

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER, SOUTHEAST REGION
400 Willoughby Ave., P.O. Box 111020
Juneau, Alaska 99811-1020**

**PRIVATE NON-EXCLUSIVE EASEMENT
Bank Stabilization**

ADL 108125

THIS AGREEMENT made and entered into this ____ day of _____, ____ by and between the **State of Alaska**, acting by and through the Department of Natural Resources, Division of Mining, Land and Water, hereinafter referred to as Grantor, and **Donica R. and Gregory A. Jerue**, owners of Parcel 1, hereinafter referred to as Grantee.

WITNESSETH, that in accordance with the provisions of AS 38.05.850 and the rules and regulations promulgated thereunder, Grantee having filed an application for an easement for the purpose of a bank stabilization project, together with an easement diagram showing the definite location which Grantee has adopted and agrees to be the specific and definite location of the aforesaid easement.

This easement affects two parcels described as follows:

Parcel 1 - Lot 1, Jerue Subdivision according to Plat 96-23, Juneau Recording District, State of Alaska

Parcel 2 - A linear parcel, approximately 150 feet in length and 10 feet in width, of State shorelands within Section 18, Township 40 South, Range 66 East, Copper River Meridian. Parcel 2 contains .034 acre, more or less, and is immediately adjacent to Parcel 1.

WHEREAS, it is understood and agreed by Grantee that, as a condition of the granting of the easement applied for, the land covered by said easement shall be used for no purpose other than construction, use and maintenance of the said easement over and across the state land described above.

TO HAVE AND TO HOLD the above described interest for a period 25 years or less if the land shall no longer be used for the abovementioned purpose and subject to the conditions and reservations elsewhere set forth herein.

In the event that the easement herein granted shall in any manner conflict with or overlap a previously granted right-of-way or easement, Grantee shall use this easement in such a manner as to not interfere with the peaceful use and enjoyment of the previously issued right-of-way or easement, and no improvements shall be constructed by Grantee upon the overlapping area unless consent has first been obtained from Grantee under the pre-existing right-of-way or easement.

Grantee in the exercise of the rights and privileges granted by this indenture shall comply with all regulations now in effect or as hereafter established by the Division of Mining, Land and Water and all other federal, State or municipal laws, regulations or ordinances applicable to the area herein granted.

SPECIAL CONDITIONS

1. This easement is issued for a period of **25 years** and shall expire on **December 31, 2036, or sooner should the land not be required for the purpose this easement was issued.** This easement is subject to revocation for cause, or if the State has a higher and better use for the land. The cost of relocating any improvements shall be borne by Grantee
2. The use fee for this non-commercial, private non-exclusive easement is **\$200.00** per year as established in regulation under 11 AAC 05.010(e)(11)(A). The annual use fee is due on or before **January 1st** of each year. This fee is subject to adjustment by Grantor at the commencement of the sixth year of the term and every fifth year thereafter (the "adjustment date"). The adjustment shall be based on the Division's fee schedule. The compensation adjustment takes effect on the applicable adjustment date, regardless of whether the adjustment determination occurs before or after that date.
3. Penalty Charges: Grantee shall pay a fee for any late payment or returned check issued by Grantee as follows:
 - a. 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 State.
 - b. 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.
4. This easement is private, non-exclusive. Grantor reserves the right to allow other like or compatible uses of the easement and the right to require such users to enter into an equitable maintenance agreement with the holder of this easement. The equitableness of any such agreement shall be determined by Grantor.
5. Public access shall not be precluded by activities or structures allowed by this easement. All operations must be conducted in a manner that will ensure minimum conflict with other users of the area. Grantee shall not close landing areas or trails or otherwise prevent overland access commonly used by the public. The interests served by the public trust doctrine, specifically the right of the public to use navigable waterways and the land beneath them for navigation, commerce, fishing, hunting, protection of the areas for ecological study, and other purposes, will be protected.
6. Grantor assumes no responsibility for maintenance of improvements constructed on State land, or any liability for injuries or damages attributable to that construction. Grantor also makes no warranty that dedicated lands are suitable for the proposed use.

7. Grantee assumes all responsibility, risk and liability for all activities of grantee, its employees, agents, invitees, contractors, subcontractors, or licensees directly or indirectly conducted in connection with this easement, including environmental and hazardous substance risks and liabilities, whether accruing during or after the term of this easement. Grantee shall defend, indemnify, and hold harmless the State of Alaska, its employees, and agents from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by grantee, its employees, agents, invitees, contractors, subcontractors, or licensees, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the State or anyone acting on the State's behalf. Within 15 days Grantee shall accept any such cause or action or proceeding upon tender by the State. This indemnification shall survive the termination of the easement.
8. No fuel or hazardous substances are to be stored on the subject parcel.
9. Authorized representatives of the State of Alaska shall have reasonable access to the subject parcel for purposes of inspection. Grantee may be charged fees under 11 AAC 05.010(a)(7)(M) for routine inspections of the subject parcel, inspections concerning non-compliance, and a final close-out.
10. Any proposed revisions to the development and operations plan must be approved in writing by Grantor before the change in use or development occurs. This easement must be utilized for the purpose described in the approved development plan.
11. Grantee shall, at its expense, comply with all applicable laws, regulations, rules and orders, and with the requirements and stipulations included in this easement. Grantee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
12. No activities which generate solid waste or debris are authorized under this easement.

Prior to cancellation of this indenture by the Grantee, or within 90 days of revocation of this indenture by the Grantor, Grantee shall remove all improvements from the area herein granted, except those owned by Grantor, and shall restore the area to the same or similar condition as it was upon the issuance of this easement. Should Grantee fail or refuse to remove the structures or improvements within the time allotted, Grantor may do so and restore the area at the expense of the Grantee. Grantor may, in its discretion, alter or modify the requirements contained in this provision if it determines such modification is in the State's best interest.

Grantee shall utilize the lands herein granted consistent with the purposes of the authorized use, shall maintain the premises in a neat and orderly manner, and shall adopt and apply such safety measures as are necessary, proper and prudent with respect to the use to which the land is subjected.

Grantee shall take all reasonable precautions to prevent and suppress brush and forest fires. No material shall be disposed of by burning in open fire during the closed season unless a permit has first been obtained from the agency empowered by law to issue such permits.

Any lands included in this easement which are sold under a contract to purchase shall be subject to this easement. Upon issuance of title to the purchaser, this easement shall remain in effect until its date of expiration.

In the event the necessity for the easement no longer exists, or Grantee abandons the easement, this easement shall terminate.

The State of Alaska shall be forever wholly absolved from any liability for damages which might result to Grantee from the cancellation, forfeiture, or termination of this easement prior to the expiration of the full term for which it was issued.

NOW THEREFORE, in accordance with the provisions of AS 38.05.850 and the rules and regulations promulgated thereunder, and in accordance with the conditions heretofore set forth or attached hereto and made a part hereof, Grantee is hereby authorized granted said easement over and across the lands herein described.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed in duplicate and Grantee has hereunto affixed his signature on the day and year written.

GRANTOR

**STATE OF ALASKA,
DEPARTMENT OF NATURAL RESOURCES**

By: _____
**Robert H. Edwardson
Southeast Regional Manager
Division of Mining, Land & Water**

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

This is to certify that on the _____ day of _____, _____, before me, the undersigned Notary Public in and for the State of Alaska, personally appeared **Robert H. Edwardson** known to me and known by me to be the **Southeast Regional Manager, Division of Mining, Land & Water, Alaska Department of Natural Resources**, and he acknowledged to me that he signed and executed the same freely and voluntarily for the uses and purposes stated therein.

Notary Public for the State of Alaska
My Commission expires _____

GRANTEE 1:

Donica R. Jerue

STATE OF ALASKA)
)ss.
FIRST JUDICIAL DISTRICT)

This is to certify that on the _____ day of _____, _____, before me the undersigned Notary Public in and for the State of _____, personally appeared Donica R. Jerue, and she acknowledged to me that she signed and executed the same freely and voluntarily for the uses and purposes stated therein.

Notary Public for the State of _____
My Commission expires _____

GRANTEE 2:

Gregory A. Jerue

STATE OF ALASKA)
)ss.
FIRST JUDICIAL DISTRICT)

This is to certify that on the _____ day of _____, _____, before me the undersigned Notary Public in and for the State of _____, personally appeared Gregory A. Jerue, and he acknowledged to me that he signed and executed the same freely and voluntarily for the uses and purposes stated therein.

Notary Public for the State of _____
My Commission expires _____

Attachment: **As-built Survey**

STATE BUSINESS- NO CHARGE (the recording fee for this document has been paid by the applicant)

AFTER RECORDING RETURN TO:
Alaska Department of Natural Resources
Division of Mining, Land and Water
P.O. Box 111020
Juneau, Alaska 99811-1020