STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER

Northern Regional Land Office

Memorandum of Decision

LAS 33833

Steven Todd Parks

Application for Land Use Permit AS 38.05.850

Requested Action

Steven Todd Parks has applied to the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), for a Land Use Permit (LUP) authorizing cross-country travel on and off the Rex Trail. The LUP would be for the operation of vehicles over 1,500 lbs which do not meet the requirements of Generally Allowed Uses (GAU; 11 AAC 96.020. The vehicles Mr. Parks proposes to use are four Hagglund BV206s (Hagglund). The travel would be along the main stem of the Rex Trail and off-trail travel but predominantly on existing trails/clearings north of the trail within 2 miles of the main trail stem after passing the Tatlanika River on that portion of the Rex Trail west of the Wood River, and an unspecified distance in any direction east of the Wood River. The stated purpose of off-trail travel is to establish camps and/or retrieve game.

Proposed Action

The DMLW proposes to authorize a 5-year permit for the requested action.

Scope of Decision

The scope of this decision is limited to determining if it is appropriate for DNR to issue an authorization for the proposed land use activities.

Statutory Authority

This permit is being adjudicated pursuant to AS 38.05.850 and AS 38.05.035(a).

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, the Rex Trail project file serialized by DNR as PRJ 421302, and the casefile for the application serialized by DNR as LAS 33833.

Location Information

Geographic Location:

The Rex Trail and 2 miles on either side of the main stem of the trail, from Clear Sky Lodge on the Parks Highway near milepost 280, heading approximately 50 miles west to the Wood River, and an unspecified distance in any direction east of the Wood River.

Legal Description:

East Rex Trail from the Parks Highway and beyond the Wood River.

FM T7S R1E Section 6, 7, 18, 19
FM T7S R1W Section 24, 25, 36
FM T8S R1W Section 1, 8-12, 17, 18
FM T8S R2W Section 13-15, 21, 22, 27, 28, 31, 33, 34
FM T8S R3W Section 19, 27-30, 34-36
FM T8S R4W Section 7, 8, 15, 16, 23, 24
FM T8S R5W Section 2-6, 11, 12
FM T8S R6W Section 1-4, 7-9
FM T8S R7W Section 7-12
FM T8S R8W Section 11,12
FM T9S R2W Section 4, 5, 6, 8, 9

Other Land Information
Municipality: Denali and Fairbanks North Star Boroughs. Regional Corporation: Doyon Ltd.

Planning and Classification
The proposed travel is within the boundaries of the Yukon Tanana Area Plan, within the Parks Highway and West Alaska Range Region, subunits P-35 and P-12. The initial portion of the East Rex Trail is on state land within subunit P-35 which is classified Settlement and designated Settlement. The unit has been designated Settlement for over 25 years and several land disposals, both agriculture and remote recreation, have occurred. Considerable vacant, developable land remains within unit, however. An MCO affects the southern half on the unit. Cultural resources are present within unit. Unit is hilly in the southern part but otherwise generally flat. This is an area important for moose wintering and rutting. A number of easements affect the unit (30788, 415819, and 415820). An RS 2477 Trail (RST 119) the Kobi – Bonnifield Trail to Tatlanika Creek (also known as the Rex Trail), transverses this unit. The management intent is continued land disposals and protecting easements and maintaining public access.

Most of the trail is on state land within subunit P-12 which is classified Public Recreation and Wildlife Habitat. The unit is designated Habitat/Public Recreation-Dispersed. The unit is characterized by extensive wetlands interspersed by islands of uplands, typically vegetated by evergreen forest. Brown bear and moose are present, and the area is important as a moose calving and rutting area and is an important moose winter concentration area. The Rex Trail, which is an RS 2477 route (RST 119) the Kobi – Bonnifield to Tatlanika Creek Trail, traverses the southern part of this unit. It is a heavily used route by hunters and trappers. The management intent for the P-12 unit is to maintain habitat and recreational values. The land is to be retained in state ownership. Other than utilities, communication, roads/bridges, and similar facilities providing a public service, development is not appropriate within this unit. Any authorizations that may be issued will need to avoid or mitigate impacts upon essential moose habitat, wetlands and riverine areas, lake and pond complexes, and other sensitive environmental features. Public access on RS 2477 Trails will be maintained.

The proposed activity is consistent with the management intent for both units provided the travel can be conducted in such as way as to not negatively impact essential moose habitat, wetlands and riverine areas, lake and pond complexes, other sensitive environmental features, access along the trail, and other trail users.

Background

The eastern Rex Trail is an important access route and RS 2477 (serialized as RST 119) that has been in use since the early 1900s. It was originally constructed as winter access to mining activities in the Gold King and Bonneville Creeks, but is now used year-round as access for private landowners, trapping, hunting, mining, and recreation.

Management History

A spike in non-winter travel by wheeled and tracked vehicles, coinciding with the 2004 legalization of antlerless moose hunting in game unit 20A, resulted in severe degradation of many portions of the trail, and resource damage off trail. The water-logged pits and ruts compromised the ability to safely and successfully conduct traditional winter and non-winter travel. In response to public safety concerns, demands for management action, and legislative inquiries, DNR issued a decision in 2008 (hereafter referred to as the 2008 Decision) limiting vehicle use between April 15 and October 31 to off-road vehicles 1,500 lbs or less (e.g. ATVs and snowmachines). The purpose of this decision was to limit trail degradation and reduce the potential for impaired access. In 2009, that decision was amended (hereafter referred to as the 2009 Amended Decision) to allow larger tracked vehicles using a stream-lined Over-The-Counter (OTC) permit, and to establish a long-term trail monitoring program to evaluate trail conditions while the management program is in place. The 2009 Amended Decision was extended yearly or every two years until a new amendment was issued in 2020 (hereafter referred to as the 2020 Amended Decision), expanding the OTC permit to include wheeled vehicles up to 10,000 lbs.

Both the 2008 Decision and 2009 Amended Decision went through a public process and were appealed to the Commissioner by several members of the public. Those appeals were denied, and the trail travel restrictions were upheld. These decisions were then challenged in the Superior Court, and later in the Supreme Court. Both court cases challenged whether the DNR Commissioner had the authority to apply seasonal restrictions to travel on the Rex Trail, and the necessity of seasonal restrictions to protect public safety of private property, asserting there was no factual support. The Supreme Court found that the application of seasonal restrictions was supported by evidence in the state record, and that the imposition of those restrictions was not arbitrary or unreasonable.

Public Compliance

Since the implementation of the OTC permit program, operators of tracked vehicles have benefited from the expedited permitting every year during the fall moose hunt, and compliance with permit stipulations and Alaska Department Fish & Game (ADF&G) regulations is generally very good. In other locations on general state land, all tracked vehicles exceeding 1,500 lbs are required to obtain a land use permit for off-road travel through the normal process, which involves individual assessment of the application request, and specific routes and types of vehicles to be used. However, even with the expedited process, not all members of the public have obtained necessary permits to use tracked vehicles on the Rex Trail.

Rex Trail Management Projects

The active management of a trail by DMLW is relatively rare in interior Alaska, and has been used to assess certain management strategies, including the long-term viability of two pilot

reroute projects intended to improve public access at particularly impassible sections of the trail. In 2014,using a Recreational Trails Grant, a 1½ mile small vehicle (up to 1,500 lbs) reroute was constructedapproximately ¾ of a mile east of the GVEA Intertie. In 2017, a trail reroute for all traffic was constructed in cooperation with the Department of Transportation and Public Facilities (DOT&PF) and ADF&G at Seven Mile Lake, using Capital Improvement Project funds with a Federal Pittman-Robertson match grant. Both reroute projects avoid sections of the trail that are notoriously difficult to travel, and the Seven Mile Lake project also moved trail traffic off privateland.

Since 2009, the Northern Regional Office (NRO) has conducted a biannual trail monitoring program in concert with the OTC permit program, quantitively and qualitatively measuring trail conditions at 10 sample locations before and after the fall moose hunt, and collecting vehicle anddestination data associated with the OTC program. In 2016, a report (The Rex Trail: Long Term Monitoring Report 2016) was released to the public analyzing the condition of the trail since monitoring began. This analysis found that, with a couple of exceptions, trail conditions have been relatively stable since the trail restrictions were put in place, but that the trail experiences seasonal damage associated with hunting traffic that recovers the following year.

With the trail monitoring report published, there is now a baseline trail condition dataset on which to compare a new management strategy. In July 2020, DNR changed the seasonal restrictions byreleasing a new amendment to the 2008 Decision expanding the OTC permit program to include wheeled vehicles up to 10,000 lbs. The impact of additional traffic would be assessed through continued trail monitoring and comparing the trail conditions with additional traffic with those data collected before the new amendment. The goal is to evaluate the relative impacts of additional vehicle traffic and assess the continued effectiveness of seasonal restrictions on trail conditions and public access.

The Current OTC Permit Program

Users of the Rex Trail who wish to operate a vehicle over 1,500 lbs between August 28 and April15 of the following year can apply to DMLW for a seasonal OTC Permit. These permits requireda one-time fee of $240, can be processed within one day, allow repeated trips on the trail within the authorization period, and do not require insurance or a performance guarantee. Under the 2020 Amended Decision, rubber tracked vehicles under 26,000 lbs curb weight and rubber-tired vehiclesunder 10,000 lbs curb weight (consistent with GAU per 11 AAC 96.020) qualify for the OTC permit. Use of permitted vehicles is only authorized for the main stem of Eastern Rex Trail; exceptfor parking permitted vehicles in existing clearings within 100 yards of the main trail stem, authorized vehicles are not permitted to travel off the Rex Trail, even on existing trails.

The 2020 Amended Decision was an expansion of the OTC program from previous years to include rubber-wheeled vehicles in an effort to increase the means of access on the trail, and to assess how additional traffic may impact trail conditions and newly constructed reroutes. To ensure that the conditions of the trail did not deteriorate and impair other forms of access from increased vehicle travel, the 2020 Amended Decision included trail condition criteria that would trigger the termination of the amendment. Upon termination of the amendment, DMLW would reevaluate management of the trail in a new amendment.

The Rex Trail OTC program is designed for fast-turn-around issuance for a specific, well-documented route (the main stem of the existing trail) which has systematic monitoring sites already established for DMLW trail condition assessment. The 2020 Amended Decision explicitly recognized that the OTC permit may not fit the needs of every applicant, and stated that, in those cases, DMLW may consider an applicant's use of the Rex Trail through the standard LUPprocess. The LUP process allows the State to consider the risks of the individual proposed activity and/or travel route and mitigate those risks through stipulations, bonding, and/or insurance. This management approach maintains the overall OTC, monitoring program, and access sustainability goals for the Rex Trail area, with potential consideration of other, individual access travel proposals.

The Current Application
Mr. Parks stated that the OTC permit did not fit his hunting party's needs and that he wanted to pursue an LUP for the fall hunting season. In follow-up communication, he clarified several sections of his application, noting that the area of hunt which he wishes to travel off the existing Rex Trail in particular is the area beyond the Wood River, and though the precise route off the Rex Trail here is not specified, his intent is to stay on existing trails and cleared areas as much as possible, rather than creating a network of additional trails or new clearings. Given the specificity of Mr. Parks proposed use, a defined area (existing trails and clearings) , number and type of vehicles, and one annual trip, DMLW is able to evaluate the impacts of the proposed activity to the trail and adjacent lands.

The application considered here seeks an LUP for cross-country travel for a term of 5 years for fall travel with four Hagglund BV206s under 10,000 lbs on the Rex Trail and within 2 miles of the main trail stem past the Tatlanika River, and for travel on state land of an unspecified distance on existing trails to the extent possible in any direction east of the Wood River. The applicant proposes one trip each year during fall hunting season for the purpose of supporting hunting activities. Mr. Parks would be responsible for the actions of the other operators of the Hagglunds.

Agency Review
Agency Review was limited to contacting the Alaska Department of Fish & Game, Habitat Division to determine if a Fish Habitat Permit (FHP) was needed or if they had any concerns with the proposed activity. They responded that no FHP was needed given the streams which would be crossed are not anadromous streams and given the specifications of the Hagglund BV206.

Public Notice
Public Notice will be posted to the DNR Public Notice Website for 14 days. It is DMLW's practice to notice LUP applications prior to permits being issue, but given the short timeframe for adjudicating this permit and the need to issue it prior to September 16, it was determined that public notice would be conducted after that fact. This provides the public an opportunity to be aware of what activities are being permitted on public lands and to contact DMLW with any questions.

Environmental Considerations
The environmental risks associated with the proposed travel are minimal but can be mitigated through appropriate use of equipment by the operator and using appropriate containment procedures in the event of a fuel spill. Each vehicle will carry two 30-gallon containers for fuel. Fuel will be stored within the vehicle, so no fuel could spill along the trail during travel. Risks associated with this proposed activity should be mitigated by following the standard stipulations of the authorization.

Discussion
The Rex trail crosses low-lying, saturated soils underlain by discontinuous ice-rich permafrost, and much of the adjacent lands are substantially similar. When exposed to vehicle traffic, lands with these characteristics are susceptible to damage to the vegetative mat, degradation of soil stability due to compaction and sheering, and erosion by ponding and flowing water (including thermal erosion leading to thermokarsting).

When adjudicating cross-country travel permits, DMLW considers the impact the authorization will have on state-resources by evaluating the proposed route, the type of lands traversed (wetland, forested, etc.), the season during which travel will occur, the type of vehicles to be used, the number trips requested, and the transportation of hazardous materials such as fuel or hydraulic fluid. This information is used to assess the risk of damage, contamination, or other liability to state resources, and determine the best course to mitigate that risk through insurance, bonding, or alternative activities.

Because Mr. Parks has applied for travel predominantly on existing trails where they exist off the Rex Trail in a specific area, one trip in the fall each year, identified the specific type of vehicle to be used, and will be responsible for the other Hagglund operators in his party, DMLW is able evaluate the potential impacts to the state land and resources. It has been determined that the proposed activity is unlikely to have a significant or long-lasting impact to the trail or land provided the Hagglund operators operate the vehicles in a responsible manner limiting impacts to the trail and surrounding lands.

This current application is for four Hagglunds for one trip in and out during the fall hunting season. While the application differs some from the OTC permit program by authorizing some travel off the Rex Trail and unspecified area beyond the Wood River, the proposed travel is only once a year and the applicant has stated they intend to stay on trails and use established camps (cleared areas) as much as possible and anticipate only going off trail to retrieve game. The activity as proposed makes it possible to evaluate the impacts of this application on Rex Trail conditions, access, and safety. Inaddition, issuing the LUP to Mr. Parks for four known vehicles before travel allows DNR to effectively monitor activities, identify impacts of individual users, address unacceptable impacts if needed, and respond to the public about off-trail use as many users of this area are familiar with the Rex Trail permitting program. A condition of the permit will be a post-season report for DMLW to address any management issue that may arise or respond to any inquiries about the off-road use.

Performance Guaranty
Performance guarantees are means to assure performance and to provide ways to pay for corrective action if the permittee fails to comply with the requirements set forth in the permit. Pursuant to 11 AAC 96.060, a performance guaranty in the amount of $1000 will be required; $1000 is the minimum bond required by DNR. The bond amount is refundable each year after travel or at the end of the permit term provided the permittee complies with the requirements set forth in the permit.

Fees
Under 11 AAC 05.180 (d)(2)(J), the fee for a use that does not hinder other public use is $240.

Term
Five-year term: 2021-2026

Decision
Based upon the information provided by the applicant, as well as review of relevant documents, project files, statues, and regulations related to this application, it is the decision of this office to issue a land use permit for the travel as applied for.

Dianna Leinberger _____ 9/15/2021 _____
Dianna Leinberger Date
Natural Resource Manager

Attachments
Land Use Permit

A person affected by this decision may appeal it in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 9950 I; faxed to (907) 269- 8918, or sent by e-mail to dnr.appeals@alaska.gov. Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(l)(F), which has been set at $200 under the provisions of 11 AAC 05.160 (a) and (b).

This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31st calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources
DIVISION OF MINING LAND, & WATER
Northern Regional Lands Office
3700 Airport Way
Fairbanks, Alaska 99709
Main: (907) 451-2740
TTY: 711 or 880-770-8973
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LAND USE PERMIT
AS 38.05.850

PERMIT # LAS 33833

Steven Todd Parks, herein known as the Grantee, is issued this permit from the Department of Natural Resources, herein known as the Grantor, authorizing the use of state land within:

Legal Description: East Rex Trail from the Parks Highway to beyond the Wood River as generally shown in Attachment A and within the below described area.
FM T7S R1E Section 6, 7, 18, 19
FM T7S R1W Section 24, 25, 36
FM T8S R1W Section 1, 8-12, 17, 18
FM T8S R2W Section 13-15, 21, 22, 27, 28, 31, 33, 34
FM T8S R3W Section 19, 27-30, 34-36
FM T8S R4W Section 7, 8, 15, 16, 23, 24
FM T8S R5W Section 2-6, 11, 12
FM T8S R6W Section 1-4, 7-9
FM T8S R7W Section 7-12
FM T8S R8W Section 11,12
FM T9S R2W Section 4, 5, 6, 8, 9

This permit is issued for the purpose of authorizing the following:
The operation of four Hagglund BV206 rubber tracked vehicles along the main stem of the Rex Trail and off-trail travel north of the trail within 2 miles of the main trail stem after passing the Tatlanika River on that portion of the Rex Trail west of the Wood River, and an unspecified distance in any direction east of the Wood River. The off-trail travel is authorized for the purpose of accessing established camps/existing cleared areas and retrieve game.

This permit is effective beginning **September 15, 2021 and** ending **September 14, 2026** unless sooner terminated at the State's discretion. This permit does not convey an interest in state land and as such is revocable, with or without cause. The Grantor will give 30 days' notice before revoking a permit at will. A revocation for cause is effective immediately. No preference right for use or conveyance of the land is granted or implied by this authorization.

This permit is issued subject to the following:

- **Payment of the annual use** fee in the amount of $240 due on or before the annual anniversary of the effective date of the decision and any additional fees identified in the stipulations below.
- **Remittance of a performance guaranty in the amount of $1000** as required in the stipulations below. The non-receipt of a courtesy billing notice does not relieve the Grantee from the responsibility of paying fees on or before the due date.

All activities shall be conducted in accordance with the following 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 in and to the land. The State of Alaska 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:** The construction, operation, use, and maintenance of the authorized area shall not interfere with public use of roads, trails, waters, landing areas, and public access easements. The ability to use or access state land or public waters may not be restricted in any manner. However, if a specific activity poses a safety concern, the AO may allow the restriction of public access for a specific period of time. The Grantee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.
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. **Permit Extensions/Reissuance:** Any request for permit extension or reissuance should be submitted at least 90 days prior to the end of the authorized term. A written statement requesting a one-year extension confirming there will be no changes to the development/operations plan, including photographs clearly depicting the current condition of the site and any improvements, must be submitted to the AO with any required filing fee. A new Land Use Permit application and any required filing fee is required when requesting reissuance of up to five years or for modifications to the approved development/operations plan on file with DMLW.

14. **Assignment:** This permit may not be transferred or assigned.

15. **Reservation of Rights:** The AO 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. The AO may require authorized concurrent users of state land to enter into an equitable operation or maintenance agreement.

16. **Violations:** A violation of this authorization is subject to any action available to the State for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The State may seek damages available under a 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.

17. **Directives**: Directives may be issued for corrective actions that are required to correct a deviation from design criteria, project specifications, stipulations, State statutes or regulations. Work at the area subject to the Directive may continue while implementing the corrective action. Corrective action may include halting or avoiding specific conduct, implementing alternative measures, repairing any damage to state resources that may have resulted from the conduct, or other action as determined by DNR.

18. **Stop Work Orders:** Stop Work Orders may be issued if there is a deviation from design criteria, project specifications, stipulations, State statutes or regulations and that deviation is causing or is likely to cause significant damage to state resources. Under a Stop Work Order, work at the area subject to the Stop Work Order may not resume until the deviation is cured and corrective action is taken. Corrective action may include halting or avoiding specific conduct, implementing alternative measures, repairing any damage to state resources that may have resulted from the conduct, or other action as determined by DNR.

19. **Notification of Discharge:** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO by phone 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: Anchorage (907) 269-8503, fax (907) 269-8913; Fairbanks (907) 451-2678, fax (907) 451-2751, email dnr.nro.spill@alaska.gov; Juneau (907) 465-3400, fax (907) 465-3886. The Grantee shall supply the AO with all incident reports.

20. **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.

21. **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.

22. **Use Fees:** The Grantee shall pay to DMLW an annual use fee of $240. The use fee is due on or before the annual anniversary of the effective date of this permit without the necessity of any billing by DMLW. The annual use fee is subject to adjustments in any relevant fee schedule.

23. **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.

24. **Site Disturbance:** Site disturbance shall be kept to a minimum to protect local habitats. All activities shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems.

    Establishment of, or improvements to, landing areas (i.e. leveling the ground or removing or modifying a substantial amount of vegetation) is prohibited.

    Attention must be paid to prevent pollution and siltation of streams, lakes, ponds, wetlands, and disturbances to fish and wildlife habitat.

25. **Site Restoration:** On or before permit expiration (if a reissuance application has not been submitted) or termination of this authorization by the Grantee, the Grantee shall remove all improvements, personal property, and other chattels, and return the permitted area to a clean and safe condition. In the event the Grantee fails to comply with this requirement, the Grantee shall be held liable for any and all costs incurred by the State to return the permitted area to a clean and safe condition.

26. **Indemnification:** The Grantee 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 permit, including environmental and hazardous substance risk and

liability, whether accruing during or after the term of this permit. Grantee 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 Grantee, 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, Grantee shall accept any such cause, action or proceeding upon tender by the State. This indemnification shall survive the termination of the permit.

27. **Performance Guarantee:** Pursuant to 11 AAC 96.060, the Grantee shall provide a surety bond or other form of security acceptable to the DMLW in the amount of $1,000.00 payable to the State of Alaska. Such performance guaranty shall remain in effect for the term of this authorization and shall secure performance of the Grantee's obligations hereunder. The amount of the performance guaranty may be adjusted by the AO in the event of approved amendments to this authorization, changes in the development plan, or any change in the activities or operations conducted on the premises. The guaranty may be utilized by the State to cover actual costs incurred by the State to pay for any necessary corrective actions in the event the Grantee does not comply with the site utilization, restoration requirements and other stipulations contained in this permit agreement. If the Grantee fails to perform the obligations under this permit within a reasonable timeframe, the State may perform the Grantee's obligations at the Grantee's expense. The Grantee agrees to pay within 20 days following demand, all costs and expenses incurred by the State as a result of the failure of the Grantee to comply with the terms and conditions of this permit. Failure to do so may result in the termination of an authorization and/or forfeiture of the performance guaranty. The provisions of this permit shall not prejudice the State's right to obtain a remedy under any law or regulation. If the AO determines that the Grantee has satisfied the terms and conditions of this authorization, the performance guaranty will be subject to release. The performance guaranty may only be released in writing by the AO.

28. **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.

29. **Fuel and Hazardous Substances:** No fuel or hazardous substances may be stored on state land. Transport of 55 gallons of fuel per year as described above is permitted.

30. **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.

31. **Site Maintenance:** 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.

32. **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.

33. **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.

34. **Fire Prevention, Protection, and Liability**: The State of Alaska is not liable for damage to the Grantee's personal property and is not responsible for forest fire protection of the Grantee's activity. The Grantee shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires and shall assume full liability for any damages to state land resulting from the negligent use of fire.

35. **Annual Post-season Report**: An annual post-season report shall be submitted by December 31 of each year. The report shall contain the following information:

    a. general area of travel and location of camps:

    b. list of number and types of vehicles used;

    c. dates of travel;

    d. report of any issues encountered during travel;

    e. a report covering any known incidents of damage to the vegetative mat and underlying substrate, and follow-up corrective actions that may have taken place while operating under this authorization.

The Authorized Officer reserves the right to modify these stipulations or use additional stipulations as deemed necessary. The Grantee will be advised before any such modifications or additions are finalized. DNR has the authority to implement and enforce these conditions under AS 38.05.850. Any correspondence on this authorization may be directed to the Department of Natural Resources, Division of Mining, Land and Water, Northern Regional Lands Office, 3700 Airport Way, Fairbanks, AK 99709, (907) 451- 2740.

I have read and understand all of the foregoing and attached stipulations. By signing this authorization, I agree to conduct the authorized activity in accordance with the terms and conditions of this authorization.

_____

Signature of Grantee or Authorized Representative | Title | Date

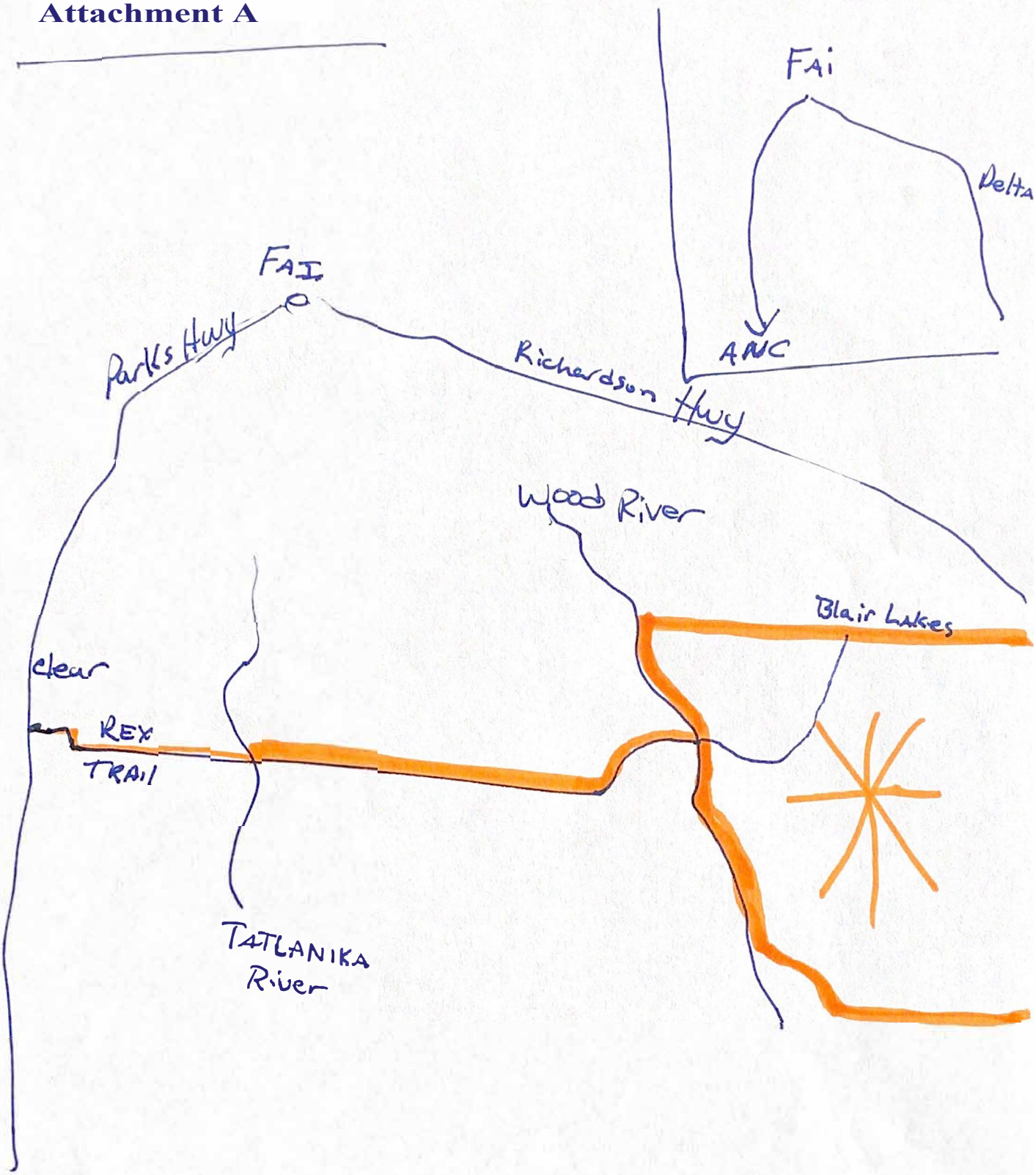
_____

Grantee's Address | City | State | Zip

_____

Contact Person | Home Phone | Work Phone

_____

Signature of Authorized State Representative | Title | Date

Attachment A