

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

THE ALASKA RAILROAD
Pouch 7-2111
Anchorage, Alaska 99510

Contract No. 69-25-0003-4779

LEASE

NO. 23 PAGE 153
Mining District

THIS INDENTURE, made this 7, day of September, 1977
by and between THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL
RAILROAD ADMINISTRATION, acting through THE ALASKA RAILROAD, Pouch 7-
2111, Anchorage, Alaska 99510, hereinafter referred to as "Railroad",
and USIBELLI COAL MINE, INC. of 270 Illinois Street, Fairbanks, Alaska
99701, hereinafter referred to as "Lessee",

WITNESSETH:

WHEREAS, the Lessee has stated it has been advised by duly
constituted authority (Mining Enforcement and Safety Administration)
that families of its miners need to be moved from present residential
areas which are subject to safety hazards of large mine trucks using the
same roads, and where children of the miners can easily wander into
blasting areas; and

WHEREAS, Lessee, if unable to relocate the families of its
workers from the present housing area to a new area clear of industrial
hazard, may be forced to suspend mining operations; and

WHEREAS, the Lessee desires its miners to live in a central
location near the mine so as to permit a mass transit system; and

WHEREAS, the Lessee finds it necessary to create a mining town
to house and accommodate the personnel to operate said mine; and

WHEREAS, the Railroad now has employees living in Healy who
desire to own their own homes, but who find building lots difficult to
locate; and

WHEREAS, the Railroad and Lessee have identified a parcel of
land, Section 18, T 12 S, R 7 W, F.M. Alaska, within the Railroad Re-
serve at Healy, Alaska, which would be suitable for a residential
development; and

WHEREAS, lands withdrawn for The Alaska Railroad under its
Act, were originally intended to be used in part for residential pur-
poses; and

WHEREAS, The Alaska Railroad Act originally expressed such intent by its specific authorization of residential development. 43 USC 975 (b); and

WHEREAS, the Lessee has suggested that they be allowed to lease a portion of the area with option(s) to lease remaining portions in order to insure that a planned orderly residential community is developed, in stages as housing is required; and

WHEREAS, it is desirable to lease said land to Lessee for prompt development for housing for its own employees as well as employees of the Railroad; and

WHEREAS, the Lessee has contracted for and received a planning survey by Renshaw Engineering of 519 West Eighth Avenue #209, Anchorage, Alaska 99501, dated July 26, 1976, which is a plat of Section 18, T 12 S, R 7 W, F.M. Alaska, consisting of 630 acres more or less, hereinafter referred to as the "Renshaw Survey"; and

WHEREAS, shipment of coal from the Lessee's mine is a large revenue producer for The Alaska Railroad, roughly Four and One-half Million Dollars (\$4,500,000.00) per year; and

WHEREAS, the Lessee proposes a substantial mining development in order to assist in meeting the United States fuel crisis; and

WHEREAS, the Railroad fully expects the revenue received from the Lessee's mine to greatly accelerate in the future; and

WHEREAS, if the further development of the Healy-Suntrans mining area becomes a reality, the housing problem at HEALY, which is considered by both the Railroad and the Lessee as acute now, will then deteriorate further; and

WHEREAS, the Railroad does not have, at this time, the funds to develop a housing area, nor does it foresee any way to provide such funds in the foreseeable future, the Railroad has elected to allow the Lessee to develop a residential area as the Lessee is willing to develop the land into residential building lots, providing roads and utilities, and as compensation for their efforts, receive back only their investments.

NOW, THEREFORE, in consideration of the rental to be paid the Railroad by the Lessee as hereinafter set forth, and other good and valuable considerations, the Railroad hereby leases to the Lessee the following described lands to be designated as TRACTS (A) & (B):

TRACT "A"

That portion of Section 18, T 12 S, R 7 W, F.M. Alaska, laying West of the 120' Electrical Transmission Easement and North of the Usibelli Spur Road, excluding the areas identified as Tracts "C" and "E"; consisting of 158 acres, more or less.

TRACT "B"

That area of Section 18, T 12 S, R 7 W, F.M. Alaska, laying South of the Usibelli Spur Road and West of the 120' Electrical Transmission Easement; consisting of 197 acres, more or less.

1. TERM

The term of this Lease shall be for a period of fifty-five (55) years commencing November 1, 1977.

2. USE AND DEVELOPMENT

A. The property herein leased shall be for residential and appropriate neighborhood commercial uses only. Other uses may be permitted with the written approval of the Railroad. Properties which are shown on the Renshaw Engineering Plat, attached, as roads, parks, or other public designated uses shall not be used for any other purpose without the written approval of the Railroad being first obtained.

B. Prior to subleasing any of the property herein leased, the Lessee shall by registered survey and recorded plat have, (1) subdivided or re-subdivided the leased premises into lots; (2) recorded plat of said subdivisions or re-subdivisions with the appropriate recording office having jurisdiction; (3) furnished the Railroad with a reproduceable copy of each recorded plat.

3. DEVELOPMENT PLAN

Within six (6) weeks after execution of this Lease, the Lessee shall submit to the Real Estate Officer of the Railroad for approval, a proposed Development Plan for Tracts (A) & (B). Lessee shall receive written approval of said plan prior to commencement of any work. Lessee's Development Plan shall as a minimum cover the following items:

A. Disposal of over-burden from clearing operations, identifying dump site, etc.

B. Street construction designs, type of material to be used, and locations of materials source.

C. Location and type of construction of utilities, electric

lines, water lines, telephone lines, sewer lines and storm drains.

D. How the surface drainage is to be controlled.

E. Process for handling of applications to sublease Lessee lands insuring that all persons wishing to do so may acquire a sublease.

F. Tentative time frames for lot development and the basis that will govern the development of new lots.

G. Provide legal description of lease and options Tracts (A, B, F, & G).

H. Once the Lessee development plan has been accepted and approved in writing by the Railroad, Lessee shall not deviate or change from said plan without: (1) requesting in writing the railroad's permission to do so; and (2) is in receipt of the railroad's written permission authorizing the proposed deviation or change.

4. ENVIRONMENTAL CONSIDERATIONS

The Lessee shall not commence any construction on the premises herein leased until such time as the Railroad has approved the Development Plan. Before The Alaska Railroad will approve the Development Plan, it must determine the plan complies with the statutory requirements and obligations of the National Environmental Policy Act (NEPA). Upon receipt of written notice by the Lessee that the proposed project meets the requirements of NEPA, the Lessee may commence construction.

5. RENT

The Lessee agrees to pay as rental for the premises herein leased (Tract "A", 158 Acres, more or less, and Tract "B", 197 Acres, more or less), the sum of Eight Thousand Nine Hundred Three and 40/100 Dollars (\$8,903.40), per annum, payable in advance on November 1, of each year; and also agrees to pay, before the same shall become delinquent, all taxes and assessments levied and assessed during the term of this lease upon any buildings or improvements placed upon the property herein leased. Provided that on or about November 1, 2002, and on or about the first day of November of each five-year period thereafter, during the term of this lease or any extension thereof, the rental rate will be adjusted to the fair market rental value of said tract as improved as of the date of execution of this lease. It is understood and agreed that the above rental is the sole charge to be made for the rights, interests, and privileges granted and extended to the Lessee herein; PROVIDED, however, that in the event the above-described premises are located within a public improvement district established by a duly constituted authority, the Lessee shall pay to the duly constituted

authority the appropriate assessment levied; PROVIDED further, that if the Lessee fails to pay such assessment, the then current rental rate or any adjustments thereto, as outlined above, shall be increased by a sum of twelve percent (12%) per annum of the amount of such assessment attributable to said leased premises during the life of the lease or any extensions thereto.

6. OPTION TO LEASE ADDITIONAL LAND

A. The Railroad, in consideration of Three Thousand Dollars (\$3,000.00) to be paid the Railroad by the Lessee upon execution of this Lease, hereby grants to the Lessee an option to lease the additional Tract(s) of land designated as Tracts "F" & "G", which are described below, under the same general terms and conditions of the Lease. Lessee's option on Tracts "F" and "G" shall expire on November 1, 1997.

TRACT "F"

That area of Section 18, T 12 S, R 7 W, F.M. Alaska, laying North of the Usibelli Spur Road and East of the 120' Electrical Transmission Easement; consisting of 112 acres, more or less.

TRACT "G"

That area of Section 18, T 12 S, R 7 W, F.M. Alaska, laying South of the Usibelli Spur Road and East of the 120' Electrical Transmission Easement; consisting of 43 acres, more or less.

B. The Railroad reserves the right to use the option Tracts "F", and "G" for Railroad purposes, pending Lessee exercising its option to lease.

C. The Lessee shall give the Railroad a minimum of 180 days notice of its intent to lease each of the option parcels, which notice shall be accompanied by a proposed Development Plan for said parcels. The Railroad shall have a minimum of 150 days, but not more than 210 days, from the receipt of said notice to furnish the Lessee a lease for execution covering the requested option tract.

7. SUBLEASING

A. The Lessee may sublease any or all of the leased lands to private individual(s) without specific Railroad approval. HOWEVER, the Lessee shall submit its standard sublease agreements for approval by the

Railroad, and once approved, need not obtain further approval unless said agreement is altered.

B. The Lessee shall, as a provision of its sublease agreement, require all its sublessees to construct on the premises leased a residence within two (2) years from date of execution of sublease. Failure of sublessee to meet said building requirement shall cause Lessee to terminate agreement. Provided, however, that Lessee may, because of unusual circumstances, grant sublessee extensions of the building deadline time.

C. No sublease agreement between Lessee and any of its sublessees shall provide for rent greater than an amount equal to Lessee's cost of development, as defined below, plus rent due lessor under this lease properly apportioned to each sublessee on the basis of square footage leased to such sublessee.

D. "Cost of Development" is the cost of the entire development project to Lessee including, but not limited to, costs of preparation of this lease, surveying, architectural and engineering costs, costs of improvements made to the lease property pursuant to this lease and any amendments hereto, administrative costs, costs of preparation of all subleases and related agreements.

E. The Lessee agrees to make lots, as developed, equally available to all persons, whether they be employees of the Lessee, the Railroad, or not.

F. The Lessee shall provide in each sublease agreement that it enters into, a provision making said sublease agreement subject to the terms and conditions of this Lease, including any further amendments or revisions hereto.

8. COMPLIANCE WITH LAW

A. The Lessee agrees, at the Lessee's own cost and expense, to observe and comply with all the laws, rules, regulations and orders of any duly constituted authority.

B. Lessee agrees to require all sublessees to comply with all laws, rules, regulations, and orders of any duly constituted authority.

9. HOUSEKEEPING

The Lessee agrees to keep the premises above-described in a neat, clean and sanitary condition, free of all rubbish and waste material.

10. DUMPING OF WASTE

The Lessee shall not dump gasoline, oil or any waste material

on the leased premises that would tend to contaminate any creek or source of water supply used by the Railroad or people of the surrounding area, or as a salmon propagation stream.

11. SANITARY SEWER SYSTEMS

The Lessee shall ensure that it and its sublessees sewer systems are constructed in compliance with the laws of the State of Alaska.

12. LIABILITY

It is further agreed, as one of the material considerations of this Lease, that the Railroad shall not be held liable to the Lessee for any loss or damage arising from the construction or operation of its railroad or otherwise; and the Lessee shall at all times indemnify and save harmless the Railroad from any and all claims for injury or destruction on the said premises during the Lessee's occupancy thereof, whether such injury or damage shall arise from any cause hereinbefore stated or any other cause whatever. This provision shall not be interpreted to mean that the Lessee shall assume liability for the negligence of Railroad employees while acting within the scope of their employment.

13. ASSIGNMENT

It is further agreed that the Lessee shall have no power to assign this lease for the purpose of transferring the total interest and the Lessee's obligations set forth herein to another without the prior written consent of the Railroad, which consent shall not be unreasonably withheld.

14. SIGNS

The Lessee agrees not to permit any signs or advertisements of any description to be posted about the Lease premises, other than those of the business of the Lessee, its sublessees, or otherwise as approved by the Railroad.

15. SHARING IN LEASE

No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this lease or to any benefit to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company if the Lease be for the general benefit of such corporation or company.

16. SOLICITATION OF LEASE

The Lessee warrants that no person or agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or leasing agencies maintained by the Lessee for the purpose of securing leases. For breach or violation of this warranty, the Government shall have the right to annul this lease without liability or in its discretion to require the Lessee to pay, in addition to the rental or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

17. NOTICE OF DEFAULT

A. In the event that Lessee defaults on any provision of this lease, the Lessee will be given written notice by the Railroad as to the nature of the default and will be allowed 90 days in which to cure said default. All notices so given will be addressed to the Lessee at the address shown on page one (1) of this lease, or at any subsequent address of which the Lessee notifies the Lessor in writing.

B. In event of Lessee default, the Railroad will recognize the rights of Mortgage Holders and Sublessees as provided in condition 19 below.

18. OWNERSHIP OF IMPROVEMENTS

A. All ground level and underground improvements such as clearing, fill material, roads, pavement, side walks, water lines, sewer lines, etc. installed by the Lessee or its Sublessee, once installed shall be considered fixed to real estate and may not be removed, and shall become the property of the Railroad at the expiration or upon termination of this lease.

B. All above ground improvements such as buildings, street lights, telephone lines, power lines, remaining on the lease premises at the expiration of this lease, or termination thereof, shall become the property of the Railroad; provided, however, that in the event of termination, ownership of said above ground improvements shall not transfer to the Railroad unless the holder of the first mortgage or the Lessee's sublessees (do)(does) not exercise (his)(their) rights to acquire a lease as provided for in Condition 19 of this lease.

19. TERMINATION

The Lessee further expressly agrees that if the premises under

this Lease, or any part thereof, shall be used for any unlawful purpose at any time during the term of this Lease, or if the Lessee shall fail to keep and perform each and every stipulation and condition of this Lease during the term hereof, or if, at any time during the said period, the Lessee shall fail to comply with any regulation or requirement which the Railroad in its discretion shall make or authorize to be made for the promotion of sanitation and fire protection, then the rights and estate of the Lessee therein shall absolutely cease and terminate, and a forfeiture thereof giving the Railroad the right to re-enter and take immediate possession of said premises, may be declared by the Railroad, whose ruling or finding of fact shall be final; provided, however, that in the event of such termination and forfeiture, the holder of the first mortgage on the premises herein leased to the Lessee, will have the option to acquire the Lease for the unexpired term thereof, subject to the same terms and conditions as in the original Lease. If the holder of the first mortgage elects to acquire the Lease for the unexpired term, it shall not further assign its acquired interest in the lease premises except the subleasing to others as provided for in this Lease, without first obtaining the written consent of the Railroad. The holder of the first mortgage, should it acquire the interest of the Lessee, shall be bound by the terms and conditions of this Lease, including subleasing of the lease premise to parties desiring to acquire a lease.

In the event that the holder of the first mortgage does not elect to assume the lease at the time of termination, or if no such first mortgage exists, the Lessee's sublessees shall be given an option to acquire from the Railroad a lease on the premises they were occupying by sublease at the time of termination with the term of any such lease being equal to the remaining term in their sublease.

If the holder of the first mortgage or the Lessee's sublessees do not exercise their rights to acquire a lease as provided above, when the lease has been terminated for default or upon expiration of the lease, the above ground improvements remaining on the lease premises shall thereupon, at the option of the Railroad, become and remain the sole property of the Railroad, or if the Railroad so elects, it may remove from said premises any or all of above ground improvements, including those of the sublessee, at the expense of the Lessee, which expense the Lessee agrees to pay the Railroad upon removal.

20. The following provisions governing performance of work under Government contracts as set out in Section 202 of Executive Order No. 11246, dated September 24, 1965, shall be applicable to this contract, and shall be included in all contracts executed by the Lessee for the performance of work contemplated by this contract, and for that purpose the term "contract" shall be deemed to refer to this instrument and to contracts awarded by the Lessee and the term "contractor" shall be deemed to refer to the Lessee and to contractors awarded contracts by the Lessee:

A. The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

B. The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

C. The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Lessee's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

E. The Lessee will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

F. In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and other such sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

23 163

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

21. ACCEPTANCE OF LEASE

The Lessee hereby accepts the foregoing Lease, and covenants and agrees faithfully to observe and perform all the terms, conditions, and requirements therein contained, and the Lessee further agrees to surrender the quiet and peaceful possessions of said demised premises at any termination of this lease.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

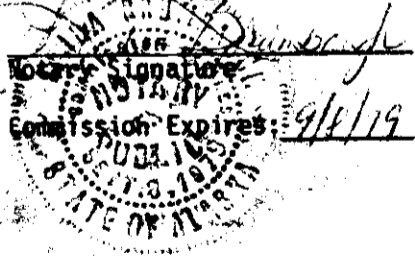
THE ALASKA RAILROAD

By *M. W. Jones*
Real Estate Officer

USIBELLI COAL MINE, INCORPORATED

By *William Waugaman*
Title *Director*

The signature of William Waugaman subscribed and sworn to before me this 7th day of September, 1977.



(If the Lessee is a corporation, the following certificate shall be executed by an officer other than the officer who signed the lease. This second officer shall sign this document certifying that the officer who did sign the lease actually was the officer as indicated on the last sheet of the lease.)

PAGE 23 PAGE 164
Notary District

I, JOSEPH E. USIBELLI, certify that I am the PRESIDENT of the corporation named as Lessee in the above lease, that WILLIAM I. WAUGAMAN who signed said lease on behalf of the Lessee was then the DIRECTOR of said corporation, that said lease was duly signed for and in behalf of said corporation by the authority of its governing body, and is within the scope of its corporate powers.

Joseph E. Usibelli (Corporate)
(Seal)



Merle W. Akers, known to me to be the Real Estate Officer for The Alaska Railroad, did swear that he executed the aforesaid lease on September 7, 1977, on behalf of The Alaska Railroad.

Patricia A. Krasne
Notary Signature

Commission Expires: 3-26-79



S U P P L E M E N T

23 165

Supplement No. 1 to
Contract No. 69-25-0003-4779

WHEREAS, by a lease dated October 7, 1977, THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL RAILROAD ADMINISTRATION, acting through THE ALASKA RAILROAD, Pouch 7-2111, Anchorage, Alaska 99510, herein called, "Railroad," did lease to USIBELLI COAL MINE, INC., Pouch 1, Usibelli, Alaska, 99787, therein called, "Lessee," two parcels of land within Section 18, T 12 S, R 7 W, F.M., Alaska, designated as Tracts "A" and "B" as described therein; and

WHEREAS, the Lessee by a letter dated July 18, 1978, gave notice of its intent to exercise its option to lease a portion of Tract "F" as provided in Condition 6 of said lease;

NOW, THEREFORE, it is hereby agreed between the parties hereto, that effective November 1, 1978, the lease between them dated October 7, 1977, and designated as Contract No. 69-25-0003-4779 is hereby amended as follows:

1. The description of the leased premises as contained on pages 2 and 3 of said lease, is hereby amended to add all of Tract F as described in Condition 6, page 5 of said lease, excepting 36.605 acres, which is shown on the plat of the Tri-valley Subdivision prepared by Renshaw Engineering and dated November 25, 1977, as Tract A. That portion of Tract F herein leased comprises 75.8 acres more or less.

2. Condition 5, page 4, of said lease is hereby deleted in its entirety, and the following inserted in place thereof: Commencing November 1, 1978, the lessee agrees to pay as rental for the premises herein leased (Tract A, 158 acres, more or less, Tract B, 197 acres, more or less, a portion of Tract F, 75.8 acres), the sum of Ten Thousand Eight Hundred Five and 22/100 (\$10,805.22) Dollars, per annum, payable in advance, on November 1, of each year; and also agrees to pay, before the same shall become delinquent, all taxes and assessments levied and assessed during the term of this lease upon any buildings or improvements placed upon the property herein leased. Provided that on or about November 1, 2002, and on or about the first day of November of each five-year period thereafter, during the term of this lease or any extension thereof, the rental rate will be adjusted to the fair market rental value of said tract as improved as of the date of execution of this lease. It is understood and agreed that the above rental is the sole charge to be made for the rights, interests, and privileges granted and extended to the Lessee herein; PROVIDED, however, that in the event the above-described premises are located within a public improvement district established by a duly constituted authority, the Lessee shall pay to the duly constituted

Recording District

authority the appropriate assessment levied; PROVIDED further, that if the Lessee fails to pay such assessment, the then current rental rate or any adjustments thereto, as outlined above, shall be increased by a sum of twelve percent (12%) per annum of the amount of such assessment attributable to said leased premises during the life of the lease or any extensions thereto.

EXCEPT AS HEREIN AMENDED, all the terms and conditions of the aforesaid lease, Contract No. 69-25-0003-4779, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplement this 11th day of October, 1978.

THE ALASKA RAILROAD

By Merle W. Akers
(Real Estate Officer)

USIBELLI COAL MINE, INC.

By Richard C. Hundrup
Title Controller

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RECORDED
NENANA RECORDING
DISTRICT

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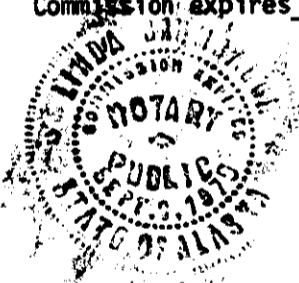
REQUESTED BY

ADDRESS
Usibelli Coal Mine
Point 1
Usibelli, Ak.
99717

The signature of Richard C. Hundrup subscribed and sworn to before me this 11th day of October, 1978.

Patricia D. Krasso
Signature of Notary

Commission expires 3-26-79



Merle W. Akers known to me to be the Real Estate Officer of The Alaska Railroad executed this document for and on behalf of The Alaska Railroad this 11th day of October, 1978.

Patricia D. Krasso
Notary Signature

Commission Expires: 3-26-79