



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

**Agreement between
Alaska Department of Natural Resources
and**

**Northern Star (Pogo), LLC
for Use and Maintenance
of ADL 417066**

ADL 421276

Definitions.

For the purposes of this Agreement, the term “DNR” means the Alaska Department of Natural Resources, Division of Mining, Land and Water (DMLW), and for purposes of timber sale management, Division of Forestry (DOF)

For the purposes of this Agreement, the terms “Northern Star” or “Grantee” means “Northern Star (Pogo), LLC., or their successors in interest.

For the purposes of this Agreement, the term “Pogo Mine” means deposits contained within mining claims operated by the mine

For the purpose of this Agreement, the terms “this easement” and “Pogo Mine Access Road” mean that portion the road beginning at the termination of Shaw Creek Road, proceeding through the Tanana Valley State Forest and other DNR manage lands to Gilles Creek authorized under ADL 417066.

Use and Maintenance of the Pogo Mine Access Road.

The Pogo Mine Access Road will be used to provide logistical support for the Pogo Mine and during the life of this agreement, shall be used and maintained primarily for this purpose. From the date of this agreement until the completion of final reclamation as required at the Pogo Mine, Northern Star shall use and maintain this easement subject to the stipulations contained within ADL 417066 and the stipulations contained herein.

[Signature Page Follows]

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
GRANTOR

Jeanne Proulx, Northern Regional Manager
Division of Mining, Land and Water

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY THAT ON THIS _____ day of _____, 20, before me personally appeared Jeanne Proulx known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same.

Notary Public in and for the State of Alaska

My Commission expires: _____

GRANTEE

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY THAT ON THIS _____ day of _____, 20_, before me personally appeared _____, known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same.

Notary Public in and for the State of Alaska

My Commission expires: _____

FEE: THIS IS OFFICIAL STATE BUSINESS, NO CHARGE

RETURN TO: Lands Section, DMLW, DNR
 3700 Airport Way
 Fairbanks, Alaska 99709

Attachment A – Stipulations

1. **Authorized Officer.** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.
2. **Change of Contact Information.** The Grantee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.
3. **Valid Existing Rights.** This authorization is subject to all valid existing rights and reservations in and to the authorized area. The State makes no representations or warranties, whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
4. **Preference Right.** No preference right for use or conveyance of the land is granted or implied by this authorization.
5. **Inspections.** The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the Grantee is found to be in noncompliance the authorized area may be subject to reinspection. The Grantee may be charged for actual expenses of any inspection.
6. **Public Access.** Construction, operation, use, and maintenance of the authorized area shall not interfere with public use of surrounding and intersecting roads, trails, waters, landing areas, and public access easements, including the ability of the public to cross the easement in a roughly perpendicular manner.
7. **Public Trust Doctrine.** 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 authorization is subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The AO reserves the right to grant other interests consistent with the Public Trust Doctrine.
8. **Alaska Historic Preservation Act.** The Alaska Historic Preservation Act, AS 41.35.200, prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric, archaeological or paleontological site without written approval from the DNR Commissioner. Should any sites be discovered, the Grantee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in the Division of Parks and Recreation.
9. **Compliance with Governmental Requirements.** The Grantee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Grantee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.

10. **Incurred Expenses.** The Grantor shall in no way be held liable for expenses incurred by the Grantee connected with the activities directly or indirectly related to this authorization.
11. **Waiver of Forbearance.** Any failure on the part of the AO to enforce the terms of this authorization, or the waiver of any right under this authorization by the Grantee, unless in writing, shall not discharge or invalidate the authorization of such terms. No forbearance or written waiver affects the right of the AO to enforce any terms in the event of any subsequent violations of terms of this authorization.
12. **Severability Clause.** If any clause or provision of this authorization is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the Grantor and the Grantee agree that the remainder of this authorization will not be affected, and in lieu of each clause or provision of this authorization that is illegal, invalid, or unenforceable, there will be added as a part of this authorization 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.
13. **Concurrent Use.** The DMLW reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land 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 each user.
14. **Indemnification.** Unless specified herein, 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 authorization, including environmental and hazardous substance risks and liabilities, whether accruing during or after the term of this authorization as stated herein. 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 authorization.
15. **Insurance.** Insurance is required during the term of this authorization and is subject to annual review and adjustment by the Department of Natural Resources. The Department may require a reasonable increase based on a change in the Grantee's development plan or with increased risk. The insurance policy or policies must be written by a company or companies on the Division of Insurance's "admitted list" or the "Surplus Lines Insurance list." The broker/agent must be licensed to do business in the State, and if Surplus Lines Insurance is provided, the broker must have a surplus broker license. Additional information regarding the admitted and

Surplus Lines Insurance lists may be obtained from the Division of Insurance (1-907-269-7900). Pursuant to the authorization, the Grantee shall:

- a. Consult, as appropriate, with an insurance professional licensed to transact the business of insurance under Alaska Statute, Title 21, to determine what types and levels of insurance are adequate to protect the Grantee and the Grantor (the State, its officers, agents, and employees) relative to the liability exposures of the Grantee's commercial operations.
- b. Secure or purchase at Grantee's own expense, and maintain in full force at all times during the term of the authorization, adequate insurance policies and coverage levels recommended by an insurance professional, licensed to transact the business of insurance under Alaska Statute, Title 21, and acceptable to the State of Alaska. The State will expect to see, at a minimum, the following types of coverage: Commercial General Liability Insurance: 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, Alaska Department of Administration. Workers' Compensation Insurance: the Grantee shall provide and maintain, for all its employees, Workers' Compensation Insurance as required by AS 23.30.045. Where applicable, coverage must comply with any other statutory obligations, whether Federal (i.e. U.S.L. & H or Jones Act) or other state laws in which employees are engaged in work on the authorized premises. The insurance policy must contain a waiver of subrogation clause in favor of the State of Alaska.
- c. Ensure that the State of Alaska, Department of Natural Resources is listed as an additional named insured on all liability policies held by the Grantee that provide coverage for liabilities connected to the operations of the Grantee on or in conjunction with the authorized premises.
- d. Provide proof of insurance to the AO on a yearly basis. The certificate must provide for a 30-day prior notice to the State of Alaska in the event of cancellation, non-renewal, or material change of conditions. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of the authorization and shall be grounds, at the option of the Grantor, for termination of the authorization. Generally, the State of Alaska will rely upon the best professional judgment of the licensed insurance agent and, at renewal, the agent's annual reassessment of the insured's right to require additional coverage if, in its discretion, it determines that it may be warranted. Any changes in the approved authorization development and operations plan, or the existence of significant claims against the liability coverage, would warrant examination of the insurance by the State to determine adequacy.
- e. In the event the Grantee becomes aware of a claim against any of its liability coverage, the Grantee shall notify, and provide documentation and full disclosure of the claim to the AO within 20 days.

16. Performance Guaranty. The Grantee shall provide a surety bond or other form of security in an amount and type acceptable to the AO. Such performance guaranty shall remain in effect for the term of this authorization to secure performance of the Grantee's obligations hereunder. The purpose of this guaranty is, in part, to ensure that after mine life and reclamation, 1.) the road is in an acceptable condition for the public to use, and 2.) the public has access to the road in accordance with Section X.L. of the Final Decision for the Pogo Project Right-of-way. This guaranty will also serve as the bond normally required by DNR for fuel handling, storage, and spills. DNR acknowledges that the letters of credit placed with DNR and that they may be adjusted from time to time at the direction of DNR. These letters of credit satisfy the requirements of this paragraph.

The amount of the performance guaranty may be adjusted by the AO for market conditions and costs. In addition, the performance guaranty may be adjusted upon approval of amendments to this agreement, changes in the development plan, and any change in the activities conducted on the premises. The guaranty may be utilized by the Division of Mining, Land and Water, at the discretion of the AO, to cover costs incurred by the State of Alaska to pay for any necessary corrective actions in the event the Grantee does not comply with site utilization and restoration guidelines. The provisions of this authorization shall not prejudice the State's right to obtain remedy under any law or regulation.

Upon a determination by the AO that the Grantee has satisfied the terms and conditions of this agreement, as well as those contained within ADL's 416809 and 417066, including the reclamation of the private exclusive easements ADL 416809, the performance guaranty may be released. The performance guaranty must be released in writing signed by the AO.

17. Assignment. This agreement may not be transferred or assigned without the prior written consent of the AO.

18. Violations. This authorization may be revoked upon violation of any of its terms, conditions, stipulations, nonpayment of fees, or upon failure to comply with any other applicable laws, statutes and regulations. A revocation may not become effective until 60 days after the Grantee has been notified in writing of the violation during which time the Grantee has an opportunity to cure any such violation.

19. Removal of Improvements and Site Restoration. Upon termination of this authorization, whether by abandonment, revocation or any other means, the Grantee shall within 30 days remove all improvements from the area herein granted, except those owned by the State, and the site shall be restored to a condition acceptable to the AO. Should the Grantee fail or refuse to remove said structures or improvements within the time allotted, they shall revert to and become the property of the State; however, the Grantee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area.

20. Fuel and Hazardous Substances. No fuel or hazardous substances may be stored in the authorized area without prior written approval from the AO.

21. **Extensions.** The AO may approve a written request to extend this authorization if additional time is necessary to meet its requirements. The written request must certify that there have been no changes to the approved development plan and be received at least 30 days before the expiration date of this authorization. Additional fees may be required.

22. **Notification of Discharge.** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported immediately.

If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the Grantee shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge during normal business hours must be made to the nearest DEC Area Response Team: Anchorage (907) 269-7500, fax (907) 269-7687; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-5245. For discharges in state off shore waters call (907) 269-0667. The DEC oil spill report number outside normal business hours is (800) 478-9300.

Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8503; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email sero@alaska.gov, (907) 465-3400. The Grantee shall supply the AO with all incident reports submitted to DEC.

23. **Returned Check Penalty.** A returned check penalty of \$50.00 will be charged for any check on which the bank refuses payment. Late payment penalties shall continue to accrue.

24. **Late Payment Penalty Charges.** The Grantee shall pay a fee for any late payment. The amount is the greater of either \$50.00 or interest accrued daily at the rate of 10.5% per annum and will be assessed on each past-due payment until paid in full.

25. **Fee.** The initial annual use fee is \$13,200.00. The use fee is due on or before January 1 of each year without the necessity of any billing by the Division. This fee is subject to adjustment based on changes in DNR's fee regulations or Director's Fee Schedule at any time.

26. **Request for Information.** The AO, at any time, may require the Grantee to provide any information directly or indirectly related to this authorization, in a manner prescribed by the AO.

27. **Waste Disposal.** On-site refuse disposal is prohibited, unless specifically authorized. 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.

28. **Destruction of Markers.** The Grantee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against damage, destruction, or obliteration. The Grantee shall notify the AO of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the Grantee's expense in accordance with accepted survey practices of the DMLW.
29. **Maintenance of Improvements.** The State assumes no responsibility for maintenance of improvements on state land or liability for injuries or damages attributable to maintenance and use of this easement. The authorized area shall be maintained in a neat, clean, and safe condition, free of any solid waste, debris, or litter, except as specifically authorized herein. Nothing may be stored that would be an attractive nuisance to wildlife or create a potentially hazardous situation.
30. **Amendment or Modification.** The Grantee may request an amendment or modification of this authorization; the Grantee's request must be in writing. Any amendment or modification must be approved by the AO in advance and may require additional fees and changes to the terms of this authorization.
31. **Development Plan.** Development shall be limited to the authorized area and improvements specified in the approved development plan or subsequent modifications approved by the AO. The Grantee is responsible for accurately siting development and operations within the authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.
32. **Proper Location.** This authorization is for activities on state lands or interests managed by DMLW. It does not authorize any activities on private, federal, native, and municipal lands, or lands which are owned or solely managed by other offices and agencies of the State. The Grantee is responsible for proper location within the authorized area.
33. **Fire Prevention, Protection, and Liability.** The Grantee shall take all reasonable precautions to prevent and suppress forest, structure, brush and grass fires, and shall assume full liability for any damage to state land and structures resulting from the negligent use of fire. The State is not liable for damage to the Grantee's personal property and is not responsible for forest fire protection of the Grantee's activity. To report a wildfire, call 911 or 1-800-237-3633.
34. **Operation of Vehicles.** The grantee must obtain written authorization from the AO for any vehicular travel with the exception of vehicles authorized under Generally Allowed Uses. This authorization may be granted pursuant to this easement upon examination and approval of the specific use request. Incidents of damage to the vegetative mat and follow-up corrective actions that have occurred while operating under this authorization shall be reported to the AO within

72 hours of occurrence.

- 35. Other Authorizations.** The grant of this Easement does not alleviate the necessity of the Grantee to obtain authorizations required by other agencies for this activity.
- 36. Change of Address.** Any change of address must be submitted in writing to the Authorized Officer.
- 37. Prohibited Activities:** These easements shall not be used for hunting, fishing, trapping, or foraging, except that the road may be crossed in a generally perpendicular. The Grantee shall ensure compliance from their employees, contractors, subcontractors, invitees, and licensees, but are not responsible for ensuring compliance from either members of the public, unauthorized use, or for the other users operating under a permit issued by the AO, even if non-objection for the permitted use was provided by the Grantee to the AO, or the Grantee enters into a use and maintenance agreement with the permitted third party.
- 38. Restriction of Use.** Consistent with the Final Decision (ADLs 416809 and 417066) and the Extension Decision (ADL 421276), this easement is closed to general public use. Uses of the easement are restricted to Pogo mine related uses, governmental agencies for mine administration purposes and general land and resource management purposes (for example, fire suppression, research, etc.), and for commercial timber harvesting activities. Northern Star may implement reasonable and appropriate security measures, as approved by DNR, to comply with this stipulation.
- 39. Road Use for Timber Harvest.** Pogo Mine Access Road use shall be administered as follows for timber harvest activities:
- a. DNR, DOF will provide the Grantee with the names of all authorized users of the road, the period of time that the authorizations are in effect, and the authorized time, type, and location of the road use.
 - b. DNR will require authorized users to repair or pay for damages attributed to their use of the road, subject to prior notification and consultation with the Grantee.
 - c. DNR will notify the Grantee before and authorized user can conduct any maintenance of the road, subject to prior notification and consultation with the Grantee.
 - d. DNR will require all authorized users to abide by all Northern Star safety, traffic, and communication procedures.
 - e. DNR will require authorized users to provide financial assurance in the form of a bond or similar mechanism that will guarantee repairs to the road in the event of significant damage.
 - f. DNR will require that intersections of any spur timber roads with the Pogo Mine Access Road be designed in accordance with Northern Star's design requirements and be signed appropriately.

- g. Northern Star may temporarily restrict all uses of the road, excepting governmental agency uses, during times of heavy use or during periods with adverse road conditions.

40. Administrative Agency Uses. Government agencies, and all other users approved by DNR, will have access along the road, at no cost, for the purposes of mine administration, general land management, or resource management and/or extraction purposes.

41. Point of Contact. Northern Star must provide DNR with a readily accessible contact for matters relating to the Pogo Mine Access Road. DNR will provide a contact for Division of Forestry related issues and a DMLW contact for mine and road purposes.

42. Road Release. Prior to termination of this Agreement, DNR and Northern Star shall jointly inspect the Pogo Mine Access Road. Northern Star shall complete any necessary repairs and/or relocations necessary to satisfy DNR. This will include ensuring indefinite legal constructed access from the termination of Shaw Creek Road to the start of ADL 417066