STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
Northern Regional Land Office

Preliminary Decision
ADL 421287 & ADL 421288
Arctic Slope Telephone Association Cooperative, Inc.

Application for Lease
AS 38.05.810(e)

This Preliminary Decision (PD) is the State's preliminary best interest finding regarding a proposed disposal of interest in State land. The public is invited to comment on this PD. The deadline for commenting is **5:00 pm July 10, 2020**. Please see the Public Notice section of this decision for requirements related to submitting comments for consideration.

Requested Action

The Arctic Slope Telephone Association Cooperative, Inc. (ASTAC) has applied to the Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW), for a public and charitable lease under AS 38.05.810(e) for the purpose placing communication modules near the Alyeska Pipeline Service Company (APSC) Trans-Alaska Pipeline System (TAPS) facilities at Pump Stations 2 and 3. The communication modules will house ASTAC telecommunications equipment to deploy cellular service via collocated antennas to be placed on the existing AT&T towers within existing DNR TAPS easements (ADL 63574). The purpose of this lease is to continue expansion of ASTAC's telecommunications services across the North Slope and provide reliable cellular connectivity for those traveling the Dalton Highway. ASTAC is working in conjunction with AT&T on their FirstNet Mission to improve high-speed, national wireless broadband network dedicated to public safety agencies and first responders, allowing them to get more information quickly and helping them makes faster, better decisions. The requested term for each lease is 20 years. ASTAC is a licensed public utility and therefore qualifies for a public and charitable lease.

Proposed Action

Pursuant to AS 38.05.810(e), DNR may negotiate a lease with a licensed public utility for fair market value. DMLW proposes to issue two, 20-year leases to ASTAC for the construction, operation, and maintenance of communications infrastructure at TAPS Pump Stations 2 and 3. The leases would overlap small portions of the TAPS right-of-way lease. DMLW would issue an Entry Authorization (EA) for access, construction, survey, and appraisal prior to lease issuance.

Scope of Decision

The scope of this decision is limited to determining if it is appropriate for DNR to issue two leases to ASTAC for the construction, operation, and maintenance of communications infrastructure.

The scope of this decision is to determine if it is in the State's best interest to issue two, 20-year public and charitable leases to the applicant. The administrative review for this authorization is defined by AS 38.05.035(e)(1)–(2) and limited to: (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) the facts pertaining to the land or resources; and (4) any issues that are material to the determination.

Authority
This lease application is being adjudicated pursuant to AS 38.05.810(e), AS 38.05.035(e) Powers and Duties of the Director, and AS 38.05.945 Notice.

The authority to execute the PD, Final Finding and Decision (FFD), Entry Authorization (EA), and the lease has been delegated to the Regional Managers of the DMLW.

Administrative Record
The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced here-in, and the casefiles for the application serialized by DNR as ADL 421287 and ADL 421288.

Location Information

Geographic Location
Pump Station 2 Site (ADL 418670): Located near the Sagavanirktok River along the James Dalton Highway at Mile Post 358. The telecommunication equipment will be placed at the following coordinates 69.4588 N; 148.5624 W containing approximately 375 square feet (0.01 acre).

Pump Station 3 Site (ADL 63574): Located near the Sagavanirktok River along the James Dalton Highway at Mile Post 311.9. The telecommunications equipment will be placed at the following coordinates: 68.8424 N; 148.8322 W containing approximately 375 square feet (0.01 acre).

Legal Description
Pump Station 2 Site: An approximate 0.01 acre tract of land located within the Pump Station 2 parcel, recorded on February 23, 1995 as Plat No. 95-1, Barrow Recording District. Said tract being also located within the West ½ of Section 7, Township 1 North, Range 15 East, Umiat Meridian.

Pump Station 3 Site: An approximate 0.01 acre tract of land located within the Pump Station 3 parcel, recorded on February 23, 1995 as Plat No. 95-2, Barrow Recording District. Said tract being also located within the Northeast ¼ of Section 17, Township 7 South, Range 14 East, Umiat Meridian.

Other Land Information
Municipality: North Slope Borough (NSB). No borough land is involved.
Regional Corporation: Arctic Slope Regional Corporation (ASRC). No corporation land is involved.

Village Corporation: No village corporation land involved.
Federally Recognized Tribe: No federally recongized tribe land is involved.
Approximate Lat/Long:
Pump Station 2 Site: 69.4588N; 148.5624W
Pump Station 3 Site: 68.8424N; 148.8322W

Title
Pump Station 2: The State received tentative approval under GS 5303 on August 19, 1972. Standard reservations apply.
Pump Station 3: The State received tentative approval under GS 5323 on August 19, 1972. Standard reservations apply.

Both sites are located within the North Slope Area Special Use Lands (ADL 50666) and the James Dalton Highway Corridor (AS 19.40.010).

Adjacent Landowners
The State of Alaska owns the surface estate adjacent to the subject lease tracts. It is within the boundaries of the NSB and the ASRC. No borough or corporation lands are directly impacted by this proposed action. The Pump Station 2 site is adjacent to an NSB Municipal Entitlement Selection (ADL 414836).

Third Party Interests
Pump Station 2 Site:
ADL 63574, Pipeline Right-of-Way Lease issued to APSC.
ADL 415108, Transferred Federal-Issued Right-of-Way to APSC.
ADL 418670, Public and Charitable Lease issued to Alascom Inc/ATT&T
ADL 415791, Non-Exclusive Easement issued to GCI Fiber Communication Company Inc.
ADL 400827, Water Rights-Certificate issued to APSC.

Pump Station 3 Site:
ADL 63574, Lease, Pipeline Right-of-Way Lease issued to APSC.
LAS 28065, Land Use Permit issued to Marine Biological Laboratory.
LAS 20645, Water Rights, Instream flow reservation, Certificate issued to ADFG Sport Fish Division.

These third parties will have an opportunity to comment on the proposed lease. There are no other known third-party interests identified at this site. A title report has been requested and, if available, will be incorporated into the FFD.

Planning and Classification
This site is within the NSB, which is the zoning authority. This site is zoned Resource Development and does not preclude this authorization.

The Pump Station 2 Site is classified Resource Management (RMG), and the Pump Station 3 Site is classified Transportation Corridor (TRC) under the CL NC-02-002, dated October 16, 2002. Development and operation of telecommunications infrastructure is consistent with these land classifications.

Both sites are subject to ADL 50666, North Slope Area Special Use Land and AS 19.40.210, James Dalton Highway Corridor.

Traditional Use Finding
Pursuant to AS 38.05.830, a traditional use finding is not required for activities within established boroughs.

Known traditional uses in the area consist of subsistence and recreational huniting. Due to the nature of the facility and the history of the site, the proposed activity is not expected to impact traditional uses of these areas. Should other traditional uses be identified during the public notice period that may impacted by the communications site, they will be further discussed in the final finding and decision.

Access
Access is along the Dalton Highway, and through the developed access road and pad authorized by ADL 63574. Access is restricted to TAPS employees, and badged visitors and contractors. Parking for technicians working on equipment will be in designated APSC parking areas near the communication shelters containing the ASTAC modules.

Access Along Navigable and Public Waters
The proposed lease sites do not impede access along navigable and public waters.

Public Trust Doctrine
The Public Trust doctrine does not apply to the proposed lease.

Reservation of Mineral Estate
In accordance with section 6(i) of the Alaska Statehood Act and AS 38.05.125, the state, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with AS 38.05.130 and other applicable statutes and regulations.

Mineral Orders
Mineral Order (MO) 1147 closes state lands to mineral entry within 300 feet each side of the pipeline centerline for the TAPS as described in ADL 63574, the Right-of-Way Lease for TAPS, as renewed and amended, whichever of the two is greater in width. The closure area also includes the Fuel Gas Pipeline, where it departs from the mainline TAPS route, pump stations, the Valdez Marine Terminal, and related facilities. Included are small parcels for related facilities, as defined within the TAPS lease, which have been added through the TAPS Right-of-Way amendment process, including some amendments pending DNR survey approval.

This action also authorizes changes to MO 1147 to accommodate future related facilities added to the TAPS Right-of-Way Lease as well as the closure of state selected lands when they are

conveyed to the state without a formal amendment to this order.
This order affects approximately 37,534 acres.

Mineral Closing Order (MCO 790) prohibits staking an interest to locatable minerals within the proposed site. MCO 790 covers 500 acres within sections 7, 18-19, Township 1 North, Range 15 East, Umiat Meridian (Pump Station 2) and approximately 1,920 acres within sections 5, 8-9, 16-17, 20-21, 28-29 of Township 7 South, Range 14 East, Umiat Meridian (Pump Station 3).

Hazardous Materials and Potential Contaminants
ASTAC submitted an environmental risk questionnaire to accompany their application for the telecommunication sites. Hazardous materials are limited to the batteries used for backup power and the fire suppression fluid. Additionally, Safety Data Sheets (SDSs)were submitted with the application.

The existing APSC leases have known contamination at both pump stations, however these potentially hazardous sites are not anticipated to have any direct impacts on the requested lease by ASTAC. At Pump Station 2, the proposed infrastructure is near the vicinity of five contaminated sites that exist within the Pump Station 2 footprint, identified by Alaska Department of Environmental Conservation (ADEC) Hazard IDs 1438, 1733, 2966, 24563, and 27098. At Pump Station 3, there are four contaminated sites in the vicinity of the proposed infrastructure, identified by ADEC Hazard IDs 1728, 1734, 2361, 2680, 2963, 4644, and 4645. Of the known contaminated sites identified between both pump stations, only one is currently an active contaminated site. ADEC has determined the cleanup is complete at the remaining sites. The equipment will be placed on current infrastructure or located within areas presumed to be free of contamination above ADEC regulatory cleanup guidance, based upon known cleanup of hazardous materials. All ADEC established Institutional Controls will be adhered to, including but not limited to ADEC approval prior to ground disturbing activities. The known contaminated sites are not anticipated to impact the proposed construction and operations of the communications equipment by ASTAC.

The Lease and Additional Stipulations documents includes numerous provisions related to hazardous substances. These provisions provide additional requirements and guidance regarding the lessee's responsibilities related to hazardous substances. The use and storage of all hazardous substances must be done in accordance with existing federal, state, and local laws.

Agency Review
Agency review was conducted from February 10, 2020 through February 24, 2020. The review requested comments on the proposed lease. Review was sent to the following agencies:

DNR, State Historic Preservation Office, Office of History and Archaeology (OHA)
DNR, Division of Oil & Gas State Pipeline Coordinator's Section (SPCS)
DNR, Office of Project Management & Permitting (OPMP)
Alaska Department of Fish & Game (ADFG), Habitat Division
Alaska Department of Environmental Conservation (ADEC), Contaminated Sites (CS)
US Fish & Wildlife Service (USFWS)
US Army Corps of Engineers (USACE)

Bureau of Land Management (BLM)
North Slope Borough (NSB)

Agency Comments

Comments from Office of History and Archaeology

"This is in response to your e-mail of February 12, 2020, regarding the Subject Project (2020-00171). We have no objection to a Charitable Lease for the Arctic Slope Telephone Association Cooperative (ASTAC). However, we wanted to make you aware that before any new 5G antennas are placed on telephone poles constructed prior to 2001, ASTAC must submit *Federal Form 621 to our office for Section 106 Review*. Please advise ASTAC to contact our office or the Federal Communication Commission (FCC) for information regarding this form."

> DNR Response: DNR will advise ASTAC to contact the Office of History and Archaeology or the FCC as requested.

Comments from Alaska Department of Fish and Game

"The ADF&G has no objection to the request by Arctic Slope Telephone Association Cooperative Inc. for a public and charitable lease for the purpose of placing communications modules within the confines of Alyeska Pipeline Service Company facilities at Pump Stations 2 and 3. No ADF&G fish habitat permits are required for the activity as proposed."

> DNR Response: DNR thanked ADFG for their comments.

Comments from ADEC-Contaminated Sites Program

"After review, the communication modules will be placed on the gravel pads at Pump Station 2 and 3. According to the development plan, excavation of soil is not anticipated. Based on this assumption, ADEC has no objections to the proposed placement of communication modules at Pump Station 2 &3. However, ADEC must be coordinated with if soil is anticipated to be excavated. This is due to the potential of encountering historic contaminated soil.
Note: Pump station 2 contains an active contaminated site and a closed contaminated site with institutional controls. Pump station 3 contains four closed contaminated sites with institutional controls."

> DNR Response: While excavation of soil is not expected with this project, ASTAC will be required to contact and coordinate with ADEC should ASTAC's plans change to include excavation.

Comments from Alyeska Pipeline Service Company (APSC)

"Thank you for the notice. Alyeska and ASTAC have updated the Alyeska Letter of Non-objection, and Alyeska has no concerns with the proposed leases."

> DNR Response: DNR thanked APSC for their comments. The DNR lease terms will required ASTAC to maintain an LNO with APSC.

Comments from DNR State Pipeline Coordinator's Section (SPCS)

The SPCS does not have any objections to the issuance of a 20-year lease.

DNR Response: DNR thanked SPCS for their comments.

No other comments were received.

Background
ASTAC has applied to place communication modules on exisiting AT&T towers and construct equipment shelters, which take up a distinct footprint space on state land. In both cases, the shelters will house battery banks and fire suppression equipment. Additionally, the installation of the communication equipment is not considered to be temporary or easily removable in 72 hours if requested. As such, a lease is considered to be the most appropraiate avenue of authorization. The installation of the communication modules and supportive shelters will greatly increase the region's network for firstresponders.

Discussion
ASTAC submitted an application on October 17, 2019. The application was missing a development plan and considered incomplete. After correspondence with the applicant a development plan was submitted on January 16, 2020 and the application was considered complete.

ASTAC is a licensed public utility, holding a certificate of public convenience with the Regulatory Commission of Alaska, and therefore qualifies for a public and charitable lease under AS 38.05.810(e). ASTAC is proposing to install communication equipment on exisiting AT&T towers, and construct communication modules at Pump Station 2 and Pump Station 3. Each communication module is a 10-foot X 20-foot connex modified to serve the purpose of sheltering telecommunications. The connex design includes seismic, structural, electrical, fire, and gas components, and will be approved by APSC. Gravel will be placed as needed to grade the site level. The foundation of each shelter will be 3-foot x 3-foot precast concrete slabs, set at each corner to support the structure. The structure will be bolted to the concrete slabs. Excavation of gravel is not anticipated, but will be coordinated with approprate agencies if there is a need.

The ASTAC communication modules will be unmanned and will only be occupied or accessed during routine maintance or in the event of a power outage. Cellular sites are relatively low maintenance facilities and are operated remotely via the Network Operations Center (NOC). The NOC contact information will be posted on the Communications Module. Otherwise, routine maintenance is planned to occur twice yearly, and for outage responses as required (however these are expected to be negligible, based on the remote control capabilities of the equipment). Power will be 100 Amp, 120 Volts and provided by APSC, per a use agreement between ASTAC and APSC. No waste will be generated on-site. In the event maintenance or outage work is required, the ASTAC technician will pack out all waste. No water or wastewater supply/disposal will be associated with the ASTAC Communications Module. Access to the site will be coordinated with APSC.

While the communication modules and equpiment configuration at both sites is generally identical there are some site specfic requirements at both locations. At Pump Station 2, an approximately 100-foot cable will run from the new proposed ASTAC communication shelter to

the exisiting AT&T tower. Additionally, a new cable tray from the building will extend over a fence to connect the exsisting cable tray to the tower. Lastly, there will be an approximately 25-foot fiber connection between the existing AT&T communication shelter and the new ASTAC communication shelter. All cable will be tacked above ground.

Site specific requirements at Pump Station 3 include an approximately 80-foot run from the new ASTAC communication shelter to the existing tower. Additionally, approximately 30 feet of new cable tray on support posts will be installed from the new ASTAC communication shelter to the existing cable tray. Lastly, approximately 35 feet of fiber connection will be installed between the AT&T communication shelter and the new ASTAC communication shelter.

In adjudicating this public and charitable lease, DNR seeks to facilitate development, conservation, and enhancement of state lands for present and future Alaskans, while minimizing disturbance to vegetative, hydrologic, and topographic characteristics of the area that may impair soil stability and water quality. An agency review was conducted to ensure that disturbances are minimized and to allow mitigating stipulations to be built into the lease. ASTAC has demonstrated that they reasonably require the lease to conduct its business under its public utility license.

As recommended, the lease will stipulate that commercial use of these sites cannot compromise the operation and maintenance of the communications system along TAPS. Because these sites have been in use since the development of TAPS, if ASTAC encounters contaminated soils during the use of these sites, they will be required to report the contamination to ADEC and submit an updated Soil Management Plan to DMLW.

Due to the fact that these communication sites have been in place for 40 years, other alternative locations were not considered. Co-locating the equipment for commercial purposes would have the least impact to State resources and other uses.

Development Plan
The Development Plan (DP) attached to this decision (Attachment A) and dated January 16, 2020 is under consideration by DMLW. Should the proposed lease be granted, it is anticipated that the DP will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by DMLW before any construction, deconstruction, replacement of infrastructure, or change in activity will be authorized. DMLW reserves the right to require additional agency review and/or public notice for changes that are deemed by DMLW to be beyond the scope of this decision.

Performance Guaranty
In accordance with AS 38.05.035, AS 38.05.860, and 11 AAC 96.060(a) Performance Guaranty, the applicant will be required to submit performance guaranties for the lease to incentivize performance of the conditions of the EA (if applicable) and the lease and to provide a mechanism for the state to ensure that the lessee shares in financial burden in the event of noncompliance for site cleanup, restoration, and any associated costs after termination or expiration of the leases, the following bonds will be required.

Performance guaranties provide a means to pay for corrective action if the lessee fails to comply with the lease requirements. In accordance with AS 38.05.035(a)(4), the applicant will be required to submit a performance guaranty of **$2,500 per site** ($5,000 for both sites). The amount of the performance guaranty is based on the scope and the nature of the activity and the potential cost of restoring the site. Performance guaranties are subject to periodic adjustments being made during the term of the authorization to address increases or decreases in the costs of rectifying problems and rehabilitating state land due to inflation, changes in the level or nature of development, or other appropriate factors.

Insurance
Consistent with AS 38.05.035(a) to protect the State from liability associated with the use of the site, ASTAC shall provide and maintain a comprehensive general liability insurance policy with the State of Alaska named as an additional insured party per the stipulations of the Lease Agreement. ASTAC shall secure or purchase at its own expense, and maintain in force at all times during the term of this lease, liability coverage and limits consistent with what is professionally recommended as adequate to protect ASTAC and the State, its officers, agents and employees from the liability exposures of ALL the insured's operations on state land. The insurance requirement may be adjusted periodically.

Survey
Once a Final Finding and Decision (FFD) has been issued, and the Entry Authorization (EA) is signed, ASTAC will be required to complete an Alaska State Land Survey (ASLS). In accordance with AS 38.04.045, the applicant must complete an approved survey according to the requirements and standards of DMLW's Survey Section prior to lease issuance. If the submitted survey is accepted by DMLW, the measurements identified will be used to accurately calculate the total acreage. The survey must be performed by an Alaskan registered Land Surveyor under survey instructions issued by the DMLW Land Survey Unit. The applicant is responsible for the cost of the survey. The applicant shall submit an initial draft of the survey at least one year prior to the expiration of the EA. Within 10 business days of the execution of the EA, the applicant shall contact the DMLW survey section at (907) 269-8523 to obtain instructions.

Compensation and Appraisal
In accordance with AS 38.05.840, state-owned land may only be leased if it has been appraised within two years before lease issuance. The applicant will be required to provide an appraisal of the proposed leasehold before the lease will be issued. This is usually completed after the survey which provides the acreage amount. Once the appraisal has been approved by DMLW, the annual lease rental will be set at the fair market value of the proposed leasehold. Furthermore, in accordance with AS 38.05.105, the proposed lease will be subject to reappraisal at 5-year intervals after the issuance of the lease.

A formal appraisal, obtained at the expense of the applicant, will be required to establish annual rental based on fair market value. Additionally, prior approval by and compensation to the State will be required in the event of sublease.

Entry Authorization (EA)
DMLW proposes to authorize the applicant entry onto state land through the issuance of an EA while they are completing the required development, survey and/or appraisal. The proposed EA would be issued after the FFD goes into effect.

The term of the EA will be three years, which will be included within the total length of the 20-year lease (i.e. the lease term of 20 years begins when the EA is signed; the three years of EA will not extend the overall length of the authorization beyond 20 years).

An estimate of fair market value rental will be required during the term of the EA, prior to completion of a formal appraisal. Based on the 2018 North Slope Rental Calculator, the annual rent during the term of the EA for both ADL 421287 & 421288 is **$1,847.00 per site** ($3,694.00 for both sites). This rent will be adjusted accordingly subsequent to final appraisal.

Subleases
Subleasing may be permissible through AS 38.05.095 if the proposed lease is approved. All potential subleases must first be approved in writing by DMLW. DMLW may conduct further agency review and/or public notice before making a determination on the appropriateness of the proposed sublease. Per 11 AAC 05.230(d)(6), the sublease fee will not be less than 25% of the annual fee paid to the lessee by the sublessee. The annual lease rental pertaining to AS 38.05.075 and based on the appraised market value of the lease pertaining to AS 38.05.840 will not be reduced or adjusted as a result of any sublease terms or sublease compensation made to DMLW. Sublease shall be defined to include any lease, rental, storage or accommodation agreement between the lessee and another individual, business or corporation utilizing or benefiting from the lease parcel. Sublessee shall be defined to mean any individual, business, or corporation executing an agreement with the lessee. The amount of sublease compensation shall be subject to change at the same time as the lease compensation adjustment and whenever the terms or conditions of the agreement between the lessee and the sublessee change. Approval of a sublease shall also be conditioned upon:

- The lessee being in full compliance with the lease conditions and being in good standing with all other authorizations per 11 AAC 96.145;
- Submission by the lessee of a draft copy of the agreement(s) which will govern the relationship and compensation provisions between the lessee and the sublessee; failure of the lessee to provide complete, true, and accurate information regarding sublease compensation will, at lessor's discretion, be grounds for termination of the lease;
- Submission by the lessee of a proposed plan of operations and development for the subleased area and, if necessary, an amended plan of operation and development for the entire lease area; and
- A best interest finding by DMLW and amendments to the lease contract as necessary, if significant changes to the use and development are proposed.

Subleases shall be restricted to those entities which are also eligible to obtain a lease under the same statutory authority for which the lease was issued.

Assignment
Assignments shall be restricted to those entities which are also eligible to obtain a lease under the same statutory authority for which the lease was issued.

Reclamation
Upon termination of the lease and/or the agreement with APSC, ASTAC will remove the communication modules and associated equipment in their entirety.

Public Notice
Pursuant to AS 38.05.945, this PD will be advertised for a 30-day public comment period**,** starting on May 29, 2020. In addition, the airport located near the proposed leasehold will be requested to post the notice pursuant to AS 38.05.945(b)(3)(C). The notice will also be posted on the State of Alaska Online Public Notice website pursuant to AS 38.05.945(b)(3)(B) located at: https://aws.state.ak.us/OnlinePublicNotices/Default.aspx

Pursuant to AS 38.05.945(c)(1), notice will also be given for 30 days to the North Slope Borough. Per 38.05.946, Hearings, the North Slope Borough may hold a hearing within 30 days after receipt of the notice.

Notice will also be provided to the third-party interest holders identified above, and ASRC.

The public is invited to comment on this PD. All comments received during the public comment period will be considered in the FFD. A copy of the FFD, along with instructions on filing an appeal, will be sent to all persons who comment on the PD. If public comments result in significant changes to the PD, additional public notice may be given.

To be eligible to appeal, a person affected by the FFD must provide written comments during the public comment period per AS 38.05.035(i).

Written comments about this project must be received in this office no later than 5:00 PM on July 10, 2020 to be considered.

To submit comments, please send electronically to the following:

Email: *Charlene Bringhurst* charlene.bringhurst@alaska.gov

Questions about this project can be directed to Charlene Bringhurst at (907) 451-2737.

Due to the continuing COVID-19 situation, comments must be submitted via email.

Signature page follows:

Recommendation
DMLW has completed a review of the information provided by the applicant, examined the relevant land management documents, agency comments, land ownership, and has found that this project is consistent with all applicable statutes and regulations. DMLW considered both direct and indirect benefits to the State. As there are no competing projects which are incompatible with the proposed lease and in consideration of the benefits described above, DNR finds granting of a 20-year lease, subject to appropriate terms and conditions, provide the greatest benefit to the State.

I find the proposed action may be in the State's best interest and recommend approval to proceed with public notice.

Charlene M. Bringhurst 06/10/2020

Charlene Bringhurst Date
Natural Resource Specialist III

Preliminary Decision
It is the determination of the Division of Mining, Land and Water that it may be in the State's best interest to issue a negotiated lease for 20 years to the applicant, subject to terms and conditions as described above. Construction and operation of ASTAC's telecommunications project will support AT&T on their FirstNet Mission to improve high-speed, national wireless broadband network dedicated to public safety agencies and first responders. This project will allow Alaska's first responders and emergency personnel to get more information quickly and help them makes faster, better decisions for the public. This application shall now proceed to public notice.

6/10/2020

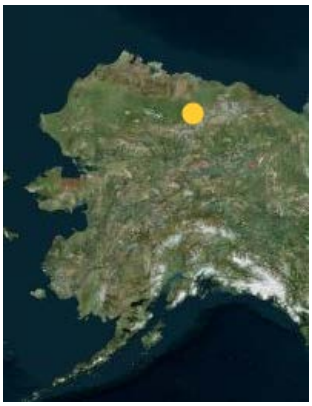
Melissa Head Date
Natural Resource Manager II

Attachments
Attachment A – Location Map
Attachment B – Development Plan
Attachment C – Draft Entry Authorization

Attachment A
Location Map

ASTAC Pump Station 2 (ADL 421287)

ASTAC Pump Station 3 (ADL 421288)



Date 06/03/2020

Service layer credits: SOA Alaska Mapper

Attachment B
Development Plan

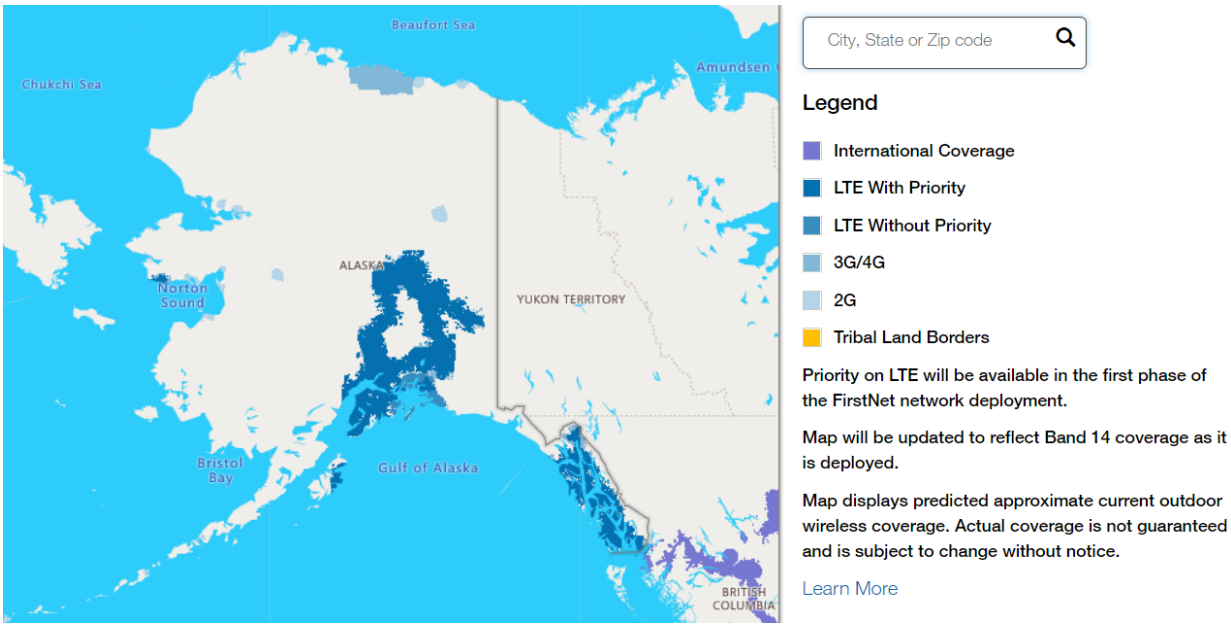
Arctic Slope Telephone Association Cooperative, Inc.
4300 B Street, Suite 501, Anchorage, AK 99503
907.563.3989 • 1.800.478.6409 • F. 907.563.1932

Development Plan

ASTAC Communications Modules at Alyeska Pump Stations

The purpose of the proposed development is to continue to expand ASTAC's telecommunications services across the North Slope and provide reliable cellular connectivity for those travelling the Dalton Highway. Improves connectivity, network reliability, and safety. ASTAC will place a stand-alone communications module at Alyeska at Pump Stations 2 and 3 on the Dalton Highway (see attached site plans). The modules will house ASTAC telecommunications equipment to deploy cellular service via collocated antennas on the existing AT&T towers. Electrical, fire, and structural drawings are attached.

The FirstNet mission is to deploy, operate, maintain, and improve the first high-speed, nationwide wireless broadband network dedicated to public safety. This reliable, highly secure, interoperable, and innovative public safety communications platform will bring 21st century tools to public safety agencies and first responders, allowing them to get more information quickly and helping them to make faster and better decisions. ASTAC is supporting AT&T's commitment to provide coverage for FirstNet across Alaska and is building several cellular sites along the Dalton Highway to expand this coverage north (see below map of existing coverage).



Amended January 16, 2020

Pump Station 02

Applicant. Arctic Slope Telephone Association Cooperative, Inc.
Existing ADL. 63574
Legal description. Plat 95-1, Barrow Recording District.
Terrain/ground cover. The existing terrain/ground cover is developed gravel pad.
Access. Access is restricted to TAPS employees and badged visitors, contractors, etc. ASTAC access is defined in its Revocable License Agreement with Alyeska and will be by approved vehicle on maintained roads and pads only.
Buildings and other structures. The ASTAC Communications Module is a 10' x 20' shipping container (Conex) modified to serve the purpose of a telecommunications shelter with design (seismic, structural, electrical, fire and gas) approved by Alyeska. Gravel will be placed as needed to grade the site level. The foundation of the shelter will be 3' by 3' precast concrete slabs, set at each corner to support the building. Excavation is not anticipated. The building will be bolted to the concrete slabs.
Power source. Power will be a 100A, 120V service by Alyeska.
Waste types, waste sources, and disposal methods. No waste will be generated on-site. In the event maintenance or outage work is required, the ASTAC technician will pack out all waste.
Hazardous substances. Hazardous substances are limited to the batteries used for backup power and the fire suppression fluid. Data sheets for these are attached to the application.
Water supply. No water or wastewater supply/disposal will be associated with the ASTAC Communications Module.
Parking areas and storage areas. Parking for technicians working on the equipment will be in designated Alyeska parking areas near the module.
Number of people using the site. The ASTAC Communications Module will be an unmanned facility, and will only be occupied or accessed in the event of an outage or routine maintenance, at which time up to two technicians would access the module, coordinated with Alyeska.
Maintenance and operations. Cellular sites are relatively low maintenance facilities and are operated remotely via the Network Operations Center (NOC). The NOC contact information will be posted on the Communications Module. Otherwise routine maintenance would be up to twice yearly, and outage responses as required (however these are expected to be negligible, based on the remote control capabilities of the equipment).
Closure/reclamation plan. A closure/reclamation plan is not required. Upon termination of the lease/agreement, ASTAC would remove the Communications Module in its entirety.

PUMP STATION 02

- Approx 100 foot run from new ASTAC comm shelter to tower
- New cable tray from building, over fence to connect to existing cable tray to tower
- Fiber connection between AT&T comm hut and new ASTAC comm hut – approx 25 feet

ASTAC

View of proposed building location and existing tower; facing west

Pump Station 03
Applicant. Arctic Slope Telephone Association Cooperative, Inc.
Existing ADL. 63574
Legal description. Plat 95-2, Barrow Recording District.
Terrain/ground cover. The existing terrain/ground cover is developed gravel pad.
Access. Access is restricted to TAPS employees and badged visitors, contractors, etc. ASTAC access is defined in its Revocable License Agreement with Alyeska and will be by approved vehicle on maintained roads and pads only.
Buildings and other structures. The ASTAC Communications Module is a 10' x 20' shipping container (Conex) modified to serve the purpose of a telecommunications shelter with design (seismic, structural, electrical, fire and gas) approved by Alyeska. Gravel will be placed as needed to grade the site level. The foundation of the shelter will be 3' by 3' precast concrete slabs, set at each corner to support the building. Excavation is not anticipated. The building will be bolted to the concrete slabs.
Power source. Power will be a 100A, 120V service by Alyeska.
Waste types, waste sources, and disposal methods. No waste will be generated on-site. In the event maintenance or outage work is required, the ASTAC technician will pack out all waste.
Hazardous substances. Hazardous substances are limited to the batteries used for backup power and the fire suppression fluid. Data sheets for these are attached to the application.
Water supply. No water or wastewater supply/disposal will be associated with the ASTAC Communications Module.
Parking areas and storage areas. Parking for technicians working on the equipment will be in designated Alyeska parking areas near the module.
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PUMP STATION 03

- Approx 80 foot run from new ASTAC comm shelter to tower
- Aprox 30 feet new cable tray on support posts from new ASTAC comm shelter to existing cable tray
- Fiber connection between AT&T comm hut and new ASTAC comm hut – approx 35 feet

ASTAC

View of proposed building location and existing tower; facing east

Attachment C
Entry Authorization

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER

Northern Regional Land Office, 3700 Airport Way
Fairbanks, AK 99709, (907) 451-2740

ENTRY AUTHORIZATION
Under AS 38.05.810 (e)

ADL 421287

Arctic Slope Telephone Association Cooperative, Inc. (ASTAC) ("Lessee") is issued this Entry Authorization (EA) by **Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW)** to use a parcel which comprises a total of 0.01 acres of State owned land located at Alyeska Pipeline Service Company (APSC) Pump Station 2 within existing DNR Trans Alaska Pipeline System (TAPS) easements (ADL 63574) for a term of 20 years.

The parcel can be more particularly described as follows:

> An approximate 0.01-acre tract of land located within the Pump Station 2 parcel, recorded on February 23, 1995 as Plat No. 95-1, Barrow Recording District. Said tract being also located within the West ½ of Section 7, Township 1 North, Range 15 East, Umiat Meridian.

This EA authorizes entry prior to lease issuance for the following:

1. Construction of a housing shelter and the placement of communication modules on existing AT&T towers
2. Survey
3. Appraisal

This EA is effective on the date it is signed by the Authorized Officer. The effective date of the EA will become the start date of the lease term. The lease may be issued when the deliverables listed above are provided to the DMLW prior to the EA expiration.

This EA is issued subject to the following:

1. Acceptance of the terms and conditions of the attached Standard Lease Agreement and Additional Lease Stipulations;
2. Payment of an annual use fee in the amount of $ 1,847.00 which will be due on or before the effective date and subsequent anniversary date of the effective date;
3. Proof of insurance as required in the attached Additional Lease Stipulations;
4. Performance Guaranty as required in the attached Additional Lease Stipulations; and
5. An Authorization to execute contracts or other form of proof that the signer of the EA has the authority to execute a lease and related documents on behalf of ASTAC.

Entry Authorization Extensions: Any request for an EA extension will be considered upon receipt of a written request, the required filing fee, and any additional required documents.

Termination of Leasehold Interest: Failure to provide the required deliverables as described above and within the timeframe identified for the EA may be considered cause for termination of any leasehold interest.

Signature of Lessee or Authorized Representative of Lessee hereby accepting and agreeing to comply with the terms and conditions of this Entry Authorization:

Printed Name	Signature	Title	Date

Signature of Authorized DNR Representative:

Jeanne Proulx Northern Regional Manager	Signature	Title	Date

Advisory Regarding Violations of the Entry Authorization Guidelines: A person who violates a condition of an authorization is subject to any action available to the Department of Natural Resources (DNR) for enforcement and remedy, including revocation, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. DNR may seek damages available under civil action, including restoration damages, compensatory damages, and treble damages under AS 09.45.730 or AS 09.45.735, for violations involving injuring or removing trees or shrubs, gathering geotechnical data, or taking mineral resources.

If a person responsible for an unremedied violation or a condition of an authorization applies for a new authorization from DNR under AS 38.05.035, DNR may require the applicant to remedy the violation as a condition of the new authorization, or to begin remediation and provide security to complete the remediation before receiving the new authorization. If a person who applies for a new authorization under AS 38.05.035 has previously been responsible for a violation of a condition of an authorization issued under this chapter, whether remedied or unremedied, that resulted in substantial damage to the environment or to the public, DNR will consider that violation in determining the amount of the security to be furnished and may require the applicant to furnish three times the security that would otherwise be required.

Attachment 1: Development Plan
Attachment 2: Standard Lease Agreement
Attachment 3: Additional Lease Stipulations

DRAFT

Attachment 1
Development Plan

DRAFT

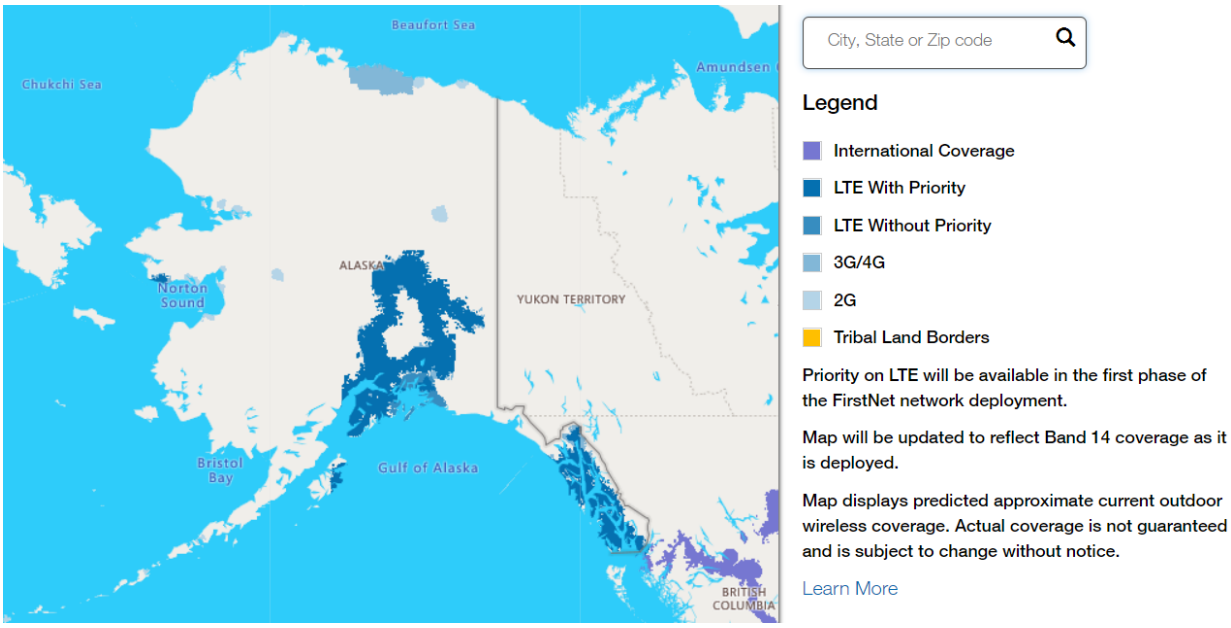
Arctic Slope Telephone Association Cooperative, Inc.
4300 B Street, Suite 501, Anchorage, AK 99503
907.563.3989 • 1.800.478.6409 • F. 907.563.1932

Development Plan

ASTAC Communications Modules at Alyeska Pump Stations

The purpose of the proposed development is to continue to expand ASTAC's telecommunications services across the North Slope and provide reliable cellular connectivity for those travelling the Dalton Highway. Improves connectivity, network reliability, and safety. ASTAC will place a stand-alone communications module at Alyeska at Pump Stations 2 and 3 on the Dalton Highway (see attached site plans). The modules will house ASTAC telecommunications equipment to deploy cellular service via collocated antennas on the existing AT&T towers. Electrical, fire, and structural drawings are attached.

The FirstNet mission is to deploy, operate, maintain, and improve the first high-speed, nationwide wireless broadband network dedicated to public safety. This reliable, highly secure, interoperable, and innovative public safety communications platform will bring 21st century tools to public safety agencies and first responders, allowing them to get more information quickly and helping them to make faster and better decisions. ASTAC is supporting AT&T's commitment to provide coverage for FirstNet across Alaska and is building several cellular sites along the Dalton Highway to expand this coverage north (see below map of existing coverage).



Amended January 16, 2020

Pump Station 02

Applicant. Arctic Slope Telephone Association Cooperative, Inc.
Existing ADL. 63574
Legal description. Plat 95-1, Barrow Recording District.
Terrain/ground cover. The existing terrain/ground cover is developed gravel pad.
Access. Access is restricted to TAPS employees and badged visitors, contractors, etc. ASTAC access is defined in its Revocable License Agreement with Alyeska and will be by approved vehicle on maintained roads and pads only.
Buildings and other structures. The ASTAC Communications Module is a 10' x 20' shipping container (Conex) modified to serve the purpose of a telecommunications shelter with design (seismic, structural, electrical, fire and gas) approved by Alyeska. Gravel will be placed as needed to grade the site level. The foundation of the shelter will be 3' by 3' precast concrete slabs, set at each corner to support the building. Excavation is not anticipated. The building will be bolted to the concrete slabs.
Power source. Power will be a 100A, 120V service by Alyeska.
Waste types, waste sources, and disposal methods. No waste will be generated on-site. In the event maintenance or outage work is required, the ASTAC technician will pack out all waste.
Hazardous substances. Hazardous substances are limited to the batteries used for backup power and the fire suppression fluid. Data sheets for these are attached to the application.
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PUMP STATION 02

- Approx 100 foot run from new ASTAC comm shelter to tower
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ASTAC

View of proposed building location and existing tower; facing west

Pump Station 03
Applicant. Arctic Slope Telephone Association Cooperative, Inc.
Existing ADL. 63574
Legal description. Plat 95-2, Barrow Recording District.
Terrain/ground cover. The existing terrain/ground cover is developed gravel pad.
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ASTAC

View of proposed building location and existing tower; facing east

Attachment 2
Standard Lease Agreement

DRAFT

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
3700 Airport Way
Fairbanks, Alaska 99709

ADL No. 421287

LEASE AGREEMENT

Effective this day of , , this lease agreement is entered into by the State of Alaska, hereafter referred to as "lessor," and Arctic Slope Telephone Association Cooperative Inc, hereafter referred to as "lessee," whether one or more, whose sole addresses for purposes of notification under this lease agreement are listed in section 28.

The lessor and the lessee agree that this lease, including all attachments and documents that are incorporated in this lease by reference, contains the entire agreement between the parties, and each of the covenants and conditions in this lease including any attachments will be binding upon the parties and upon their respective successors and assigns. The lessor and the lessee further agree that this lease is conditioned upon satisfactory performance by the lessor and the lessee of all covenants and conditions contained in this lease. The lessee is aware of the provisions of Title 38, Alaska Statutes, Title 11, Alaska Administrative Code, and other applicable laws, regulations, and ordinances, and fully understands the duties and obligations of the lessee under this lease, and the rights and remedies of the lessor.

This lease is subject to all applicable state, federal, and municipal statutes, regulations, and ordinances in effect on the effective date of this lease, and insofar as is constitutionally permissible, to all statutes, regulations, and ordinances placed in effect after the effective date of this lease. A reference to a statute, regulation, or ordinance in this lease includes any change in that statute, regulation, or ordinance, whether by amendment, repeal and replacement, or other means. This lease does not limit the power of the State of Alaska, its political subdivisions, or the United States of America to enact and enforce legislation or to adopt and enforce regulations or ordinances affecting, directly or indirectly, the activities of the lessee or its agents in connection with this lease or the value of the interest held under this lease. In case of conflicting provisions, statutes, regulations, and ordinances take precedence over this lease. This lease shall not be construed as a grant or recognition of authority for promulgation or adoption of municipal ordinances that are not otherwise authorized.

1. Grant. This lease is issued under the authority of AS 38.05.810 (e), for a term of 20 year(s) beginning on the day of and ending at 12 o'clock midnight on the day of , unless sooner terminated, subject to: compensation as specified in section 2; the attached development plan approved by the state on ; and attached stipulations, if any, that are incorporated in and made a part of this lease, for the following, hereafter referred to as the "leasehold":

An approximate 0.01-acre tract of land located within the Pump Station 2 parcel, recorded on February 23, 1995 as Plat No. 95-1, Barrow Recording District. Said tract being also located within the West ½ of Section 7, Township 1 North, Range 15 East, Umiat Meridian.

Excepting and reserving any general reservations to the lessor that are required by law and that may be stated elsewhere in this lease, and the following, which the state reserves for itself and others:

Excepting and reserving any general reservations to the lessor that are required by law and that may be stated elsewhere in this lease, and the following, which the state reserves for itself and others:
The lease is subject to all valid existing rights in and to the land under this authorization. The State of Alaska make no representations of warranties whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.

2. Compensation. (a) The lessee shall pay to the lessor compensation as follows, without the necessity of any billing by the lessor: . The lessor may, upon 10 days' notice, review and copy any records of the lessee that are necessary to verify the lessee's compliance with this paragraph.

(b) In accordance with AS 38.05.105, the lease compensation is subject to adjustment by the lessor at the commencement of the sixth year of the term and every fifth year thereafter (the "adjustment date"). The compensation adjustment takes effect on the applicable adjustment date, regardless of whether the adjustment determination occurs before or after that date. All reasonable costs of the adjustment, including reappraisal if required by the lessor, will be borne by the lessee.

3. Denial of Warranty. The lessor makes no warranty, express or implied, nor assumes any liability whatsoever, regarding the social, economic, or environmental aspects of the leasehold, including, without limitation, the soil conditions, water drainage, access, natural or artificial hazards that may exist, or the profitability or fitness of the leasehold for any use. The lessee represents that the lessee has inspected the leasehold and determined that the leasehold is suitable for the use intended, or has voluntarily declined to do so, and accepts the leasehold "as is" and "where is."

4. Use of Leasehold. Prior to execution of this lease and to commencing use or development of the leasehold, the lessee shall submit a development plan for the leasehold to the lessor and obtain the lessor's approval of the plan. Any use or development of the leasehold must be consistent with the development plan approved by the lessor. Any proposed revisions to the development plan must be submitted to the lessor for approval before any change in use or development occurs. The lessee shall use and occupy the leasehold in compliance with the approved development plan and all applicable laws, regulations, ordinances, and orders that a public authority has put into effect or may put into effect, including those of a building or zoning authority and those relating to pollution and sanitation control. The lessee may not permit any unlawful occupation, business, or trade to be conducted on the leasehold. The lessee shall properly locate all activities and improvements on the leasehold, and may not commit waste of the parcel. The lessee shall maintain and repair the leasehold including improvements in a reasonably neat and clean condition, and shall take all necessary precautions to prevent or suppress grass, brush, or forest fires, and to prevent erosion, unreasonable deterioration, or destruction of the land or improvements. The lessee agrees not to place any aboveground or underground fuel or chemical tanks on the leasehold without the prior written approval of the lessor.

5. Encumbrance of Leasehold. The lessee may not encumber or cloud the lessor's title to the leasehold, or any portion of the leasehold, nor enter into any lease, easement, or other obligation of the lessor's title without the prior written approval of the lessor.

6. Assignment of Interest. The lessee may not assign or sublet any interest held under this lease, including a security interest, without the prior written approval of the lessor. The lessor may approve such assignment or subletting if the lessor finds it to be in the best interest of the state. No such assignment or subletting will be effective until approved by the lessor in writing, and the assignee agrees to be subject to and governed by the provisions of this lease, any subsequent amendments to this lease, any additional stipulations, or reappraisal as deemed appropriate by the lessor, and all applicable laws, regulations, and ordinances in the same manner as the original lessee. No assignment or subletting of the leasehold, or any portion thereof, by the lessee will annul the lessee's obligation to pay the compensation required for the full term of this lease. Except as provided in this

lease, no subdivision of the leasehold interest may occur without the prior written approval of the lessor.

7. Conditional Lease. If all or part of the leasehold has been tentatively approved, or approved, but not yet patented, by the United States to the lessor, then this lease will be conditioned upon receipt by the lessor of such patent. If for any reason the lessor does not receive patent, any compensation paid to the lessor under this lease will not be refunded. Any prepaid compensation for land to which patent is denied the lessor will be refunded to the lessee of record in the amount of the pro-rata portion of the unexpired term. The lessor will have no further liability to the lessee for the termination of the lease.

8. Payment of Taxes and Assessments. The lessee shall pay prior to delinquency all taxes and assessments accruing against the leasehold.

9. Section Line Rights-of-Way. If the leasehold borders on or includes one or more section lines, the lessor hereby expressly reserves unto itself and its successors and assigns a right-of-way or rights-of-way pursuant to AS 19.10.010.

10. Navigable and Public Waters. (a) Pursuant to AS 38.05.127 and 11 AAC 53.330, the lessor reserves a public access easement to and along all public or navigable water bodies that border on or are included in this leasehold. No public access easement may be obstructed or otherwise rendered incapable of reasonable use for the purposes for which it was reserved. No public access easement may be vacated, abandoned, or extinguished without the prior written approval of the lessor.

(b) The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This lease is issued subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The lessor reserves the right to grant other interests to the leasehold consistent with the Public Trust Doctrine.

11. Condemnation of Leasehold or Improvements. If the whole or any part of the leasehold is taken by any authorized body or person vested with the power of eminent domain, by negotiation, court action, or otherwise, the following provisions control:

(1) Taking of the entire leasehold. If all of the leasehold is taken by condemnation, this lease and all rights of the lessee will immediately terminate, and the compensation will be adjusted so that it is due only until the date the lessee is required to surrender possession of the leasehold. The lessor is entitled to all the condemnation proceeds, except that the lessee will be paid the portion of the proceeds attributable to the fair market value, as determined in the condemnation proceedings, of any buildings or improvements taken that were placed on the condemned leasehold by the lessee in accordance with the approved development plan.

(2) Taking of substantial part of the leasehold. If the taking is of a substantial part of the leasehold, the following rules apply:

(A) If the taking by condemnation reduces the ground area of the leasehold by at least 30 percent or materially affects the use being made by the lessee of the leasehold, the lessee has the right to elect to terminate the lease by written notice to the lessor not later than 180 days after the date of taking.

(B) If the lessee elects to terminate, the provisions in subsection (1) of this section govern the condemned portion of the leasehold and the covenants and conditions of the lease govern disposal of the remainder of any buildings or improvements made by the lessee in accordance with the approved development plan.

(C) If the lessee does not elect to terminate, the lease continues and the lessor is entitled to the full condemnation proceeds except the portion attributable to the fair market value, as determined in the condemnation proceedings, of any buildings or improvements taken that were placed on the condemned portion of the leasehold by the lessee in accordance with the approved development plan. Compensation at the existing rate will terminate on the date the lessee is required to surrender possession of the condemned portion of the leasehold. Except as it may be adjusted from time to time under the covenants and conditions of the lease and applicable statutes, compensation for the balance of the term will be adjusted by the lessor to reflect the taking.

(3) Taking of insubstantial part of the leasehold. If the taking by condemnation reduces the ground area of the leasehold by less than 30 percent and the lessor determines that the taking is of such an insubstantial portion that the lessee's use of the leasehold is not materially affected, the lessee may not elect to terminate the lease and the compensation provisions of subsection 2(C) of this section will govern.

12. Valid Existing Rights. This lease is subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land in existence on the date of execution of this lease.

13. Inspection. The lessor will have reasonable access to the leasehold for purposes of inspection.

14. Mineral Reservations. This lease is subject to the reservations required by AS 38.05.125 and the rights and obligations imposed by AS 38.05.130.

15. Concurrent Use. This lease is subject to reasonable concurrent uses as provided under Article VIII, Section 8 of the Constitution of the State of Alaska. The concurrent user who is found to be at fault for damage or injury arising from noncompliance with the terms governing the user's concurrent use is liable for damages and the user's interest is subject to forfeiture or termination by the lessor. In this context, the term "concurrent user" includes the lessee and any other person or entity who lawfully uses the land subject to this lease, but does not include the State of Alaska.

16. Surface Resources. Unless otherwise provided by this lease or other written authorization, the lessee may not sell or remove from the leasehold any timber, stone, gravel, peatmoss, topsoil, or any other material valuable for building or commercial purposes. Material required for the development of the leasehold may be used only in compliance with the approved development plan.

17. Appropriation or Disturbance of Waters. During the term of this lease, the lessee will have the right to apply for an appropriation of ground or surface water on the leasehold in accordance with AS 46.15 and 11 AAC 93.060.

18. Acquisition of Rights or Interests. Any right or interest acquired during the term of this lease and accruing to the benefit of the leasehold will remain appurtenant to the leasehold, and may not be severed or transferred from the leasehold without the prior written approval of the lessor. In the event of termination or forfeiture of this lease, any such right or interest will vest in the lessor.

19. Land Alterations Due to Natural or Artificial Causes. The interest described in this lease constitutes the entire leasehold. If, through natural or artificial causes, accretion or reliction of land occurs contiguous to the leasehold, the Lessee has no right to occupy or use the accreted land unless a separate lease is entered with the Lessor with respect to such lands. The rules of law usually applicable to accretion or reliction of land do not apply to this lease, nor to the interest described in this lease.

20. Waiver or Forbearance. The receipt of compensation by the lessor, with or without knowledge of any default on the part of the lessee, is not a waiver of any provision of this lease. No failure on the

part of the lessor to enforce a covenant or condition of this lease, nor the waiver of any right under this lease by the lessor, unless in writing, will discharge or invalidate the application of such covenant or condition. No forbearance or written waiver affects the right of the lessor to enforce any covenant or condition in the event of any subsequent default. The receipt of compensation by the lessor after termination or any notice of termination will not reinstate, continue, or extend this lease, or destroy, or in any manner impair the validity of any notice of termination that may have been given prior to receipt of the compensation, unless specifically stated by the lessor in writing.

21. Default and Remedies. (a) Time is of the essence in this lease. If the lessee defaults on the performance of any of the covenants or conditions of this lease, and the default is not remedied within 60 days after the lessor issues written notice of such default to the lessee and to the holder of a security interest in the leasehold approved by the lessor, or within any additional period the lessor allows for good cause, the lessee will be subject to legal or any other administrative action deemed appropriate by the lessor, including termination of this lease. The lessor may, in the notice of the default or in a separate written notice, state that if the default is not remedied, this lease shall terminate on a date certain, which shall be at least 60 days after issuance of the notice of default. Upon the date specified in such notice, unless the default has been remedied, the lease shall expire automatically without further notice or action by the lessor and this lease and all rights of the lessee under the lease shall terminate. Upon termination of the lease the lessor shall have an immediate right to possession of the leasehold and any possession by the lessee shall be unlawful. It is specifically agreed that no judicial action shall be necessary to terminate this lease or to allow the lessor to retake possession in the event of default by the lessee. No improvements may be removed from the leasehold while the lease is in default except with the lessor's prior written approval. If this lease is terminated for default, all compensation paid by the lessee is forfeited to the lessor. The lessor is not liable for any expenditures made or undertaken by the lessee under this lease. Any costs or fees, including attorney's fees, reasonably incurred by the lessor for the enforcement of this lease, shall be added to the obligations due and payable by the lessee.

(b) The rights, if any, of third-party security interest holders or lienholders are controlled solely by AS 38.05.103 and 11 AAC 58.590. If the lessee fails to remedy the default within the time allowed in subsection (a) of this section, the holder of an approved security interest who has received notice under subsection (a) of this section may remedy the default. The holder shall act within 60 days from the date of receipt of notice under subsection (a) of this section, or within any additional period the lessor allows for good cause.

(c) The lessor may, at the lessor's option, following the lessee's default and failure to remedy, or after termination of this lease due to such default and failure to remedy, accelerate the unpaid compensation for the remainder of the term of this lease. The lessee's obligation to pay such accelerated rent to the lessor survives termination of this lease.

(d) If this lease is terminated, or all or any portion of the leasehold is abandoned by the lessee, the lessor may immediately enter, or re-enter and take possession of the leasehold, and without liability for any damage, remove all persons and property from the leasehold and may, if necessary, use summary proceedings or an action at law. The words "enter" and "re-enter" as used are not restricted to their technical legal meaning. Any entry, re-entry, possession, repossession, or dispossession by the lessor, whether taken with or without judicial action, does not absolve, relieve, release, or discharge the lessee, either in whole or part, of any liability under the lease.

(e) The lessor, upon or at any time after giving written notice of any default, may enter or re-enter the leasehold to remedy any default by the lessee or exercise any right given under this lease, all without the intervention of any court being required. The curing of such default shall not be deemed for any purpose to be for the benefit of the lessee.

(f) At any time after termination of this lease, the lessor may re-let the leasehold, or any part thereof, in the name of the lessor for such term and on such conditions as the lessor may determine, and may collect and receive the compensation therefor. The lessor shall not be responsible or liable for failure to re-let the leasehold or for any failure to collect any compensation due upon such re-letting, nor shall the lessor be required to account for or pay to the lessee any excess compensation received as a result of such re-letting. The lessee shall be liable for any deficiency, and for all costs, expenses, and fees incurred by the lessor arising out of the default, including the lessor's efforts to re-let the leasehold.

(g) No right or remedy conferred upon or reserved to the lessor in this lease or by statute, or existing in law or equity, is intended to be exclusive of any other right or remedy, and each and every right shall be cumulative.

22. Disposition of Improvements and Chattels After Termination. AS 38.05.090 will govern disposition of any lessor-approved chattels or improvements left on the leasehold after termination. At the lessor's sole option, improvements not approved by the lessor shall be removed from the leasehold and the site restored to its original condition at the lessee's sole expense, or be forfeited to the lessor. The lessee shall be liable to the lessor for any costs, expenses, or damages arising out of the disposition of improvements not approved by the lessor, and may be required to pay rent on any improvements or chattels left on the parcel in accordance with 11 AAC 58.680.

23. Indemnity to Lessor. The lessee shall indemnify, defend, and hold the lessor harmless from and against all claims, demands, judgments, damages, liabilities, penalties, and costs, including attorney's fees, for loss or damage, including but not limited to property damage, personal injury, wrongful death, and wage, employment, or worker's compensation claims, arising out of or in connection with the use or occupancy of the leasehold by the lessee or by any other person holding under the lessee, or at the lessee's sufferance or invitation; and from any accident or fire on the leasehold; and from any nuisance made or suffered on the leasehold; and from any failure by the lessee to keep the leasehold in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and from any assignment, sublease, or conveyance, attempted or successful, by the lessee of all or any portion of the leasehold or interest therein contrary to the covenants and conditions of this lease. The lessee holds all goods, materials, furniture, fixtures, equipment, machinery, and other property whatsoever on the parcel at the sole risk of the lessee, and shall defend, indemnify and hold the lessor harmless from any claim of loss or damage by any cause whatsoever, including claims by third parties.

24. Insurance. If required by the lessor, the lessee shall obtain insurance in an amount determined by the lessor to be sufficient. The lessor shall be named as an additional insured party of any such insurance. The types and amount of insurance shall be specified in the attached stipulations made a part of this lease agreement and may be adjusted periodically. The lessee shall maintain that insurance as long as required by the lessor. Any insurance acquired by the lessee for the purpose of providing insurance coverage under this lease must be issued by an insurer authorized to do business in the State of Alaska under the provisions of AS 21.09.010 and AS 21.27.010 for the type of policy being written.

25. Bonding. If required by the lessor, the lessee shall furnish a bond, cash deposit, certificate of deposit, or other form of security acceptable to the lessor in an amount determined by the lessor to be sufficient to ensure faithful performance of the covenants and conditions of this lease, and to cover the cost of site cleanup and restoration and any associated costs after termination of the lease. The amount and conditions of the bond shall be specified in the attached stipulations made a part of this lease agreement. The lessee shall maintain the bond as long as the lessor deems necessary, and in the amount required by the lessor, which amount may be adjusted periodically.

26. Environmental Compliance. (a) The lessee shall, at the lessee's own expense, comply with all existing and hereafter enacted environmental responsibility laws ("Environmental Laws"). The lessee

shall, at the lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Environmental Laws.

(b) Should the Authority require that a remedial action plan be prepared and that a remedial action be undertaken because of the presence of, or any disposal, release, spill, or discharge, or threatened disposal, release, spill, or discharge of or contamination by hazardous materials at the leasehold that occurs during the term of this lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease, then the lessee shall, at the lessee's own expense, prepare and submit the required plans and financial assurances and carry out the approved plans. The lessee's obligations under this section shall arise if there is any event or occurrence at the leasehold during the term of this lease, or arising out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease, that requires compliance with the Environmental Laws.

(c) At no expense to the lessor, the lessee shall promptly provide all information requested by the lessor for preparation of affidavits or other documents required by the lessor to determine the applicability of the Environmental Laws to the leasehold, and shall sign the affidavits promptly when requested to do so by the lessor.

(d) The lessee shall indemnify, defend, and hold harmless the lessor from all fines, penalties, suits, judgements, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of or in any way connected with the presence of or any disposal, release, spill, or discharge or any threatened disposal, release, spill, or discharge of or contamination by hazardous materials at the leasehold that occurs during the term of the lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease; and from all fines, penalties, suits, judgements, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of the lessee's failure to provide all information, make all submissions, and take all steps required by the Authority under the Environmental Laws or any other law concerning any spill, discharge, or contamination that occurs during the term of this lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease.

(e) The lessee agrees that it will not discharge or dispose of or suffer the discharge or disposal of any petroleum products, gasoline, hazardous chemicals, or hazardous materials into the atmosphere, ground, wastewater disposal system, sewer system, or any body of water.

(f) In any court action or administrative proceeding, in addition to all other applicable presumptions, it shall be rebuttably presumed that any environmental contamination of the leasehold (i) has been released on the leasehold; (ii) has resulted from acts or omissions of the lessee or its agents; and (iii) has occurred during the term of this lease. The lessee has the burden of rebutting the presumptions by clear and convincing evidence.

(g) This section of this lease does not in any way alter the State of Alaska's powers and rights or the lessee's duties and liabilities under Title 46 (or its successor) of the Alaska Statutes or other state, federal, or municipal statutes, regulations, or ordinances. For example, notwithstanding the provisions of this lease, the State of Alaska shall not be precluded from claiming under AS 46.03.822 that the lessee is strictly liable, jointly and severally, for damages and costs incurred by the state for clean up of contamination on the leasehold. The obligations and provisions of this section 26 shall survive the termination of this lease.

(h) As used in this lease, the term "hazardous materials" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any municipal governmental authority, the State of Alaska, or the United States government.

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27. Surrender of Leasehold. Upon the expiration, termination, or cancellation of this lease, the lessee shall peacefully leave and deliver up all of the leasehold in good, sanitary, and marketable condition, order, and repair.

28. Notices. (a) Any notice or demand by the lessee will be made by hand delivery to the Director, Division of Mining, Land and Water, or by certified mail, postage prepaid, addressed as follows (or to a new address that the lessor designates in writing), with delivery occurring upon receipt by the lessor:

To the Lessor: Division of Mining, Land and Water
3700 Airport Way
Fairbanks, Alaska 99709

(b) Any notice or demand by the lessor will be issued as provided in 11 AAC 02.040(c). If issuance is by mail, the notice or demand will be addressed as follows (or to a new address that the lessee or its successor in interest designates in writing):

To the Lessee: Arctic Slope Telephone Association Cooperative, Inc.
4300 B Street Suite 501
Anchorage, AK 99503

The lessor will issue a copy of any such notice or demand to each holder of a security interest in the leasehold whose assignment has been approved by the lessor under section 6 of this lease. Any security interest not approved as provided in section 6 is insufficient to require notice by the lessor under AS 38.05.103.

(c) Any notice or demand regarding the lease must be in writing and will be complete if given as set out above.

29. Penalty Charges. The lessee shall pay a fee for any late payment or returned check issued by the lessee as follows:

(1) Late Payment Penalty: The greater of either the fee specified in 11 AAC 05.010 or interest at the rate set by AS 45.45.010(a) will be assessed on a past-due account until payment is received by the lessor. Acceptance of a late payment or of a service charge for a late payment is subject to the lessor's rights under sections 20 and 21 of this lease.

(2) Returned Check Penalty: A returned check fee as provided in 11 AAC 05.010 will be assessed for any check on which the bank refuses payment. If the bank refuses payment, the default termination date remains the same. Late penalties under subsection (1) of this section shall continue to accumulate.

30. Modification. This lease 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.

31. Choice of Law. This lease shall be construed under the laws of the State of Alaska. The lessee confers personal jurisdiction on the courts of the State of Alaska for any litigation under this lease.

32. Severability of Clauses of Lease Agreement. If any clause or provision of this lease is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the lessor and the lessee agree that the remainder of this lease will not be affected, and in lieu of each clause or provision of this lease that is illegal, invalid, or unenforceable, there will be added as a part of this lease a clause or provision as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

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By signing this lease, the lessor and the lessee agree to be bound by its provisions.

LESSEE:

_____

LESSOR:

_____
Director, Division of Mining, Land and Water

APPROVED:

_____
Commissioner, Department of Natural Resources

STATE OF ALASKA)
) ss.
_____Judicial District)

THIS IS TO CERTIFY THAT ON THIS _____ day of _____, _____, before me personally appeared _____, known to me to be the person named and who signed the foregoing lease and acknowledged voluntarily signing the same.

_____
Notary Public in and for the State of Alaska
My commission expires:_____

STATE OF ALASKA)
) ss.
_____Judicial District)

THIS IS TO CERTIFY THAT ON THIS _____ day of _____, _____, before me personally appeared _____, of the Division of Mining, Land and Water of the Department of Natural Resources of the State of Alaska, who executed the foregoing lease on behalf of the State of Alaska, and who is fully authorized by the State to do so.

_____
Notary Public in and for the State of Alaska
My commission expires: _____

Approved as to form February 9, 1994, and September 25, 2001.

_____
/s/ Elizabeth J. Barry, Assistant Attorney General

Recorder's Office: **State Business; No Fee**

Return the recorded document to: **DNR, DMLW, NRO**
3700 Airport Way
Fairbanks, Alaska 99709

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Attachment 3
Additional Lease Stipulations

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Additional Lease Stipulations

In addition to the terms of the lease listed within the lease document, the following stipulations will be incorporated as part of the lease. The Authorized Officer (AO) reserves the right to modify the following stipulations or include additional stipulations as necessary prior to lease issuance.

1. **"Lessee."** as used in the lease and these Stipulations, shall expressly include Lessee's predecessors, successors in interest, and assigns.

2. **Authorized Officer**. The AO for the Department of Natural Resources is the Northern Regional Manager, or designee. The AO may be contacted at 3700 Airport Way, Fairbanks Alaska 99709 or 907-421-2740. The AO reserves the right to modify these stipulations or use additional stipulations as deemed necessary.

3. **Preference Right**. No preference right to a subsequent long-term lease is granted or implied by issuance of this lease.

4. **Modifications to Development Plan**. Section 4 of the lease is hereby amended to include the following: To adequately address any future development or additions to the Development Plan, the Lessee will be required to provide advance written notice to the AO for approval of any modification prior to construction. The AO reserves the right to re-evaluate the lease compensation and other terms and conditions of the lease prior to approving any modification to the development plan. Based upon the extent of the modifications a survey and appraisal may be required at the Lessee's expense. No changes are approved unless specifically authorized in writing by the AO.

5. **Specific Land Use**. Section 4 of the lease is hereby amended to include the following: This lease is issued for a specific use and development plan, and use of the area for purposes other than those specified constitutes a breach of the lease agreement and may result in revocation. The lease may be terminated upon a finding by the AO that the land or a part of it has not been used by the Lessee for the purpose specified in the lease for a period of two years. The lease cannot be assigned or subleased except with the consent of the AO. A Lessee may not change the use specified in the lease to another or additional use except with the consent of the AO. Any attempts to depart from these conditions without the consent of the AO will cause the lease to automatically be terminated.

6. **Waste and Debris Disposal**. Section 4 of the lease is hereby amended to include the following: On-site refuse disposal is prohibited. All waste generated during operation, maintenance and termination activities under this authorization shall be removed and disposed of at an off-site DEC approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and discarded equipment. The site must be kept clean at all times.

7. **Site Disturbance**. Section 4 of the lease is hereby amended to include the following: The Lessee, its contractors, and sub-contractors shall take all reasonable precautions to prevent water pollution, erosion, or sedimentation on or in the vicinity of the leased area.

a) Site disturbance shall be kept to a minimum to protect local habitats. All activities at the site shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems. Any ground disturbances that may occur shall be contoured to blend with the natural topography to protect human and wildlife health and safety. Particular attention must be paid to preventing pollution and siltation of any waterways and to preventing disturbances to fish and wildlife populations and habitats.

b) Fire. The Lessee shall take all reasonable precautions to prevent, and all reasonable actions to suppress; forest, brush and grass fires. The Department of Natural Resources does not assume any responsibility for protecting any temporary improvements or personal property in cases of grass, brush, or forest fires.

8. **Assignment**. Section 6 of the lease is hereby amended to include the following: In the event the Lessee desires to transfer their interest in the lease to another party the Lessee shall submit to the AO a request for assignment and a copy of a draft agreement which identifies the provisions of the assignment between the parties. If the assignment changes the type or level of use such that new lease compensation or stipulations are necessary to protect the Lessor's interest the AO reserves the right to require/renegotiate new terms or conditions for the lease prior to approving any assignment. The AO reserves the right to require an assignment between the Lessee and another party in the event of a change in corporate ownership, LLC/LLP membership or name change involving the leased site.

9. **Relinquishment**. The lease may be relinquished if it is in good standing (rental payments are current and Lessee is in compliance with all other conditions and stipulations), the Lessee files a written relinquishment form certifying the condition of the parcel, and the Lessor accepts the relinquishment. Provided that the lease site is in good standing and free of contamination, Lessor's acceptance of the relinquishment shall not be unreasonably withheld. Lease rental payments are non-refundable regardless of whether the lease is relinquished or terminated for cause.

10. **Subleasing**. Section 6 of the lease is hereby amended to include the following: The AO reserves the right to require an increased annual compensation as a condition of a sublease approval. Said increase shall be determined by negotiation between the Lessee and AO, but shall not be less than 25% of all compensation paid annually to the Lessee by the Sublessee. Neither the terms of this sublease provision nor any actual compensation derived from a sublease shall have any effect upon a determination of the annual fee pertaining to AS 38.05.075(a) or appraised market value pertaining to AS 38.05.840 and/or this lease parcel. Sublease shall be defined to include any lease, rental, storage, or accommodation agreement between the Lessee and another individual, business or corporation utilizing or benefiting from the lease parcel. Sublessee shall be defined to mean any individual, business, or corporation executing an agreement, as above, with the Lessee. The amount of sublease compensation shall be subject to change at the same time as the lease compensation adjustment and whenever the terms or conditions of the agreement between the Lessee and Sublessee change. Approval of a sublease shall also be conditioned upon:

a) the Lessee is in full compliance with lease conditions and is in good standing with all other authorizations per 11 AAC 96.145;

b) submission by the Lessee of a draft copy of the agreement(s) which will govern the relationship and compensation provisions between the Lessee and Sublessee; failure of Lessee to provide complete, true and accurate information regarding sublease compensation will, at Lessor's discretion, be grounds for termination of the lease;

c) submission by the Lessee of a proposed plan of operations and development for the subleased area and, if necessary, an amended plan of operations and development for the entire lease area; and; and

d) a best interest finding by the AO and amendments to the lease contract as necessary, if significant changes to the use and development are proposed.

Notwithstanding other requirements described in the lease agreement and additional stipulations, assignments or subleases shall be restricted to those entities which are also eligible to obtain a lease under the same statutory authority for which the lease was issued.

11. **Inspections**. Section 13 of the lease is hereby amended to include the following: The AO may designate representatives and other personnel to inspect the leased area at any time. Non-compliance determinations will subject the site to re-inspection for which the Lessee may be assessed, at the AO's discretion, either a fee of $100 or a fee equal to the actual expenses incurred by the Division of Mining, Land and Water (11 AAC 05.010).

12. **Concurrent Usage**. Section 15 of the lease is hereby amended to include the following: The AO reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of state land, their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of other authorized users. Any future concurrent permit, lease or sublease will be subject to the conditions and stipulations contained in the lease, including the additional collection of fees or rents by the AO from any subordinate Lessee or Sublessee.

13. **Violations**. Section 21 of the lease document is hereby amended to include the following: Per 11 AAC 96.145, the Lessee must be in compliance with provisions of this and other authorizations granted under AS 38.05 or 11 AAC 96 before a new authorization may be granted by DNR. This lease authorization may be terminated upon violation of any of its terms, conditions, stipulations or upon failure to comply with any applicable state, federal and local laws, statutes and regulations.

14. **Indemnification**. Section 23 of the lease is hereby amended to include the following:

Lessee assumes all responsibility, risk and liability for its activities and those of its employees, agents, contractors, subcontractors, licensees, or invitees, directly or indirectly related to this lease, including environmental and hazardous substance risk and liability, whether accruing during or after the term of this lease. Lessee shall defend, indemnify, and hold harmless the State of Alaska, its agents and employees, 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 Lessee, its employees, agents, contractors, subcontractors, licensees, or invitees, unless the proximate cause of the injury or damage is the sole negligence or willful misconduct of the State or a person acting on the State's behalf. Within 15 days, Lessee shall accept any such cause, action or proceeding upon tender by the State.

15. **Insurance**. As per section 24 the Lessee shall secure or purchase at its own expense, and maintain in force at all times during the term of this lease, the following policies of insurance to protect both the Lessee and the Lessor (the State, its officers, agents and employees). If the Lessee'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 lease and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. The Lessee 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 lease and shall be grounds, at the option of the State, for termination of the lease. 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 Lessee on or in conjunction with the leased premises, referred to as ADL 421287.

16. **Performance Guaranty**. As per section 25 of the lease the Lessee must post a performance guaranty in the amount of **$2,500** to secure faithful performance with all terms and condition of the lease and to insure site restoration of the leasehold. The performance guarantee must remain in effect for the duration of the lease term or until released in writing by the AO.

Failure by the Lessee to provide replacement security, upon notice of non-renewal of an existing form of security, shall be grounds for the AO to make a claim upon the existing security to protect the Lessor's interests.

The guaranty amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments to the lease, assignments, re-appraisals, changes in the development plan, approval of a reclamation plan, any change in the activities conducted or performance of operations conducted on the leased premises and as a result of any violations to the lease agreement.

The guaranty may be utilized by the AO to cover actual costs incurred by the State of Alaska to pay for any necessary corrective actions in the event the Lessee does not comply with the site utilization, restoration requirements and/or other stipulations contained in the lease agreement. If the Lessee fails to perform the obligations under the lease agreement within a reasonable timeframe, the AO may perform the Lessee's obligations at the Lessee's expense. The Lessee agrees to pay within 20 days following demand, all costs and expenses reasonable incurred by the State of Alaska as a result of the failure of the Lessee to comply with the terms and conditions of the lease agreement. The provisions of these authorizations shall not prejudice the State's right to obtain a remedy under any law or regulation.

The performance guaranty will be released upon expiration of the lease provided that all terms and conditions of the lease have been met, including complete removal and restoration of the leased area leaving the site in a safe and clean condition.

17. **Environmental Provisions**: Section 26 of the lease is hereby amended and replaced with the following provisions.

SECTION 26. ENVIRONMENTAL ISSUES

A. Definitions for Section 26, Environmental Issues:

Affected Property – Any property adjacent to the Leasehold that contains Contamination in, on, or under the surface, including groundwater.

Contamination – The unpermitted presence of any Released Hazardous Substance.

Environmental Assessment – An assessment of property, prepared in a manner consistent with generally accepted professional practices, that is supported by reports and tests that determine the environmental condition of a property and the presence, type, concentration, and extent of any Contamination in, on, and under the surface of the property.

Environmental Law – Any federal, state, or local statute, law, regulation, ordinance, code, permit, order, decision, or judgment from a governmental entity relating to environmental matters. It includes, but is not limited to, AS 46 (Alaska Water, Air, Energy, and Environmental Conservation Acts); 18 AAC

(Environmental Conservation) implementing AS 46; 42 U.S.C. §§ 7401-7671 (Clean Air Act); 33 U.S.C. §§ 1251-1387 (Federal Water Pollution Control Act); 42 U.S.C. §§ 6901-6992 (Resource Conservation and Recovery Act); 42 U.S.C. §§ 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act); and 15 U.S.C. §§ 2601-2692 (Toxic Substances Control Act).

Environmental Liability Baseline – A description, accepted by the Lessor and documented by one or more Environmental Assessments and any other relevant documents, of the existence, location, level, and extent of Contamination in, on, or under the surface of the Leasehold that was neither caused nor Materially Contributed To by the Lessee, nor otherwise assumed by the Lessee.

Hazardous Substance – Any substance that is defined under an Environmental Law as hazardous waste, hazardous substance, hazardous material, toxic, pollutant, contaminant, petroleum, petroleum product, or oil.

Leasehold – The real property defined in Section 1 of this lease.

Materially Contribute To – To significantly add to or make worse, including by inaction, the Release or migration of a Hazardous Substance.

Release – means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, but excluding

(a) Any release that results in exposure to a person solely within a workplace, with respect to a claim that those persons may assert against the persons' employer; and

(b) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, or vessel.

B. Compliance with Laws. Lessee shall comply with all Environmental Laws relating to the handling, use, generation, accumulation, storage, transportation, disposal, release, treatment or sale of Hazardous Substances in, on or under the Leasehold.

C. Lease Site Condition/Potential Contaminants. Lessee has the sole responsibility under this lease to ascertain the environmental condition and presence of Contamination in, on, or under the surface of the Leasehold. Lessor makes no representations and no warranties, express or implied, concerning the existence or absence of any Hazardous Substances or Contamination on the Leasehold. Lessor does not assume any liability for the removal of Hazardous Substances, nor for the remediation of the Leasehold and any Affected Property should such substances be found.

D. Environmental Liability Baseline. Lessee is conclusively presumed to have caused or to have Materially Contributed To any Contamination of, or originating on, the Leasehold. Lessee may establish an Environmental Liability Baseline that will serve as a benchmark for the condition of the Leasehold as of the effective date of the lease and as a reference for the Clearance Assessment in Subsection I, below. Lessee will not be presumed to have caused or to have Materially Contributed To any Contamination of, or originating on, the Leasehold identified in the Environmental Liability Baseline. Lessee is responsible for the acts or omissions of its employees, agents, invitees, sublessees, contractors and guests on the Leasehold, and Contamination caused or Materially Contributed To by activities of the Lessee's employees, agents, invitees, sublessees, contractors and guests on the Leasehold are deemed to be caused by or Materially Contributed To by the Lessee. Lessee shall be solely responsible for any and all costs associated with conducting the Environmental Assessment and/or establishment of the Environmental Liability Baseline.

   a. Notice of Environmental Assessment. If the Lessee decides to add to or establish an Environmental Liability Baseline for all or any portion of the Leasehold or Affected Property during the term of the lease, or any renewal or assignment, if applicable,

thereof, the Lessee shall notify the Lessor of the intent to conduct an Environmental Assessment for that portion of the Leasehold or Affected Property. The Lessee shall provide a description of activities for conducting the Environmental Assessment. The Lessee shall provide Lessor with the final Environmental Assessment report.

b. Establishing an Environmental Liability Baseline.
    i. If the Lessee discovers Contamination in, on, under the surface of, or emanating from, the Leasehold, for any portion of the Contamination to be considered for inclusion in the Environmental Liability Baseline, the Lessee must demonstrate to the satisfaction of the Lessor that the Contamination proposed for inclusion was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, nor otherwise assumed by the Lessee. Contamination caused or Materially Contributed To by activities of the Lessee's employees, agents, invitees, sublessees, contractors and guests on the Leasehold are deemed to be Materially Contributed To by the Lessee.
    ii. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities, nor otherwise assumed by the Lessee, shall be included in the Environmental Liability Baseline.
    iii. Lessee is responsible for inspecting the Leasehold and reporting, in writing, any evidence of conditions on the Leasehold as of the effective date of the lease, which differ from the conditions reported in the Environmental Liability Baseline. By entering into the lease, Lessee expressly accepts the Leasehold and acknowledges that notwithstanding the provisions of the Environmental Liability Baseline, the Leasehold may contain Hazardous Substances not mentioned in the Environmental Liability Baseline.

c. Adding to an Existing Environmental Liability Baseline.
    i. If, after an Environmental Liability Baseline is established for any portion of the Leasehold or Affected Property, the Lessee discovers Contamination in, on, under the surface of, or emanating from, that portion of the Leasehold having an Environmental Liability Baseline, which Contamination the Lessee or the Lessee's operations or activities did not cause or Materially Contribute To, and which the Lessee did not otherwise assume, the Lessee may, at its own cost, submit an additional Environmental Assessment reflecting that information to the Lessor for the Lessor's consideration to add to the Environmental Liability Baseline. The Lessee's additional Environmental Assessment must demonstrate to the satisfaction of the Lessor which portion of the additional Contamination on the Leasehold or Affected Property was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities nor otherwise assumed by the Lessee.
    ii. Only that portion of Contamination not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, nor otherwise assumed by the Lessee, may be added to the existing Environmental Liability Baseline.

d. Lessor's Acceptance or Rejection of Lessee's Environmental Assessment. When the Lessor receives the Lessee's Environmental Assessment to establish an Environmental Liability Baseline or to add to an existing Environment Liability Baseline, the Lessor, in its sole discretion, will do one of the following:
    i. Accept the findings of the Lessee's Environmental Assessment and any other relevant documents to establish an Environmental Liability Baseline for that portion of the Leasehold or Affected Property being assessed or to add to the existing Environmental Liability Baseline;
    ii. Reject the findings of the Lessee's Environmental Assessment for that portion of the Leasehold being assessed and offer the Lessee the opportunity to perform additional environmental testing if the Lessor determines, in writing,

that the findings of the Environmental Assessment are inadequate to establish an Environmental Liability Baseline or to add to an existing Environmental Liability Baseline. The Lessor's written rejection of the Lessee's Environmental Assessment will be based on failure of the Lessee's Environmental Assessment to either:

1. follow generally accepted professional practices in determining the environmental condition of the Leasehold or the Affected Property and the presence of Contamination in, on, or under the surface of, or emanating from, the Leasehold; or
2. demonstrate to Lessor's satisfaction the portion of the Contamination that was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, nor otherwise assumed by the Lessee; or

iii. Perform additional environmental testing at the Lessor's expense to verify the environmental condition of that portion of the Leasehold being assessed. If the results of the Lessor's tests conflict with the Lessee's Environmental Assessment, the Lessor and the Lessee will negotiate in good faith an Environmental Liability Baseline or an addition to the existing Environmental Liability Baseline for the portion of the Leasehold or Affected Property being assessed.

e. Amending the Environmental Liability Baseline to Delete Contamination Caused, Materially Contributed To or Assumed by Lessee. If, after the Environmental Liability Baseline for any portion of the Leasehold or Affected Property is established, it is discovered that the presence of Contamination identified in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, or otherwise assumed by the Lessee, the Environmental Liability Baseline will be amended to delete that portion of the Contamination that was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities or otherwise assumed by the Lessee.

E. Notice of Hazardous Substance Release. Lessee shall give notice to Lessor promptly after learning of any Release of any Hazardous Substance on or at the Leasehold or surrounding environment. This notice shall include a description of the Release, measures taken or proposed to be taken by Lessee to contain and/or remedy the Release, and any resulting damage to property, persons or the environment. At Lessee's own expense, Lessee shall promptly take all steps necessary to contain and remedy any Release of Hazardous Substances in, on or under the Leasehold or surrounding environment, and all resultant damage or injury to property, persons and the environment (the "Response Action"). Lessee shall be responsible for reporting and coordinating the Response Action with the Alaska Department of Environmental Conservation and/or any other federal, state, or local agency with jurisdiction (collectively, the "Regulator"). Lessee shall provide Lessor with not less than seven days to review and comment on any submittal to a Regulator made as part of a Response Action prior to submission. Upon request by Lessor, Lessee shall provide Lessor copies of any and all documents arising from or related to the Response Action including, but not limited to, any and all communications by Lessee to a Regulator.

F. Lessor's Right to Perform Testing. At any time, and from time to time, prior to the expiration of the Lease, Lessor shall have the right, but not obligation, to conduct appropriate tests of the Leasehold or any portion thereof to determine whether Contamination has occurred provided, however, that (a) all such testing shall be conducted at Lessor's sole cost and expense except as set forth in the next sentence, (b) Lessor shall coordinate testing activities with the Lessee and shall, to the extent practicable, minimize the impact of testing on the Lessee, (c) Lessor shall promptly repair any physical damage caused by such testing and restore the Leasehold to substantially the same physical condition it was in immediately prior to such testing, and (d)

the Lessor shall not be held liable for any damages, whether direct or indirect, incurred by Lessee as part of the testing. Lessee shall pay all reasonable costs of such tests if such tests reveal that Hazardous Substances exist on the Leasehold due to the acts or omissions of Lessee in violation of state or federal Environmental Laws.

G. Financial Responsibility for Contamination on the Leasehold and on Any Affected Property. The Lessee assumes financial responsibility to the Lessor for any Contamination in, on, and under the Leasehold and any Affected Property, except for Contamination that is identified in an Environmental Liability Baseline. Lessee shall be responsible for all costs incurred by Lessor to enforce these environmental provisions, including but not limited to action(s) to force Lessee to address a Release of Contamination at the Leasehold or Affected Property, and all attorneys' fees and other costs of such action(s). This is without prejudice to the Lessee's right to seek contribution or indemnity from either prior lessees of the Leasehold and Affected Property, or other potentially responsible parties except for the Lessor.

H. Environmental Indemnification. Lessee shall indemnify, defend and hold Lessor harmless from any and all claims, demands, damages, costs, fees, penalties, and charges asserted against, imposed upon, and incurred by Lessor (including fees and costs of attorneys, consultants, laboratory testing charges and personal injury claims) as a result of (a) the handling, use, generation, accumulation, storage, transportation, disposal, treatment and/or sale of Hazardous Substances at or from the Leasehold; (b) the release of any Hazardous Substance on, at or from the Leasehold which is attributable to any act or omission of Lessee, or its employees, agents, invitees, sublessees, contractors and guests; (c) the failure of Lessee, or its employees, agents, invitees, sublessees, contractors and guests, to comply with any Environmental Laws; (d) Lessee's failure to remove all Hazardous Substances or decontaminate, decommission, or, if appropriate, sterilize all areas in the Leasehold and any Affected Property in which any of Hazardous Substances were generated, stored, handled, accumulated, or released; and (e) Lessee's failure to comply with any other requirement of this Section. This environmental indemnification is in addition to the indemnification provided for under Section 23 of the Lease.

I. Environmental Report Upon Expiration or Termination of Lease. Two months prior to Lessee's surrender of possession of any part of the Leasehold, or the expiration or termination of this Lease, Lessee shall provide Lessor with copies of all environmental reports necessary for Lessor to determine whether the Leasehold may contain any Hazardous Substances other than those, if any, that were identified in the Environmental Liability Baseline. If reports indicate the presence of Hazardous Substances, then Lessee shall also provide Lessor with (a) a written assessment addressing any potential releases of Hazardous Substances handled on the Leasehold during the term of the Lease to the workplace, soils, sewers, drywells, surface water, or groundwater, and any threats to human health or the environment posed by Lessee's operations (the "Clearance Assessment"); the scope of the Clearance Assessment must be approved by Lessor, such approval not to be unreasonably withheld, and will include provisions complying with the standards for Phase I and II Environmental Site Assessment as specified by the ASTM standard in effect at the time or any successor standards published by ASTM International (formerly known as the American Society for Testing and Materials) or any successor organization (or, if ASTM International and its successors no longer exist, a similar entity publishing similar standards); (b) written evidence that all appropriate governmental notifications have been made or releases requested as may be required by laws in effect at that time, including laws pertaining to Releases of Hazardous Substances and the surrender of the Leasehold; and (c) a plan to address any further lease requirements or Contamination which are Lessee's responsibility under this Section. In addition, Lessee agrees to remain responsible after the surrender of the Leasehold for the remediation of any Contamination that Lessee is otherwise responsible for pursuant to this lease, to comply with any recommendations regarding such Contamination, and to continue to pay rent and insurance until the Lessee provides evidence acceptable to Lessor that all Contamination, if any, then

present on the Leasehold and any Affected Property are below reportable levels under state and federal laws. Lessee's obligations under this Article shall survive the expiration or earlier termination of the lease.

J. Removal of Hazardous Substances prior to Expiration or Termination of Lease. At least 10 days prior to termination of this lease, Lessee shall remove all Hazardous Substances which have been stored, or released onto or from, the area to be vacated and shall decontaminate vacated areas in the Leasehold in which Hazardous Substances were generated, stored, accumulated, released, or otherwise present. If Hazardous Substances were stored in tanks or containers, Lessee shall decommission such equipment. Documentation of this removal and decommissioning shall be included in the Clearance Assessment.

K. Action Against Potentially Responsible Parties. This article does not restrict either the Lessor or the Lessee from seeking and obtaining cleanup efforts, costs, or damages from other potentially responsible parties.

L. Authorities of the Alaska Department of Environmental Conservation. These provisions do not in any way alter the State of Alaska, Department of Environmental Conservation's powers and rights under AS 46.03 or 18 Alaska Administrative Code (implementing AS 46.03) (or their successors) and specifically AS 46.03.822. It also does not affect Lessee's duties and liabilities under Title 46 (or its successor) of the Alaska Statutes or other state, federal, or municipal statutes, regulations, or ordinances. For example, notwithstanding the provisions of this lease, the State of Alaska shall not be precluded from claiming under AS 46.03.822 that Lessee is strictly liable, jointly and severally, for damages and costs incurred by the State for cleanup of Contamination on the Leasehold and any Affected Property. The obligations and provisions of this Section shall survive the termination of this lease.

18. **Fuel**. When fuel storage containers exceed a total combined capacity of 110 gallons, the containers must be stored within either, an Alaska Department of Environmental Conservation approved double walled-tank, or an impermeable diked area, or a portable impermeable containment structure capable of containing 110% of the capacity of the largest independent container. All containers must be clearly marked with the contents and the Lessee's name. Drip pans and materials, such as sorbent pads, must be on hand to contain and clean up spills from any transfer or handling of fuel. All fuel storage containers and associated materials must be removed by the lease expiration date.

19. **Hazardous Substances** (other than fuel). Use of herbicides and pesticides by the Lessee is prohibited without prior written approval from the AO. No storage of hazardous material/substances is authorized within the project area without prior written approval from the AO.

20. **Alaska Historic Preservation Act**. The Lessee shall consult the Alaska Heritage Resources Survey (907) 269-8721 so that 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 during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Outdoor Recreation (907) 269-8721 and shall be notified immediately.

21. **Incurred Expenses**. All expenses incurred by the Lessee connected with the exercise of the privilege covered by this authorization shall be borne solely by the Lessee and the State of Alaska shall in no way be held liable for said expenses.

22. **Limits of Access**. Access to the lease site is from via plane/helicopter or snowmachine access in winter. No new access trails or roads are authorized on state land without the express permission of the AO. The ability of all users to use or access state land must not be restricted in any manner with the exception of fencing or enclosing structures to protect the public from possible harm.

23. **Public Access**. The operation, use and maintenance of the project shall not interfere with free public use of roads, trails, waters, landing areas, or other public access easements. The ability to use or access state land or public waters must not be restricted in any manner. However, if a specific activity poses a safety concern, the AO may authorize a temporary closure of public access routes to or through the project area for a specific period of time. The Lessee is required to contact the AO in advance for approval to close public access routes. No closures are authorized unless specifically authorized in writing by the AO.

24. **Survey Monuments**. The Lessee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed lease corner posts against damage, destruction, or obliteration. The Lessee shall notify the AO of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the Lessee's expense in accordance with accepted survey practices of the Department of Natural Resources.

25. **Compliance with Governmental Requirements; Recovery of Costs**. Lessee shall, at its expense, comply with all applicable laws, regulations, rules and orders, and the requirements and stipulations included in this authorization. Lessee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.

26. **Other Authorizations**. The issuance of this authorization does not alleviate the necessity of the Lessee to obtain authorizations required by other agencies for this activity.

27. **Change of Address**. Any change of address must be submitted in writing to the AO.

28. **Compliance**. The Lessee shall inform and ensure compliance with these stipulations by its employees, agents, invitees, contractors, subcontractors, or licensees directly or indirectly conducted in connection with this lease. The Lessee is responsible for the accurate location of all construction, operation, and maintenance activities within the area authorized under the terms of this lease.

29. **Lease Expiration and Site Reclamation**. No later than one (1) year prior to the lease expiration, the Lessee shall file with the AO:

a) A request for a new lease, and/or

b) A reclamation plan for the leasehold lands, which must be approved in writing by the AO. The Lessee is responsible for site reclamation within the leasehold. The reclamation plan must include a description of the methods and techniques that the Lessee will use to rehabilitate all sites affected by construction and intensive use activities. Under the lease, the Lessee retains all ownership rights to site improvements. In the plan, the Lessee shall describe its intention to remove improvements. The plan must also include a schedule that sets forth the steps required for surface rehabilitation, and a specific timeline showing when the Lessee will accomplish each step.

30. **Site Restoration**.

a. Upon expiration, completion, or termination of this authorization, the site shall be vacated and all improvements, personal property, and other chattels shall be removed or they will become the property of the state.

b. The site shall be left in a clean, safe condition acceptable to the AO.

c. The AO must approve a Restoration Plan at least 30 days prior to expiration, completion, or termination of this authorization, whichever is sooner. The Restoration Plan shall be in addition to any requirements for environmental compliance made a part of this lease.

d. Land returned to the Department of Natural Resources for any reason shall be returned in an environmental, physical, and marketable condition acceptable to the AO.

31. **Gravel/Fill Placement Materials.** When placed on the premises by the Lessee, fill material, gravel, and pavement, including building pads, parking areas, driveways, and similar structures become a part of the realty and property of the state, must be maintained by the lessee, and may not be removed from the premises by the Lessee without the prior written approval of the Lessor.

32. **FCC License/Authorization**. Each communication transmitter operating under this lease shall be operated only by the holder of a current and valid FCC license. A legible copy of each applicable license shall, at all times, be posted on the cabinet or rack of each transmitter being operated. Each copy shall indicate the person or entity authorized under the license to operate the transmitter.

33. **Fiber Optic Cables**. This lease does not allow for the installation of fiber optic cable without the written approval of the AO and the payment of the current fiber optic cable fee.

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