

**STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND, Commissioner of Public Lands**

**AQUATIC LANDS LEASE
(Commercial)**

Lease No. 20-013465

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AQUATIC LANDS LEASE NO. 20-013465

THIS LEASE is made by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and CHEVRON U.S.A. INC., a Pennsylvania corporation ("Tenant").

BACKGROUND

Tenant desires to lease the aquatic lands commonly known as Point Wells, which are bedlands located in Snohomish County, Washington, from State, and State desires to lease the property to Tenant pursuant to the terms and conditions of this Lease. This Lease is a consolidation of and supersedes the following prior leases that were entered into between State and Tenant for the Property (collectively, the "Prior Leases"): (a) Lease No. 20-009914, which expired on July 15, 1994, and was extended on a month-to-month basis by a holdover letter dated December 15, 1999; and (b) Lease No. 20-010388, which expired on August 1, 1994, and was extended on a month-to-month basis by a holdover letter dated December 15, 1999.

THEREFORE, the parties agree as follows:

SECTION 1 PROPERTY

1.1 Property Defined. State leases to Tenant and Tenant leases from State the real property described in Exhibit A together with all the rights of State, if any, to improvements on and easements benefiting the Property, but subject to the exceptions and restrictions set forth in this Lease (collectively the "Property"). This Lease is subject to all valid interests of third parties noted in the records of Snohomish County, or on file in the office of the Commissioner of Public Lands, Olympia, Washington; rights of the public under the Public Trust Doctrine or federal navigation servitude; and treaty rights of Indian Tribes. Not included in this Lease are any right to harvest, collect or damage any natural resource, including aquatic life or living plants, any water rights, or any mineral rights, including any right to excavate or withdraw sand, gravel, or other valuable materials. State reserves the right to grant easements and other land uses on the Property to others when the easement or other land uses will not unreasonably interfere with Tenant's Permitted Use.

1.2 Survey, Maps, and Plans. In executing this Lease, State is relying on the surveys, plats, diagrams, and/or legal descriptions provided by Tenant. Tenant is not relying upon and State is

not making any representations about any survey, plat, diagram, and/or legal description provided by State.

1.3 Inspection. State makes no representation regarding the condition of the Property, improvements located on the Property, the suitability of the Property for Tenant's Permitted Use, compliance with governmental laws and regulations, availability of utility rights, access to the Property or the existence of hazardous substances on the Property. Tenant has inspected the Property and accepts it "AS IS."

SECTION 2 USE

2.1 Permitted Use. Tenant shall use the Property for Commercial ship/barge berthing and loading, off-loading, and bunkering of cargo (the "Permitted Use"), and for no other purpose. The Permitted Use is described or shown in greater detail in Exhibit B, the terms and conditions of which are incorporated by reference and made a part of this Lease. The parties agree that this is a water-dependent use.

2.2 Restrictions on Use. Tenant shall not cause or permit any damage to natural resources on the Property. Tenant shall also not cause or permit any filling activity to occur on the Property. This prohibition includes any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter in or on the Property, except as approved in writing by State. Tenant shall neither commit nor allow waste to be committed to or on the Property. If Tenant fails to comply with all or any of the restrictions on the use of the Property set out in this Subsection 2.2, State shall notify Tenant and provide Tenant a reasonable time to take all steps necessary to remedy the failure. If Tenant fails to do so in a timely manner, then State may take any steps reasonably necessary to remedy this failure. Upon demand by State, Tenant shall pay all costs of such remedial action, including but not limited to the costs of removing and disposing of any material deposited improperly on the Property. This section shall not in any way limit Tenant's liability under Section 8, below.

2.3 Conformance with Laws. Tenant shall, at all times, keep current and comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding its use or occupancy of the Property.

2.4 Liens and Encumbrances. Tenant shall keep the Property free and clear of any liens and encumbrances arising out of or relating to its use or occupancy of the Property.

SECTION 3 TERM

3.1 Term Defined. The term of this Lease is Sixteen (16) years (the "Term"), beginning on the August 1, 2003 (the "Commencement Date"), and ending on the July 31, 2019 (the "Termination Date"), unless terminated sooner under the terms of this Lease.

3.2 Renewal of the Lease. Tenant shall have the option to renew this Lease for One (1) additional term of Fourteen (14) years. The initial Term of this Lease, and all renewal terms,

shall not exceed Thirty (30) years in the aggregate. Tenant shall exercise this option by providing written notice of its election to renew at least ninety (90) days prior to the Termination Date of the initial Term or any renewal term of this Lease. Tenant shall not be entitled to renew if it is in default beyond any applicable cure period under the terms of this Lease at the time the option to renew is exercised. The terms and conditions of any renewal term shall be the same as set forth in this Lease, except that rent shall be recalculated, the required amounts of financial security may be revised, and provisions dealing with hazardous waste or impacts to natural resources may be changed at the time of the renewal.

3.3 Delay in Delivery of Possession. If State, for any reason whatsoever, cannot deliver possession of the Property to Tenant on the Commencement Date, this Lease shall not be void or voidable, nor shall State be liable to Tenant for any loss or damage resulting from the delay in delivery of possession. In such event, the date of delivery of possession shall be the Commencement Date for all purposes, including the payment of rent. In the event Tenant takes possession before the Commencement Date, the date of possession shall be the Commencement Date for all purposes, including the payment of rent. If the Lease Term commences earlier or later than the scheduled Commencement Date, the Termination Date shall be adjusted accordingly.

3.4 End of Term. Upon the expiration or termination of the Term or extended term, as applicable, Tenant shall surrender the Property to State in the same or better condition as on the Commencement Date, reasonable wear and tear excepted.

3.5 Hold Over. If Tenant remains in possession of the Property after the Termination Date, the occupancy shall not be an extension or renewal of the Term. The occupancy shall be a month-to-month tenancy, on terms identical to the terms of this Lease, which may be terminated by either party on thirty (30) days written notice. The monthly rent during the holdover shall be the same rent which would be due if the Lease were still in effect and all adjustments in rent were made in accordance with its terms. If State provides a notice to vacate the Property in anticipation of the termination of this Lease or at any time after the Termination Date and Tenant fails to do so within the time set forth in the notice, then Tenant shall be a trespasser and shall owe the State all amounts due under RCW 79.01.760 or other applicable law.

SECTION 4 RENT

4.1 Annual Rent. Until adjusted as set forth below, Tenant shall pay to State an annual rent of Ten Thousand Two Hundred Forty One and 74/100 dollars (\$10,241.74). The annual rent, as it currently exists or as adjusted or modified (the "Annual Rent"), shall be due and payable in full on or before the Commencement Date and on or before the same date of each year thereafter.

4.2 Payment Place. Payment is to be made to State Financial Management Division, 1111 Washington St SE, PO Box 47041, Olympia, WA 98504-7041.

4.3 Adjustment Based on Use. Annual Rent is based on Tenant's Permitted Use of the Property, as described in Section 2 above. If Tenant's Permitted Use changes, the Annual Rent shall be adjusted as appropriate for the changed use.

4.4 Rent Adjustments for Water-Dependent Uses.

(a) Inflation Adjustment. State shall adjust water-dependent rent annually pursuant to RCW 79.90.450 - .902, except in those years in which the rent is revalued under Subsection 4.4(b) below. This adjustment shall be effective on the anniversary of the Commencement Date.

(b) Revaluation of Rent. State shall, at the end of the first four-year period of the Term, and at the end of each subsequent four-year period, revalue the water-dependent Annual Rent in accordance with RCW 79.90.450 - .902.

(c) Rent Cap. After the initial year's rent is determined under Subsection 4.1, rent may increase by operation of Subsection 4.4(a) or 4.4(b). If application of the statutory rent formula for water-dependent uses would result in an increase in the rent attributable to such uses of more than fifty percent (50%) in any one year, the actual increase implemented in such year shall be limited to fifty percent (50%) of the then-existing rent, in accordance with RCW 79.90.490. The balance of the increase determined by the formula shall be deferred to subsequent years and added to the next and subsequent years' rental increases until the full amount of the increase is lawfully implemented.

4.5 Rent Adjustment Procedures.

(a) Notice of Rent Adjustment. Notice of any adjustments to the Annual Rent that are allowed by Subsection 4.4(b) shall be provided to Tenant in writing no later than ninety (90) days after the anniversary date of the Lease.

(b) Procedures on Failure to make Timely Adjustment. In the event the State fails to provide the notice required in Subsection 4.4 (a), it shall be prohibited from collecting any adjustments to rent only for the year in which it failed to provide notice. No failure by State to adjust Annual Rent pursuant to Subsection 4.4(a) shall affect the State's right to establish Annual Rent for a subsequent lease year as if the missed or waived adjustment had been implemented. The State may adjust, bill, and collect Annual Rent prospectively as if any missed or waived adjustments had actually been implemented. This includes the implementation of any inflation adjustment and any rent revaluations that would have been authorized for previous lease years.

SECTION 5 OTHER EXPENSES

During the Term, Tenant shall pay the following additional expenses:

5.1 Utilities. Tenant shall pay all fees charged for utilities in connection with the use and occupancy of the Property, including but not limited to electricity, water, gas, and telephone service.

5.2 Taxes and Assessments. Tenant shall pay all taxes (including leasehold excise taxes), assessments, and other governmental charges, of any kind whatsoever, applicable or attributable to the Property, Tenant's leasehold interest, the improvements, or Tenant's use and enjoyment of the Property.

5.3 Right to Contest. Tenant may, in good faith, contest any tax or assessment at its sole cost and expense. At the request of State, Tenant shall furnish reasonable protection in the form of a bond or other security, satisfactory to State, against any loss or liability by reason of such contest.

5.4 Proof of Payment. Tenant shall, if required by State, furnish to State receipts or other appropriate evidence establishing the payment of any amounts required to be paid under the terms of this Lease.

5.5 Failure to Pay. If Tenant fails to pay any of the amounts due under this Lease, State may pay the amount due, and recover its cost in accordance with the provisions of Section 6.

SECTION 6 LATE PAYMENTS AND OTHER CHARGES

6.1 Late Charge. If any rental payment is not received by State within ten (10) days of the date due, Tenant shall pay to State a late charge equal to four percent (4%) of the amount of the payment or Fifty Dollars (\$50), whichever is greater, to defray the overhead expenses of State incident to the delay.

6.2 Interest Penalty for Past Due Rent and Other Sums Owed. If rent is not paid within thirty (30) days of the date due, then Tenant shall, in addition to paying the late charges determined under Subsection 6.1, above, pay interest on the amount outstanding at the rate of one percent (1%) per month until paid. If State pays or advances any amounts for or on behalf of Tenant, including but not limited to leasehold taxes, taxes, assessments, insurance premiums, costs of removal and disposal of unauthorized materials pursuant to Section 2 above, costs of removal and disposal of improvements pursuant to Section 7 below, or other amounts not paid when due, Tenant shall reimburse State for the amount paid or advanced and shall pay interest on that amount at the rate of one percent (1%) per month from the date State notifies Tenant of the payment or advance.

6.3 No Accord and Satisfaction. If Tenant pays, or State otherwise receives, an amount less than the full amount then due, State may apply such payment as it elects. In the absence of an election, the payment or receipt shall be applied first to accrued taxes which State has advanced or may be obligated to pay, then to other amounts advanced by State, then to late charges and accrued interest, and then to the earliest rent due. State may accept any payment in any amount without prejudice to State's right to recover the balance of the rent or pursue any other right or

remedy. No endorsement or statement on any check, any payment, or any letter accompanying any check or payment shall constitute or be construed as accord and satisfaction.

6.4 No Counterclaim, Setoff, or Abatement of Rent. Except as expressly set forth elsewhere in this Lease, rent and all other sums payable by Tenant pursuant to this Lease shall be paid without the requirement that State provide prior notice or demand, and shall not be subject to any counterclaim, setoff, deduction, defense or abatement.

SECTION 7 IMPROVEMENTS

7.1 Existing Improvements. On the Commencement Date, the following improvements are located on the Property: a pier, a warehouse, office, pipelines, utilities and supporting equipment, facilities and systems. The improvements are not owned by State ("Existing Improvements"). See Exhibit B.III for a more complete identification of the Existing Improvements, the Tenant-Owned Improvements referred to in Section 7.2, and the items considered Tenant's "personal property" for purposes of this Lease, including under Section 7.4.

7.2 Tenant-Owned Improvements. So long as this Lease remains in effect, Tenant shall retain ownership of all authorized improvements and trade fixtures it may place on the Property (collectively "Tenant-Owned Improvements"). Tenant-Owned Improvements shall not include any construction, reconstruction, alteration, or addition to any Unauthorized Improvements as defined in Subsection 7.5 below. No Tenant-Owned Improvements shall be placed on the Property without State's prior written consent. The Existing Improvements constitute a portion of the Tenant-Owned Improvements.

7.3 Construction. Prior to any construction, alteration, replacement, removal or major repair of any improvements (whether State-Owned or Tenant-Owned), Tenant shall submit to State plans and specifications which describe the proposed activity. Construction shall not commence until State has approved those plans and specifications in writing and Tenant has obtained a performance and payment bond in an amount equal to 125% of the estimated cost of construction. The performance and payment bond shall be maintained until the costs of construction, including all laborers and material persons, have been paid in full. State shall have sixty (60) days in which to review the proposed plans and specifications. The plans and specifications shall be deemed approved and the requirement for State's written consent shall be treated as waived, unless State notifies Tenant otherwise within the sixty (60) days. Upon completion of construction, Tenant shall promptly provide State with as-built plans and specifications. State's consent and approval shall not be required for any routine maintenance or repair of improvements made by the Tenant pursuant to its obligation to maintain the Property in good order and repair that does not result in the construction, alteration, replacement, removal, or major repair of any improvements on the Property. Further, as to any matters for which Tenant must obtain State's consent pursuant to this Section 7.3, State shall not unreasonably withhold such consent if the following conditions are met by Tenant: (a) Tenant has obtained all necessary regulatory permits, if any, for its proposed action; and (b) Tenant is not materially changing its use of the Property.

7.4 Removal.

(a) General Provisions. Tenant-Owned Improvements shall be removed by Tenant unless State elects or is deemed to elect that the Tenant-Owned Improvements may remain. If the State elects or is deemed to elect for the Tenant-Owned Improvements to remain on the Property after the Termination Date, they shall become the property of State without payment by State (if the provisions of RCW 79.94.320 or RCW 79.95.040 apply, Tenant shall be entitled to the rights provided in the statute). To the extent that Tenant-Owned Improvements include items of personal property which may be removed from the leasehold premises without harming the Property, or diminishing the value of the Property or the improvements, the State asserts no ownership interest in these improvements unless the parties agree otherwise in writing upon termination of this Lease. Any Tenant-Owned Improvements specifically identified as personal property in Exhibit B shall be treated in accordance with this provision.

(b) Removal Notice in Connection with Expiration of the Lease. Tenant shall notify State at least one hundred eighty (180) days before the Termination Date if it intends to leave the Tenant-Owned Improvements on the Property. State shall then have ninety (90) days in which to notify Tenant that it wishes to have the Tenant-Owned Improvements removed or elects to have them remain. Failure to notify Tenant within such ninety (90) day period shall be deemed an election by State that the Tenant-Owned Improvements will remain on the Property.

(c) Removal Notice in Connection with Termination of the Lease upon an Event of Default. If State elects to terminate the Lease upon an Event of Default in accordance with Subsection 14(c), then within thirty (30) days after such termination State shall notify Tenant in writing of whether it wishes to have the Tenant-Owned Improvements removed or elects to have them remain. Failure to notify Tenant within such thirty (30) day period shall be deemed an election by State that the Tenant-Owned Improvements will remain on the Property.

(d) Time Period for Removal. If State notifies Tenant pursuant to subsection (b) or (c) above that the Tenant-Owned Improvements must be removed, Tenant shall diligently proceed as follows: If regulatory permits are required for the removal, then within sixty (60) days after receiving such notice Tenant shall apply for any and all permits or other governmental approvals required or necessary in order to effect the removal of the Tenant-Owned Improvements and to vacate the Property (the "Removal Permits"), and Tenant shall thereafter diligently pursue issuance of such Removal Permits. Once Tenant receives all required Removal Permits, Tenant shall diligently pursue removal of the Tenant-Owned Improvements so as to complete removal no later than one hundred twenty (120) days after issuance of the Removal Permits (the "Removal Deadline"). If no Removal Permits are required, the one hundred twenty (120) day period for removing improvements and the Removal Deadline shall be measured commencing with the date of State's removal notice to Tenant. If the removal cannot be reasonably accomplished within such one hundred twenty (120) day period, then the Removal Deadline shall be extended as is reasonably necessary as long as Tenant is diligently pursuing such removal. State may require a written removal plan, to be reviewed and approved by State, as a condition of any extension of the Removal Deadline. Notwithstanding anything in this Section 7.4 or Section 3.5 to the contrary, Tenant shall not be deemed a trespasser as long as

Tenant is diligently pursuing issuance of the Removal Permits and is diligently pursuing removal of the Tenant-Owned Improvements in accordance with this Section 7.4. If the Tenant-Owned Improvements remain on the Property after the Removal Deadline without State's actual or deemed consent, they will become the property of the State but the State may remove them and Tenant shall pay the costs of removal and disposal upon State's demand.

7.5 Unauthorized Improvements. Improvements made on the Property without State's prior consent pursuant to Subsection 7.3 or which are not in conformance with the plans submitted to and approved by State ("Unauthorized Improvements") shall immediately become the property of State, unless State elects otherwise. Regardless of ownership of Unauthorized Improvements, State may, at its option, require Tenant to sever, remove, and dispose of them, charge Tenant rent for the use of them, or both. If Tenant fails to remove an Unauthorized Improvement upon request, State may remove it and charge Tenant for the cost of removal and disposal.

SECTION 8 ENVIRONMENTAL LIABILITY/RISK ALLOCATION

8.1 Definition. "Hazardous Substance" means any substance which now or in the future becomes regulated or defined under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination or cleanup, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, and Washington's Model Toxics Control Act ("MTCA"), RCW 70.105D.010 *et seq.*

8.2 Use of Hazardous Substances. Tenant covenants and agrees that Hazardous Substances will not be used, stored, generated, processed, transported, handled, released, or disposed of in, on, under, or above the Property, except in accordance with all applicable laws.

8.3 Current Conditions, Duty of Utmost Care, and Duty to Investigate.

(a) State makes no representations about the condition of the Property, except as follows: Hazardous Substances identified in Exhibit B are known to exist in, on, under, or above the Property. With regard to any Hazardous Substances that may exist in, on, under, or above the Property, State disclaims any and all responsibility to conduct investigations, to review any State records, documents or files, or to obtain or supply any information to Tenant.

(b) Tenant shall exercise the utmost care with respect to both Hazardous Substances in, on, under, or above the Property as of the Commencement Date, and any Hazardous Substances that come to be located in, on, under, or above the Property during the Term of this agreement, along with the foreseeable acts or omissions of third parties affecting those Hazardous Substances, and the foreseeable consequences of those acts or omissions. The obligation to exercise utmost care under this Subsection 8.3 includes, but is not limited to, the following requirements:

(1) Tenant shall not undertake activities that will cause, contribute to, or exacerbate contamination of the Property;

(2) Tenant shall not undertake activities that damage or interfere with the operation of remedial or restoration activities on the Property or undertake activities that result in human or environmental exposure to contaminated sediments on the Property;

(3) Tenant shall not undertake any activities that result in the mechanical or chemical disturbance of on-site habitat mitigation;

(4) If requested, Tenant shall allow reasonable access to the Property by employees and authorized agents of the Environmental Protection Agency, the Washington State Department of Ecology, or other similar environmental agencies; and

(5) If requested, Tenant shall allow reasonable access to potentially liable or responsible parties who are the subject of an order or consent decree which requires access to the Property. Tenant's obligation to provide access to potentially liable or responsible parties may be conditioned upon the negotiation of an access agreement with such parties, provided that such agreement shall not be unreasonably withheld.

(c) It shall be Tenant's obligation to gather sufficient information concerning the Property and the existence, scope, and location of any Hazardous Substances on the Property, or adjoining the Property, that allows Tenant to effectively meet its obligations under this lease.

8.4 Notification and Reporting.

(a) Tenant shall immediately notify State if Tenant becomes aware of any of the following:

(1) A release or threatened release of Hazardous Substances in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, except to the extent Hazardous Substances are known to exist (as more fully described in Exhibit B) and there is no material change in the character of the identified substances or their threat of release;

(2) Any problem or liability related to, or derived from, the presence of any Hazardous Substance in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property;

(3) Any actual or alleged violation of any federal, state, or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances with respect to the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property;

(4) Any lien or action with respect to any of the foregoing; or,

(5) Any notification from the US Environmental Protection Agency (EPA) or the Washington State Department of Ecology (DOE) that remediation or removal of Hazardous Substances is or may be required at the Property.

As described more fully in Exhibit B, Tenant has notified State that certain Hazardous Substances are present on or about the Property, and of Tenant's intent to perform additional sampling to more fully characterize the nature and extent of those Hazardous Substances. Exhibit B satisfies Tenant's notice obligations as provided herein for such Hazardous Substances.

(b) Upon request, Tenant shall provide State with copies of any and all reports, studies, or audits which pertain to environmental issues or concerns associated with the Property, and which were prepared for Tenant and submitted to any federal, state or local authorities pursuant to any federal, state or local permit, license or law. These permits include, but are not limited to, any National Pollution Discharge and Elimination System Permit, any Army Corps of Engineers permit, any State Hydraulics permit, any State Water Quality certification, or any Substantial Development permit.

8.5 Indemnification.

(a) Tenant shall fully indemnify, defend, and hold State harmless from and against any and all claims, demands, damages, natural resource damages, response costs, remedial costs, cleanup costs, losses, liens, liabilities, penalties, fines, lawsuits, other proceedings, costs, and expenses (including attorneys' fees and disbursements), that arise out of or are in any way related to:

(1) The use, storage, generation, processing, transportation, handling, or disposal of any Hazardous Substance by Tenant, its subtenants, contractors, agents, employees, guests, invitees, or affiliates in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, during the Term of this Lease or during any time when Tenant occupies or occupied the Property or any such other property;

(2) The release or threatened release of any Hazardous Substance, or the exacerbation of any Hazardous Substance contamination, in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, which release, threatened release, or exacerbation occurs or occurred during the Term of this Lease or during any time when Tenant occupies or occupied the Property or any such other property, and as a result of:

(i) Any act or omission of Tenant, its subtenants, contractors, agents, employees, guests, invitees, or affiliates; or,

(ii) Any foreseeable act or omission of a third party unless Tenant exercised the utmost care with respect to the foreseeable acts or omissions of the third party and the foreseeable consequences of those acts or omissions.

(b) In addition to the indemnifications provided in Subsection 8.5(a), Tenant shall fully indemnify State for any and all damages, liabilities, costs or expenses (including attorneys' fees and disbursements) that arise out of or are in any way related to Tenant's breach of the obligations of Subsection 8.3(b). This obligation is not intended to duplicate the indemnity provided in Subsection 8.5(a) and applies only to damages, liabilities, costs, or expenses that are associated with a breach of Subsection 8.3(b) and which are not characterized as a release, threatened release, or exacerbation of Hazardous Substances.

8.6 Cleanup. If a release of Hazardous Substances occurs in, on, under, or above the Property, or other State-owned property, arising out of any action, inaction, or event described or referred to in Subsection 8.5, above, Tenant shall, at its sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances. Cleanup actions shall include,

without limitation, removal, containment and remedial actions and shall be performed in accordance with all applicable laws, rules, ordinances, and permits. Tenant's obligation to undertake a cleanup under this Subsection 8.6 shall be limited to those instances where the Hazardous Substances exist in amounts that exceed the threshold limits of any applicable regulatory cleanup standards. Tenant shall also be solely responsible for all cleanup, administrative, and enforcement costs of governmental agencies, including natural resource damage claims, arising out of any action, inaction, or event described or referred to in Subsection 8.5, above. Tenant may undertake a cleanup pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that: (1) Any cleanup plans shall be submitted to State (DNR) for review and comment at least thirty (30) days prior to implementation (except in emergency situations), and (2) Tenant must not be in breach of this lease. Nothing in the operation of this provision shall be construed as an agreement by State that the voluntary cleanup complies with any laws or with the provisions of this Lease.

8.7 Sampling by State, Reimbursement, and Split Samples.

(a) State may conduct sampling, tests, audits, surveys, or investigations ("Tests") of the Property at any time to determine the existence, scope, or effects of Hazardous Substances on the Property, any adjoining property, any other property subject to use by Tenant in conjunction with its use of the Property, or any natural resources. If such Tests, along with any other information, demonstrates the existence, release, or threatened release of Hazardous Substances arising out of any action, inaction, or event described or referred to in Subsection 8.5, above, Tenant shall promptly reimburse State for all costs associated with such Tests.

(b) State's ability to seek reimbursement for any Tests under this Subsection shall be conditioned upon State providing Tenant written notice of its intent to conduct any Tests at least thirty (30) calendar days prior to undertaking such Tests, unless such Tests are performed in response to an emergency situation in which case State shall only be required to give such notice as is reasonably practical.

(c) Tenant shall be entitled to obtain split samples of any Test samples obtained by State, but only if Tenant provides State with written notice requesting such samples within twenty (20) calendar days of the date Tenant is deemed to have received notice of State's intent to conduct any non-emergency Tests. The additional cost, if any, of split samples shall be borne solely by Tenant. Any additional costs State incurs by virtue of Tenant's split sampling shall be reimbursed to State within thirty (30) calendar days after a bill with documentation for such costs is sent to Tenant.

(d) Within thirty (30) calendar days of a written request (unless otherwise required pursuant to Subsection 8.4(b), above), either party to this Lease shall provide the other party with validated final data, quality assurance/quality control information, and chain of custody information, associated with any Tests of the Property performed by or on behalf of State or Tenant. There is no obligation to provide any analytical summaries or expert opinion work product.

8.8 Reservation of Rights. The parties have agreed to allocate certain environmental risks, liabilities, and responsibilities by the terms of Section 8. With respect to those environmental liabilities covered by the indemnification provisions of Subsection 8.5, that subsection shall exclusively govern the allocation of those liabilities. With respect to any environmental risks, liabilities, or responsibilities not covered by Subsection 8.5, the parties expressly reserve and do not waive or relinquish any rights, claims, immunities, causes of action, or defenses relating to the presence, release, or threatened release of Hazardous Substances in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, that either party may have against the other under federal, state, or local laws, including but not limited to, CERCLA, MTCA, and the common law. No right, claim, immunity, or defense either party may have against third parties is affected by this Lease and the parties expressly reserve all such rights, claims, immunities, and defenses. The allocations of risks, liabilities, and responsibilities set forth above do not release either party from, or affect either party's liability for, claims or actions by federal, state, or local regulatory agencies concerning Hazardous Substances.

SECTION 9 ASSIGNMENT AND SUBLETTING

9.1 State Consent Required. Tenant shall not sell, convey, mortgage, assign, pledge, sublet, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or the Property without State's prior written consent, which shall not be unreasonably conditioned or withheld.

(a) In determining whether to consent, State may consider, among other items, the proposed transferee's financial condition, business reputation and experience, the nature of the proposed transferee's business, the then-current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a tenant of the Property. Tenant shall submit information regarding any proposed transferee to State at least thirty (30) days prior to the date of the proposed transfer.

(b) State reserves the right to condition its consent upon: (1) changes in the terms and conditions of this Lease, including the Annual Rent and other terms; and/or (2) the agreement of Tenant or transferee to conduct Tests for Hazardous Substances on the Property or on other property owned or occupied by Tenant or the transferee.

(c) Each permitted transferee shall assume all obligations under this Lease, including the payment of rent. No assignment, sublet, or transfer shall release, discharge, or otherwise affect the liability of Tenant.

9.2 Event of Assignment. If Tenant is a corporation, a dissolution of the corporation or a transfer (by one or more transactions) of a majority of the voting stock of Tenant shall be deemed to be an assignment of this Lease. If Tenant is a partnership, a dissolution of the partnership or a transfer (by one or more transactions) of the controlling interest in Tenant shall be deemed an assignment of this Lease.

9.3 Rent Payments Following Assignment. The acceptance by State of the payment of rent following an assignment or other transfer shall not constitute consent to any assignment or transfer.

9.4 Terms of Subleases. All subleases shall be submitted to State for approval and shall meet the following requirements:

- (a) The sublease shall be consistent with and subject to all the terms and conditions of this Lease;
- (b) The sublease shall confirm that if the terms of the sublease conflict with the terms of this Lease, this Lease shall control;
- (c) The term of the sublease (including any period of time covered by a renewal option) shall end before the Termination Date of the initial Term or any renewal term;
- (d) The sublease shall terminate if this Lease terminates, whether upon expiration of the Term, failure to exercise an option to renew, cancellation by State, surrender or for any other reason;
- (e) The subtenant shall receive and acknowledge receipt of a copy of this Lease;
- (f) The sublease shall prohibit the prepayment to Tenant by the subtenant of more than one month's rent;
- (g) The sublease shall identify the rental amount to be paid to Tenant by the subtenant;
- (h) The sublease shall confirm that there is no privity of contract between the subtenant and State;
- (i) The sublease shall require removal of the subtenant's improvements and trade fixtures upon termination of the sublease; and,
- (j) The subtenant's permitted use shall be within the Permitted Use authorized by this Lease.

9.5 Routine Subleasing of Moorage Slips. In the case of routine subleasing of moorage slips to recreational and commercial vessel owners for a term of one year or less, Tenant shall not be required to obtain State's written consent or approval pursuant to Subsection 9.1 or Subsection 9.4. Tenant shall be obligated to ensure that these moorage agreements conform to the sublease requirements in Subsection 9.4.

9.6 Permitted Transfers. Notwithstanding anything contained herein to the contrary, the following provisions shall apply:

- (a) Tenant may, without State's prior consent, sell, convey, transfer, assign or sublet (each a "Transfer") all or any part of Tenant's interest in this Lease or the Property to a parent, subsidiary, affiliate, division or corporation controlling, controlled by, or under common control with Tenant; provided, however, that Tenant shall provide written notice to State within a reasonable period after such Transfer occurs, which notice shall set forth (i) the name of the transferee and the type of organization it is, (ii) its relationship to Tenant and the nature of the Transfer (e.g., assignment to an affiliate under common control with parent in order to consolidate real estate holdings in one entity), (iii) information regarding the transferee's financial condition and ability to perform its obligations under the Lease; and (iv) the effective

date of the Transfer. The notice shall state that a failure to disapprove the Transfer within thirty (30) days after receipt of such notice shall be a deemed approval of that Transfer. If State reasonably concludes that the Transfer has resulted in a change in Tenant's character that may materially adversely affect its ability to perform under the Lease, then State may subsequently disapprove of such Transfer by giving written notice to Tenant within such thirty (30) day period after receiving Tenant's notice of the Transfer, and State shall provide reasonable detail as to why it believes Tenant's ability to perform under the Lease has been materially adversely affected. At Tenant's request, State agrees to give consideration to such additional information as Tenant may provide regarding State's concern that the Tenant's ability to perform under the Lease will be materially adversely affected by the proposed Transfer.

(b) The provisions of this subsection (b) shall apply to any Transfer to a successor corporation or entity (other than as covered by the preceding paragraph) by merger, consolidation, non-bankruptcy reorganization or governmental action. At least thirty (30) days prior to any such Transfer, Tenant shall provide written notice to State, which notice shall set forth (a) the name of the proposed transferee and the type of organization it is, (b) the nature of the Transfer (e.g., merger), (c) information regarding the proposed transferee's financial condition and ability to perform its obligations under the Lease; (d) the proposed effective date of the Transfer. The notice shall state that a failure to disapprove the Transfer within thirty (30) days after receipt of such notice shall be a deemed approval of that Transfer. Upon request, Tenant shall also provide such additional information as State may reasonably request about the proposed transferee's financial condition and ability to perform its obligations under the Lease. The Transfer shall be deemed approved and the requirement for State's prior written consent shall be treated as waived, unless State notifies Tenant otherwise within thirty (30) days after receipt of Tenant's notice.

(c) For the purpose of this Lease, any sale or transfer of Tenant's capital stock through a stock sale or any public exchange, or redemption or issuance of additional stock of any class shall not be deemed a Transfer of the Lease or the Property.

SECTION 10 INDEMNITY, FINANCIAL SECURITY, INSURANCE

10.1 Indemnity. Tenant shall indemnify, defend, and hold harmless State, its employees, officers, and agents from any and all liability, damages (including bodily injury, personal injury and damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs, fees (including attorneys' fees), penalties, or judgments, of any nature whatsoever, arising out of the use, occupation, or control of the Property by Tenant, its subtenants, invitees, agents, employees, licensees, or permittees, except as may arise solely out of the willful or negligent act of State or State's elected officials, employees, or agents. To the extent that RCW 4.24.115 applies, Tenant shall not be required to indemnify, defend, and hold State harmless from State's sole or concurrent negligence. Tenant's liability to State for hazardous substances, and its obligation to indemnify, defend, and hold the State harmless for hazardous substances, shall be governed exclusively by Section 8.

10.2 Financial Security.

(a) At its own expense, Tenant shall procure and maintain a corporate surety bond or provide other financial security satisfactory to State (the "Bond") in an amount equal to Forty Thousand Dollars (\$40,000), which shall secure Tenant's full performance of its obligations under this Lease, with the exception of the obligations under Section 8 (Environmental Liability/Risk Allocation) above. The Bond shall be in a form and issued by a surety company acceptable to State. State may require an adjustment in the amount of the Bond:

- (1) At the same time as revaluation of the Annual Rent;
- (2) As a condition of approval of assignment or sublease of this Lease;
- (3) Upon a material change in the condition of any improvements; or,
- (4) Upon a change in the Permitted Use.

A new or modified Bond shall be delivered to State within thirty (30) days after adjustment of the amount of the Bond has been required by State.

(b) Upon any default by Tenant in its obligations under this Lease, State may collect on the Bond to offset the liability of Tenant to State. Collection on the Bond shall not relieve Tenant of liability, shall not limit any of State's other remedies, and shall not reinstate or cure the default or prevent termination of the Lease because of the default.

10.3 Insurance. At its own expense, Tenant shall procure and maintain during the Term of this Lease, the insurance coverages and limits described in Subsections 10.3(a) and (b) below. This insurance shall be issued by an insurance company or companies admitted and licensed by the Insurance Commissioner to do business in the State of Washington. Insurers must have a rating of B+ or better by "Best's Insurance Reports," or a comparable rating by another rating company acceptable to State. If non-admitted or non-rated carriers are used, the policies must comply with Chapter 48.15 RCW.

(a) Types of Required Insurance.

(1) Commercial General Liability Insurance. Tenant shall procure and maintain Commercial General Liability insurance and, if applicable, Marina Operators Legal Liability insurance covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of Tenant's operations. If necessary, commercial umbrella insurance covering claims for these risks shall be procured and maintained. Insurance must include liability coverage with limits not less than those specified below:

<u>Description</u>	
Each Occurrence	\$5,000,000
General Aggregate Limit	\$20,000,000

State may impose changes in the limits of liability:

- (i) As a condition of approval of assignment or sublease of this Lease;
- (ii) Upon any breach of Section 8, above;

(iii) Upon a material change in the condition of the Property or any improvements; or,

(iv) Upon a change in the Permitted Use.

New or modified insurance coverage shall be in place within thirty (30) days after changes in the limits of liability are required by State.

(2) Property Insurance. Tenant shall procure and maintain property insurance covering all real property located on or constituting a part of the Property in an amount equal to the replacement value of all improvements on the Property. Such insurance may have commercially reasonable deductibles.

(3) Worker's Compensation/Employer's Liability Insurance. Tenant shall procure and maintain:

(i) State of Washington Worker's Compensation coverage, as applicable, with respect to any work by Tenant's employees on or about the Property and on any improvements;

(ii) Employers Liability or "Stop Gap" insurance coverage, as applicable, with limits not less than those specified below. Insurance must include bodily injury coverage with limits not less than those specified below:

Each Employee	Policy Limit	
<u>By Accident</u>	<u>By Disease</u>	<u>By Disease</u>
\$1,000,000	\$1,000,000	\$1,000,000

(iii) Longshore and Harbor Worker's Act and Jones Act coverage, as applicable, with respect to any work by Tenant's employees on or about the Property and on any improvements.

(4) Builder's Risk Insurance. As applicable, Tenant shall procure and maintain builder's risk insurance in an amount reasonably satisfactory to State during construction, replacement, or material alteration of the Property or improvements on the Property. Coverage shall be in place until such work is completed and evidence of completion is provided to State.

(5) Business Auto Policy Insurance. As applicable, Tenant shall procure and maintain a business auto policy. The insurance must include liability coverage with limits not less than those specified below:

<u>Description</u>	<u>Each Accident</u>
Bodily Injury and Property Damage	\$1,000,000

(6) Pollution Legal Liability Insurance. Tenant shall procure pollution legal liability insurance. The insurance provided shall include coverage for investigation and defense costs, bodily injury, and property damage, including loss of use of damaged property or of property that has been physically damaged or destroyed. Such insurance must provide coverage for both on-site and off-site clean up costs and cover gradual and sudden pollution,

and include in its scope of coverage, natural resource damage claims. Insurance must include coverage with limits not less than those specified below:

Each Occurrence	\$10,000,000
General Aggregate Limit	\$25,000,000

Notwithstanding the provisions of Subsection 10.3(b), such insurance may be provided on an occurrence or on a claims-made basis. In all other respect, the coverage must be provided in accordance with the requirements specified in Subsection 10.3(b), including the requirement that the State of Washington Department of Natural Resources shall be named as an additional insured. If such coverage is obtained as an endorsement to the CGL and is provided on a claims-made basis, the following additional conditions must be met:

- a. The Insurance Certificate must state that the insurer is covering hazardous substance removal.
- b. The policy must contain no retroactive date, or the retroactive date must precede abatement services.
- c. Coverage must be continuously maintained with the same insurance carrier through the official completion of any work on the agreement Area.
- d. The extended reporting period (tail) must be purchased to cover a minimum of 36 months beyond completion of work.

(b) Terms of Insurance. The policies required under Subsection 10.3 shall name the State of Washington, Department of Natural Resources as an additional insured (except for State of Washington Worker's Compensation coverage, and Federal Jones' Act and Longshore and Harbor Worker's Act coverages). Furthermore, all policies of insurance described in Subsection 10.3 shall meet the following requirements:

- (1) Policies shall be written as primary policies not contributing with and not in excess of coverage that State may carry;
- (2) Policies shall expressly provide that such insurance may not be canceled or nonrenewed with respect to State except upon forty-five (45) days prior written notice from the insurance company to State;
- (3) To the extent of State's insurable interest, property coverage shall expressly provide that all proceeds shall be paid jointly to State and Tenant;
- (4) All liability policies must provide coverage on an occurrence basis; and
- (5) Liability policies shall not include exclusions for cross liability.

(c) Proof of Insurance. Tenant shall furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to the State accompanied by a checklist of coverages provided by State, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements described in section 10, and, if requested, copies of policies to State. Tenant may excise any proprietary information from the copies of the policies provided to State as long as such excisions do not impair State's ability to confirm the scope of coverage provided by such policies. The Certificate of Insurance shall reference the State of

Washington, Department of Natural Resources and the lease number. Receipt of such certificates or policies by State does not constitute approval by State of the terms of such policies. Tenant acknowledges that the coverage requirements set forth herein are the minimum limits of insurance the Tenant must purchase to enter into this agreement. These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these limits of coverage does not relieve the Tenant from liability for losses and settlement expenses greater than these amounts.

10.4 State's Acquisition of Insurance. If Tenant fails to procure and maintain the insurance described above within fifteen (15) days after Tenant receives a notice to comply from State, State shall have the right to procure and maintain comparable substitute insurance and to pay the premiums. Tenant shall pay to State upon demand the full amount paid by State, together with interest at the rate provided in Subsection 6.2 from the date of State's notice of the expenditure until Tenant's repayment.

10.5 Self Insurance. Tenant warrants that it has the capacity to self insure for the risks and coverages specified in Subsection 10.3. Tenant's obligations under Subsection 10.3 may be met by providing evidence of self insurance that is acceptable to State. Any acceptance of Tenant's proof of self insurance by State must be obtained in writing. The decision to accept, or reject, Tenant's proof of self insurance is within the sole discretion of State, but State shall not reject Tenant's proof of self insurance unless State reasonably concludes that the assets available through Tenant's self insurance program are insufficient to meet Tenant's self insurance obligations under this Lease. Tenant must provide State with proof of continuing ability to provide self insurance within thirty (30) days of any written request by State for such proof. Tenant shall also provide State with written notice within thirty (30) days of any material change in its ability to self insure, or to its program of self insurance. If Tenant elects to discontinue its program of self insurance, or if State provides written notice withdrawing its acceptance of Tenant's proof of self insurance, Tenant shall be subject to the requirements of Subsections 10.3 and 10.4. Tenant shall be in compliance with the requirements of Subsection 10.3 (including without limitation the requirement to provide State with the proof of insurance required in Subsection 10.3(c)) prior to exercising an election to terminate self insurance coverage and shall comply with those requirements within thirty (30) days of receipt of any notice from State withdrawing its consent to self insurance. All sublease agreements must comply with the provisions of Subsection 10.3.

Tenant, through its parent company, ChevronTexaco Corporation, is covered for property and liability exposures through major worldwide insurance programs with large deductibles. Losses that fall within these deductible levels, including those for which a ChevronTexaco company is contractually liable, are paid through the financial resources of the Company and are administered by ChevronTexaco Corporation under its Self-Administered Claims Program, hereinafter referred to as the Program. Workers' Compensation insurance requirements for ChevronTexaco companies are satisfied through insured/self-insured programs depending upon the location of the employee's workplace. U. S. Longshore and Harbor Workers' Act coverage is self-insured. As of the date of this Lease, State has accepted and approved the Self-Administered Claims Letter attached hereto as Schedule 1, as satisfactory evidence of Tenant's

self-insurance and fulfillment of the insurance requirements set forth in the Lease, but State reserves the right to reevaluate such approval in accordance with the provisions of this Section 10.5.

SECTION 11 MAINTENANCE AND REPAIR

11.1 State's Repairs. State shall not be required to make any alterations, maintenance, replacements, or repairs in, on, or about the Property, or any part thereof, during the Term.

11.2 Tenant's Repairs, Alteration, Maintenance and Replacement.

(a) Tenant shall, at its sole cost and expense, keep and maintain the Property and all improvements (regardless of ownership) in good order and repair, in a clean, attractive, and safe condition.

(b) Tenant shall, at its sole cost and expense, make any and all additions, repairs, alterations, maintenance, replacements, or changes to the Property or to any improvements on the Property which may be required by any public authority.

(c) All additions, repairs, alterations, replacements or changes to the Property and to any improvements on the Property shall be made in accordance with, and ownership shall be governed by, Section 7, above.

SECTION 12 DAMAGE OR DESTRUCTION

(a) In the event of any damage to or destruction of the Property or any improvements, Tenant shall promptly give written notice to State. Unless otherwise agreed in writing, Tenant shall promptly reconstruct, repair, or replace the Property and any improvements as nearly as possible to its condition immediately prior to the damage or destruction.

(b) Tenant's duty to reconstruct, repair, or replace any damage or destruction of the Property or any improvements on the Property shall not be conditioned upon the availability of any insurance proceeds to Tenant from which the cost of repairs may be paid.

(c) Unless this Lease is terminated by mutual agreement, there shall be no abatement or reduction in rent during such reconstruction, repair, and replacement.

(d) Any insurance proceeds payable by reason of damage or destruction shall be first used to restore the real property covered by this Lease, then to pay the cost of the reconstruction, then to pay the State any sums in arrears, and then to Tenant.

(e) If damage or destruction occurs and at such time Tenant is in default under the terms of this Lease and has failed to cure within the applicable period for curing such default, then State may elect to terminate the Lease and State shall then have the right to retain any and all insurance proceeds payable as a result of the damage or destruction.

SECTION 13 CONDEMNATION

13.1 Definitions.

(a) Taking. The term "taking," as used in this Lease, means the taking of all or any portion of the Property and any improvements thereon under the power of eminent domain, either by judgment or settlement in lieu of judgment. Taking also means the taking of all or a portion of the Property and any improvements thereon to the extent that the Permitted Use is prevented or, in the judgment of State, the Property is rendered impractical for the Permitted Use. A total taking occurs when the entire Property is taken. A partial taking occurs when the taking does not constitute a total taking as defined above.

(b) Voluntary Conveyance. The terms "total taking" and "partial taking" shall include a voluntary conveyance, in lieu of formal court proceedings, to any agency, authority, public utility, person, or corporate entity empowered to condemn property.

(c) Date of Taking. The term "date of taking" shall mean the date upon which title to the Property or a portion of the Property passes to and vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor.

13.2 Effect of Taking. If during the Term there shall be a total taking, the leasehold estate of Tenant in the Property shall terminate as of the date of taking. If this Lease is terminated, in whole or in part, all rentals and other charges payable by Tenant to State and attributable to the Property taken shall be paid by Tenant up to the date of taking. If Tenant has pre-paid rent, Tenant will be entitled to a refund of the pro rata share of the pre-paid rent attributable to the period after the date of taking. In the event of a partial taking, there shall be a partial abatement of rent from the date of taking in a percentage equal to the percentage of Property taken.

13.3 Allocation of Award. State and Tenant agree that in the event of any condemnation, the award shall be allocated between State and Tenant based upon the ratio of the fair market value of Tenant's leasehold estate and Tenant-Owned Improvements on the Property and State's interest (a) in the Property, (b) in the reversionary interest in Tenant-Owned Improvements, and (c) in State-Owned Improvements. In the event of a partial taking, this ratio will be computed on the basis of the portion of Property or improvements taken. If Tenant and State are unable to agree on the allocation, it shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association. Nothing herein shall prohibit or limit Tenant's right to pursue its own award against the condemning authority, provided, however, that such pursuit by Tenant does not impair or otherwise interfere with State's award from the condemning authority (e.g., Tenant's separate moving expenses).

SECTION 14 DEFAULT AND REMEDIES

- (a) Tenant shall be in default of this Lease on the occurrence of any of the following:
- (1) Failure to pay Annual Rent or other expenses when due;

- (2) Failure to comply with any law, regulation, policy, or order of any lawful governmental authority;
- (3) Failure to comply with any other provision of this Lease;
- (4) Two or more defaults over a period of time, or a single serious default that demonstrates a reasonable likelihood of future defaults in the absence of corrective action by Tenant; or
- (5) Proceedings are commenced by or against Tenant under any bankruptcy act or for the appointment of a trustee or receiver of Tenants' property.

(b) A default shall become an event of default ("Event of Default") if Tenant fails to cure the default within the applicable cure period after State provides Tenant with written notice of default, which specifies the nature of the default. For failure to pay rent or other monetary defaults, the cure period shall be ten (10) days. For other defaults, the cure period shall be thirty (30) days, provided, however, that if such non-monetary default cannot reasonably be cured within such thirty (30) day period, no Event of Default shall exist if Tenant has commenced to cure such default within such thirty (30) day period and diligently pursues such cure to completion.

(c) Upon an Event of Default, State may terminate this Lease and remove Tenant by summary proceedings or otherwise. State may also, without terminating this Lease, relet the Property on any terms and conditions as State in its sole discretion may decide are appropriate. If State elects to relet, rent received by it shall be applied: (1) to the payment of any indebtedness other than rent due from Tenant to State; (2) to the payment of any cost of such reletting; (3) to the payment of the cost of any alterations and repairs to the Property; and, (4) to the payment of rent and leasehold excise tax due and unpaid under this Lease. Any balance shall be held by State and applied to Tenant's future rent as it becomes due. Tenant shall be responsible for any deficiency created by the reletting during any month and shall pay the deficiency monthly. State's reentry or repossession of the Property under this subsection shall not be construed as an election to terminate this Lease or cause a forfeiture of rents or other charges to be paid during the balance of the Term, unless State gives a written notice of termination to Tenant or termination is decreed by legal proceedings. State may at any time after reletting elect to terminate this Lease for the previous Event of Default.

(d) If State elects to terminate this Lease prior to the stated Termination Date, then State shall notify Tenant in writing within the time frame specified in Section 7.4(c) as to which of the Tenant-Owned Improvements must be removed by Tenant.

SECTION 15 ENTRY BY STATE

State shall have the right to enter the Property at any reasonable hour to inspect for compliance with the terms of this Lease; provided, however, (a) that State shall give Tenant at least 48 hours prior written notice of such entry; and (b) in the event of an emergency, State shall give such prior notice as is reasonable given the circumstances, and Tenant shall cooperate to facilitate State's entry onto the Property.

SECTION 16 DISCLAIMER OF QUIET ENJOYMENT

As indicated in Section 1.1, this Lease is subject to all valid recorded interests of third parties, as well as rights of the public under the Public Trust Doctrine or federal navigation servitude, and treaty rights of Indian Tribes. State believes that its grant of the Lease is consistent with the Public Trust Doctrine and that none of the identified interests of third parties will materially and adversely affect Tenant's right of possession and use of the Property as set forth herein, but makes no guaranty or warranty to that effect. Tenant and State expressly agree that Tenant shall be responsible for determining the extent of its right to possession and for defending its leasehold interest. Consequently, State expressly disclaims and Tenant expressly releases State from any claim for breach of any implied covenant of quiet enjoyment with respect to the possession of the Property. This disclaimer includes, but is not limited to, interference arising from or in connection with access or other use rights of adjacent property owners or the public over the water surface or in or under the water column, including rights under the Public Trust Doctrine; rights held by Indian Tribes; and the general power and authority of State and the United States with respect to aquatic lands, navigable waters, bedlands, tidelands, and shorelands. In the event Tenant is evicted from the Property by reason of successful assertion of any of these rights, this Lease shall terminate as of the date of the eviction. In the event of a partial eviction, Tenant's rent obligations shall abate as of the date of the partial eviction, in direct proportion to the extent of the eviction, but in all other respects, this Lease shall remain in full force and effect.

SECTION 17 NOTICE

Any notices required or permitted under this Lease may be personally delivered, delivered by facsimile machine, or mailed by certified mail, return receipt requested, to the following addresses or to such other places as the parties may direct in writing from time to time:

State: DEPARTMENT OF NATURAL RESOURCES
Northwest Region Office
919 N. Township Street
Sedro-Woolley, WA 98284

Tenant: CHEVRON U.S.A. INC.
20555 Richmond Beach Drive NW
Seattle, WA 98177
Attention: Terminal Manager

Copy to: CHEVRON U.S.A. INC.
Chevron Business and Real Estate
2613 Camino Ramon, 2nd Floor
San Ramon, CA 94583-4289

A notice shall be deemed given and delivered upon personal delivery, upon receipt of a confirmation report if delivered by facsimile machine, or three (3) days after being mailed as set forth above, whichever is applicable.

SECTION 18 MISCELLANEOUS

18.1 Authority. Tenant and the person or persons executing this Lease on behalf of Tenant represent that Tenant is qualified to do business in the State of Washington, that Tenant has full right and authority to enter into this Lease, and that each and every person signing on behalf of Tenant is authorized to do so. Upon State's request, Tenant will provide evidence satisfactory to State confirming these representations. This Lease is entered into by State pursuant to the authority granted it in Chapters 79.90 to 79.96 RCW and the Constitution of the State of Washington.

18.2 Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the parties, their successors and assigns.

18.3 Headings. The headings used in this Lease are for convenience only and in no way define, limit, or extend the scope of this Lease or the intent of any provision.

18.4 Entire Agreement. This Lease, including the exhibits and addenda, if any, contains the entire agreement of the parties. All prior and contemporaneous agreements, promises, representations, and statements relating to this transaction or to the Property, if any, are merged into this Lease.

18.5 Waiver. The waiver by State of any breach or default of any term, covenant, or condition of this Lease shall not be deemed to be a waiver of such term, covenant, or condition; of any subsequent breach or default of the same; or of any other term, covenant, or condition of this Lease. State's acceptance of a rental payment shall not be construed to be a waiver of any preceding or existing breach other than the failure to pay the particular rental payment that was accepted.

18.6 Cumulative Remedies. The rights and remedies of State under this Lease are cumulative and in addition to all other rights and remedies afforded to State by law or equity or otherwise.

18.7 Time is of the Essence. TIME IS OF THE ESSENCE as to each and every provision of this Lease.

18.8 Language. The word "Tenant" as used in this Lease shall be applicable to one or more persons, as the case may be. The singular shall include the plural, and the neuter shall include the masculine and feminine. If there is more than one Tenant, their obligations shall be joint and several. The word "persons," whenever used, shall include individuals, firms, associations, and corporations.

18.9 Invalidity. If any provision of this Lease shall prove to be invalid, void, or illegal, it shall in no way affect, impair, or invalidate any other provision of this Lease.

18.10 Applicable Law and Venue. This Lease shall be interpreted and construed in accordance with the laws of the State of Washington. Any reference to a statute shall mean that statute as presently enacted or hereafter amended or superseded. Venue for any action arising out of or in connection with this Lease shall be in the Superior Court for Thurston County, Washington.

18.11 Recordation. Tenant shall record this Lease or a memorandum documenting the existence of this Lease in the county in which the Property is located, at Tenant's sole expense. The memorandum shall, at a minimum, contain the Property description, the names of the parties to the Lease, the State's lease number, and the duration of the Lease. Tenant shall provide State with recording information, including the date of recordation and file number. Tenant shall have thirty (30) days from the date of delivery of the final executed agreement to comply with the requirements of this subsection. If Tenant fails to record this Lease, State may record it and Tenant shall pay the costs of recording upon State's demand.

18.12 Modification. Any modification of this Lease must be in writing and signed by the parties. State shall not be bound by any oral representations or statements.

18.13 Conflicts of Interest . Tenant has informed State that Tenant's policy regarding conflicts of interest relating to leases is as follows:

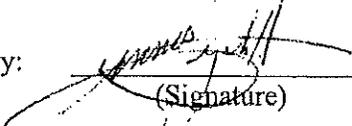
Conflicts of interest relating to this Lease are strictly prohibited. Except as otherwise expressly provided herein, neither Landlord nor any director, employee or agent of Landlord, shall give to or receive from any director, employee or agent of Tenant any gift, entertainment of other favor or significant value, or any commission, fee or rebate. Likewise, neither Landlord nor any director, employee or agent of Landlord shall enter into any business relationship with any director, employee or agent of Tenant (or any affiliate of Tenant), unless such person is acting for and on behalf of Tenant, without prior written notification thereof to Tenant.

During the term of this Lease, Tenant may request, and State shall supply, relevant records within the scope of the State's public disclosure act (Chapter 42.17 RCW) to determine whether Tenant has been in compliance with its own policy on Conflicts of Interest.

THIS AGREEMENT requires the signature of all parties and is executed as of the date of the last signature below.

CHEVRON U.S.A. INC.

Dated: _____, 20__

By:  6-25-03
(Signature)

Dennis Triplett
(Print or Type Name)

Title: Assistant Secretary

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: _____, 20__

By: _____
DOUG SUTHERLAND

Title: Commissioner of Public Lands

Approval as to form this
9th day of June, 2003



Michael S. Grossmann,
Assistant Attorney General

CHEVRON POINT WELLS FACILITY

State Owned Aquatic Lands (SOAL) Lease Exhibit B

OPERATIONS AND MAINTENANCE PLAN, ENVIRONMENTAL PLAN AND LISTING OF IMPROVEMENTS AND PERSONAL PROPERTY

Exhibit B describes Chevron's operations and maintenance practices at the State Owned Aquatic Lands ("SOAL", which SOAL areas are identified and described on the preceding Exhibit A) located adjacent to the Chevron Point Wells Facility. It also describes Chevron's plan for evaluating environmental conditions at the SOAL. Finally, this exhibit provides more detail as to the Existing Improvements, the Tenant-Owned Improvements, and Tenant's "personal property," as those terms are used in the Lease.

I. OPERATIONS AND MAINTENANCE PLAN

The Point Wells Facility consists of an asphalt terminal and a former light products terminal. The total leased tideland area of the SOAL is approximately 6 acres. A pier is present in the leased area, and a warehouse and office along with equipment and supporting systems are located on the pier. Current asphalt terminal operations on the SOAL include commercial ship and barge berthing, loading, unloading and bunkering of petroleum products from marine vessels and barges, and other activities to support the ships and barges that dock on the SOAL. Chevron's practices at the SOAL are described in the following Sections:

- Development and Maintenance Plan
- On-site Operations
- Hazardous Materials Handling
- Fuel Off Loading Equipment and Maintenance
- Outfalls and Storm Drain Discharges Management
- Oil Spill Prevention, Containment & Control Plan

1. Development and Maintenance Plan

Chevron's current development and maintenance plan includes pier maintenance, maintenance dredging, and pipeline modification/rehabilitation. Chevron shall perform utility upgrades and repairs and building maintenance as necessary. Third-parties may also perform maintenance on their vessels if emergency repairs are needed. In the event that other development and maintenance activities are necessary over the course of the lease term, Chevron shall comply with the SOAL Lease in performing such activities.

Pier Maintenance

The existing pier in the lease area consists of bearing and batter piling and fender piling capped by a concrete slab and curb. Chevron personnel are present on the pier when vessels arrive and leave to make certain that the pier is not damaged by vessels. Chevron shall periodically inspect

the pier and will repair the pier as required. If existing piling are replaced, Chevron shall replace the pilings in accordance with the U.S. Army Corp of Engineers Seattle District Nationwide Permit for pile removal, which allows replacement of 18 piling or less per year.

Maintenance Dredging

Chevron may need to perform navigational maintenance dredging in the area of selected berths. If dredging is required, Chevron shall obtain all required permits and approvals, including any required approval from the U.S. Army Corp of Engineers Seattle District Dredge Material Management Office (DMMO). Chevron shall perform navigational dredging using the controls and procedures required in its dredging permits and approvals.

Pipeline Maintenance/Rehabilitation

Chevron may add, modify, re-line or replace pipelines or water intake lines, located within the SOAL. Chevron shall obtain appropriate permits and approvals for this work and shall perform the work in accordance with those permits and approvals.

2. On-site Operations

Tankers, barges and tugs are the most common vessels that dock on the SOAL. Chevron requires that all approaching vessels minimize prop wash to avoid suspension of sediments. It should be noted that sediment redistribution will occur due to wave action, tidal currents, and storm events (Sloth, et al., 1996). Given the exposed nature of Point Wells, area tidal currents alone may be sufficient to resuspend sediments (Foster Wheeler Environmental, 1996; Clarke, et al., 1982), notwithstanding Chevron's procedures and practices.

3. Hazardous Materials Handling

Chevron has prepared a Pollution Prevention Plan (PPP) for the Point Wells Facility. The PPP describes Chevron's efforts to reduce the use of hazardous materials and the generation of hazardous waste, in accordance with the Washington State Hazardous Waste Reduction Act. Pursuant to the Lease, Chevron shall implement those portions of its PPP that relate to Chevron's operations on the SOAL and shall review and update those portions of its PPP periodically as necessary at the same time as Chevron's application for renewal of its NPDES permit. At this time, petroleum products, oily waste and bilge water are the only potentially hazardous materials that are regularly loaded through the dock pipelines.

4. Fuel Off Loading Equipment and Maintenance

Petroleum products are offloaded through the pipelines at the pier for storage in upland tanks at the Point Wells facility. Oily waste and bilge water are also transported through the pipeline. Chevron shall pressure test active pipelines annually and shall check for pipeline corrosion as required by federal law. Chevron shall test cargo lines from the dock manifold to the first shore valve as part of its best management practices at the Facility. Chevron shall also visually monitor pipelines every fifteen minutes during marine transfers. Chevron shall direct all employees and consultants to report any leaks, spills, or potential problems to the facility management. Chevron shall follow its Facility Response Plan (FRP), as described further below,

in the event of a leak, spill or other problem. Chevron shall control, contain and clean up spilled materials promptly as provided in Section 8.6 of the Lease.

The concrete pier surface is completely surrounded by a concrete curb, which functions as secondary containment. Drainage from the concrete curb is through a series of manually operated one inch valves on the east face of the dock. These valves are normally closed during a transfer. Chevron shall perform a visual inspection of the containment for sheen or signs of oil prior to opening the valves and draining water directly into Puget Sound. Secondary containment is also present under the loading headers. Chevron shall inspect the loading header containment areas periodically and shall pump liquid from the containment as necessary to a sloop tank for processing. The loading header containment area is also pumped after every marine vessel movement, as required by federal law.

Most equipment is repaired or maintained upland, in an effort to limit the amount of activity on the pier. Chevron does perform maintenance and repair of cranes, fire suppression systems and utilities on the pier. Other equipment, such as spill response equipment and boats, is removed from the pier and taken upland for maintenance and repair.

5. Outfalls and Storm Drain Discharges Management

In the vicinity of the leased land, Chevron has two outfalls subject to National Pollutant Discharge Elimination System (NPDES) Permits: 1) No. WA-000323-9 (Permit No. 1), effective until June 30, 2002; and 2) No. WA-003170-4 (Permit No. 2), effective until June 30, 2002. Chevron's discharge pursuant to Permit No. 1 is through Outfall 001, and its discharge pursuant to Permit No. 2 is through Outfall 002. Both outfalls are shown on the survey of the leased premises. Storm water and treated groundwater are discharged through these outfalls pursuant to the NPDES permits. Chevron shall comply with the conditions in both NPDES permits to ensure discharges are not contributing to contamination of the SOAL.

6. Oil Spill Prevention, Containment, & Control Plan

Chevron has an approved Facility Response Plan (FRP), as required under Section 311(j)(5) of the Clean Water Act, 33 CFR 154 Subpart F (the Oil Pollution Act of 1990 (OPA90)), and WAC 173-181. The FRP includes detailed information on the key components of Chevron's spill prevention program and functions as a reference document for spill prevention activities. In addition, Chevron complies with RCW 90.48.386. Chevron performs preparedness drills as outlined in the FRP. At the facility, Chevron has spill response boats equipped to deploy spill containment booms. Chevron installed hydraulic cranes in strategic locations on the pier for use in deploying spill containment booms and boats, which are located on the dock to allow for quick response in the event of a spill. Chevron shall continue to evaluate booming strategies and boom location and type during each deployment exercise in an effort to improve containment effectiveness. Chevron shall deploy and inspect spill containment booms and shall repair the booms as necessary. A complete list of response equipment is maintained in the FRP.

II. ENVIRONMENTAL PLAN

As noted in Section 8.3 of the Lease, Chevron has provided State with copies of sediment data showing the presence of Hazardous Substances on or about the leased property. , and Chevron intends to perform additional sampling as provided herein (the "Sampling"). Chevron provided State with the sediment data in the Supplemental Sediment Characterization Sampling and Analysis Plan prepared by Anchor Environmental, L.L.C. dated July 2001.

1. Sediment Quality

Surface sediments adjacent to the Chevron Point Wells facility were sampled in 1994 to support permitting of Outfall 001 pursuant to National Pollutant Discharge Elimination System (NPDES) requirements. Sediments were sampled again in 1995 to establish baseline conditions and support renewal of former DNR Leases #9914 and #10388.

The 1994 surface sediment chemical data within the vicinity of Outfall 001 did not show any exceedance of the Sediment Management Standards (SMS) sediment quality standards (SQS) chemical criteria (CH2M Hill 1994). The 1995 baseline surface sediment samples were collected near the existing pier (former DNR Lease #9914), in the location of a former pier (former DNR Lease #10388), and in nearshore areas owned by Chevron (JWS 1995). These surface sediment samples were initially submitted for confirmatory biological testing consistent with the 1991 Washington State Department of Ecology (Ecology) SMS. Based on the results of the bioassay testing, selected samples were submitted for chemical analyses (Foster Wheeler 1997a and 1997b).

The 1995 sampling program consisted of three bioassays (i.e., amphipod, larval, and juvenile polychaete). The results of these three bioassay tests were evaluated against appropriate control and reference performance standards of WAC 173-204-315(2) and SQS and Cleanup Screening Levels (CSLs) criteria of WAC 173-204-320(3) and WAC 173-204-520(3). Based on discussions with Ecology's Sediment Management Unit (personnel communication with Brett Betts), interpretation of the larval test results within the lease areas are inconclusive and compliance with the SMS cannot be established. The results of the chemical analyses show only two exceedances (phenol and 4-methylphenol) of the SQS and CSL chemical criteria, respectively, at one location adjacent to the southern end of former DNR Lease #9914 (Berth 3; Location 3).

2. Sampling and Analysis Plan

Chevron has submitted a Sampling and Analysis Plan (SAP), in accordance with the SMS, to Ecology for review and approval. The SAP proposes supplemental confirmatory biological testing within the DNR Lease area. The SAP outlines the rationale, locations, methods, and schedule for the proposed sampling. The SAP has been approved by Ecology and will be implemented by Chevron. The results of the sampling will be reported to Ecology and DNR.

3. Sediment Management Strategy

If the results show that sediment samples do not exceed the SMS CSLs, no further action will be required. If the results show that sediment samples exceed the SMS CSLs, then Chevron will work with Ecology to further evaluate the biological test results and take additional action as required by the Model Toxic Controls Act. Figure B1 presents Chevron's strategy for any contaminated sediments in the lease areas. This Section II.3 is intended to be consistent with and is not intended to modify any obligations Chevron may have under Sections 8.5 and 8.6 of the Lease.

III. IMPROVEMENTS

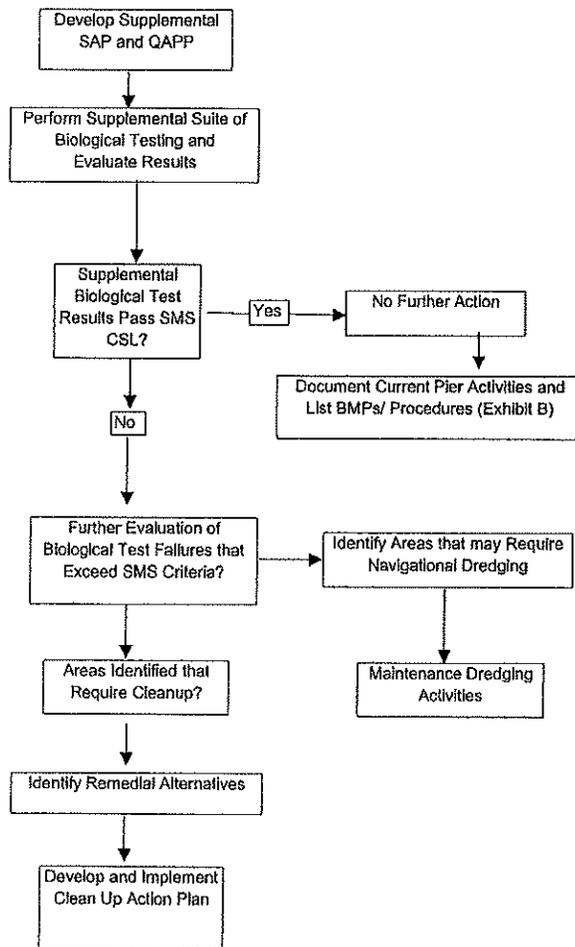
This section of Exhibit B provides more detail as to the Existing Improvements, the Tenant-Owned Improvements, and Tenant's "personal property," as those terms are used in the Lease. Tenant owns certain improvements and items of personal property that are located on the Property. For purposes of the Lease, the following improvements shall be considered both "Existing Improvements" and "Tenant-Owned Improvements" located on the Property:

- (a) pier;
- (b) warehouse;
- (c) office;
- (d) utilities;
- (e) pipelines;
- (f) boathouse; and
- (g) equipment room.

Further, the following items shall be considered Tenant's "personal property" for purposes of the Lease, including but not limited to Section 7.4 of the Lease:

- (q) cranes located on the Property;
- (r) all equipment, tools, gaskets, machinery and other items located within or adjacent to the equipment room on the Property;
- (s) all emergency response equipment located on the Property;
- (t) all office equipment, furniture, fixtures, supplies and other items located within or adjacent to the office building on the Property;
- (u) all equipment, furniture, machinery, tools, transformers and other items located in the warehouse on the Property;
- (v) all fire suppression system equipment located on the Property;
- (w) the boat launch hoist and supporting machinery, equipment and tools located on the Property;
- (x) all boats, equipment, furniture, fixtures, machinery, tools and other items located within or adjacent to the boathouse building on the Property;
- (y) all spill response boats, booms, and equipment located on the Property (and such related equipment as identified in the FRP); and
- (z) all other items not permanently attached to the Property but located on the Property and used in connection with Tenant's operations on the Property.

Figure B-1. CHEVRON PT. WELLS SEDIMENT SITE MANAGEMENT STRATEGY FLOWCHART
Sediment Management Standards - Chapter 173-204 WAC (Amended December 1995)





May 1, 2003

State of Washington
Department of Natural Resources
Northwest Region Office
919 N. Township Street
Sedro-Wooley, WA 98284

**Re: Pt. Wells, WA
Aquatic Lands Lease**

Dear Sirs:

ChevronTexaco Corporation and its subsidiary Chevron U.S.A. Inc. are covered for property and liability exposures through major worldwide insurance programs with large deductibles. Losses that fall within these deductible levels, including those for which Chevron U.S.A. Inc. is contractually liable, are paid through the financial resources of Chevron U.S.A. Inc. and are administered by ChevronTexaco Corporation under its Self-Administered Claims Program, hereinafter referred to as the Program.

This is to advise you that the property/liability insurance requirements of the subject agreement fall within the deductible levels of ChevronTexaco's insurance programs. Therefore, losses for which Chevron U.S.A. Inc. is responsible under the agreement will be handled under the above-described Program. The scope of this Program is equal to the insurance requirements of the subject agreement.

Under this Program, Chevron U.S.A. Inc. and its parent, ChevronTexaco Corporation, will indemnify and hold harmless the State of Washington, Department of Natural Resources, its officers, agents, employees and assigns for any occurrence for which Chevron U.S.A. Inc. is contractually responsible. Such responsibility, however, is limited strictly to the Indemnity obligations assumed under the subject agreement.

We further advise you that Workers' Compensation insurance requirements for self insurance and self administration for Chevron companies are satisfied pursuant to workers compensation legal requirements [through insured/self-insured programs depending upon the location of the employee's workplace]. U.S. Longshore and Harbor Workers' Act coverage is self-insured.

Unless canceled earlier, this letter will remain in effect until the expiration or earlier termination of the subject agreement (or any renewal thereof). If this program is canceled or materially changed, we will provide you with 30 days' written notice.

Yours truly yours,

A handwritten signature in cursive script that reads "Michael T. Augello".

Michael T. Augello
Leasing Specialist
ChevronTexaco Business and Real Estate Services

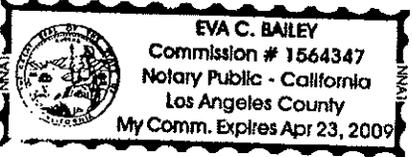
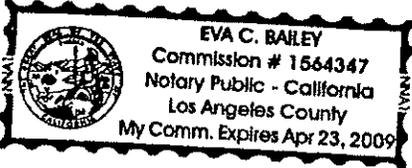
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

On April 22, 2005 before me, Eva C. Bailey Notary Public,
Date Name and Title of Officer (ex. Jane Doe, Notary Public)

personally appeared W. Scott Lovejoy III
Name(s) of Signer(s)



- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Handwritten Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Memorandum of lease

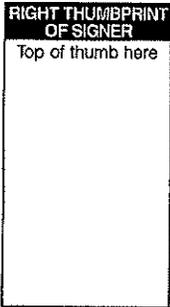
Document Date: None APRIL 22, 2005 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: W. Scott Lovejoy III

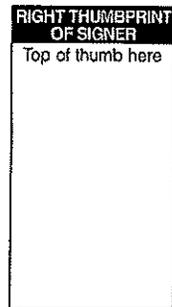
- Individual
- Corporate Officer
Title(s): CEO
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:
Paramount of
washington, Inc.

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

