

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

PRELIMINARY DECISION

ADL 231205 Material Site

ADL 227576 Alaska Department of Transportation & Public Facilities

Material Sale

Material Site Designation and Application for Public and Charitable Material Sale

AS 38.05.550-.555

This Preliminary Decision (PD) is the initial determination on a proposed disposal of interest in State land and is subject to comments received during the public notice period. The public is invited to comment on this PD. The deadline for commenting is **5:00 PM on October 19, 2018**. Please see the Comments section of this PD for details on how and where to send comments for consideration. Only the applicant and those who comment have the right to appeal the Final Finding and Decision (FFD).

Proposed Action:

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Office (SCRO) has received a request from the Alaska Department of Transportation & Public Facilities (DOT&PF) to expand an existing designated 9-acre material site, serialized as ADL 231205, to 76 acres. Proposed material site expansion ADL 231205 is referred to as the Milepost (MP) 16 Richardson Highway Quarry. DOT&PF has applied for a material sale, serialized as ADL 227576, to extract 150,000 cubic yards (cy) of material over the course of five years, at less than fair market value (FMV), as needed for maintenance and improvement of roads. The location of the proposed project area is further described as being within the NE1/4 of the NE1/4 limited by a 500-foot buffer NW of the Trans-Alaska Pipeline System (TAPS) of Section 13 and the NW1/4 of the NW1/4 South of the Richardson Highway of Section 14, Township 9 South, Range 4 West, Copper River Meridian.

SCRO is considering expanding an existing designated material site ADL 231205 under AS 38.05.035(e) as required by AS 38.05.550(b). This expansion will allow for subsequent issuance of material sale contracts under AS 38.05.550-.565, including the requested ADL 227576 material sale contract that is the subject of this PD.

Scope of Review:

The scope of this PD is to determine if it is in the State's best interest to expand a designated material site on State-owned land, ADL 231205, and subsequently issue a material sale contract, ADL 227576, to DOT&PF. Under AS 38.05.550, the scope of this administrative review is limited to expanding an existing 9-acre material site to 76 acres for the continuous sale and extraction of materials by purchasers until the site is closed by DMLW. Under AS 38.05.550(b), future contracts for the sale of material from the expanded site may be issued without further finding and notice. Contracts for the sale of material may be issued by DMLW either by negotiated, competitive, limited, or public and charitable material sale methods. Contracts issued under AS 38.05.550-.565 will be at the representative regional sales price (RRSP) per cy determined by the commissioner, or FMV determined by an independent appraisal, or at less than FMV determined under AS 38.05.810(a).

Authority:

Expansion of the ADL 231205 material site is being adjudicated pursuant to AS 38.05.550 Disposal of Materials. The material sale contract ADL 227576 is being adjudicated pursuant to AS 38.05.555 Negotiated Sales of Materials. Other authority includes AS 38.05.035(e) Powers and Duties of the Director; AS 38.05.810 Public and Charitable Use; AS 38.05.945 Public Notice; AS 27.19 Reclamation; 11 AAC 71 Timber and Material Sales; and 11 AAC 97 Mining Reclamation. Under DNR Department Order 003, the SCRO Regional Manager has delegated authority to designate material sites under AS 38.05.550 and to negotiate material sales under AS 38.05.555.

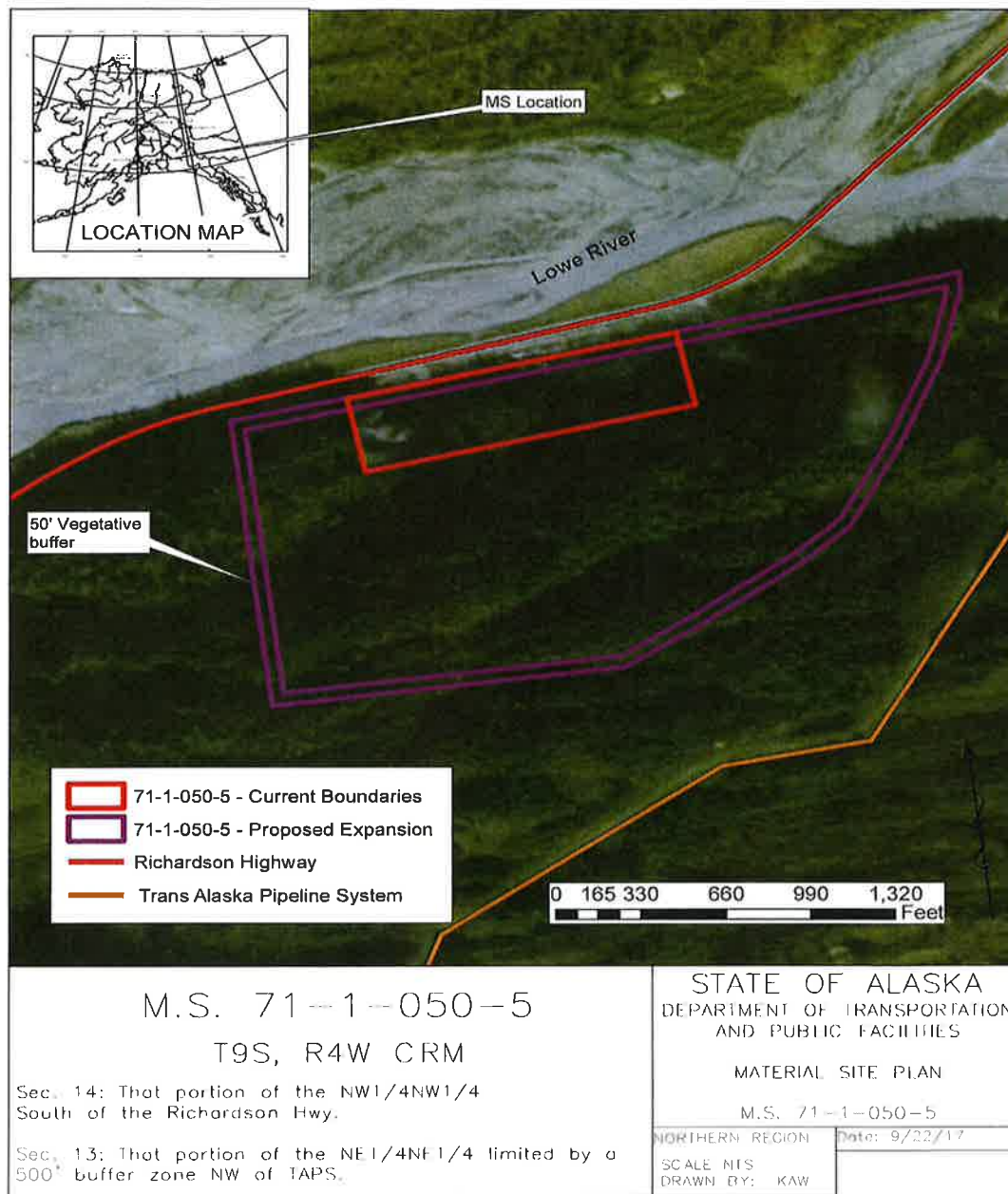
Administrative Record:

Case files ADL 231205 and ADL 227576 constitute the administrative record in this case.

Legal Description, Location, and Geographical Features:

The state land where the proposed material site and material sale are located is described as follows:

- **Legal Description:** NE1/4 of the NE1/4 limited by a 500-foot buffer NW of the TAPS of Section 13 and the NW1/4 of the NW1/4 South of the Richardson Highway of Section 14, Township 9 South, Range 4 West, Copper River Meridian
- **Geographical Location:** Located at MP 16 of the Richardson Highway
- **Approximate Latitude/Longitude:** 61.0939 N, 145.8723 W
- **Area Geographical Features:** Located near Keystone Canyon
- **Existing surveys:** None
- **Municipality/Borough:** Located within an unorganized borough
- **Native Corporations/Federally Recognized Tribes:** Chugach Alaska Corporation
- **Size:** 76 acres, more or less



Title:

The State of Alaska holds fee title to the subject land under Patent No. 50-76-0050 dated November 13, 1975 including the standard reservations for rights-of-ways for ditches, canals, railroads, telegraph, and telephone lines. A DNR Title Report (RPT-10381) issued on December 29, 2017, from DMLW's Realty Services Section attests the State of Alaska holds title to the subject land.

Third Party Interests:

There are no known third-party interests.

Planning and Classification:

The material site is located within DNR's Prince William Sound Area Plan (PWSAP), Management Unit 21, City of Valdez, Subunit 21P Keystone Canyon. The land use designations for this subunit are Public Recreation and Transportation which translate to Public Recreation Land and Transportation Corridor Land classifications. Subunit 21P is to "be retained in state ownership and managed for multiple use with emphasis on maintaining the scenic qualities of the area and accommodating the right-of-way needs of existing and future transportation corridors."

"Materials" is a goal outlined in Chapter 2 of the PWSAP, in which the state will make available to public and private users, sufficient and suitably located material resources. Additionally, in accordance with the PWSAP's management guidelines, this site is considered a preferred site as it is already being used as a material extraction site. Based upon the management goals of the PWSAP, expansion and use of this site is found consistent with the plan.

Access:

Access to the site is via the Richardson Highway at MP 16.

Agency Review:

An agency review was conducted November 8, 2017. The deadline for agency comments was December 11, 2017. The following agencies were included in the review:

- Alaska Association of Conservation Districts
- DNR Office of History and Archaeology/State Historic Preservation Office
- DNR Land Sales
- Alaska Department of Fish and Game – Habitat
- Alaska Department of Environmental Conservation (DEC)
- Alaska Department of Transportation & Public Facilities
- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service

Two comments were received. DOT&PF commented with "no comment." DEC's comment and SCRO's response is below.

DEC Comment.

"This material site is not near a registered public water system (PWS) source. However, please ensure that the applicant adheres to the recommendations and requirements of 'Alaska DEC's User Manual: Best Management Practices for Gravel/Rock Aggregate Extraction Projects.'"

SCRO Response.

This comment was forwarded to DOT&PF and it is the responsibility of the applicant to adhere to DEC requirements.

Material Site Discussion, ADL 231205:

In 2012, AS 38.05.550-.565 were enacted requiring that a material site be designated prior to the sale or removal of materials. On November 29, 2012, the DMLW Director issued a Final Finding and Decision for Material Sites Designations that included the MP 16 Richardson Highway site, ADL 231205. The current material site cannot yield the amount of material required by DOT&PF for transportation maintenance projects. Thus, DOT&PF has requested to increase the material site to 76 acres from the previously designated 9 acres.

Designation of additional acres to the material site ADL 231205 would allow issuance of the proposed material sale contract to DOT&PF, and the material site would be available for other material sale contracts and limited material contracts (LMC) applications. The public or private sector may submit applications to extract material from the site. In accordance with AS 38.05.550(d), material may be sold from the site at RRSP, FMV, or less than FMV.

Material Sale Discussion, ADL 227576:

In September 2017, DOT&PF applied for a material sale contract, serialized as ADL 227576, to extract 150,000 cy over a 5-year period out of designated material site ADL 231205. The proposed DOT&PF material sale contract anticipates excavating material from this source for public road construction and maintenance projects. The material to be extracted from this site is riprap using standard construction equipment such as Dozer/bucket or scraper and may require blasting for removal and use. This site is easily accessed directly from the Richardson Highway.

The DOT&PF is expected to inspect the material site and familiarize itself with the condition, quantity and quality of the material. The State makes no representations and no warranties, expressed or implied, concerning the material to be extracted under the ADL 227576 contract.

To date, DOT&PF has not determined which contractor will be developing the material site. Once a contractor has been secured, the contractor must submit for review and approval a site specific operating plan and site diagram. The contractor must comply with all requirements of the proposed material sale contract issued to DOT&PF. The scope of the project is unknown until the contractor is selected. Any activities that occur beyond the physical development of the site and extraction of the material may require additional authorizations. This may include, but not limited to, storage of equipment, stockpiling material, placing a man-camp, etc.

Compliance with the terms of the contract may be assessed annually. Accounting and payment for the material extracted will be required by the end of each calendar year the contract is in effect. A completion report detailing events over the contract term will be required upon expiration or termination of the material sale contract.

Development Plan:

A development plan (DP) was not submitted with this application as DOT&PF will contract out the use of the site. The contractor is required to have a SCRO approved DP prior to operations. It is anticipated the DP may need to be updated throughout the life of the contract as activities and/or infrastructure is added or subtracted. All updates must be approved, in writing, by SCRO before any construction, deconstruction, placement of infrastructure, or change in activity will be permitted. SCRO reserves the right to require additional agency review and/or public notice for changes which are deemed by SCRO to be beyond the scope of this decision. DOT&PF's Attachment B provides some information about how the material site will be used.

Hazardous Materials and Potential Contaminants:

According to the Environmental Risk Questionnaire the DOT&PF submitted with their material sale application, there are no known environmental contaminants within the considered material site. DOT&PF expects that approximately 25 gallons of diesel and not more than 10 gallons of lubrication fluids may be required for the construction equipment used to excavate and haul the material. Adherence to standard material sale contract operating requirements will minimize the risk of leaks or spills. The DOT&PF is expected to follow DEC's Best Management Practices for Gravel/Rock Aggregate Extraction Projects, and must adhere to all DEC environmental regulations.

The DOT&PF is expected to inspect the material site and familiarize itself with the condition and quality of the land. The State makes no representations and no warranties, expressed or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land proposed for the material site expansion and material extraction. The State of Alaska does not assume liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances ever be identified.

Performance Guaranty (bonding) and Insurance:

As a State agency that is self-insured and bonded, and as DOT&PF guarantees compliance through statutes and regulations, no performance guaranty or insurance will be required.

Survey:

The State of Alaska reserves the right to require a survey of the material site or sale. A survey is not required at this time.

Compensation:

As a state agency under AS 38.05.810(a), and since the materials to be removed are to be used for the public purpose to improve and maintain roads, materials will be sold to DOT&PF in accordance with AS 38.05.555(b)(3) at less than appraised value under AS 38.05.810(a). The 2018 price schedule for public and charitable material sale contracts under AS 38.05.810(a) is 5,000 cy free

per year, and \$0.50 per cy beyond 5,000 cy per year. DOT&PF must submit payment and accounting for material removed at the end of each calendar year. No deposit is required for a public and charitable material sale contract.

Reclamation:

Under AS 27.19, Reclamation, a “mining operation” is defined to include extraction of “other materials or of a sand and gravel deposit.” In accordance with AS 27.19.020, Reclamation standard, “a mining operation shall be conducted in a manner that prevents unnecessary and undue degradation of land and water resources, and the mining operation shall be reclaimed as contemporaneously as practicable with the mining operation to leave the site in a stable condition.” If executed, the material sale contract will include an approved reclamation plan.

Public Notice of the Preliminary Decision:

Pursuant to AS 38.05.945, this PD will be advertised for a 30-day public comment period. Notice will be posted on the State of Alaska Online Public Notice website at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>, and the post offices in Valdez, Glennallen, and Tatitlek will be requested to post the notice.

Comments:

This PD is subject to both public and agency comments, and all comments received by the comment deadline will be addressed in the FFD. Only those who comment and the applicant have the right to appeal the FFD. A copy of the FFD will be sent to any person who comments on the PD, which will include an explanation of the appeal process.

Written comments must be received in this office no later than

5:00 PM on October 19, 2018 to be considered.

To submit written comments, please choose one of the following methods:

Postal: Department of Natural Resources
Division of Mining, Land and Water
Southcentral Regional Office
ATTN: Linda Mueller
550 West 7th Avenue, Suite 900C
Anchorage, AK 99501-3577

Email: linda.mueller@alaska.gov

Fax: (907) 269-8913

Questions regarding the proposed material site expansion or material sale can be directed to Linda Mueller at (907) 269-8111. If public comments result in significant changes to this PD, additional public notice will be given. In order to be eligible to appeal the FFD, a person must provide written comments during the PD comment period as per AS 38.05.035(i)-(m).

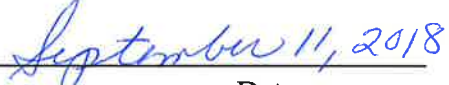
Recommendation:

DMLW has completed a review of the information provided by the applicant and found this project is consistent with the relevant land management documents and all applicable statutes and regulations. DMLW considered three criteria to determine if this project is in the best interest of the State and the development of its natural resources. These include direct economic benefit to the State, indirect economic benefit to the State, and encouragement of the development of the State's resources. Collection of fees past 5,000 cy per year from DOT&PF, or collection of fees from future material sale contracts, represents the direct economic benefit realized by the State. The proposed project presents an indirect economic benefit to the State and promotes development of State resources by providing benefits to the public, such as, improved roadways and stabilized embankments. As there are no competing projects which are incompatible with material site ADL 231205 or material sale contract ADL 227576, and in consideration of the benefits described above, DMLW finds that expanding the designated material site, and authorizing the material sale contract provide the greatest benefits to the State.

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



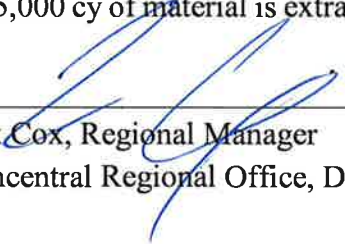
Linda Mueller, Natural Resource Specialist III



Date

Preliminary Decision:

It is the determination of DMLW that it may be in the State's best interest to expand designated material site ADL 231205 and issue material sale contract ADL 227576 to DOT&PF for 150,000 cy over a 5-year period, subject to the conditions described in this document, operating requirements, standard contract terms, and without bond. DOT&PF will pay \$0.50 per cy if more than 5,000 cy of material is extracted per year. This application shall now proceed to public notice.



Clark Cox, Regional Manager
Southcentral Regional Office, Division of Mining, Land and Water



Date

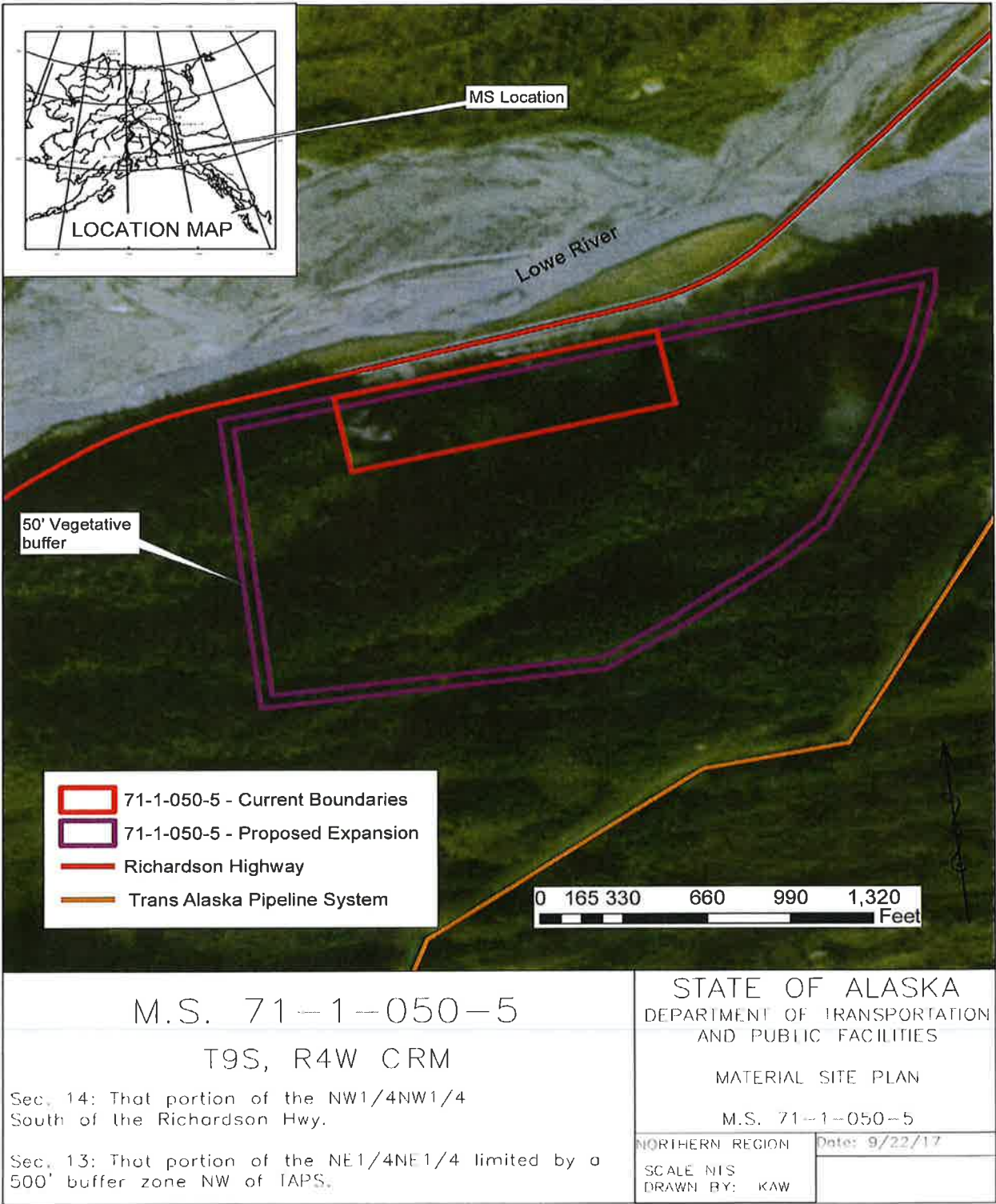
Attachments:

Attachment A – Location Map

Attachment B – Mining and Reclamation Guidelines



Attachment A Location Map



Attachment B

Mining and Reclamation Guidelines

State of Alaska **Department of Transportation & Public Facilities**

Mining and Reclamation Guidelines **Material Site 71-0-050-2**

These guidelines are subject to the Alaska Department of Natural Resources (DNR) Material Sale Contract, ADL 22756, and stipulations contained therein. For each new use or project, the user or contractor shall submit a Project Mining and Reclamation Plan to DNR for approval, subject to DOT&PF review, prior to any mining activities.

Legal Description

T9S, R4W, CRM, Section 13: That portion of the NE1/4NE1/4 limited by a 500' buffer zone NW of TAPS. Section 14: That portion of the NW1/4NW1/4 south of the Richardson Highway.

General Information

This material site is located east of the Richardson Highway at Mile 16. The site is immediately adjacent to the Richardson Highway. Blasting may be required once loose rock is depleted. This site is an important rip rap source for public construction and maintenance projects in the Valdez area. Additional site information is available at the DOT&PF Materials office, 2301 Peger Road, Fairbanks, Alaska 99709.

Mining Guidelines

The Plan will adhere to the following guidelines.

1. The contractor or user shall locate the material site boundaries to verify work areas are within the site.
2. Use available loose rock before considering blasting.
3. Maintain safe public access through site at all times. Use appropriate traffic control measures if equipment is present to ensure public safety.
4. Maintain existing grade of access road.
5. Minimize stockpiling; utilize existing loose rock to the extent possible for projects.
6. If blasting is necessary, prior notice and coordination are required with appropriate agencies. Persons conducting blasting shall be licensed by the State of Alaska for such purposes and shall observe all applicable laws and regulations.
 - a. The contractor will describe blasting methods and equipment to be used in the Project Mining and Reclamation Plan.
 - b. Contractors are responsible for proper storage of explosives as set forth in Title 29 CFR1910.109 and Title 27 CFR Part 555 as outlined in by the BATFE Regulation Book.

Attachment B

Mining and Reclamation Guidelines

by DNR, subject to DOT&PF review. The Plan describes the proposed plan of operation and shall be in compliance with guidelines listed here. Upon approval, the Plan will be followed by the contractor or user and if applicable, the DOT&PF Project Engineer. The plan should include the following:

Sketch Map

The sketch map shall include:

1. Site boundaries
2. Proposed working limits, to be marked on the ground
3. Work pad, material stockpile locations, processing equipment
4. Scale of drawing, north arrow, and specific dimensions as appropriate

Narrative

The narrative shall include:

1. Methods of operation
2. Estimated quantities for removal
3. Length and times of operation (day, month, year, and working hours)
4. Traffic control measures
5. Air and water pollution control measures
6. Reclamation measures

Supplements and amendments

Supplements and amendments to an approved mining and reclamation plan may be initiated by the contractor, user or the Project Engineer, when conditions warrant such action. Supplements and amendments must be mutually agreed upon and proper approval obtained prior to commencement of work of a changed nature.

1. Minor changes are those that affect details of the operation, but remain in compliance with the development guidelines. These changes may be authorized by the Project Engineer.
2. Major changes are those which cause the final outcome of the site to be significantly different from the approved mining and reclamation plan or are not in compliance with the development guidelines. These require approval by DNR NRO and coordination with appropriate regulatory agencies prior to approval by the Engineer.