

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

RECORD OF DECISION

to issue

**Millsite Lease ADL 233521
pursuant to AS 38.05.255**

and

RELATED ACTION

**Red Dog Plan of Operations Approval F20209958POOA
pursuant to AS 38.05 and 11 AAC 86.800**

I. Recommended Action(s)

The Department of Natural Resources (“Department”), Division of Mining, Land & Water (“Division” or “Lessor”) received an application from Teck Alaska, Inc. (“TAK” or “Applicant” or “Lessee”) as operator of the Red Dog Mine, under authorization of NANA Regional Corporation, Inc., for a Millsite Lease to expand the footprint of the existing tailings storage facility at the Mine onto State land for tailings storage and the potential construction of a spillway as part of future mine closure activities. This Decision approves the issuance of a Millsite Lease and the Plan of Operations Approval (POOA) to the applicant.

The Plan of Operations (POO) request for the expansion of the Red Dog Mine tailings storage facility onto state land, provides for the reclamation of the proposed Millsite Lease, and the continued concurrent material sale activities within the boundary of the Millsite Lease.

The parcel is located adjacent to the Red Dog Mine Tailings Storage Facility, in the Barrow Recording District, Kateel River Meridian, Township 031 North, Range 019 West, Section 24 SE1/4, Section 25 E1/2, and Section 36 NE1/4. The Millsite Lease is located on mining claims owned by Teck American, Inc., which is the parent entity of TAK and concurs with the issuance of the Millsite Lease.

Alaska Statute 38.05.255(a) allows for issuance of the Lease upon payment of reasonable annual rent for the Lease and restricted to uses approved by the Director of the Division of Mining, Land & Water as stated in the Millsite Lease ADL 233521. The Division proposes to issue the Millsite Lease to TAK, the operator of the Red Dog Mine.

II. Authority

The Division authority under AS 38.05.255(a) allows the Director to issue a Millsite Lease for the use of the surface of the land for those activities necessary for the prospecting for, extraction of, or basic processing of minerals. Regulation 11 AAC 86.600(a) allows the Director to issue a Millsite Lease to the owner of a mining interest for the use of the State's surface estate for a millsite, tailings disposal, or another use necessary for the mineral development. The surface estate subject to the Millsite Lease granted under this regulation must be on or near the mining interest. Under 11 AAC 86.800, the Director is authorized to approve activities proposed by the POO that takes place on the millsite.

III. Access

Access to the Red Dog Mine site and the proposed Millsite Lease area is via the existing Red Dog Mine Road, a private 52 mile toll road, that originates from the state owned DeLong Mountain Port Facility operated by the Red Dog Mine, to the Red Dog Mine Site. The road passes near the Red Dog Airport which provides access for personnel and supplies. The millsite is accessed from the Red Dog Mine Site from the south, near the back tailings dam, and from the north from the main tailings dam. No other access is available from the surrounding area due to the remoteness of the site.

IV. Northwest Area Plan

The Millsite Lease Area is located within the boundary of the Northwest Area Plan (NWAP or the plan), more specifically in Management Unit K-03 in the Kotzebue Sound Region. Management Unit K-03 is designated Mineral/Habitat (Mi, Ha) and the Management Intent for this unit states that this area is to be "managed for mineral values" but must consider the impacts of long-term or permanent uses on the Western Arctic Caribou Herd (WACH).

Mining is considered an appropriate use in areas designated Mineral/Habitat as long as the activity is consistent with the NWAP and is in the best interest of the state. All authorizations issued by the Department for the use of State land within the planning area are to be consistent with the principles of multiple use and with the management intent provided in the plan. In order to comply with the principles of multiple use, all authorizations must take into consideration the short-term and long-term public needs to both renewable and nonrenewable resources. To ensure that all activities and resources values are protected in a manner consistent with the principles of multiple use. The following Management Guidelines are pertinent to the issuance of this Millsite Lease:

- Management Guideline L (page 2-16) of the 'Fish and Wildlife Habitat and Harvest Areas' component of Chapter 2 addresses activities and uses allows in caribou calving areas, winter range, summer range, and insect relief areas. This Management Guideline specifically states that other management requirements pertaining to the 'Subsurface

Resources' component of Chapter 2 should be consulted prior to authorizing locatable, leasing, or licensing activities.

- Management Guideline K (page 2-50) in the 'Subsurface Resources' component of Chapter 2 pertains to locatable minerals and specifically addresses mining activities in WACH affected areas. This guideline states that although mining is considered appropriate or may be appropriate with stipulations in areas designated Mineral/Habitat, all mining authorizations issued by the Department shall "consider the effects of a proposed mining operation on WACH activities." This guideline also states that Alaska Department of Fish and Game (ADF&G) should be consulted in all instances prior to issuing any authorization for mining exploration or development. The same requirement is reiterated in the Management Intent language provided in the Resource Allocation Table for Management Unit K-03 (page 3-39), requiring consultation with ADF&G concerning the potential impacts that long-term or permanent uses may have on the WACH.

In addition to these Management Guidelines, the 'Subsurface Resources' section of Chapter 2 includes a goal entitled 'Economic Opportunities.' This goal states that the implementation of the NWAP will "provide economic opportunities and stability by managing state lands for the efficient and environmentally sound: [...] disposal of tailings;" and the "development of state land and submerged land mining sites" (page 2-49).

The Western Arctic Caribou Herd, based on the 2017 photocensus, considers the herd numbers to be stable at approximately 244,000. Red Dog mine currently has a Caribou Policy in place to minimize the effects on the herd when it approaches the mine and the DeLong Mountain Transportation Corridor. This policy will be extended to include the millsite area. The policy is designed to reduce noise and avoid disturbing the herd as it migrates through the area. ADF&G has requested to add a stipulation to the Millsite Lease. See the Stipulations Section in Section VI of this document.

Based on the thorough analysis of the resources and uses in the area and consultation with ADF&G, the issuance of this Millsite Lease is consistent with the Management Guidelines and policies provided in the NWAP, the Management Intent for Management Unit K-03, the principles of multiple use, and the goal of managing land for the efficient disposal of tailings. Ultimately, the Department has determined that the issuance of this Millsite Lease is in the best interest of the State.

V. Public Notice and Comments

AS 38.05.035(e)(6)(G) authorizes the Director to approve a Millsite Lease without a written finding. In order to meet the requirements of the Alaska Constitution, Article 8, Section 10, the Division issued a public notice of the Millsite Lease application. The public notice included the draft Millsite Lease, the associated Plan of Operations application and the Draft Plan of

Operations Approval and was posted for 30-day on the State of Alaska Online Public Notice System from February 4, 2020 thru March 5, 2020. In addition, the public notice and documents listed above were provided electronically to the following: three resource development groups; Alaska Miners Association, Council of Alaska Producers, and Resource Development Council; one Alaska Native Regional Corporation-NANA Regional Corporation, Inc.; two tribal organizations-Noatak IRA Council and Kivalina City Council; three non-governmental organizations-Citizens for Science in Public Participation, Northern Environmental Center, and Trustees for Alaska; and one engineering firm-Kuipers and Associates LLC.

The Division received 3 comments from an agency, a resource industry, and a tribal organization. All comments have been reviewed and responded to by the Division, the applicant, and other agencies, and a summary of the comments and responses is provided in Attachment A. Changes to the Millsite Lease and other documents commented on have been made when warranted, and stipulations have been added to this record of decision and Millsite Lease ADL 233521.

VI. Stipulations

TAK will be required to comply with the following stipulations. The stipulations are added to the Millsite Lease ADL 233521 in Exhibit C.

1. Until such time as the appraisal of the millsite is completed and approved by the Division, as required in Section 6(a)(1) of the Millsite Lease, the rental amount will be \$60.00 per acre for a total of \$38,400.00 due upon approval of the Millsite Lease. Payment must be received by the Department within 30 days of the effective date of the lease. Upon approval of the appraisal required per Section 6(a)(1) of the Millsite Lease, the Division will adjust the rental on the lease to the appraised value of the land. If the appraised value is less than the amount of rent paid, TAK will be credited with the overpayment of rent and the Division will deduct the overpayment from future rental requirements. If the appraised value is greater than the amount of rent paid, the Division will notify TAK of the amount of payment due. TAK will have 30 days to remit the deficient rent as specified in Section 19(c) of the Millsite Lease.
2. The Millsite Lease (ADL 233521) along with this Record of Decision must be recorded in the Barrow Recording District prior to conducting any work on the Millsite under the approved Plan of Operations. Failure to record the documents are grounds for termination under Section 19 and 31 of the Millsite Lease.
3. TAK agrees to remain in good standing with respect to all conditions of the Millsite Lease throughout the term of the lease and to remain qualified to conduct business in Alaska by maintaining their registration with the Department of Commerce, Community & Economic Development (DCCED) in good standing. Failure to meet these requirements will result in termination of the lease per Section 19 of the Millsite Lease.

4. Historical, Prehistoric, and Archeological Resources. 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 DNR Commissioner. If any known or discovered site, structure older than 50 years, or object of historical or archeological significance is discovered during the activities authorized by this Millsite Lease, all activities which would disturb such resources shall be stopped and measures taken to protect the site. The lessee shall report the discovery immediately to the State Historic Preservation Officer and shall make every reasonable effort to protect the site, structure, or object against damage until the State Historic Preservation Officer (Telephone: 907-269-8720) has given directions to its preservation.

5. TAK is required to put measures in place to prevent animals from entering the site/tailings facility and to provide details of the preventive measures to ADF&G. In addition, any mortalities or incidents concerning the WACH occurring at the facility are to be reported to the ADF&G Kotzebue Office (Telephone: 907-442-3420).

VII. Record of Decision

The Department recommends proceeding with the issuance of Millsite Lease ADL 233521 and the Plan of Operations Approval. The findings presented above have been reviewed and considered.

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended actions as described and referenced herein.

DocuSigned by:
Stephen Buckley
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4/23/2020

Recommended by: Stephen Buckley
Mining Section Chief
Division of Mining, Land & Water
Department of Natural Resources
State of Alaska

Date

Recommended by: Martin W. Parsons
Director
Division of Mining, Land & Water
Department of Natural Resources
State of Alaska

Date

Approved by: Corri A. Feige
Commissioner
Department of Natural Resources
State of Alaska

Date

Reconsideration Provision

A person affected by this decision may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov . Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a) and (b).

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on their own motion, this decision goes into effect as a final order and decision on the 31st calendar day after the date of issuance. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.