

**ATTACHMENT A  
TO  
EA ADL 108261**

**SPECIAL STIPULATIONS**

1. Authorized Officer (AO). The AO for the Southeast Land Office, Division of Mining, Land and Water is the Regional Manager, Southeast Regional Land Office. The AO may designate a representative for administration for specific portions of this authorization. The AO has the authority to suspend all or any construction, operation or maintenance activities suspected to be in violation of the conditions/special stipulations. Such a suspension shall remain in force until corrective action is taken. If corrective action is not taken within thirty (30) days after receipt of written notice, the authorization may be terminated. The AO has the right but not the obligation, to undertake corrective action at the expense of the Grantee by moving against the performance bond when such action is necessitated by neglect on the part of the Grantee to take corrective action.
2. Permitted Use. Improvements shall be consolidated within smallest practicable area, not to exceed the total acreage explicitly approved on page 1 of this authorization. Only those uses and temporary improvements depicted on Attachment A are allowed, unless prior Division approval is obtained for additional improvements. Use of the site for any unapproved purpose is prohibited. Grantee, its agents and employees are responsible for accurately siting authorized uses and structures within the authorization area. Any unauthorized use of State lands outside the authorization area, either by Grantee or by its agents or employees, is strictly prohibited.
3. Indemnification. Grantor assumes no responsibility for maintenance of improvements constructed on State land, or any liability for injuries or damages attributable to that construction. Grantor also makes no warranty that dedicated lands are suitable for the proposed use.

Grantee assumes all responsibility, risk and liability for all activities of grantee, its employees, agents, invitees, contractors, subcontractors, or licensees directly or indirectly conducted in connection with this easement, including environmental and hazardous substance risks and liabilities, whether accruing during or after the term of this easement. Grantee shall defend, indemnify, and hold harmless the State of Alaska, its employees, and agents from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by grantee, its employees, agents, invitees, contractors, subcontractors, or licensees, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the State or anyone acting on the State's behalf. Within 15 days Grantee shall accept any such cause or action or proceeding

upon tender by the State. This indemnification shall survive the termination of the easement.

4. Alaska Historic Preservation Act. The grantee shall consult the Alaska Heritage Resources Survey (907) 269-8718 so known historic, archaeological and paleontological sites may be avoided. The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state-owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered within the authorization area, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Outdoor Recreation shall be notified immediately at (907) 269-8720.
5. Public Trust Doctrine. Public access shall not be precluded by activities or structures allowed by this authorization. All operations must be conducted in a manner that will ensure minimum conflict with other users of the area. Grantee shall not close landing areas or trails or otherwise prevent overland access commonly used by the public. The interests served by the public trust doctrine, specifically the right of the public to use navigable waterways and the land beneath them for navigation, commerce, fishing, hunting, protection of the areas for ecological study, and other purposes, will be protected.
6. Notification. Grantee shall immediately notify Alaska Department of Environmental Conservation (DEC) by telephone, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail, informing DEC of: any unauthorized discharges of oil to water, any discharge of hazardous substances other than oil; and any discharge or cumulative discharge of oil greater than 55 gallons solely to land and outside an impermeable containment area. If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, Grantee shall report the discharge within 48 hours, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail. Any discharge of oil, including a cumulative discharge, solely to land greater than one gallon up to 10 gallons must be reported in writing on a monthly basis. The posting of information requirements of 18 AAC75.305 shall be met. Scope and Duration of Initial Response Actions (18 AAC 75.310) and reporting requirements of 18 AAC 75, Article 3 also apply. Grantee shall supply DEC with all follow-up incident reports. Notification of a discharge must be made to the nearest DEC Area Response Team during working hours: Anchorage (907) 269-3063, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-2237. The DEC oil spill report number outside normal business hours is (800) 478-9300.

7. Maintenance. The State assumes no responsibility for maintenance of improvements constructed on State land or liability for injuries or damages attributable to that construction. The authorized area shall be maintained in a neat, clean and safe condition, free of any debris or litter.
8. Amendment or Modification. This easement may be modified or amended only by a document signed by both parties. Any purported amendment or modification has no legal effect until placed in writing and signed by both parties
9. Inspection. Authorized representatives of the State of Alaska shall have reasonable access to the subject parcel for purposes of inspection. Grantee may be charged fees under 11 AAC 05.010(a)(7)(M) for routine inspections of the subject parcel, investigations of non-compliance, and a final close-out inspection.
10. Restoration of Site. Upon the expiration or termination of this authorization, Grantee shall vacate the site, remove all temporary improvements, personal property, and other chattels, and return the area to a clean and safe condition. In the event that Grantee fails to comply with this requirement, Grantee shall be held liable for any and all costs incurred by the State to return the permitted area to a clean and safe condition.
11. Change of Address. Grantee shall maintain a current, valid, mailing address on file with DMLW at all times. The latest mailing address on file with the division is the address that will be used for official communications, notifications, and service of legal process. Grantee must notify DMLW, in writing, of a change of address.
12. Late Payment Penalty Charges. Grantee shall pay a fee for any late payment. The fee amount is the greater of either the fee specified in 11 AAC 05.010 or interest at the rate set by AS 45.45.010(a), and will be assessed on a past-due account until payment is received by the State.
13. Returned Check Penalty. A returned check fee as provided for in 11 AAC 05.010 will be assessed for any check for which the bank refuses payment. Late payment penalties shall continue to accumulate.
14. Valid Existing Rights. This authorization is subject to all valid existing rights in and to the land under this authorization. The State of Alaska makes no representations or warranties whatsoever, either expressed or implied, as to the existence, number or nature of such valid existing rights.
15. Performance Guaranty. The Grantee shall provide a surety bond or other form of security acceptable to the Division in the amount of \$3,900.00 payable to the State of Alaska. Such performance guaranty shall remain in effect for the term of this and any

subsequent authorization and shall secure performance of Grantee's obligations hereunder. The amount of the performance guaranty may be adjusted by the Regional Manager in the event of approved amendments to this authorization, changes in the development plan, or any change in the activities or operations conducted on the premises.

***The performance guaranty may be utilized by DMLW to cover actual costs incurred by the State of Alaska to pay for any necessary corrective actions in the event the Grantee does not comply with the site utilization, restoration requirements and other stipulations contained in this agreement.*** If the Grantee fails to perform the obligations under this authorization within a reasonable timeframe, the State may perform the Grantee's obligations at the Grantee's expense. The Grantee agrees to pay within 20 days following demand, all costs and expenses incurred by the State of Alaska as a result of the failure of the Grantee to comply with the terms and conditions of this authorization. Failure to do so may result in the termination of the authorization and/or forfeiture of the performance guaranty.

The provisions of this authorization shall not prejudice the State's right to obtain a remedy under any law or regulation. If the Regional Manager determines that Grantee has satisfied the terms and conditions of this authorization, the performance guaranty will be subject to release. The performance guaranty may only be released in writing by the Regional Manager.

16. Insurance. Pursuant to 11 AAC 96.065 the permittee shall secure or purchase at its own expense, and maintain in force at all times during the term of this authorization, the following policies of insurance to protect both the grantee and the grantor (the State, its officers, agents and employees). If the grantee's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the AO prior to the issuance of this authorization and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. The grantee must provide for a 60-day prior notice to the State before they cancel, not renew or make material changes to conditions to the policy. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of this authorization and shall be grounds, at the option of the State, for termination of the authorization. All insurance policies shall comply with, and be issued by, insurers licensed to transact the business of insurance under Alaska Statute, Title 21. The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the Division of Risk Management, Department of Administration. The State must be named as an

additional named insured on the policy with respect to the operations of the grantee on or in conjunction with the permitted premises, referred to as ADL 108261.

**Commercial General Liability Insurance:** Such policy shall have minimum coverage limits of \$1,000,000 combined single limit per occurrence.

17. Fuel and hazardous Substances. No fuel or hazardous substances are to be stored on the subject parcel. Prior written approval from Grantor is required for a change in this restriction. Such approval may include additional stipulations and a change in the amount required for the performance guaranty. Grantee is responsible for preventing spills and contamination of contiguous land and water and for cleaning up any oil or other pollutants which result from activities associated with this easement.
18. Compliance with Governmental Requirements. Lessee shall, at its expense, comply with all applicable laws, regulations, rules and orders, and the requirements and stipulations included in this lease. Lessee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
19. DEC APDES Permit. Failure to maintain a valid DEC APDES permit, or other authorization that may be required for marine discharge, may result in the termination of land use authorization under this easement.

