



## **KENAI PENINSULA BOROUGH**

**Planning Department • Land Management Division**  
144 North Binkley Street • Soldotna, Alaska 99669-7520  
**PHONE:** (907) 714-2200 • **FAX:** (907) 714-2378  
Toll-free within the Borough: 1-800-478-4441, Ext. 2200  
[www.borough.kenai.ak.us](http://www.borough.kenai.ak.us)

**DAVID R. CAREY**  
**BOROUGH MAYOR**

### **MEMORANDUM**

**TO:** Milli Martin, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** *officer* David R. Carey, Borough Mayor  
*MB* Max Best, Planning Director

**FROM:** *mm* Marcus A. Mueller, Land Management Officer

**DATE:** February 5, 2009

**SUBJECT:** Ordinance 2009-02:  
Synopsis of the Option to Lease Ladd Landing

The Option to Lease Ladd Landing ("Option") is a contract that allows PacRim Coal, LP (PacRim) to enter into a defined lease. PacRim can by the terms of that contract exercise the Option today, tomorrow, or next week; just as they could have for the last 21 years. The question before the Assembly is not whether or not to lease to PacRim; that decision was made in 1987. The question before the Assembly is whether or not to further extend the Option in order to allow the Administration to attempt to modernize the lease language through renegotiations, which will benefit all parties, including the public.

The option period is set to expire, and therefore without extending the Option, PacRim will be forced to exercise the option and execute the lease as-is or walk away. We do not predict the latter. If the lease is executed as-is, it is anticipated that a stream of changes will be necessary just to sort out modern realities. There are a number of general terms such as rental rate determination methods, liability protection, predevelopment review, and site closure that are not adequately addressed in the designated lease and which would be beneficial to change before a lease is executed.

A general misconception of the public is that this ordinance puts the Chuitna Coal mine within the Assembly's purview to vote up or down. The Kenai Peninsula Borough does not have this direct authority. The Kenai Peninsula Borough does not have ownership interest in the coal or in the land where the coal is to be removed. Nor does the Kenai Peninsula Borough have direct regulatory authority over coal mining or the transportation of coal. However, the Kenai Peninsula Borough does have ownership of an area of coastal lands which has been identified as the preferred location for a

terminal facility related to the coal project. By the Option, these borough lands are already contracted to PacRim. This Option contract can be managed responsibly to make the most out of the Borough's one small area of influence on a significant resource development project; to advocate for and provide, to the extent possible, the best protections to the public. The Assembly's action on this ordinance is not an up or down vote on the project, but is a decision point in how to engage the project.

Below is a brief synopsis of the Option and Lease Documents.

### **OPTION SUMMARY**

Commencement Date: March 10, 1987

Original Term: 5 Years with a 2 Year Extension

Extension Dates: 1992, 1997, 2002, 2007, 2008, 2009

Original Acreage: 1380 Acres

Original Option Fee: \$80,500 per annum

Current Acreage: 810 Acres

Current Option Fee: \$40,000 per annum

Fees Collected to Date: \$1,366,000

Pending Expiration Date: April 9, 2009

Option Primary Purpose: Grants right to enter into a defined land lease (see ground lease summary below);

Secondary Functions:     a) Defines procedure leading to the execution of a lease  
                                  b) Permits site investigation activities during the Option

### **GROUND LEASE SUMMARY**

Interest: Fee

Purpose: Commercial, Industrial and Residential purposes associated with the extraction, handling, storage, transportation and shipment of coal

Acreage: 810 Acres

Term: 30 Years plus two 10-year extensions

Rent: 6% of Hypothetical Appraised Value with Adjustment Cap

Current Assessed Value~\$810,000

Accompanying Easement: Non-exclusive preferential easement to use and cross the public access area at Ladd Landing

Sand and Gravel Rights and Costs: Right to extract sand and gravel, compensation set at the prevailing State rate.

Removal of improvements: Lessee has sole option to remove or not to remove improvements, except hazardous improvements must be removed

Liability Protection Provisions: Indemnification