant to the provisions of this Lease, no matter by who operated, for cash or on credit, whether payment is actually made or not, the risk of such payment being assumed by Lessee. Concessionaires, demonstrators or vending machines, including those owned by others, operating in the demised premises shall be included within gross sales. the term "gross receipts" as used herein shall not include sales and excise taxes that are added as separate charges to approved sales prices, gasoline taxes, and fishing license fees, provided that the amount excluded shall not exceed the amount actually due or paid other governmental agencies. Gross receipts does not include water sale/distribution fees or any other charges levied by the Lessee or contributions received by the Lessee related to the processing and/or delivery of water.

**3.5 Annual Statement.** Beginning with the base rent due for lease year 2 and each year thereafter and at the same time the base rent is paid or the anniversary date of this Lease, whichever is earlier, Lessee shall deliver to Lessor a statement signed by Lessee or certified by a Certified Public Accountant, setting forth the gross sales made during the preceding calendar year. Such annual statement to be accompanied by a payment of percentage rent, if any, due for such period and copies of the Lessees sales tax reports filed with the Arizona Department of Revenue for the same period. The Lessee shall be entitled to a dollar for dollar credit for any percentage rental paid for the preceding calendar year either under this Lease or State Lease No. 32-10942 attributable to the period being reported.

For lease year 1 the percentage rental due with the base rent for year 2 shall be calculated as follows:

1. From January 1, 1997 to May 31, 1997, according to the percentage rental formula for State Lease No. 32-10942 adjusted to a monthly basis to allow necessary pro-rations as follows:
  - a. No fee in addition to the flat franchise fee on the first two thousand eighty three dollars (\$2,083.00) of monthly gross receipts.
  - b. Two percent (2%) fee on all monthly gross receipts over two thousand eighty three dollars (\$2,083.00) to sixty two thousand five hundred dollars (\$62,500.00).
  - c. Three percent (3%) fee on all monthly gross receipts over sixty two thousand five hundred dollars (\$62,500.00) to eighty three thousand three hundred and thirty three dollars (\$83,333.00).
  - d. Four percent (4%) fee on all monthly gross receipts over eighty three thousand three hundred and thirty three dollars (\$83,333.00).

2. From June 1, 1997 to December 31, 1997, the percentage rental shall be according to the schedule in paragraph 3.3 of this Lease calculated on a monthly basis.

Percentage rent covering gross receipts for the final year of the Lease shall be paid and accompanied by supporting documentation on or prior to the earlier of cancellation, termination, expiration or applying for renewal of this Lease.

3.6 Penalty; Interest; Lien. Lessee shall pay a penalty of five percent (5%) plus interest on any amount of delinquent rent. Interest shall accrue daily on the delinquent amount and on the penalty at the rate set by the Arizona State Treasurer under A.R.S. § 37-241(D) (3) until paid. The delinquent rent, penalty and interest shall be a lien on the Improvements and other property on the Parcel.

3.7 Reimbursement Credit. If the Lessee is required to reimburse for any improvements pursuant to A.R.S. § 37-293, the Lessee may credit against future rents the amount of the reimbursement up to but not exceeding a total of \$20,000. The credit against rents may be applied by Lessee against rents due at any time following the reimbursement by Lessee until the total reimbursement is eliminated. Lessor agrees to clean up Premises to Lessor's satisfaction and at Lessor's expense.

3.8 Lessee's Agreement. The Lessee's signature on this document confirms their agreement that the value of the improvements on Lot 77 under A.R.S. § 37-293 is \$20,000 and further Lessee agrees to make the reimbursement within 30 days of the execution of the Lease.

#### ARTICLE 4 USE OF PREMISES

4.1 Use. The Premises shall be used solely and exclusively for the purpose described in Article 1.2 and 1.5.

4.2 Artifacts. With respect to any archaeological, paleontological or historical site or object discovered on the Premises, Lessee shall comply with the requirements of A.R.S. § 41-844 or any successor statute relating to discovery of archaeological, paleontological or historical sites or objects on State lands.

4.3 Waste; Native Plants. Lessee shall not conduct or permit to be conducted any public or private nuisance on the Premises, nor commit or permit to be committed any waste thereon. Lessee shall not move, use, destroy, cut or remove or permit to be moved, used, destroyed, cut or removed any timber, cactus, protected native plants, standing trees or products of the land except that which is necessary for the use of the Parcel, and then only with the prior written approval of Lessor. If the removal or destruction of plants protected under

the Arizona Native Plant Law is necessary to the use of the Parcel, Lessee shall also obtain the prior written approval of the Arizona Department of Agriculture. Lessee shall report to Lessor and appropriate law enforcement authorities any known or suspected trespass or waste committed on the Premises.

4.4 **Conformity to Law.** Lessee shall not use or permit the Premises to be used in any manner that is not in conformity with all applicable Federal, State, County and municipal laws, rules and regulations, unless Lessor determines and advises Lessee in writing otherwise.

4.5 **Governmental Approval.** Failure to obtain or loss of any governmental approval that is prerequisite to the use for which this lease is issued, or that is necessary to construct, maintain or operate any facilities on the site in connection with that use shall constitute a breach of this lease, subject to the provisions of Article 17.

4.6 **Reservations.** Lessor excepts and reserves out of the Parcel all oil, gases, geothermal resources, coal, ores, limestone, minerals, fossils, and fertilizers of every name and description that may be found in or upon the Parcel, and the Lessor reserves the right to enter upon the land for the purpose of prospecting therefor, or extracting any or all of the commodities therefrom. Lessor reserves the right to issue to other persons, rights to use the Parcel in a manner not inconsistent with the purposes for which this Lease was issued. Lessor further excepts and reserves the right to relinquish to the United States lands needed for irrigation works in connection with a government reclamation project, and to grant or dispose of rights-of-way and sites for canals, reservoirs, dams, power or irrigation plants or works, railroads, tramways, transmission lines or any other purpose or use on or over the Parcel.

4.7 **Quiet Enjoyment.** Lessee shall quietly have, hold and enjoy the Parcel during the term of this Lease so long as Lessee is in compliance with all the provisions of this Lease.

4.8 **Inspection.** Lessor, its duly authorized agents, employees and representatives shall have the right to enter upon and inspect the Parcel and all Improvements thereon at reasonable time, and in a reasonable manner.

4.9 **Surrender.** In the event this Lease is not renewed, Lessee shall surrender peaceably the possession of the Parcel upon expiration of the term of this Lease.

## **ARTICLE 5**

### **RECORDS**

5.1 **Record Keeping; Inspection.** Lessee shall make and keep for the term of the Lease and either (i) five years thereafter; or (ii) until the conclusion of any dispute concerning this Lease, whichever is later, appropriate books and records concerning the operation of this Lease including but not limited to Federal and State tax statements, receipts and other records.

Lessor, its duly authorized agents, employees and representatives shall have the right at all times during the term of this Lease and for one (1) year after the expiration or termination hereof, to make reasonable examination of those books, records or other material in order to obtain information which Lessor deems necessary to administer this Lease. Further, Lessor, its duly authorized agents, employees and representatives shall have the right at all times during the term of any sublease or any extension thereof, and for one (1) year after expiration or termination thereof, to make reasonable examination of any sublessee's books, records or other material which Lessor deems necessary in order to obtain information to administer Article 3 of this Lease.

## **ARTICLE 6**

### **CONSTRUCTION AND IMPROVEMENTS**

**6.1 Definitions.** "Improvements" means anything permanent in character which is the result of labor or capital expended by the Lessee or his predecessors in interest on State land in its reclamation or development, and which has enhanced the value of the land. "Removable Improvements" means any thing not permanent in character which is the result of labor or capital expended by the Lessee or his predecessors in interest on State land.

**6.2 Prior Notification Required.** Lessee shall not place or construct or permit to be placed or constructed any Improvement or Removable Improvement on or to the Premises, unless Lessee has provided prior written notification to Lessor of their intent to construct improvements. Such notification shall be made at least 30 days prior to applying for building permits or contracting for the construction. Notification of any State agency other than the Arizona Land Department does not constitute notification under this section. Lessor with this lease approves the construction of an additional 49 recreational vehicle pads according to plans in the Lessors file and subject to the provisions of the lease including Lessors final written approval of drainage and environmental protection plans. Along with any written notification to construct improvements, and prior to Lessee applying for a building permit from the local government authority, Lessee shall file with Lessor plans and specifications (including but not limited to grading, construction and landscape plans) showing the nature, location, approximate cost, and quality of the proposed Improvements. Upon providing written notification of intent to construct improvements and at the request of Lessor, Lessee shall also submit a perimeter survey of the Premises and drainage or environmental protection plans. Drainage and environmental protection plans are subject to the final written approval of the Lessor. The location of completed Improvements, as built construction plans and any other information Lessor may require, for purposes of determining developed acres, shall be submitted by the Lessee to the Lessor within three (3) months following the completion of construction. Any Improvements or Removable Improvements placed on the Premises shall conform to existing laws and ordinances applicable to commercial construction and maintenance in the jurisdiction where the Parcel is located, unless Lessor determines and advises Lessee in writing that such conformity is not in the best interest of the Trust.

**6.3 Utilities: New Construction.** Gas, electric, power, telephone, water, sewer, cable television and other utility or service lines of every nature except those in existence at the date of the execution of this Lease, which have been previously approved, shall be placed and kept underground unless Lessor grants prior written approval otherwise. All buildings and structures shall be of new construction and no buildings or structures shall be moved from any other location onto the Parcel without Lessor's prior written approval.

**6.4 Annual Statement.** Upon request, but not more frequently than once a year, Lessee shall file with Lessor a sworn statement setting forth the description of any Improvements placed on the Parcel during the prior lease year and the actual cash value of such improvement.

**6.5 Ownership: Removal.** All Improvements placed upon the Parcel by Lessee shall be the property of Lessee subject to the terms of this Lease and shall, unless they become the property of Lessor, be subject to assessment for taxes in the name of Lessee, the same as other property of Lessee. Within sixty (60) days prior to or ninety (90) days following the expiration or termination of this Lease, Lessee may remove those Improvements which belong to it, have been previously approved by Lessor in writing, are free of any liens and can be removed without causing injury to the Premises. At its option, Lessor may waive any of the above listed prerequisites to Lessee's removal of Improvements on the Premises. Lessee may, with Lessor's prior written approval and within the time allowed for removal, sell its Improvements to the succeeding Lessee.

**6.6 Forfeiture.** Improvements made on or to the Premises without Lessor's prior written approval shall constitute a breach of this Lease and the Improvements shall forfeit to Lessor. This shall be in addition to any other remedies Lessor may have against Lessee pursuant to this lease, or in law or in equity.

**6.7 No Water Rights Conferred.** This Lease does not confer upon Lessee, its assignees or sublessees, any express or implied rights to the use or removal of surface or ground water from the Premises. However, it is expressly agreed that Lessee presently has, on the Lease Premises, a water delivery system, wells, pumps, and storage facilities which are a part of the improvements that are protected under Paragraphs 6.9 and 6.10. Any use or removal of water from the Premises shall be pursuant to an independent written agreement with Lessor and no claim thereto shall be made by Lessee. Any water right established shall attach and be appurtenant to the Premises.

**6.8 Improvements Dedicated to Public Use.** Lessee shall have no right to reimbursement for Improvements that are dedicated or otherwise committed or transferred to public use.

**6.9 Existing Improvements.** Lessor acknowledges that Lessee has placed improvements upon the Premises and those improvements are set forth in Exhibit B. Said

improvements have been approved by Lessor or its predecessor and are protected improvements under Article 6.10 below.

6.10 Protection. Lessee shall be protected in improvements on the land owned by Lessee as provided in Arizona Revised Statutes 37-290 and 37-293.

## **ARTICLE 7**

### **REPAIRS AND MAINTENANCE**

7.1 Lessee's Obligations. Lessor shall be under no obligation whatever to maintain, repair, rebuild or replace any Improvement on the Parcel. Lessee shall, subject to the provisions of Article 12 (Damage) and Article 15 (Eminent Domain) and at its own expense, keep and maintain the Premises in good order, condition and repair in conformity with all governmental requirements and if applicable, those of the insurance underwriting board or insurance inspection bureau having jurisdiction over the Premises, unless Lessor determines and advises Lessee in writing that such conformity is not in the best interest of the Trust.

## **ARTICLE 8**

### **MECHANICS' LIENS**

8.1 Payment; Indemnity. Lessee shall be responsible for payment of all costs and charges for any work done by or for it on the Premises or in connection with Lessee's occupancy thereof, and Lessee shall keep the Parcel free and clear of all mechanics' liens and other liens and encumbrances on account of work done for Lessee or persons claiming under it; provided, however, that Lessee may in good faith, and with reasonable diligence, contest or dispute any such lien claims in any appropriate forum so long as this Lease or the Leased Parcel are not actually in danger of levy or sale. Lessee expressly agrees to and shall indemnify and save Lessor harmless against liability, loss, damages, costs, attorney's fees and all other expenses on account of claims of lien or other encumbrances of laborers or materialmen or others for work performed or materials or supplies furnished to Lessee or persons claiming under it. Further, any contracts between Lessee or sublessees and any contractors and subcontractors shall expressly hold Lessor harmless against any liability arising from such contracts, as described above.

8.2 Notice. Should any such claims of lien or other encumbrances be filed against the Parcel or any action affecting the title to the Parcel be commenced, the party receiving notice of such lien or action shall immediately give the other party written notice thereof.

## **ARTICLE 9** **UTILITIES**

9.1 **Lessee's Obligations.** Lessee shall be responsible for and shall hold Lessor harmless from any liability for all charges for water, gas, sewage, electricity, telephone and any other utility service.

## **ARTICLE 10** **TAXES AND ASSESSMENTS**

10.1 **Lessee's Obligations.** In addition to the rent set herein, Lessee shall timely pay and discharge, without deduction or abatement for any cause, all duties, taxes, charges, assessments, impositions and payments, extraordinary as well as ordinary, unforeseen as well as foreseen, of every kind and nature (under or by virtue of any current or subsequently enacted law, ordinance, regulation or order of any public or governmental authority), which during the term are due, imposed upon, charged against, measured by or become a lien on (i) the Premises; (ii) any Leasehold interest; (iii) the interest of any of the parties to this Lease or in proceeds received pursuant to this Lease; and (iv) the rent paid pursuant to this Lease.

## **ARTICLE 11** **INSURANCE AND INDEMNITY**

11.1 **Indemnity.** Irrespective of any insurance carried by Lessor for the benefit of Lessor, Lessee hereby expressly agrees to indemnify and hold Lessor harmless, or cause Lessor to be indemnified and held harmless, from and against all liabilities, obligations, damages, penalties, claims, causes of action, costs, charges and expenses, including attorney's fees and costs, which may be imposed upon or incurred by or asserted against Lessor by reason of the following: (i) any accident, injury or damage to any person or property occurring on or about the Premises or any portion thereof; (ii) any use, nonuse or condition of the Premises or any portion thereof; or (iii) any failure on the part of Lessee to perform or comply with any of the provisions of this Lease; except that none of the foregoing shall apply to Lessor's intentional conduct or active negligence. In case any action or proceeding is brought against Lessor by reason of any such occurrence, Lessee, upon Lessor's request and at Lessee's expense, will resist and defend such action or proceeding, or cause the same to be resisted and defended either by counsel designated by Lessee or, where such occurrence is covered by liability insurance, by counsel designated by the insurer.

11.2 **Policies.** Lessee at its expense, shall at all times during the term, and any extension thereof, maintain in full force a policy or policies of comprehensive liability insurance, including property damage, written by one or more responsible insurance companies licensed

to do business in the State of Arizona, and each policy shall be written on an occurrence basis, which insure Lessee and Lessor against liability for injury to persons and property and death of any person or persons occurring in, on or about the Premises, or arising out of Lessee's maintenance, use and occupancy thereof. All public liability and personal property damage policies shall contain a provision that Lessor, named as an additional insured, shall be entitled to recovery under the policies for any loss occasioned to it, its servants, agents and employees by reason of the negligence or wrongdoing of Lessee, its servants, agents and employees or sublessees. Further, the policies shall provide that their coverage is primary over any other insurance coverage available to the Lessor, its servants, agents and employees. All policies of insurance delivered to Lessor must contain a provision that the company writing the policy shall give to Lessor thirty (30) days notice in writing in advance of any cancellation or lapse, or the effective date of any reduction in the amounts of insurance.

**11.3 Coverage.** The insurance as described in Paragraph 11.2 herein shall afford protection not less than \$1,000,000 in combined single limits for bodily injury and property damage and each liability policy shall be written on an occurrence basis; provided, however, that the minimum amount of coverage for the above shall be adjusted upward on Lessor's reasonable request so that such respective minimum amounts of coverage shall not be less than the amounts then required by statute or generally carried on similarly improved real estate in the County herein described, whichever is greater. If at any time Lessee fails, neglects or refuses to cause such insurance to be provided and maintained, then Lessor may, at its election, procure or renew such insurance and any amounts paid therefor by Lessor shall be an additional amount due at the next rent day.

**11.4 Blanket Policy.** Notwithstanding anything to the contrary in this Article, Lessee's obligations to carry the insurance provided for herein may be bought within the coverage of a so-called blanket policy or policies of insurance maintained by Lessee, provided, however, that the coverage afforded Lessor will not be reduced by reason of the use of such blanket policy of insurance.

**11.5 Copies.** Copies of policies required by this Article shall be delivered to Lessor prior to Lessee's occupancy of the Parcel. Lessee shall provide Lessor with a current certificate of insurance and at Lessor's request provide proof of payment.

## **ARTICLE 12**

### **DAMAGE**

**12.1 Lessee's Obligations.** If the Parcel or any building or other Improvement located thereon are damaged or destroyed during the term of this Lease, Lessee may arrange at its expense for the repair, restoration and reconstruction of the same substantially to its former condition, but such damage or destruction shall not terminate this Lease or relieve Lessee from its duties and liabilities hereunder.

**ARTICLE 13**  
**TRADE FIXTURES AND PERSONAL PROPERTY**

13.1 **Lessee's Property.** Any trade fixtures, signs, store equipment, and other personal property installed in or on the Premises by Lessee or any sublessee shall remain their property subject to the provisions of this Lease. Lessee shall have the right, provided it is not then in breach hereunder, at any time to remove any and all of the same, subject to the restrictions of Article 6.5.

**ARTICLE 14**  
**ASSIGNMENT, SUBLETTING AND ENCUMBRANCE**

14.1 **Prior Approval Required.** Lessee shall not assign this Lease or any interest therein, nor shall Lessee sublease nor renew an existing sublease on any portion or all of the Premises without obtaining Lessor's prior written approval. Those subleases that are currently in existence as set forth in exhibit C are considered approved subleases by the Lessor for purpose of this section. Simultaneously with the execution of this lease by the Lessee, Lessee shall deliver copies of all sub-leases set forth in Exhibit C to the Lessor along with an "Application to Sub-lease" with each sublease. In no event may this Lease or any interest therein be assigned or sublet unless Lessee is in full compliance with this Lease. Lessee shall not enter into a contract of sale, mortgage, lien or other encumbrance affecting this Lease unless a copy is filed with Lessor. Rentals of RV spaces, campsites and mobile home sites do not require Lessor's approval nor do copies of said agreements need to be provided the Lessor nor listed on exhibit C. Such rentals shall not survive this lease without the prior written approval of the Lessor.

14.2 **Consent Required.** An assignment of this Lease shall not be made without the consent of all the parties. Lessee may assign all or a portion of the Premises as allowed by the terms of this Article provided Lessee shall assign Lessee's entire interest in that portion of the Premises.

14.3 **Purpose.** There shall be no assignment or sublease made except to an assignee or sublessee that will use the Premises for the purpose(s) described herein.

14.4 **Lessee Primarily Responsible.** Notwithstanding any sublease, Lessee shall remain responsible to the Lessor for the performance of the provisions of this Lease.

14.5 **Entire Interest.** The assignment of Lessee's entire interest in a portion of the Premises shall not relieve Lessee of its responsibility to Lessor for the performance of the provisions of this Lease as it relates to that portion of the Premises not transferred by the assignment.

## ARTICLE 15

### EMINENT DOMAIN

**15.1 Expiration.** If at any time during the duration of this Lease the whole or any part of the Parcel is taken by direct sale, lease, institutional taking or acquisition in any manner through condemnation proceedings or otherwise, for any quasi-public or public purpose by any person, private or public corporation, or any governmental agency having authority to exercise the power of eminent domain or condemnation pursuant to any law, general, special or otherwise, this Lease shall expire on the date when the Parcel are taken or acquired except as otherwise provided.

**15.2 Partial Taking; Damages; Rent.** In the event of a partial taking and if the Lessor determines that it is in the best interest of the Trust, the Lease may continue in full force and effect for that portion of the Parcel not taken. As against Lessor, Lessee and any sublessee shall not have a compensable right or interest in the real property being taken and shall have no compensable right or interest in severance damages which may accrue to the remainder of the Parcel not taken, nor shall Lessee or any sublessee have any compensable right or interest in the remaining term of this Leasehold or any renewal. Rent shall be apportioned as of the day of such taking. Lessor shall be entitled to and shall receive any awards, including severance damage to remaining state lands, that may be made for any taking concerning the Parcel.

**15.3 Lessee's Rights to Award.** In the event of any taking, Lessee shall have the right to receive any and all awards or payments made for any building or other Improvements on the lands fully placed on the Parcel by Lessee with the Lessor's prior written approval.

## ARTICLE 16

### BANKRUPTCY AND INSOLVENCY

**16.1 Lessor's Rights.** If (i) all or substantially all of Lessee's assets are placed in the hands of a receiver, and such receivership continues for a period of thirty (30) days; or (ii) should Lessee make an assignment for the benefit of creditors; or (iii) should Lessee institute any proceedings under any present or future provisions of the Bankruptcy Code or under a similar law wherein Lessee seeks to be adjudicated as bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition or reorganization; or (iv) should any involuntary proceedings be filed against Lessee under such bankruptcy laws and not be dismissed or otherwise removed within ninety (90) days after its filing, then this Lease shall not become an asset in any of such proceedings or assignment. In addition to all other rights and remedies of Lessor provided hereunder or by law, Lessor shall have the right to declare the term of this Lease at an end and to re-enter the Premises, take possession and remove all persons, and Lessee shall have no further claim on the Premises under this Lease.

**ARTICLE 17**  
**LESSEE DEFAULTS AND LESSOR'S REMEDIES**

17.1 **Conditions.** All of the provisions of this Lease are conditions. Breach of any one of these conditions by Lessee or any sublessee shall be sufficient grounds for cancellation of this Lease by Lessor, subject to the other provisions of this Article.

17.2 **Cancellation.** If Lessee fails to keep any provision of this Lease, Lessor may cancel this Lease and declare Lessee's interest forfeited. Lessor shall be forever wholly absolved from liability for damages which might result to Lessee or any sublessee on account of this Lease having been canceled or forfeited prior to the expiration of the full term, subject to the other provisions of this Article.

17.3 **Breach.** In the event of a breach of this Lease which is not curable or remains uncured after thirty (30) days notice by Lessor of failure to pay rent, taxes or other assessments, and forty-five (45) days from the receipt of the notice to cure any other curable default, to Lessee of the breach, Lessor may, in addition to all other remedies which may be available to Lessor in law or in equity, (i) enter and repossess the Premises or any part thereof, expelling and removing therefrom all persons and property (either holding such property pursuant to Lessor's landlord's lien, or storing it at Lessee's risk and expense, or otherwise disposing thereof), as to which Lessor shall not be liable to Lessee or any sublessee for any claim for damage or loss which may thereby occur, and (ii) either (a) terminate this Lease, holding Lessee liable for damages for its breach or (b) treat the Lease as having been breached anticipatorily and the Premises abandoned by Lessee without thereby altering Lessee's continuing obligations for the payment of rent and the performance of those Lease provisions to be performed by Lessee during the lease term.

17.4 **Liquidated Damages.** If Lessor terminates this Lease for Lessee's breach, Lessee shall be liable to Lessor, as liquidated damages and not as a penalty, an amount, which at the time of such termination, represents the amount equal to the rent for the previous lease year. If termination is made at such time as Lessee is current in annual rent payments, Lessor shall return to Lessee that portion of the annual rent after deducting the above-described liquidated damages. The liquidated damages will compensate Lessor for the loss of rent from the parcel due to the default and costs incurred to re-lease the Premises.

17.5 **Expenses.** Lessee shall pay to Lessor upon demand all costs, expenses and fees, including attorneys' fees, which Lessor may incur in connection with the exercise of any remedies on account of or in connection with any breach by Lessee, plus interest on all amounts due from Lessee to Lessor at the rate set by the Arizona State Treasurer, according to law.

17.6 **Remedies not Exclusive.** The remedies herein granted to Lessor shall not be exclusive or mutually exclusive and Lessor shall have such other additional remedies against Lessee as may be permitted in law or in equity at any time; provided, however, Lessor shall not

be relieved of any obligation imposed by law for mitigation of damages, nor shall Lessor recover any duplicative damages, and Lessee shall be reimbursed by any subsequent Lessee or purchaser of the Premises for any amount by which the value of Lessee's Improvements exceed Lessor's damages, notwithstanding any other provision in this Lease to the contrary. In particular, any exercise of a right of termination by Lessor shall not be construed to end or discharge any right of Lessor to damages on account of Lessee's breach.

17.7 No Waiver. No waiver of breach of any provision of this Lease shall be construed as a waiver of succeeding breach of the same or other provisions.

## **ARTICLE 18** **HOLDING OVER**

18.1 Prohibition. There shall not be any holding over by Lessee or any assignee or sublessee, upon the expiration or cancellation of this Lease for any reason. If nevertheless there be any holding over by Lessee or any assignee or sublessee, the holding over shall give rise to a tenancy at the sufferance of Lessor upon the same terms and conditions as are provided for herein with a rent for the holdover period commensurate with, but in no event less than, the previous year's rent.

## **ARTICLE 19** **ENCUMBRANCES**

19.1 Rights. Lessee, and its successors and assigns, shall have the unrestricted right to mortgage and pledge this Lease, subject, however, to the limitations of this section. Any such mortgage/deed of trust or pledge shall be subject and subordinate to the rights of Lessor, and nothing in this Lease shall be construed to impose upon the Lessor any obligation or liability with respect to the payment of any indebtedness to any holder of a mortgage/deed of trust or pledge of this Lease.

19.2 Term. The term of any leasehold mortgage or deed of trust shall not be longer than the remaining lease term.

19.3 Registration. No holder of a mortgage/deed of trust on this Lease shall have the rights or benefits provided by this Article nor shall the provisions of this Article be binding upon Lessor, unless and until the name and address of the holder of the mortgage/deed of trust is registered with Lessor.

19.4 Of Record. If Lessee, or Lessee's successors or assigns, shall mortgage this Lease in compliance with provisions of this Article, then so long as any such mortgage/deed of trust remains unsatisfied of record, the following provisions shall apply:

(a) Lessor, upon giving Lessee any notice of default, or any other notice under the provisions of or with respect to this Lease, shall also give a copy of such notice to the registered holder of a mortgage/deed of trust on this Lease.

(b) Any holder of such mortgage/deed of trust, in case Lessee shall have a monetary default hereunder, shall, within thirty (30) days from the receipt of notice have the right to cure such default, or cause the same to be cured, and Lessor shall accept such performance by or at the instance of such holder as if the same had been made by Lessee, all as provided in A.R.S. § 37-289 (A)(2).

(c) Nothing herein contained shall preclude Lessor, subject to the provisions of this Article, from exercising any rights or remedies under this Lease with respect to any other default by Lessee during the pendency of any foreclosure or trustee's sale proceedings.

(d) Any holder of such mortgage/deed of trust, in case Lessee shall have a default other than a default involving failure to pay rent, taxes or other assessments, shall have forty-five (45) days from the receipt of notice to cure any curable default.

(e) If a default is not cured within the applicable time period, the Lessor may make an order canceling the Lease. The cancellation order shall not become final if the holder of a mortgage/deed of trust files written notice with Lessor of its intent to proceed with a foreclosure action within sixty (60) days from the issuance of the cancellation order and commences the foreclosure action in court and provides Lessor with a certified copy of the complaint within one hundred twenty (120) days of the issuance of the cancellation order. Upon foreclosure of the mortgage/deed of trust, the Lessor shall assign this Lease to the holder of the mortgage/deed of trust, if all taxes, rent and assessment payments are current.

(f) No failure on the part of Lessor to give the required notice of default to the holder of a mortgage/deed of trust shall be deemed a waiver and Lessor's continuing right to give notice of the default continues so long as it remains uncured.

(g) Any notice or other communication which the holder of a mortgage/deed of trust on this Lease shall desire or is required to give or serve upon Lessor shall be deemed to have been duly given or served if sent in duplicate by registered or certified mail addressed to Lessor at Lessor's address as set forth in this Lease or at such other address as shall be designated by Lessor by notice in writing given to such holder by registered or certified mail, postage pre-paid.

(h) Anything herein contained to the contrary notwithstanding, the provisions of this Article shall inure only to the benefit of the holders of leasehold mortgages which term may also be read to mean deed of trust.

(I) Nothing herein contained shall be deemed to obligate the Lessor to deliver possession of the demised Parcel to the assignee under any assignment entered into pursuant to paragraph (e) of this section.

(j) No agreement between Lessor and Lessee modifying, canceling or surrendering this Lease shall be effective without the prior written consent of the registered mortgagees and lienholders.

(k) No union of the interest of Lessor and Lessee shall result in a merger of this Lease in the fee interest.

19.5 Casualty Loss. A standard Mortgage Clause naming each leasehold mortgagee may be added to any and all insurance policies required to be carried by Lessee hereunder on condition that the insurance proceeds are to be applied in the manner that is not in derogation of the Lessor's rights; except that the leasehold mortgage may provide a manner for the disposition of such proceeds, if any, otherwise payable directly to the Lessee (but not such proceeds, if any, payable jointly to the Lessor and the Lessee) pursuant to the provisions of this Lease.

## **ARTICLE 20**

### **ENVIRONMENTAL MATTERS**

20.1 Definition of Regulated Substances and Environmental Laws. For purposes of this Lease, the term "Environmental Laws" shall include but not be limited to any relevant federal, state or local environmental laws, and the regulations, rules and ordinances, relating to environmental matters, and publications promulgated pursuant to the local, state, and federal laws and any rules or regulations relating to environmental matters. For the purpose of this Lease, the term "Regulated Substances" shall include but not be limited to substances defined as "regulated substance," "solid waste," "hazardous waste," "hazardous materials," "hazardous substances," "toxic materials," "toxic substances," "inert materials," "pollutants," "toxic pollutants," "herbicides," "fungicides," "rodenticides," "insecticides," "contaminants," "pesticides," "asbestos," "environmental nuisance," "criminal littering," or "petroleum products" as defined in Environmental Laws.

20.2 Compliance with Environmental Laws. Lessee shall strictly comply with all Environmental Laws, including, without limitation, water quality, air quality, and handling, transportation, storage, treatment, or disposal of any Regulated Substance on, under, or from the Premises. Without limiting the foregoing, compliance includes that Lessee shall: (1) comply with all reporting obligations imposed under Environmental Laws; (2) obtain and maintain all permits required by Environmental Laws, and provide a copy to the Lessor within ten business days of receipt of the lease; (3) provide copies of all documentation required by Environmental Laws to the Lessor within ten business days of Lessee's submittal and/or receipt of the documentation; (4) during the term of the Lease, provide copies of all information it receives

or obtains regarding any and all environmental matters relating to the Premises, including but not limited to environmental audits relating to the Premises regardless of the reason for which the information was obtained or whether or not the information was required by Environmental Laws; (5) prevent treatment, storage, disposal, handling or use of any Regulated Substances within the Premises without prior written authorization from the Lessor.

**20.3 Designated Compliance Officer.** Lessee at all times shall employ or designate an existing employee (the "Designated Compliance Officer") who is responsible for knowing all Environmental Laws affecting Lessee and Lessee's business and monitoring Lessee's continued compliance with applicable Environmental Laws. Upon request by the Lessor, Lessee shall make the Designated Compliance Officer available to discuss Lessee's compliance, answer any questions, and provide such reports and confirming information as the Lessor may reasonably request.

**20.4 Environmental Assessment.** At any time, during the term of the Lease and upon reasonable cause, the Lessor may require Lessee to obtain one Phase I environmental assessment, as defined in Paragraph 20.5, of the Premises performed by an Arizona registered professional engineer or an Arizona registered geologist. For purpose of this paragraph, requesting an environmental assessment within the 12 months prior to termination, cancellation, or ultimate expiration of this Lease (which includes subsequent renewals) shall be considered reasonable cause. If based upon the Phase I environmental assessment or its own independent investigation, the Lessor identifies any possible violation of Environmental Laws or the terms of this Lease, the Lessor may require Lessee to conduct additional environmental assessments as the Lessor deems appropriate for the purpose of ensuring that the Premises are in compliance with Environmental Laws. The Phase I assessment, or any other assessment required by the Lessor, shall be obtained for the benefit of both Lessee and the Lessor. A copy of the Phase I report shall be provided both to Lessee and the Lessor. The Lessor, in its sole discretion, shall have the right to require Lessee to perform additional assessments of any damage to the Premises arising out of any violations of Environmental Laws. If Lessee fails to obtain any assessments required by the Lessor, Lessee shall pay the entire costs of any and all assessments required by the Lessor, notwithstanding the expiration or termination of the Lease.

**20.5 Definition of Assessment.** The Phase One environmental assessment should consist of: (1) a review of relevant property documents, including Arizona State Land Department and Bureau of Land Management documents, relevant to environmental issues, (2) an inspection of the site, and (3) interviews with persons knowledgeable regarding the site's environmental history, all in accordance with ASTM standards under ASTM Document No. E1527.

**20.6 Indemnity for Environmental Damage.** Lessee shall defend, indemnify and hold the Lessor harmless from and against any and all liability, obligations, losses, damages, penalties, claims, environmental response and cleanup costs and fines, and actions, suits, costs,

taxes, charges, expenses and disbursements, including legal fees and expenses of whatever kind or nature (collectively, "claims" or "damages") imposed on, incurred by, or reserved against the Lessor in any way relating to or arising out of any non-compliance with any Environmental Laws, the existence or presence of any Regulated Substance, on, under, or from the Premises, and any claims or damages in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance on, under, or from the Premises by the Lessee, its agents, contractors, or subcontractors.

**20.7 Scope of Indemnity.** This indemnity shall include, without limitation, claims or damages arising out of any and all violations of Environmental Laws regardless of any real or alleged fault, negligence, willful misconduct, gross negligence, breach of warranty, or strict liability on the part of any of the indemnitees. This indemnity shall survive the expiration or termination of this Lease and/or transfer of all or any portion of the Premises and shall be governed by the laws of the State of Arizona.

**20.8 Lessee's Participation in the Defense.** In the event any action or claim is brought or asserted against the Lessor which is or may be covered by this indemnity, the Lessee shall fully participate, at Lessee's expense, in the defense of the action or claim including but not limited to the following: (1) the conduct of any required cleanup, removal or remedial actions and/or negotiations, (2) the conduct of any proceedings, hearings, and/or litigation, and (3) the negotiation and finalization of any agreement or settlement. The Lessor shall retain the right to make all final decisions concerning the defense. The Lessee's obligations to participate in the defense under this Section shall survive the expiration or termination of the lease.

**20.9 Restoration.** Prior to the termination of the Lease, Lessee shall restore the Parcel by removing any and all Regulated Substances. In addition, the restoration shall include, but not be limited to, removal of all waste and debris deposited by the Lessee. If the Parcel or any portions thereof are damaged or destroyed from the existence or presence of any Regulated Substance or if the Parcel or any portions thereof are damaged or destroyed in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance, the Lessee shall arrange, at its expense, for the repair, removal, remediation, restoration, and reconstruction to the Parcel to the original condition existing on the date that the Lessee first occupied the Parcel, to the satisfaction of the Lessor. In any event, any damage, destruction, or restoration by Lessee shall not relieve Lessee from its obligations and liabilities under this Lease. The Lessee's restoration obligation under this section shall survive the expiration or termination of the lease.

**20.10 Site Plan.** Lessee shall provide within 12 months of the execution of this lease a detailed site plan locating all improvements.

**20.11 Waste Streams.** Lessee shall within 12 months of the execution of this lease document all waste streams and identify recycling/disposal facilities, including names and

addresses. Such documentation shall include but not be limited to battery disposal, used oil, used antifreeze, freon, septic, sewer, garbage, and tires.

**20.12 Notification.** The Environmental Section shall be notified within 24 hours (emergency situation) or within 5 days (non-emergency situation) of any environmental non compliance.

## **ARTICLE 21**

### **MISCELLANEOUS**

**21.1 Reservation.** This Lease grants Lessee only those rights expressly granted herein and Lessor retains and reserves all other rights in the Parcel.

**21.2 Binding Effect.** Each provision of this Lease shall extend to, be binding on and inure to the benefit of not only Lessee but each of its respective heirs, administrators, executors, successors and assigns. When reference is made in this Lease to either "Lessor" or "Lessee", the reference shall be deemed to include, wherever applicable, the heirs, administrators, executors, successors and assigns of the parties. This Lease shall be binding upon all subsequent owners of the Premises, and of any interest or estate therein or lien or encumbrance thereon.

**21.3 No Partnership.** The relationship of the parties is that of Lessor and Lessee, and it is expressly understood and agreed that Lessor does not in any way or for any purpose become a partner of Lessee or a joint venturer with Lessee in the conduct of Lessee's business or otherwise, and that the provisions of any agreement between Lessor and Lessee relating to rent are made solely for the purpose of providing a method by which rental payments are to be measured and ascertained.

**21.4 Quitclaim upon Termination.** After the expiration or termination of this Lease, Lessee shall execute, acknowledge and deliver to Lessor within thirty (30) days after written demand from Lessor to Lessee, any document requested by Lessor quitclaiming any right, title or interest in the Leasehold to Lessor or other document required by any reputable title company to remove the cloud of this Lease from the Premises.

**21.5 Title.** The titles to the Articles of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part of the Lease.

**21.6 Fraud or Misrepresentation.** If during the term of this Lease it appears that there has been fraud or collusion on the part of Lessee to obtain or hold this Lease at a rent less than its value, or through Lessee's fraud or collusion a former Lessee of the Parcel has been allowed to escape payment of the rent due for former Lessee's use of the Parcel, Lessor may cancel this Lease and the Parcel shall immediately revert to Lessor. If during the term of this Lease it appears that Lessee has misrepresented, by implication, willful concealment or

otherwise, (i) the value of the Improvements placed on the Parcel by a former Lessee or any other person; or (ii) the Lessee not being the owner of the Improvements placed on the Parcel by a former Lessee or any other person at the commencement of the Lease term, Lessor may cancel this Lease and the Parcel shall immediately revert to Lessor.

**21.7 Notices.** Any notice to be given or other document to be delivered to Lessee or Lessor hereunder shall be in writing and delivered to Lessee or Lessor by depositing same in the United States Mail, with prepaid postage thereon fully prepaid and addressed as follows:

**TO Lessor:** Arizona State Land Department  
1616 West Adams Street - First Floor  
Phoenix, Arizona 85007

**TO Lessee:** Address of Record

Lessee must notify Lessor by written notice of any change in address within thirty (30) days. Lessor may, by written notice to Lessee, designate a different address.

**21.8 Lessor's Title.** If it is determined that Lessor has failed to receive title to any of the Parcel, the Lease is null and void insofar as it relates to the land to which Lessor has failed to receive title. Lessor shall not be liable to Lessee or any assignee or sublessee for any damages that result from Lessor's failure to receive title.

**21.9 Lessor's Lien.** Lessee grants to Lessor a lien superior to all others in Lessee's interest in Improvements and valuable materials located on the Premises. Lessor has the right to recover any rent arrearage and outstanding liabilities of the Lessee from the Lessee's interest in the Improvements or valuable materials.

**21.10 No Promise to Sell.** Lessee acknowledges that it has not been induced to enter into this Lease by any promise from Lessor or any of its agents, servants or employees that the Parcel will be offered for sale at any time.

**21.11 Cancellation.** Lessor may cancel this Lease, without penalty or further obligation if, within three (3) years of execution, any person significantly involved in initiating, negotiating, securing, drafting or creating the Lease on behalf of Lessor or any of its departments or agencies is, at any time while the Lease or any extension of the Lease is in effect, an employee of any other party to the Lease in any capacity, or a consultant to any other party of the Lease with respect to the subject matter of the Lease. The cancellation shall be effective when written notice from the Governor is received by all other parties to the Lease unless the notice specifies a later time.

**21.12 Applicable Law.** This Lease is subject to all current and subsequently enacted rules, regulations and laws applicable to State lands and to the rights and obligations of Lessors

and Lessees. No provision of this Lease shall create any vested right in Lessee except as otherwise specifically provided in this Lease.

21.13 Amendment. This Lease may be amended only in writing and upon agreement by all parties.

21.14 Prohibited Uses. Lessee agrees and understands that all uses of the land not expressly authorized or permitted by this Lease are expressly prohibited.

21.15 Attorneys' Fees. In any action arising out of this Lease, the prevailing party is entitled to recover reasonable attorneys' fees and costs in addition to the amount of any judgment, costs and other expenses as determined by the court. In the case of the Lessor, reasonable attorneys' fees shall be calculated at the reasonable market value for such services when rendered by private counsel, notwithstanding that it is represented by the Arizona Attorney General's Office or other salaried counsel.

21.16 Execution. This document is submitted for examination and shall have no binding effect on the parties unless and until executed by the Lessor (after execution by the Lessee), and a fully executed copy is delivered to the Lessee. Upon the execution hereof, at the request of Lessee, the parties also shall execute, so that Lessee may cause it to be recorded, a short form of this Lease.

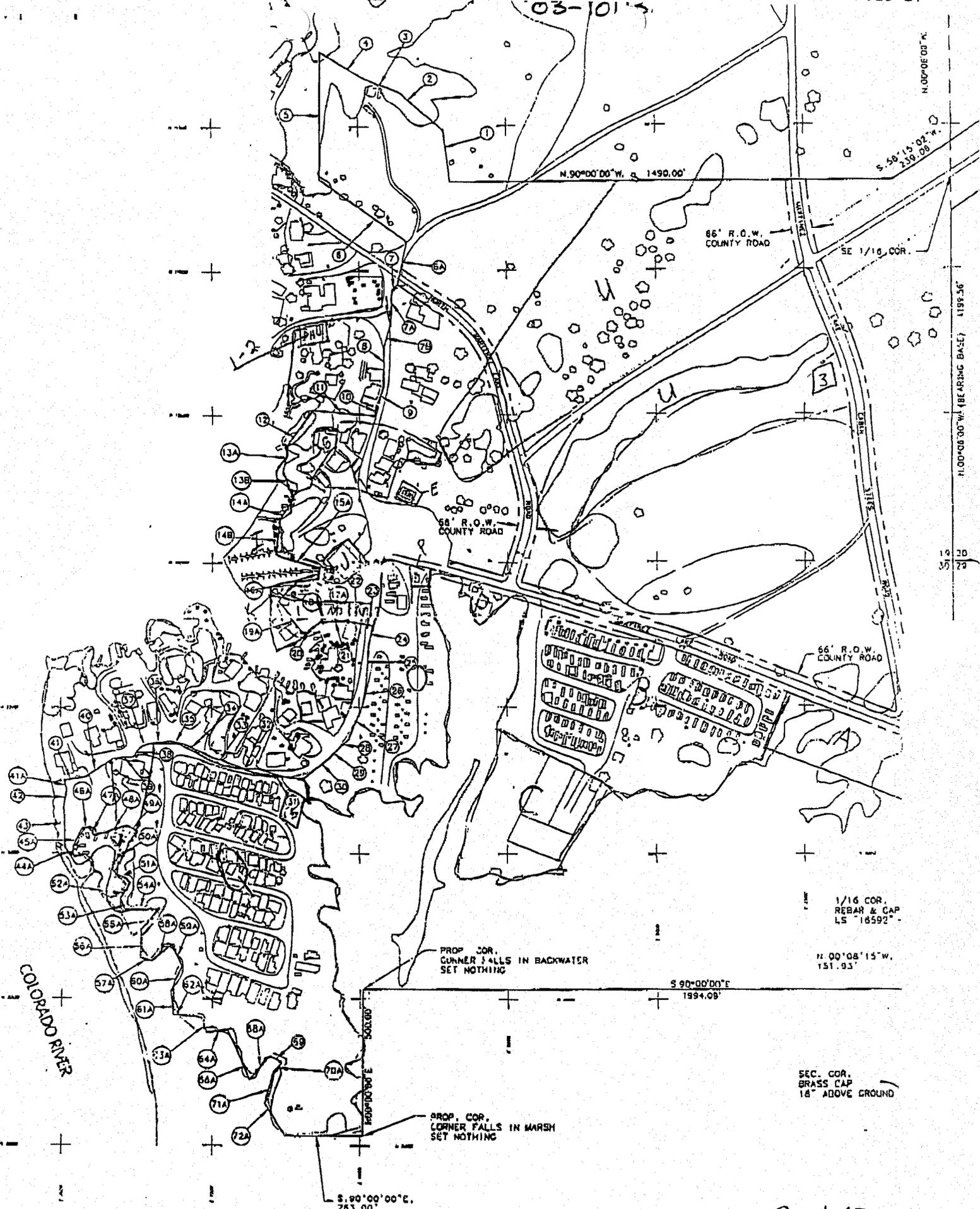
21.17 Arbitration. In the event of a dispute between the parties to this Lease, it is agreed to use arbitration to resolve the dispute but only to the extent required by A.R.S. § 12-1518; and in no event shall arbitration be employed to resolve a dispute which is otherwise subject to administrative review by the Department.

21.18 Water. The Lessor is pursuing a Colorado River Contract for Municipal and Industrial (M&I) water in the name of the State. Once the Lessor has a Colorado River Contract that assures M&I water for the leased land, this Lease shall be modified to conform with the terms of the Colorado River Contract. The modified Lease will include provisions for use of the State's M&I water for the leased land.

21.19 Water Contract. Lessor will cooperate to consummate a contract for Municipal and Industrial water for 45 acre feet to be used by the Lessee on the leased parcel.

**EXHIBIT "B"**

**IMPROVEMENTS**



03-101

N. 90°00'00"W. 1490.00'

S. 58°15'02"W. 239.08'

66' R.O.W. COUNTY ROAD

SE 1/16 COR.

66' R.O.W. COUNTY ROAD

66' R.O.W. COUNTY ROAD

1/16 COR. REBAR & CAP LS 18592'

N. 00°08'15"W. 151.93'

S 90°00'00"E 1994.08'

PROP. COR. GUNNER FALLS IN BACKWATER SET NOTHING

PROP. COR. CORNER FALLS IN MARSH SET NOTHING

SEC. COR. BRASS CAP 18" ABOVE GROUND

S. 90°00'00"E. 763.00'

EXHIBIT B Page 1 of 2

A	FRANZ AND ANN PARK
B	PRESENT R.V. PARK
C	STARTING AREA
D	LEFT STATION AND FLAG STATION
E	FUEL STORAGE
F	INDIVIDUAL MOBILE HOMES
G	EXPENS. RESIDENCE
H	WATER SYSTEM SITE
I	BOAT DOCK AREA
J	STATE BAR CAFE SITE
K	GAS AND TACKLE HOUSE
L	LAUNCH RAMP
M	BOAT SHOP AND POST OFFICE
N	PAVILLION
O	REST ROOMS AND CAMP GROUNDS
P	R.V. DUMP STATION
Q	MOBILE HOME PARK
R	FERRISAN RESIDENCE
S	WATER PUMP BOOSTER
T	AIR STRIP
U	PRIMITIVE CAMPING
V	MOBILE HOME BOAT DOCKS
W	
X	
Y	
Z	
1	Well
2	Well
3	Well
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	

1	N107°00'00"E	178.50'
2	N48°00'00"W	200.00'
3	N68°00'00"W	128.40'
4	N58°09'03"W	177.14'
5	S00°26'05"W	443.07'
6	S53°58'20"E	367.21'
6A	S12°24'05"W	154.93'
7	S45°09'22"W	26.29'
7A	S01°13'06"W	107.48'
7B	S16°28'31"W	91.62'
8	S00°06'22"W	131.85'
9	S18°56'40"W	78.95'
10	S10°19'09"W	32.51'
11	N84°19'39"W	210.16'
12	S36°37'10"W	141.32'
13A	S10°18'19"W	95.68'
13B	S19°03'00"E	101.00'
14A	S33°34'00"W	80.00'
14B	S06°42'07"W	123.31'
15A	S72°34'00"E	155.00'
16A	S07°46'23"W	36.97'
17A	S82°50'00"W	74.00'
18A	S41°51'25"W	92.12'
19A	S38°02'19"E	144.00'
20	N52°32'34"E	73.05'
21	N88°30'25"E	92.66'
22	S76°13'36"E	47.75'
23	S78°23'01"E	40.00'
24	S11°36'59"W	70.56'
25	S03°36'34"W	122.26'
26	S10°11'16"W	86.98'
27	S22°50'25"W	123.89'
28	S53°28'46"W	28.91'
29	S42°57'33"W	18.85'
30	S50°14'17"W	156.78'
31	N82°53'06"W	164.47'
32	N68°50'44"W	85.08'
33	N68°23'49"W	92.24'
34	N63°49'18"W	78.81'
35	N79°11'18"W	45.64'
36	S82°28'07"W	71.23'
37	S69°57'02"W	32.32'
38	S34°58'05"W	41.80'
39	S86°20'28"W	63.00'
40	S56°40'06"W	114.54'
41	S80°33'27"W	71.80'
41A	S11°50'44"E	31.40'
42	S10°53'36"W	59.32'
43	S04°50'00"E	148.00'
44A	S26°15'00"E	32.00'
45A	N20°20'15"E	105.57'
46A	N80°46'00"E	27.00'
47A	S30°56'00"E	33.00'
48A	N71°30'00"E	110.00'
49A	S60°03'00"E	40.00'
50A	S28°22'00"W	164.00'
51A	S57°10'00"E	65.00'
52A	S31°07'00"W	65.00'
53A	S24°43'00"E	38.00'
54A	N89°00'00"E	117.00'
55A	S39°16'00"W	95.00'
56A	S02°26'00"W	95.00'
57A	S72°28'00"E	40.00'
58A	N50°45'00"E	90.00'
59A	S25°17'00"E	80.00'
60A	S24°18'00"W	96.00'
61A	S06°16'00"E	83.00'
62A	N84°13'00"E	94.00'
63A	S17°08'00"E	55.00'
64A	N79°15'00"E	70.00'
68A	S23°55'00"E	185.00'
68A	N40°54'00"E	107.00'
69	S60°00'00"E	46.00'
70A	S42°58'41"W	43.10'
71A	S14°35'00"W	110.00'
72A	S31°40'00"E	130.00'

**BASIS OF BEARINGS:**

THE EAST SECTION LINE OF SECTION 19, T5S, R21W, AS SHOWN ON BLM DEPENDENT SURVEY DATED AUGUST 1, 1962 IS N.00°06'00"W.

## **EXHIBIT "C"**

### **SUBLEASES**

**Sublease with Donald S. Olsen dated October 29, 1979, as amended November 21, 1979, amended February 24, 1981 and expiring June 1, 2000, as attached hereto.**

# EXHIBIT "A"

**IN WITNESS HEREOF**, the parties hereto have signed this Lease effective the day and year set forth below.

**STATE OF ARIZONA, LESSOR**  
**Arizona State Land Commissioner**

By: *Joe M. Kouyck* 6-9-97  
Date

(Seal)

✓ *Don Fisher* 5/27/97  
Lessee Pres. Date

*Al Ferguson* 5-27-97  
Lessee Date

*Leo Pres* 5/27/97  
Lessee Date

✓ *Robert J. Fisher*  
Sec. Star Rt. 4 Box 45

Address

✓ Yuma AZ. 85365  
City State Zip

STATE OF ARIZONA LAND DEPARTMENT  
 1616 W. ADAMS  
 PHOENIX, AZ 85007

RUN DATE 18-MAY-2006  
 RUN TIME: 09:46:29  
 APPENDIX A  
 PAGE: 001

KE-LEASE#: 003-101133-00-003 APPTYPE: AMENDMENT  
 AMENDMENT#: 0

LAND#	LEGAL DESCRIPTION	AUS	ACREAGE
05.0-S-21.0-W-19-14-031-1095	M&B IN SE	0.00	63.340
05.0-S-21.0-W-20-14-031-1005	PORTION OF S2SESW NESW NWSW NWSWSW LYING 100FT ON EITHER SIDE OF AIRSTRIP EXTENDING 1/2 MILE NE FROM S 1/16 CORNER COMMON TO SEC 19 AND 20	0.00	12.120
05.0-S-21.0-W-30-14-031-1026	M&B IN LOT 1 AND NE	0.00	87.480
TOTALS:		0.00	162.940

STATE OF ARIZONA LAND DEPARTMENT

RUN DATE: 12-may-1997

616 W. ADAMS

RUN TIME: 10:27:04

PHOENIX, AZ 85007

LEASE NUMBER: 003-101133-00-000

Page 1

AMENDMENT NUMBER: 0

LAND#	LEGAL DESCRIPTION	C.C.	ACREAGE
15.0-S-21.0-W-19-14-031-1068	M&B IN SE	0.0	63.260 34
15.0-S-21.0-W-20-14-031-1005	PORTION OF S2SE1/4 NESW NWSW NWSWSW LYING 100FT ON EITHER SIDE OF AIRSTRIIP EXTENDING 1/2 MILE NE FROM S 1/16 CORNER COMMON TO SEC 19 AND 20	0.0	12.120
15.0-S-21.0-W-30-14-031-1026	M&B IN LOT 1 AND NE	0.0	87.480
TOTALS:		0.0	162.860 .94

Add a water well site — see Appendix A dated 5-18-2006

Janet Napolitano  
Governor

Mark Wickhaman  
State Land  
Commissioner

Arizona  
State Land Department



616 West Adams Street, Phoenix, AZ 85007 www.arizona.gov

April 14, 2003

Kenneth Allen, Esq.  
P.O. Box 466  
Sonoita, AZ 85637

Re: Fisher's Landing, Inc.  
Commercial Lease Application No. 03-105513

Dear Mr. Allen:

I am writing to outline the terms and conditions on which the State Land Department ("Department") is prepared to continue processing the above-referenced application for a long term commercial lease. The ultimate decision to proceed to auction of a long term lease will depend upon approval of the appraisal(s) and terms described herein by both the State Land Commissioner and the Board of Land Appeals.

1. The Department is prepared to continue processing the application by Fisher's Landing, Inc. ("Fisher") for a long term commercial lease, to incorporate all standard terms and conditions as stated on the enclosed form of lease, and the following additional terms and conditions specific to this lease:

A. Because the Department considers mobile home parks to be a transitional use, the lease will be for a term of thirty (30) years, with potential for extensions for one or more pre-fixed intervals if certain preestablished criteria, to be specified in the lease, are met. These criteria would include, but not be limited to, the construction of improvements of a character, type, use and value that are approved by the Department.

B. Annual rent must be established. The Department will propose that rents be fixed at between eight and twelve percent of gross revenues. Please note that the Commissioner and the Board of Land Appeals will look to the appraised value of the underlying land, among other things, to determine whether the proposed long term lease will probably generate more revenue for the Trust than would other possible uses of the property. Such an inquiry is particularly likely in this instance because rents are typically established at the level needed to achieve an internal rate of return of between nine and ten percent of appraised land value.

C. Pursuant to A.R.S. § 37-281.02 the lease will provide for scheduled increases in rent over the lease term.

D. The following leasehold improvements will be appraised based upon their condition, current value and suitability for uses authorized by the existing lease, and the extent to which they enhance the land value, and the Department will require that Fisher be reimbursed for such improvements as provided by law: the Fisher Residences and employee housing units, the 56-space RV park, the 121 space mobile home park, the Boat Shop, Post Office and "Pavilion," the Ferguson Residence, the Pruitt City RV Park, the

Kenneth Allen, Esq.  
April 14, 2003  
Page 2

primitive camp sites, storage yards and launching area, the Restaurant/Bar/ Store, the Boat Docks, and the Pruitt City Park Models.

E. Existing improvements and any new improvements that may be approved by the Department will be fully amortized over the term of the new lease, the lessee will not be entitled to be reimbursed for any leasehold improvements upon expiration or termination of the new lease.

F. The lease will authorize the lessee to use *on the leased premises* up to 45 acre-feet per year of Colorado River water, which is the amount of water allocated to the property when it was owned by the United States and managed by the Bureau of Land Management. The use of this water on the leased premises must be in compliance with all applicable law, which includes the requirement that the use be authorized by a Bureau of Reclamation contract. If Fisher's Landing Water & Sewer Works, L.L.C. ("Fisher's Utility") enters into a contract with the U.S. Bureau of Reclamation authorizing Fisher's utility to use Colorado River water, and commits to serve the leased premises then the Department would agree to allow Fisher's Utility to pump and deliver to the leased premises the quantity of water that is *actually used on the leased premises*, not to exceed 45 acre-feet per year, and will account for that quantity of water under the Department's contract with the Bureau of Reclamation. This arrangement would be detailed and established in a written contract in form and substance to be approved by the Bureau of Reclamation, which would automatically terminate if at any time Fisher's Utility ceases to provide water service to the leased premises for more than twenty-four hours, for any reason other than impossibility of performance due to circumstances outside the control of Fisher's Utility.

G. The lease will not include the right to use any other Colorado River water or water pumped from any well on state trust land except with the separate, express written permission of the Department. The Department may, but shall not be obligated to, allocate to the leased premises some portion of its general allotment of Colorado River water other than and in addition to the 45-acre-foot per year allocation. In such event the additional allocation will be memorialized in writing and the Bureau of Reclamation contracts shall be amended to reflect the change in allocation.

2. With respect to Lot 212, section 19, T 5 S, R 21 W, on which a 400' deep well is located ("Lot 212"), but which is not currently included in the Existing Lease:

A. The Department will amend Fisher's existing lease to include Lot 212, and will recognize the well and any equipment attached thereto as reimbursable improvements at the depreciated cost value to be established by appraisal, not to exceed the cost or value attributed to such assets in connection with Fisher's Utility's application for a Certificate of Convenience and Necessity.

B. Upon proper application by Fisher's Utility, and prior to any auction of a new commercial lease for the leased premises, the Department will approve a partial assignment of the lease from Fisher to Fisher's Utility as to Lot 212, the well and any associated improvements, upon the condition that Fisher's Utility commit to provide water and sewer service to the leased premises, and that Fisher's Utility reimburse Fisher for the appraised value of the improvements as described in 12(A). After the assignment, upon application by Fisher's Utility, the Department would agree to amend the lease for Lot #212 to extend the term for up to five years beyond the expiration date of Fisher's existing lease (*i.e.*, until 2012).

Kenneth Allen, Esq.  
April 14, 2003  
Page 3

C. Upon the Commissioner's initiative the Department will offer Lot 212 and the attached improvements for sale at an auction to be scheduled immediately following the auction of the long term commercial lease.

3. If Fisher wishes to use the auction process as an opportunity to package the proposed long term lease with assets owned or controlled by Fisher that are not reimbursable leasehold improvements but which contribute to the value of the business as a going concern ("Fisher's Other Assets"), the Department is prepared to accommodate Fisher in one of the following ways. For purposes of this provision, Fisher's Other Assets include Fisher's stock in Fisher's Utility, or the tangible assets of Fisher's Utility, the 20 acre tract of land on which the sewer ponds are located or Fisher's interest in the lease of said 20 acre tract, furniture, removable fixtures, inventory, equipment, accounts receivable, contract rights, and any other tangible or intangible property identified by Fisher that is used in the business of Fisher's Landing or Fisher's Utility, and is not a reimbursable leasehold improvement.

A. The Department will include in the notice of auction a statement that Fisher will offer the successful bidder for the new long term lease an option to purchase any or all of Fisher's Other Assets on terms and conditions to be specified in the notice of auction. Those terms would be as prescribed by Fisher in Fisher's sole discretion. The Department would not require the successful bidder to exercise that option, and would require that Fisher shall pay all costs associated with the option and the purchase of Fisher's Other Assets

B. If, based upon an appraisal that is approved by the Department and the Board of Land Appeals, the Department determines that the Trust will receive a greater financial return from the leased property if the auction includes a conveyance of Fisher's Other Assets, the Department will condition the issuance of the new long term lease upon the successful bidder's agreement to purchase any or all Fisher's Other Assets for a price equal to their appraised value, on terms and conditions to be stated in the auction notice which shall be acceptable to both the Department and Fisher. Because Fisher cannot transfer or encumber the assets or stock of Fisher's Utility without Corporation Commission approval, and A.R.S. § 37-281.02 provides for the successful bidder to make payment and take possession of the property immediately after the auction, the Department is willing to make it a condition of the lease that the successful bidder promptly apply for Corporation Commission approval of the transfer of such assets, but will not cancel the lease if the Corporation Commission does not approve the transfer. The Department will only impose these conditions on the successful bidder if Fisher's Utility agrees to continue providing water and sewer service to all properties within its Service Area, including the Leased Premises, as provided in its Certificate of Convenience and Necessity and according to its approved tariffs, for a period of not more than two years from the date of the auction. Title to Fisher's Utility or the stock in Fisher's Utility would not be transferred pending Corporation Commission action approving the sale to the successful bidder's application. If the Corporation Commission does not approve the sale to the successful bidder, then the assets or stock of Fisher's Utility would continue to be owned by Fisher, and the lease and other assets would continue to be owned by the successful bidder, and the requirement to buy the assets or stock of Fisher's Utility would be extinguished if the successful bidder used its best efforts to obtain such approval.

C. Under either of the foregoing scenarios, the Department would require that Fisher accommodate the reasonable needs of prospective bidders to conduct due diligence, including if necessary a longer than average period between announcement of the proposed auction and the auction, and also would require that Fisher bear any extraordinary expenses incurred as a result of the arrangement, whether or not there is a

Kenneth Allen, Esq.  
April 14, 2003  
Page 4

successful bidder at auction, and whether or not the costs and expenses are reimbursable by a successor lessee.

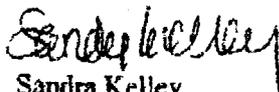
D. Under either of the foregoing scenarios, the Department would require that each of the interests to be conveyed to the successful bidder be appraised. The improvements would be appraised to determine their market value and the extent to which they contribute value to the real property, taking into account depreciation and other factors required by law. The going concern or business enterprise value would be appraised and allocated, by appraisal, as between and among the land, the improvements, and Fisher's other assets.

E. Because the Department is not specifically authorized to auction or lease a lessee's business assets other than the leased premises and reimbursable, non-removable improvements thereon, there is a greater than average chance that the necessary appraisal(s) would not be approved by the Board of Land Appeals, or that the proposed auction would trigger a protest. Accordingly the Department will not condition the auction upon the successful bidder purchasing Fisher's Other Assets, unless Fisher agrees to waive and relinquish any right it might otherwise have to seek an award of costs and attorney's fees from the Department in the event of litigation arising from or connected with the transaction.

4. In consideration of Fisher's agreement to terminate the existing short term lease upon successful auction of a new long term lease, the Department will agree that the successful bidder compensate Fisher for the value of its remaining leasehold interest, which value shall be determined by appraisal.

Please let me know whether Fisher is interested in pursuing a long term lease on the terms described above, and we can obtain bid amounts for the necessary appraisals.

Very truly yours,



Sandra Kelley  
Manager, Sales and Commercial Leasing Section  
Arizona State Land Department

**From:** Sandy Kelley  
**To:** Northwest Development  
**Cc:** Raymond Moore  
**Date:** 1/29/2008 2:06:41 PM  
**Subject:** Re: fishers 1 year ext

---

Greg, there has been no extension granted. You are on the land per the holdover provisions of the lease, and our Rules, as a timely application to renew was filed.

Sandra B. Kelley  
Manager, Sales and Commercial Leasing Section  
Arizona State Land Department  
1616 West Adams  
Phoenix, AZ 85007  
Phone: (602) 542-2625  
Fax: (602) 542-4668

>>> Northwest Development <northwestdev@sbcglobal.net> 1/29/2008 2:09 PM >>>

Hi Sandy,  
I was going through files on Fisher's and I noticed that I do not have a copy of our year extension. Can you send me a copy or let me know how I can get a copy for my file. If you can email it great, if not you can mail to

Greg Brown  
10765 Woodside Ave, Suite A  
Santee, CA 92071  
619-448-7878  
Thanks  
Missie

Mrs. Missie

Charlie's CopySTATE OF ARIZONA

## AQUIFER PROTECTION PERMIT

## PART I. AUTHORIZATION TO DISCHARGE POLLUTANTS IN A MANNER SUCH THAT CURRENT AND REASONABLY FORESEEABLE FUTURE USES OF THE AQUIFER ARE PROTECTED

In compliance with the provisions of Arizona Revised Statutes (A.R.S.) Title 49, Articles 1, 2, and 3; Arizona Administrative Code (A.A.C.) Title 18, Chapter 9, Article 1; Arizona Administrative Code (A.A.C.) Title 18, Chapter 11, Article 4; and conditions set forth in this permit:

Facility Name: Fisher's Landing Inc.

## Owner:

Don Fisher  
Fisher's Landing Inc.  
Star Route 4  
Box 45  
Yuma, AZ 85365

## Operator:

Don Fisher  
Star Route 4  
Box 45  
Yuma, AZ 85365

## Landowner:

State Land Department  
1616 W. Adams  
Phoenix, AZ 85007

is authorized to operate the Fisher's Landing Resort, Waste Disposal System facility located at Martinez Lake, Arizona in Yuma County, over groundwater of the Lower Gila Basin in Township 5 South, Range 21 West, Section 20, NE 1/4, SW 1/4; SE 1/4, NW 1/4; SW 1/4, NE 1/4; NW 1/4, SE 1/4 - Gila and Salt River Base Line and Meridian:

Latitude 32° 58' 38" North

Longitude 114° 26' 50" West.

This permit shall become effective on the date of the Assistant Director's signature and shall be valid for the operational life of the facility provided that the facility is constructed, operated and maintained pursuant to all the conditions of this permit according to the design and operational information documented or referenced in PARTS I, II, III, IV, V, and VI of this Permit, and such that Aquifer Water Quality Standards are not violated.



Ronald L. Miller, Ph.D.  
Assistant Director  
Office of Water Quality  
Arizona Department of Environmental

Signed this 6<sup>th</sup> day of  
December 19 90

*Monitoring Well*

TABLE I  
WELL INFORMATION

<u>Sampling Point Number</u>	<u>Well Identification</u>	<u>Well Type</u>	<u>Latitude/Longitude</u>	<u>Monitoring Program</u>
A00552		Upgradient	32° 58' 11" North 114° 27' 27" West	Quarterly/Year 1 only
A00553		Downgradient	32° 58' 34" North 114° 26' 47" West	Quarterly

TABLE II  
GROUNDWATER MONITORING

<u>Parameter</u>	<u>Aquifer Quality<sup>1</sup> Limit</u>	<u>Alert<sup>2</sup> Level</u>	<u>Analytical Method</u>	<u>Sampling Frequency</u>	<u>Reporting<sup>3</sup> Frequency</u>
Total Nitrogen* (as N)	10 mg/l	3.0/Reserved	EPA 352.1	Quarterly	Quarterly
Nitrate (as N)			EPA 351.3		
Total Kjeldahl Nitrogen					

\* The nitrate-nitrite plus Total Kjeldahl Nitrogen (TKN) is the Total Nitrogen.

1 Aquifer Quality Limits (AQLs) are set equal to the Arizona Aquifer Water Quality standards, except that in the event that any ambient data collected during the first year of operation exceeds the Aquifer Water Quality Standard for any given parameter. In such a case, the AQL will be established calculated as two standard deviations above the baseline mean concentration established for that parameter. AQL violations initiate PART II.C.3.b.

2 "Reserved" indicates Alert Levels will be established after the one-year sampling program stipulated in the Compliance Schedule, PART II.G.2. If ambient concentrations are greater than 3.0 mg/l, Alert Level concentrations will be calculated as two standard deviations above the baseline mean concentration established for each parameter. In the event that ambient sampling indicates that a parameter is present above its Aquifer Water Quality Standard (AWQS), then the Alert Level shall be set as equivalent to the AQL established. Alert Level exceedances shall initiate PART II.C.3.a.

3 Monitoring reports shall be submitted in accordance with PART II.H.3.