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

Southcentral Regional Land Office

Preliminary Decision
ADL 234829
McRoberts Creek Hydro
Application for Lease
AS 38.05.070(b)

ADL 234823
Application for Easement
AS 38.05.850

This Preliminary Decision (PD) is the State's preliminary best interest finding regarding a proposed disposal of interest in state land. The public is invited to comment on this PD. The deadline for commenting is **11:59 pm October 15, 2026.** Please see the Public Notice section of this decision for requirements related to submitting comments for consideration.

Requested Action
McRoberts Creek Hydro (MCH) submitted an application to the Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW), Southcentral Regional Land Office (SCRO) to lease 1.61 acres of land, divided into two separate parcels: a 1.03-acre parcel and a 0.58-acre parcel. The lease would support the construction, operation, and maintenance of a 240kw run-of-river hydroelectric project on McRoberts Creek near Palmer, Alaska. The total acreage of land involved in this project is approximately 7.44 acres; however, the area for this specific lease site will be approximately 1.61 acres. The remining 5.83 acres will be attached to easements associated with the project.

ADL 234829, a land lease for the intake and the powerhouse site will be issued in conjunction with ADL 234823, an easement authorization for the penstock, underground electric cable, and access trail. The site is located within the Seward Meridian, Township 18 North, Range 3 East, Sections 31 and 32. The applicant has requested a 10-year land lease and a private non-exclusive easement for the term of the lease.

Requested Improvements:

- Fencing installed around intake structure, approximately 40 feet

- Intake structure to be reconstructed
- Replacement of communication wires connecting intake structure to penstock

Existing Improvements:

- Powerhouse, approximately 18 by 24 feet with an additional 12 by 12-foot section, parcel 1, approximately 1.03 acres.
- Intake structure 8 by 20 feet, parcel 2, approximately 0.58 acres.
- 12-inch waterline (penstock), 3,678 linear feet with 50 foot right of way, Easement
- 2.2 kv underground electrical cable, 2,900 linear feet with 20 foot right of way, Easement
- Access trail, 806 linear feet with a 20-foot right of way, Easement

Proposed Action

DMLW proposes to issue a 10-year land lease and easement to the applicant for the construction, operation, and maintenance of a 240kw Hydroelectric project.

Background

On March 22, 1990, An easement application was received from Earle Ausman for the purpose of constructing and maintaining a hydroelectric power unit with an access trail and buried power cable near Palmer, Alaska. A private non-exclusive easement serialized as ADL 225181 was issued on June 21, 1991, for a term of 15 years. On March 12, 2007, the easement was amended to extend the expiration date to June 20, 2021, and to include proceeding stipulations. On August 16, 2016, Earle Ausman requested in writing that the easement be reassigned to his son, David Ausman. ADL 225181 was then assigned to David Ausman on October 19, 2016. Following David Ausman's death, administration of his estate was transferred to Cliff Buswell, in 2021.

On February 20, 2026, SCRO requested that Cliff Buswell submit a lease application for the hydroelectric project structures such as the intake structure and powerhouse, and an easement application for the penstock, trails, and underground cables. Mr. Buswell submitted the application as MCH on March 24, 2026. The lease is serialized as ADL 234829 and easement as ADL 234823.

Additionally, the proposed hydro facility lease site is located on a section of land that is currently in the process of being conveyed to the Matanuska-Susitna Borough (MSB). Until the conveyance is finalized, DNR retains management authority over the parcel. Once the conveyance is complete, administration of this lease, including any associated responsibilities and oversight, will transfer to the MSB.

<u>Project Overview</u>

MCH has applied to utilize State land for the survey, operation, and maintenance of a preexisting hydroelectric facility located on McRobert's Creek in Palmer, Alaska. This project aims to use

McRobert's Creek to supply clean energy to Matanuska Electric Association (MEA), supporting their efforts to lower carbon emissions. MCH estimates an annual energy production of 300 kW.

This type of hydro project is known as a run-of-river. Run-of-river facilities generate electricity by diverting water from a higher to a lower elevation, directly onto turbines inside the powerhouse, without storing water on-site. The proposed intake facility would divert water into a buried 12-inch pipeline (penstock) and transport it approximately 3,678 feet downstream to a powerhouse. The powerhouse measures approximately 18 feet by 24 feet with an additional 12 feet by 12 feet section and is constructed from concrete blocks with concrete slabs. Access to the intake would be within the 50-foot ROW along the penstock trail. Improvements to the penstock trail will require both an excavator and a dozer due to damages sustained during the 2018 earthquake.

Scope of Decision

The scope of this decision is to determine if it is in the State's best interest to issue a 10-year non-competitive lease and a private non-exclusive easement described herein. The administrative review for this authorization is defined by AS 38.05.035(e)(1)–(2) and limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) the facts pertaining to the land or resources; and (4) any issues that are material to the determination.

Lease Authority

The lease application is being adjudicated pursuant to Alaska Statutes (AS) 38.05.035(b)(1) and AS 38.05.035(e) Powers and Duties of the Director, AS 38.05.070 Generally, and AS 38.05.945 Notice.

Easement Authority

The easement application is being adjudicated pursuant to AS 38.05.850 Permits.

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 herein, the 2011 Susitna Matanuska Area Plan and other classification references described herein, and the casefile for the applications serialized by DNR as ADL 234829 and ADL 234823.

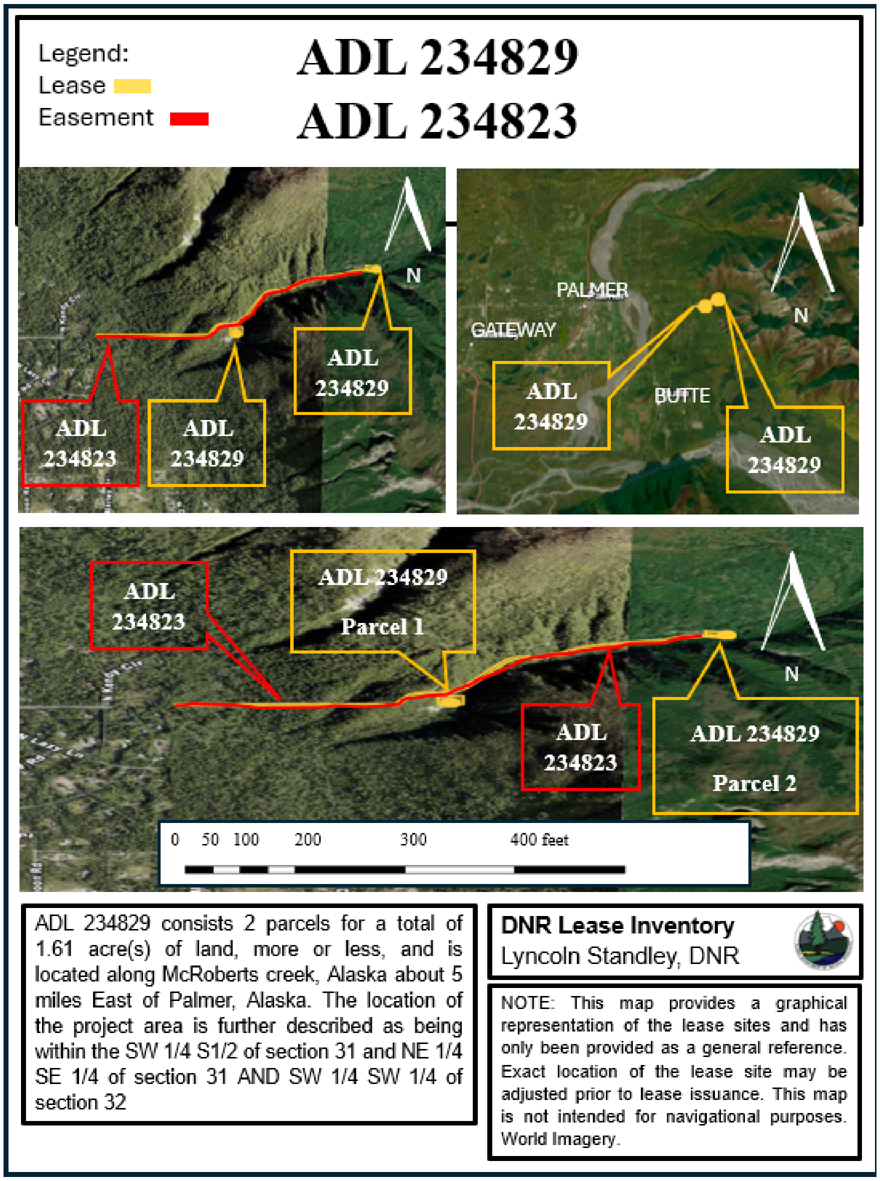


Figure 1: Overview Map of Project Area

Legal Description, Location, and Geographical Features

The State land where this proposed lease is located is described as follows:

- **Geographical location:** East of the Old Glenn Highway, following McRoberts Creek outside of Palmer, Alaska

- **Approximate Lat/Long for Intake :** 61.6036° N, 148.9664° W
- **Approximate Lat/Long for Powerhouse :** 61.5999° N, 148.9812° W
- **Area geographical features:** Extensive mountain terrain divided by steeply incised stream valleys
- **Legal description:** S1/2 of Section 31 and SW1/4 of Section 32, Township 18 North, Range 3 East, Seward Meridian.
- **Recording district:** Palmer Recording District
- **Municipality/Borough:** Matanuska-Susitna Borough
- **Native Corporations/Federally Recognized Tribes:** Cook Inlet Region, Inc. (CIRI)
- **Size:** Total proposed project footprint: 7.46 acres, more or less
  Lease ADL 234829: approximately 1.61 acres
  Easement ADL 234823: approximately 5.85 acres

Title

The State of Alaska holds fee title to the subject land under U. S. Patent No. 50-86-0320 dated July 18, 1986. A DNR Title Report (RPT-2946) issued on April 16, 2026, from DMLW's Realty Services Section. The State's land patent includes standard reservations for ditches, canals, railroads, telegraph and telephone lines, and water rights.

Third Party Interests

Known third-party interests within the proposed project area include:

- ADL 224027 - Public Access Easement issued to MSB;
- ADL 234765 - Application for a public and charitable land conveyance to MSB; and
- ADL 234821 - Application for a public and charitable lease to MSB for Matanuska Peak Trailhead Expansion

Planning and Classification

The project area is subject to the 2011 Susitna Matanuska Area Plan (SMAP), Chugach Mountains Region, Management Unit C-01, Map 3-4. Unit C-01 is designated Habitat and Public Recreation-Dispersed Use which convert to the classifications of Wildlife Habitat Land and Public Recreation Land, respectively.

In the Introduction to Chapter 3, the SMAP divides and defines the designations Habitat and Public Recreation-Dispersed separately. Habitat applies to areas of various size for fish and wildlife species during a sensitive life-history stage where alteration of the habitat or human disturbance could result in a permanent loss of population or sustained yield of a species. Public Recreation-Dispersed applies to areas that offer or have high potential for dispersed recreation or tourism and where desirable recreation conditions are scattered or widespread rather than localized (p. 3-4). The plan states that for both designations' utilities may be appropriate if habitat and recreation functions can be maintained (3:4-5). The Resource Allocation Table (RAT) on page 3-111 states that the management intent for Unit C-01 is to protect habitat and hydrologic values. The RAT describes the unit of consisting of extensive mountain terrain divided by steeply incised stream valleys where moose winter and calving concentration areas occur. Recreational use is described as being limited by terrain and restricted access, mostly confined to the stream valleys.

Chapter 2 of the SMAP under the Fish and Wildlife Habitat section gives goals and management guidelines for the areas designated Habitat. Page 2-13 provides guidance for mitigation measures as they pertain to avoiding or minimizing adverse effects to wildlife or their habitats. Specifically, it states that when determining appropriate stipulations and measures for mitigation, the department will apply the following steps:

1. Avoid anticipated, significant adverse effects on fish, wildlife, or their habitats through siting, timing, or other management options.
2. When significant adverse effects cannot be avoided by design, siting, timing, or other management options, the adverse effect of the use or development will be minimized.
3. If significant loss of fish or wildlife habitat occurs, the loss will be rectified by repairing, rehabilitating, or restoring the affected area to a useful state.
4. DNR shall consider replacement or enhancement of, fish and wildlife habitat when steps 1 through 3 cannot avoid substantial and irreversible loss of habitat. Alaska Department of Fish and Game (ADF&G) will identify the species affected, the need for replacement or enhancement, and the suggested method for addressing the impact. Replacement with or enhancement of similar habitats of the affected species in the same region is preferable. DNR will consider only those replacement and enhancement techniques that have either been proven to be, or are likely to be, effective and that will result in a benefit to the species impacted by the development. Replacement or enhancement will be required by DNR if it is determined to be in the best interest of the state either through the AS 38.05.035(e) or permit review process.

Page 2-16 explains that projects that will alter the natural hydrological conditions and have significant adverse impact on important riverine habitat will require a review and permit from ADF&G Division of Habitat and other agencies. During the agency review process, the Alaska Department of Fish and Game (ADF&G) was consulted, and they did not suggest that a permit would be necessary for the proposed hydro facility. ADF&G's determination indicates that the proposed activities do not rise to the level of impact described in the plan, supporting consistency with the area plan's management intent.

Based on the above considerations, the proposed lease and easement are consistent with the SMAP.

Traditional Use Finding

The proposed site is located within the Matanuska Susitna Borough. Pursuant to AS 38.05.830 a traditional use finding is not required. Additional traditional uses may be identified during the public notice period. If further traditional uses become known, they will be discussed in the final finding and decision.

Access

Practical and legal access to the proposed area would be via East Smith Road Ext.

Access Along Navigable and Public Waters

The proposed lease does not require reservation of public access along navigable and public waters pursuant to AS 38.05.126(a).

Public Trust Doctrine

Pursuant to AS 38.05.126, all authorizations for this site will be subject to the principles of 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 areas for ecological studies, and other purposes. These rights must be protected to the maximum extent practicable while allowing for the development of this project. As such, DMLW is reserving the right to grant other authorizations to the subject area consistent with the Public Trust Doctrine.

Reservation of Mineral Estate

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

Mineral Orders

Mineral entry within the proposed leasehold is not currently restricted. It is not necessary to restrict entry to leasehold locations only or to close the area to mineral entry.

Hazardous Materials and Potential Contaminants

Hazardous materials, such as electric hydraulic unit liquid and backup batteries will be stored within the proposed leasehold. Stipulations will be included in the lease to ensure proper handling and storage. The use and storage of all hazardous substances must be done in accordance with existing federal, state, and local laws. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the leasehold and disposed of in accordance with state and federal law.

Agency Review

Information and comments received from sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. An agency review was conducted on July 17, 2026**.** The deadline for agency comments was August 6, 2026.

The following agencies were included in the review:

- DNR Division of Agriculture
- DNR Division of Forestry & Fire Protection
- DNR Division of Geological & Geophysical Surveys
- DNR Division of Oil and Gas / State Pipeline Coordinator Service
- DNR Division of Parks and Outdoor Recreation / Office of History and Archaeology – State Historic Preservation Office
- DNR Natural Resource Conservation and Development Board
- Department of Commerce, Community and Economic Development
- Department of Environmental Conservation
- Department of Fish & Game
- Department of Transportation & Public Facilities
- U.S. Army Corps of Engineers
- U.S. Bureau of Land Management
- U.S. Coast Guard
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- U.S. Forest Service
- U.S. National Park Service
- U.S. Natural Resources Conservation Service
- Palmer Soil and Water Conservation District
- Alaska Association of Conservation Districts

Agency: On July 4, 2026, Alaska Department of Fish and Game Habitat Section responded:

"1. The ADF&G Habitat Section would like to request permission to utilize the trails/easement to access McRoberts Creek above the intake (near 61.6036N, 148.9664W), and below the powerhouse to sample for fish species presence.

2. If equipment will be using the existing road and could potentially impact the trailhead or trail users, please ensure that permitting activities do not block public access or use of the existing parking lot and trail system."

Response: SCRO acknowledges the comment and informs the applicant that they may contact ADF&G to grant permission to access easement for the 2027 sampling season, and to adhere to the recommendations provided by ADF&G and not restrict public access to trail systems and parking lots.

Discussion

With the proposed leasehold, MCH intends to operate, maintain, and upgrade a 240-kilowatt run-of-river hydroelectric facility to supply power to residents in Alaska. This type of hydro project generates electricity by diverting water from a higher to a lower elevation onto turbines inside the powerhouse, without storing water on-site. The proposed intake structure would divert water into a buried 12-inch pipeline (penstock) and convey it approximately 3,678 feet downstream to the powerhouse. The powerhouse—approximately 18 by 24 feet with an additional 12 by 12-foot section—is constructed of concrete block walls and concrete slab floors. Access to the intake would occur within the existing 50-foot right-of-way along the penstock trail, where improvements will require both an excavator and a dozer due to damage sustained during the 2018 earthquake.
Because MCH's hydro facility meets the requirements of AS 38.05.070(b), SCRO is proposing to authorize a 10-year negotiated lease. Issuing a 10-year lease is in the State's best interest because it provides stability for the operator, allows the State flexibility to respond to changing environmental conditions, and enables economic development by supporting long-term investment in reliable local energy infrastructure.

The proposed lease will be subject to the terms of DMLW's standard lease document effective at the time the lease is signed. The current standard lease document is available for review upon request. The lease will also be subject to additional stipulations based, in part, upon the following considerations.

Development Plan

The Development Plan (DP) attached to this decision (Attachment A) and dated April 13, 2026, is under consideration by DMLW. Should the proposed lease be granted, it is anticipated that the DP will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by DMLW before any construction, deconstruction, replacement of infrastructure, or change in activity will be authorized. DMLW reserves the right to require additional agency review and/or public notice for changes that are deemed by DMLW to be beyond the scope of this decision.

Performance Guaranty

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

$6,000.00 Performance Guaranty Performance guaranties provide a means to pay for corrective action if the lessee fails to comply with the lease requirements. In accordance with AS 38.05.035(a)(4), the applicant will be required to submit a performance guaranty. The amount of the performance guaranty is based on the scope and the nature of the activity and the potential cost of restoring the site. Performance guaranties are subject to periodic adjustments being made during the term of the authorization to address increases or decreases in the costs of rectifying problems and rehabilitating state land due to inflation, changes in the level or nature of development, or other appropriate factors.

The Lessee must post a performance guaranty in the amount of $6,000.00 to secure faithful performance with all terms and condition of the lease and to ensure site restoration of the leasehold. The performance guarantee must remain in effect for the duration of the lease term or until released in writing by the AO.

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

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

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

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

Reclamation Bond The State will reserve the right to require a reclamation bond due to noncompliance issues during the term of the lease or near the end of the life of the project.

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

Lease Survey
In accordance with AS 38.04.045, this lease does not require a survey for a short-term lease. However, the State of Alaska reserves the right to require one in the future, should the need arise due to changes in statutes or increased use of the area. The applicant will be required to submit four-point GPS coordinate points for the leased area.

Easement Survey
A DMLW-approved as-built survey is required to determine the proper location and acreage of installed improvements and the associated easement on State-owned, DMLW-managed lands. The applicant will be required to request survey instructions prior to issuance of the entry authorization. The survey must be produced in accordance with survey instructions provided by the DMLW Survey Section and stamped by a Professional Land Surveyor registered in the State of Alaska. A final easement will not be issued until the as-built survey has been approved by DMLW.

Compensation and Appraisal
Pursuant to 11 AAC 58.410(b), minimum lease rental will be determined in accordance with AS 38.05.840, except that the department will charge no less than $1,000 in minimum annual rent or compensation. A full appraisal will not be done if, based on a minimum rent determination, the department finds that the minimum annual rent required by this subsection exceeds the amount likely to be determined by a full appraisal.

SCRO requested a minimum rent determination from DMLW's Appraisals Section on July 17, 2026, which has not been received at the time of this decision. Any appraisal requirements or fee schedule considerations identified in that determination will be incorporated into the Final Finding and Decision.

Entry Authorization (EA)

Should the minimum rent determination find that an appraisal is required, DMLW proposes to authorize the applicant entry onto state land through the issuance of an EA while they are completing the required development, survey and/or appraisal. The term of the EA will be for a term of three years. The proposed EA would be issued after the FFD goes into effect. The term of the Entry Authorization is included in the term of the lease and easement.

The estimated annual fee for the proposed EA is **$1,000.00**. Should the appraisal indicate that the EA annual fee is less than estimated, those overages will be credited to the applicant's account. Should the report indicate that the value of the land is greater than anticipated, the shortfall must be remedied before the lease will be issued.

Subleases

Subleasing is permissible through AS 38.05.095, if the proposed lease is approved. A sublease is defined to include any lease, rental, storage, or accommodation agreement between the Lessee and another individual, business or corporation utilizing or benefiting from the lease parcel. Sublessee shall be defined to mean any individual or business entity executing an agreement, as above, with the Lessee. A sublease pertaining to the proposed lease includes but is not limited to, user agreements, license agreements, communication site agreements, or any contracts between the lessee and other commercial entities. All potential subleases must first be approved in writing by DMLW. DMLW may conduct further agency review and/or public notice before making a determination on the appropriateness of the proposed sublease. The sublease fee will be 25% of the annual fee paid to the lessee by the sublessee. All sublessees and activities must meet the statutory qualifications under which this original lease was issued.

Lease Assignment

The proposed lease, if issued, may be assigned to another individual or corporation only with written approval from the State of Alaska. A lease will not be assigned to an entity if that entity does not meet the statutory qualifications or requirements of the lease, or if the lessee is considered not to be in "good standing" with this or any other agency authorization.

Easement Assignment

In the event the grantee desires to transfer their interest in this authorization to another party the grantee shall submit in writing to the AO a request for assignment. The grantor reserves the right to modify and/or add stipulations for the authorization prior to approving the assignment. The grantor reserves the right to require an assignment between the grantee and another party in the event of a change in corporate ownership, LLC/LLP membership or name change. Notwithstanding other requirements described in this authorization, assignments shall be restricted to those entities that are also eligible to obtain an authorization under the same statutory authority in which this authorization was issued.

Reclamation

In accordance with AS 38.05.090, the leasehold must be restored to a "good and marketable condition" within 120 days after termination of the lease.

In accordance with AS 38.05.090(b), all lessees must restore their lease sites to a "good and marketable condition" within 120 days after termination of the lease. What level of reclamation constitutes as being "good and marketable" is at the discretion of DMLW. DMLW reserves the right to require a reclamation bond due to non-compliance issues during the term of the lease or near the end of the life of the project.

Public Notice

Pursuant to AS 38.05.945, this PD will be noticed for a 30-day public comment period**,** starting on September 15, 2026. The Palmer post office and the Wasilla Annex post office located near the proposed leasehold will be requested to post the notice pursuant to AS 38.05.945(b)(3)(C). The notice will also be posted on the State of Alaska Online Public Notice website pursuant to AS 38.05.945(b)(3)(B) located at: https://aws.state.ak.us/OnlinePublicNotices/Default.aspx. Additionally, Public Notice will be sent to all third party interests, neighboring property owners, permits/lease holders, and other interested parties.

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

To be eligible to appeal, a person affected by the FFD must provide written comments during the public comment period.

Written comments about this project must be received in this office no later than 11:59 PM on October 15, 2026 to be considered.

To submit comments please choose one of the following methods:

Mail: Department of Natural Resources
Division of Mining, Land and Water
Southcentral Regional Land Office
ATTN: *Lyncoln Standley*
550 W 7th Ave Unit 900C
Anchorage, AK 99501
Email: Lyncoln.standley@alaska.gov
Fax: (907) 269-8619

DNR-DMLW complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services or special modifications to comment should contact Alaska Relay at 711 or 1-800-770-8973 for TTY services.

Signature page follows.

Recommendation

DMLW has completed a review of the information provided by the applicant, examined the relevant land management documents, agency comments, and land ownership, and has found that this project is consistent with all applicable statutes and regulations. DMLW considered both direct and indirect benefits to the State. DNR finds granting of the proposed lease and easement provide the greatest benefit to the State.

I recommend proceeding to public notice for the purpose of providing the members of the public and those entities identified in AS 38.05.945 an opportunity to review and submit comments.

Lyncoln Standley 9/14/2026

Lyncoln Standley, Natural Resource Specialist 2 Date

Preliminary Decision

It is the determination of the Division of Mining, Land and Water that it may be in the State's best interest to issue a land lease and easement for 10 years to the applicant, as described above. This Preliminary Decision shall now proceed to public notice.

Kate Dufault 9/14/2026

Kate Dufault, Natural Resource Manager 2 Date

Southcentral Regional Land Office, Division of Mining, Land and Water

Attachments

- Attachment A – Development Plan
- Attachment B – Sample Lease Entry Authorization
- Attachment C – Sample Easement Entry Authorization
- Attachment D – Sample Lease
- Attachment E – Sample Additional Stipulations
- Attachment F – Final Easement Document

Project summary

This small hydroelectric facility is designed to supply clean energy to the local utility, MEA, supporting their efforts to lower carbon emissions. The site features an existing powerhouse measuring roughly 18 feet by 24 feet, with an additional 12 feet by 12 feet section, along with an intake structure and a small screen room. There are two penstock pipes—one 16 feet long and the other 12 feet—plus power and communication cables.

The site is located in sections 31 and 32, township 18 north, range 3 east, Seward Meridian, Alaska. The terrain is steep and naturally forested. Access is provided by existing roads and trails, some of which overlap with local recreational paths.

The buildings include the existing powerhouse, sized 18 feet by 24 feet with a 12 feet by 12 feet extension, constructed from concrete blocks with concrete slabs.

Power is delivered through a grid connection to the local utility via a single-phase 7200-volt medium voltage line.

There is no wastewater system on site; a job site-style outhouse will be utilized.

Parking is anticipated at the powerhouse, although a small space within the easement for one or two vehicles might be necessary.

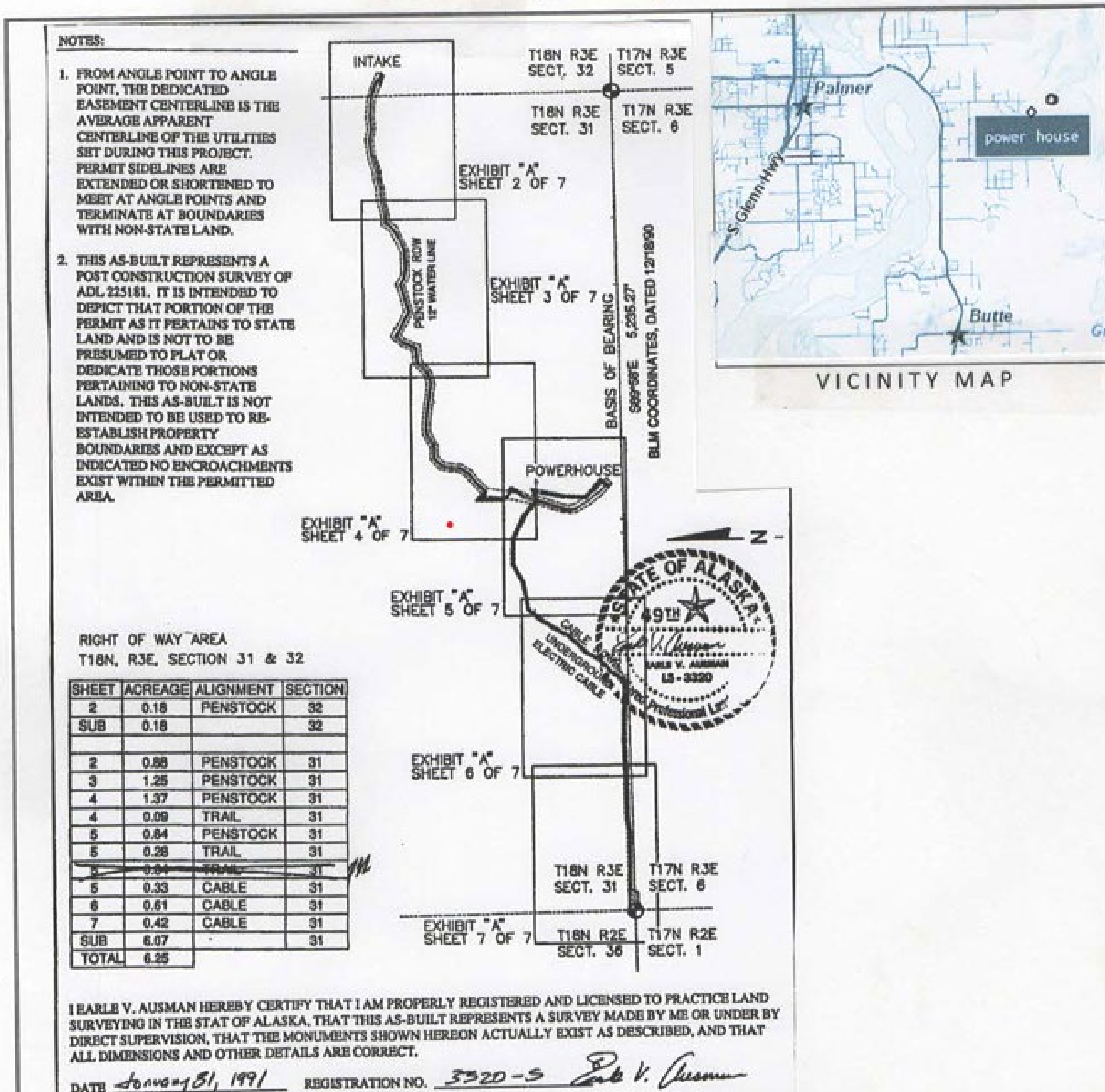
Hazardous materials on site are minimal and include a small amount of grease for bearings, a small electric hydraulic unit containing less than 2 gallons of fluid, and possibly a couple of backup batteries. All of these items are housed inside the powerhouse on a concrete floor, allowing for easy cleanup in the event of an accident.

The workforce would consist of 2 to 3 part-time employees responsible for system maintenance.

Operations would include cleaning the intake and performing routine upkeep of the powerhouse.

Reclamation would be thorough, involving removal of the concrete block building and intake structure, as well as the turbines, generator switchgear, and other electrical equipment—but it should be noted that all these components already exist.

Attachment A
Development Plan



NOTES:

1. FROM ANGLE POINT TO ANGLE POINT, THE DEDICATED EASEMENT CENTERLINE IS THE AVERAGE APPARENT CENTERLINE OF THE UTILITIES SET DURING THIS PROJECT. PERMIT SIDELINES ARE EXTENDED OR SHORTENED TO MEET AT ANGLE POINTS AND TERMINATE AT BOUNDARIES WITH NON-STATE LAND.
2. THIS AS-BUILT REPRESENTS A POST CONSTRUCTION SURVEY OF ADL 225181. IT IS INTENDED TO DEPICT THAT PORTION OF THE PERMIT AS IT PERTAINS TO STATE LAND AND IS NOT TO BE PRESUMED TO PLAT OR DEDICATE THOSE PORTIONS PERTAINING TO NON-STATE LANDS. THIS AS-BUILT IS NOT INTENDED TO BE USED TO RE-ESTABLISH PROPERTY BOUNDARIES AND EXCEPT AS INDICATED NO ENCROACHMENTS EXIST WITHIN THE PERMITTED AREA.

RIGHT OF WAY AREA
T18N, R3E, SECTION 31 & 32

SHEET	ACREAGE	ALIGNMENT	SECTION
2	0.18	PENSTOCK	32
SUB	0.18		32
2	0.88	PENSTOCK	31
3	1.25	PENSTOCK	31
4	1.37	PENSTOCK	31
4	0.09	TRAIL	31
5	0.84	PENSTOCK	31
5	0.28	TRAIL	31
~~5~~	~~0.04~~	~~TRAIL~~	~~31~~
5	0.33	CABLE	31
6	0.61	CABLE	31
7	0.42	CABLE	31
SUB	6.07		31
TOTAL	6.25		

I EARLE V. AUSMAN HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STAT OF ALASKA, THAT THIS AS-BUILT REPRESENTS A SURVEY MADE BY ME OR UNDER BY DIRECT SUPERVISION, THAT THE MONUMENTS SHOWN HEREON ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT.

DATE January 31, 1991 REGISTRATION NO. 3320-S Earle V. Ausman

PREPARED BY: POLARCONSULT ALASKA, INC.	DATE OF SURVEY: 11-17-90	PREPARED FOR: ENERDYNE
SCALE: 1" = 600'	EXHIBIT "A" McROBERTS CREEK HYDROELECTRIC PROJECT	

SECTION 31 & SECTION 32
TOWNSHIP 18 NORTH
RANGE 3 EAST SEWARD MERIDIAN, AK.

Date Prepared: Apr. 13 2026	Applicant's Name: Clifford Buscell
Alaska Department of Natural Resources Division of Mining, Land & Water Land Use Permit	
Site Development Diagram	
Sec(s) 31 + 32 T 18N R 3E M Seward	
Sheet of	File #

Attachment B
Sample Lease Early Entry Authorization

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

[ ] Northern Region 3700 Airport Way Fairbanks, AK 99709 (907) 451-2705	[**X**] Southcentral Region 550 W. 7th Avenue, Ste. 900C Anchorage, AK 99501-3577 (907) 269-8552	[ ] Southeast Region 400 Willoughby, Ste. 400 Juneau, AK 99801 (907) 465-3400

Entry Authorization
AS 38.05.075(f)

Lease No. **ADL XXXXXX**

Name and Address of Lessee, herein known as the "lessee", is issued this Entry Authorization (EA) to use xxx acres, more or less, of state-owned land located within the:

XXX of **Section XX**, **Township XX North**, **Range XX East**, **XX Meridian**

This pre-lease authorization is effective beginning **DATE** and ending **DATE**, unless sooner terminated at the State's discretion. This EA is not valid until it has been executed by the Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO).

This EA is issued for the purpose of authorizing:

The lessee's temporary entry onto state land for the construction and use of XXX in accordance with the approved Development Plan (DP) (Attachment A) while the lessee completes the required survey, appraisal, and *other* before lease issuance.

All activities authorized under the EA shall be conducted in accordance with the following stipulations:

1. **Authorized Officer (AO):** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), DMLW, is the Regional Manager or designee.
2. **Compliance with Requirements:** The lessee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The lessee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees. The issuance of this EA does not relieve the lessee from securing any other authorizations required by federal, state, or local law.
3. **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 lessee 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.

4. **Annual Fee:** In accordance with 11 AAC 58.410 and for the purpose of this EA, the annual fee will be **$XXXX.00**, which must be paid on or before **DATE** of every year during the term of this authorization. Payment for the first year of the EA, and any other fees owed, shall be required prior to issuance of the authorization. The lessee 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.

5. **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.

6. **Failure to Pay:** Failure to pay annual fees when due is a default of the terms and conditions of this EA. Failure to cure such a default within the 60-day period following the receipt of a "Notice of Default" will, at the AO's discretion, result in termination of this authorization.

7. **Visitor Day Use Fee:** *(if applicable)* All commercial recreation authorizations are subject to a "Visitor Day Use" fee. As defined in 11 AAC 96.250(18), Visitor Day means "all or any part of a calendar day during which a commercial recreation client is present, with each client representing a separate visitor day if multiple clients are present at any time during a calendar day." This fee, as established in 11 AAC 05.180(d)(2)(D) or (G), is collected once a year and due on the same day as the annual fee.

8. **Moving or Damaging Markers:** The lessee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against relocation, damage, destruction, or obliteration. The lessee shall notify the AO of any relocated, damaged, destroyed, or obliterated markers and shall reestablish the markers at the lessee's expense in accordance with accepted survey practices of the DMLW.

9. **Survey:** The lessee is responsible for completing an **Alaska State Land Survey (ASLS)/Alaska Tidelands Survey (ATS)** of the proposed lease site. **<u>The survey must be submitted to DMLW's Survey Section for approval no later than one year after issuance of the survey instructions.</u>** Failure to do so will cause the forfeiture of the performance guaranty as outlined in the Penalties stipulation listed below. The survey must properly locate the lease boundaries, all infrastructure, and easements. If the submitted survey is accepted by DMLW, the measurements identified will be used to accurately calculate the total acreage.

10. **Appraisal:** The lessee is responsible for obtaining and submitting the required Fair Market Value appraisal for this site. Once the survey has been submitted to DMLW for review, please contact DMLW's Appraisal Unit at (907) 269-8512 to begin the appraisal process. The final appraisal report must be submitted to DMLW for approval no later than **DATE**.

Attachment B
Sample Lease Early Entry Authorization

11. **Performance Guaranty:** As per 11 AAC 96.060 the following bond is required:

a) **$X,XXX.00 Performance Guaranty** *(Cash, CD, or Surety)****:*** This bond shall remain in place throughout the life of this EA and the subsequent lease (if granted) to assure the lessee's compliance with the terms and conditions of both authorizations. Should the lessee fail to abide by the terms of this EA, this bond may be used by the AO to pay for any corrective actions the AO deems necessary.

- Failure by the lessee to provide replacement security for a CD or surety upon notice of non-renewal shall be grounds for the AO to make a claim upon the existing security to protect the State's interests.
- The Performance Guaranty amounts are subject to periodic adjustments (every 5 years) and may be adjusted upon approval of any amendments, assignments, modifications to the DP, and as a result of any violations of this authorization.
- If a bond is taken as part of a penalty, either whole or in part, that bond must be replenished by the replacement deadline contained within the penalty notification letter. Failure to replace the bond is, at the discretion of the AO, grounds for termination of the EA and possible denial of the subsequent lease.
- The Performance Guaranty will be released upon expiration or closure of the lease provided that all terms and conditions of the lease have been met, including removal of infrastructure and restoration of the area to the satisfaction of the AO.

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

13. **Insurance:** The lessee shall secure or purchase at its own expense, and maintain in force at all times during the term of this contract, liability coverages and limits consistent with what is professionally recommended as adequate to protect the buyer (the insured) and seller (the State,

its officers, agents and employees) from the liability exposures of ALL the insured's operations on state land. Certificates of Insurance must be furnished to the AO prior to the issuance of this lease and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. The lessee must provide for a 60-day prior notice to the AO before they cancel, not renew or make material changes to conditions to the policy. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of this lease and shall be grounds, at the option of the AO, for termination of the lease. All insurance policies shall comply with, and be issued by, insurers licensed to transact the business of insurance under Alaska Statute, Title 21. The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the Division of Risk Management, Department of Administration. The State of Alaska must be named as an additional named insured on the policy. Case number **ADL XXXXXX** is to be referenced on the policy and the certificate of insurance.

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

    a) The lessee is in full compliance with lease conditions and is in good standing with all other authorization per 11 AAC 96.145;

    b) Sublessee must meet the statutory requirement of the lease;

    c) Submission by the lessee of a draft copy of the agreement(s) which will govern the relationship and compensation provisions between the lessee and the sublessee;

    d) Submission by the lessee of a proposed plan of operations and development for the subleased area and, if necessary, an amended plan of operations and development for the entire lease area; and

    e) A lessor best interest finding and amendments to the lease contract as necessary, if significant changes to the use and development are proposed.

15. **Loss of Improvements:** The lessee assumes all risk of loss of improvements resulting from natural or catastrophic events.

16. **Incurred Expenses:** The lessor shall in no way be held liable for expenses incurred by the lessee connected with the activities directly or indirectly related to this authorization.

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

18. **Alaska Historic Preservation Act:** Under the Alaska Historic Preservation Act, AS 41.35.200, it is unlawful to appropriate, excavate, remove, injure, or destroy any historic, prehistoric, or archaeological resources of the State without a permit from the DNR Commissioner. Should any such resources or sites be discovered, the lessee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in DNR's Division of Parks and Recreation.

19. **Inspections:** The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the lessee is found to be in noncompliance the authorized area may be subject to reinspection. The lessee may be charged for actual expenses of any inspection or the fee in 11 AAC 05.160.

20. **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 lessee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.

    This EA is subject to the following public access easement reservations: *(if applicable)*

    a) To and Along easements; RS2477 trails, issued easements;

    b) ETC.

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

22. **Site and Improvements 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. The lessor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the lessor is to be construed as assumption of responsibility.

23. **Site Disturbance:**

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

   b) Brush clearing is allowed only to the extent necessary to maintain the present development. The lessee may use dead timber that is down. The lessee shall not cut standing timber within the leased area unless specifically authorized by DNR's Division of Forestry.

   The removal of vegetation shall be kept to a minimum and areas requiring disturbance should be seeded or planted as soon as possible after disturbance. To the extent possible, associated vegetation should be left intact to enhance stability, control erosion, and enhance scenic qualities.

24. **Hazardous Substances, Explosives:**

   a) No storage of hazardous material/substances or explosives is authorized within the leased area.

   b) The use of hazardous substances or explosives must be done in accordance with existing federal, state, and local laws, regulations, and ordinances. Debris (including soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the sites and managed and disposed of in accordance with state, federal and local laws, statutes, and regulations.

25. **Use and Storage of Fuel:** All fuel storage container(s) with a total combined capacity larger than 55 gallons shall not be placed within 100 feet from the high or ordinary water mark of any waterbody. When fuel storage container(s) exceed a total combined capacity of 110 gallons, the containers must be stored within a double-walled tank, an impermeable diked area, or a portable impermeable containment structure capable of containing 110% of the capacity of the largest independent container. All containers must be approved by the Department of Environmental Conservation (DEC) and clearly marked with the contents and the lessee's

name and authorization number. Drip pans and other spill response materials, such as sorbent pads, must be on hand to contain and clean up any spills.

26. **Spill Response:** The lessee is responsible for preventing fuel spills, hydraulic fluid spills, and oil spills that could result in contamination of contiguous land and water. Petroleum product spills shall be cleaned up immediately, and any contaminated earth or vegetative materials shall be disposed of as required by DEC regulations. To facilitate rapid spill response, adequate sorbent materials (i.e., material that collects or absorbs petroleum products while at the same time repels water) will be kept onsite to be used in the event a spill should occur. Should any unlawful discharge, leakage, spillage, emission, or pollution of any type occur due to lessee activities, the lessee shall, at their expense, be obligated to clean the area to the reasonable satisfaction of the State.

27. **Notification of Discharge:** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO of any unauthorized discharge of any amount of oil to water, a discharge of any amount of a 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 must be made to DEC online at ReportSpills.alaska.gov or by phone at 1-800-478-9300.

    Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8528; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email dnr.sero.spill@alaska.gov, (907) 465-3513. The Grantee shall supply the AO with all incident reports submitted to DEC.

28. **Waste and Debris Disposal:** Onsite refuse disposal is prohibited. All waste generated during construction, operation, and termination activities under this EA shall be removed and disposed of at an offsite DEC-approved disposal facility. Until the waste can be removed from the site, it must be stored in a manner to prevent attracting wildlife.

29. **Lease Issuance:** Upon completion and fulfillment of all conditions and stipulations of this EA, a lease will be issued to the lessee containing approximately xx acres, more or less, of state land/tidelands.

30. **Termination:** This authorization may be terminated upon violation of any of its terms,

conditions, stipulations or upon failure to comply with any applicable laws, statutes, and regulations (state and federal).

31. **Agents:** The lease provisions and stipulations apply with equal force upon an agent, employee, contractor, or subcontractor designated by the lessee to perform any lease or lease-related operations. The lessee is liable for noncompliance caused by any such agent, employee, contractor, or subcontractor.

32. **Additional Authorizations or Permits:** If activities other than those authorized by the lease provisions and stipulations are needed, additional written authorizations or permits and their associated additional fees may be required.

33. **Access and Road Construction:** The lessee is responsible for providing access to the leasehold. Before constructing any road across state land, the lessee shall obtain prior approval and authorization from DMLW for the location and construction standards of the road.

Definitions:

a) “AO” means the Authorized Officer, who is the Regional Manager, Southcentral Region
b) "DEC" means the Alaska Department of Environmental Conservation
c) “DMLW” means the Division of Mining, Land and Water
d) "DNR" means the Alaska Department of Natural Resources
e) "DP" means the approved Development Plan
f) "EA" means this Entry Authorization
g) “Lessee” means **Applicant Name** or their officers, agents, contractors, subcontractors, and their employees.
h) “SCRO” means the Southcentral Region Office

Any correspondence concerning this EA may be directed to the Department of Natural Resources, Division of Mining, Land and Water, Southcentral Regional Land Office, 550 W. 7th Ave., Suite 900C, Anchorage, AK 99501-3577, or by telephone to (907) 269-8503. All correspondence sent by the Division of Mining, Land and Water, Southcentral Regional Land Office in regards to this authorization will be sent to the below listed contact information.

Signature page followsI, the lessee, have read the foregoing EA and I agree to comply with all the conditions included within this authorization.

Signature of Lessee or Authorized Representative Date

Attachment B
Sample Lease Early Entry Authorization

Printed Name and Title

____
Lessee's Address

____
City State Zip

Phone Numbers: Main: ______________________________

Work: ______________________________

Fax: ______________________________

Email: ______________________________

____
FIRST LAST Date
Regional Manager, Southcentral Regional Land Office
Division of Mining, Land and Water

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

ADL 234823
Public Utility Easement
McRoberts Creek Hydro

Entry Authorization

Cliff Buswell, herein known as the Grantee, is issued this Entry Authorization for the use of state land within:

Legal Description:

The applicant has applied to use State-owned, DMLW-managed lands within Section 31, Township 18 North, Range 3 East, Seward Meridian, Alaska.

This Entry Authorization is issued for the purpose of authorizing the following:

Surveying, operating and maintaining a pre-existing run-of-river hydroelectric facility near Palmer, Alaska.

This authorization is effective beginning __________________ and ending _________________, unless sooner terminated.

This Entry Authorization is issued subject to the following:

- Payment of the annual use fee in the amount of $#### due on or before the annual anniversary of the effective date of the decision and any additional fees identified 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.
- Maintenance of a performance guaranty in the amount of $#### as required described in the stipulations below.
- Proof of insurance as described in stipulations below.

Any correspondence on this authorization may be directed to the Department of Natural Resources, Division of Mining, Land and Water, Southcentral Regional Land Office, 550 W. 7^{th} Ave., Suite 900 C, Anchorage, Alaska 99501, phone number: 907-269-8400.

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 | Primary Phone | Alternate Phone

____

Signature of Authorized State Representative | Title | Date

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. **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.

4. **Development Plan:** Development shall be limited to the authorized area, improvements, and maintenance activities 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.

5. **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.

6. **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.

   No public access easement may be terminated without the prior written approval of DMLW.

7. **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.

8. **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.

9. **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.

10. **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. Nothing may be stored that would be an attractive nuisance to wildlife or create a potentially hazardous situation.

11. **Maintenance of Improvements:** The Grantor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Grantor is to be construed as assumption of responsibility.

12. **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.

13. **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.

14. **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.

    The DMLW may require authorized concurrent users of State land to enter into an equitable agreement regarding concurrent use.

15. **Assignment:** This authorization may not be transferred or assigned without the prior written consent of the AO. The grantor reserves the right to modify and/or add stipulations for the authorization prior to approving the assignment.

16. **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.

17. **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.

18. **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.

19. **Operation of Vehicles:** Vehicles shall be operated without disturbing the vegetative mat and underlying substrate.

20. **Batteries:** Batteries which contain hazardous liquids should be completely sealed valve regulated, spill proof, leak proof and mounted in steel containers. Batteries lacking the preceding properties must have a metal drip pan designed to hold 110% of the total liquids held by the battery/batteries. Batteries, new or used, may not be stored or warehoused. Any battery/batteries that are not in use must be removed and disposed of in accordance with existing laws, regulations and ordinances.

21. **Surface Drainage:** Adequate culverts shall be installed to maintain surface drainage and to prevent ponding and/or erosion.

22. **Site Disturbance:**
    a. Site disturbance shall be kept to a minimum to protect local habitats. All activities at the site shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems.
    b. Brush clearing is allowed, but shall be kept to the minimum necessary to conduct or complete the authorized activity. Removal or destruction of the vegetative mat outside of the authorized area is not allowed.
    c. Establishment of, or improvements to, tidal, submerged, shoreland or riparian landing areas (e.g.: leveling the ground, bank cutting or removing or modifying a substantial amount of vegetation) is prohibited without the prior written consent of the AO.
    d. The Grantee shall conduct all operations in a manner which will prevent unwarranted pollution, erosion, and siltation. Any pollution, erosion, or siltation shall be repaired/remediated in a manner and time frame satisfactory to the AO at the Grantee's expense.

23. **Ground Disturbance and Repair:** Grantee will refill holes, trenches and surface depressions resulting from development or maintenance activities with sand, gravel, native materials, or a substitute approved by the AO. Surface areas will be recontoured to the satisfaction of the AO so that they do not pose a threat to human safety or wildlife transit.

24. **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.

25. **Fuel and Hazardous Substances:**
    a. No fuel or hazardous substances are to be stored on state land. Prior written approval from the AO is required for a change in this restriction and may include additional stipulations and/or a change in the amount required for the performance guaranty.
    b. During equipment maintenance operations, the site shall be protected from leaking or dripping hazardous substances or fuel. The Grantee shall place drip pans or other surface liners designed to catch and hold fluids under the equipment or develop a maintenance area by using an impermeable liner or other suitable containment mechanism. a) "Surface liner" means any safe, non-permeable container (e.g., drips pans, fold-a-tanks, etc.) designed to catch and hold fluids for the purpose of preventing spills. Surface liners should be of adequate size and volume based on worst-case spill risk.

26. **Performance Guaranty:** The AO reserves the right to require a performance guaranty in the event the Grantee's compliance is less than satisfactory or as a condition of authorizing significant changes in the development plan or operations. If required, such performance guaranty shall remain in effect until released, in writing, by the AO and shall secure performance of the Grantee's obligation 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.

27. **Insurance:** Insurance is not required. The AO reserves the right to require insurance during the term of this authorization. If required, insurance of a type and in an amount acceptable to the AO, must be provided and remain in place during the term of this authorization. The type and amount of insurance may be adjusted to reflect updates and changes in the associated project.

28. **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.

29. **US Government Liability:** The Grantee shall be responsible for any claim or demand for loss or damage, including property damage, personal injury, wrongful death, and wage or employment claims, arising out of or in connection with the use or occupancy of the authorization site, in accordance with provisions of the Federal Tort Claims Act.

30. **Preference Right:** No preference right for subsequent authorizations is granted or implied by this authorization.

31. **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.

32. **Compliance with Government 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.

33. **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.

34. **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.

35. **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.

36. **Annual Report:** An annual report shall be submitted by December 15 of each year outlining work completed that year, work to be completed next year, and anticipated construction completion timeframe.

37. **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) 269-3063, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-5245. To report a spill outside of normal business hours, call toll free 1-800-478-9300 or international 1-907-269-0667. Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8528; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email dnr.sero.spill@alaska.gov, (907) 465-3513. The Grantee shall supply the AO with all incident reports submitted to DEC.

38. **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.

39. **Existing Easements:** In the event that this authorization shall in any manner conflict with or overlap a previously granted easement or right-of-way, the Grantee shall use this authorization in a manner that will not interfere with the peaceful use and enjoyment of the previously issued easement or right-of-way. The Grantor reserves the right to set or modify stipulations governing the use of the conflicting or overlapping area.

40. **Survey:** The Grantee shall submit a record of survey format as-built acceptable to the standards of the Survey Section prior to the expiration of this Entry Authorization. The Grantee is required to submit a preliminary draft as-built survey one year prior to the expiration of this authorization to allow adequate time for the State's review and approval of a final as-built survey. The easement will not be issued until the survey has been approved by the DMLW.

Attachment D
Sample Lease Agreement

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
550 W. 7th Avenue, Suite 900C
Anchorage, Alaska 99501-3577

McRoberts Creek Hyrdo
ADL No. 234829
LEASE AGREEMENT
AS 38.05.070(b)

Effective this **Xst** day of **MONTH YEAR**, this lease agreement is entered into by the State of Alaska, hereafter referred to as "lessor," and **McRoberts Creek Hydro**, hereafter referred to as "lessee," whether one or more, whose sole addresses for purposes of notification under this lease agreement are listed in section 28.

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

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

1. Grant. This lease is issued under the authority of **AS 38.05.070(b)**for a term of **10** years beginning on the **Xst** day of **MONTH YEAR**, and ending at 11:59PM on the **Xth** day of **MONTH YEAR**, unless sooner terminated, subject to: compensation as specified in section 2; the attached Additional Stipulations (Attachment A); and the attached development plan approved by the State on **MONTH DAY, YEAR** (Attachment B); and if any, that are incorporated in and made a part of this lease, for the following, hereafter referred to as the "leasehold":

LEGAL DESCRIPTION

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

Subject to:

Platted easements and restrictions.

The conditions and stipulations in Attachment A, Additional Stipulations.

Attachment B, Approved Development Plan, attached and made part of this lease agreement.

2. Compensation. (a) The lessee shall pay to the lessor compensation as follows, without the necessity of any billing by the lessor: **$X,XXX.00** due on or before **MONTH DAY** every year. The lessor may, upon 10 days' notice, review and copy any records of the lessee that are necessary to verify the lessee's compliance with this paragraph.

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

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

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

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

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

7. Conditional Lease. If all or part of the leasehold has been tentatively approved, or approved, but not yet patented, by the United States to the lessor, then this lease will be conditioned upon receipt by the lessor of such patent. If for any reason the lessor does not receive patent, any compensation paid to the lessor under this lease will not be refunded. Any prepaid compensation for land to which patent is denied the lessor will be refunded

to the lessee of record in the amount of the pro-rata portion of the unexpired term. The lessor will have no further liability to the lessee for the termination of the lease.

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

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

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

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

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

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

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

> (A) If the taking by condemnation reduces the ground area of the leasehold by at least 30 percent or materially affects the use being made by the lessee of the leasehold, the lessee has the right to elect to terminate the lease by written notice to the lessor not later than 180 days after the date of taking.
>
> (B) If the lessee elects to terminate, the provisions in subsection (1) of this section govern the condemned portion of the leasehold and the covenants and conditions of the lease govern disposal of the remainder of any buildings or improvements made by the lessee in accordance with the approved development plan.
>
> (C) If the lessee does not elect to terminate, the lease continues and the lessor is entitled to the full condemnation proceeds except the portion attributable to the fair market value, as determined in the condemnation proceedings, of any buildings or improvements taken that were placed on the condemned portion of the leasehold by the lessee in accordance with the approved development plan. Compensation at the existing rate will terminate on the date the lessee is required to surrender possession of the condemned portion of the leasehold. Except as it may be adjusted from time to time under the covenants and conditions of the lease and applicable statutes, compensation for the balance of the term will be adjusted by the lessor to reflect the taking.

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

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

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

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

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

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

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

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

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

20. Waiver or Forbearance. The receipt of compensation by the lessor, with or without knowledge of any default on the part of the lessee, is not a waiver of any provision of this lease. No failure on the part of the lessor to enforce a covenant or condition of this lease, nor the waiver of any right under this lease by the lessor, unless in writing, will discharge or invalidate the application of such covenant or condition. No forbearance or written waiver affects the right of the lessor to enforce any covenant or condition in the event of any subsequent default. The receipt of compensation by the lessor after termination or any notice of termination will not reinstate, continue, or extend this lease, or destroy, or in any manner impair the validity of any notice of termination that may have been given prior to receipt of the compensation, unless specifically stated by the lessor in writing.

21. Default and Remedies. (a) Time is of the essence in this lease. If the lessee defaults on the performance of any of the covenants or conditions of this lease, and the default is not remedied within 60 days after the lessor issues written notice of such default to the lessee and to the holder of a security interest in the leasehold approved by the lessor, or within any additional period the lessor allows for good cause, the lessee will be subject to legal or any other administrative action deemed appropriate by the lessor, including termination of this lease. The

lessor may, in the notice of the default or in a separate written notice, state that if the default is not remedied, this lease shall terminate on a date certain, which shall be at least 60 days after issuance of the notice of default. Upon the date specified in such notice, unless the default has been remedied, the lease shall expire automatically without further notice or action by the lessor and this lease and all rights of the lessee under the lease shall terminate. Upon termination of the lease the lessor shall have an immediate right to possession of the leasehold and any possession by the lessee shall be unlawful. It is specifically agreed that no judicial action shall be necessary to terminate this lease or to allow the lessor to retake possession in the event of default by the lessee. No improvements may be removed from the leasehold while the lease is in default except with the lessor's prior written approval. If this lease is terminated for default, all compensation paid by the lessee is forfeited to the lessor. The lessor is not liable for any expenditures made or undertaken by the lessee under this lease. Any costs or fees, including attorney's fees, reasonably incurred by the lessor for the enforcement of this lease, shall be added to the obligations due and payable by the lessee.

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

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

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

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

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

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

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

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

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

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

26. Environmental Compliance. (a) The lessee shall, at the lessee's own expense, comply with all existing and hereafter enacted environmental responsibility laws ("Environmental Laws"). The lessee shall, at the lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Environmental Laws.

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

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

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

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

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

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

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

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

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

To the Lessor:

Division of Mining, Land and Water
550 W. 7th Avenue, Suite 900C
Anchorage, Alaska 99501-3577

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

To the Lessee:

LESSEE
ADDRESS
CITY, STATE ZIP

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

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

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

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

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

30. Modification. This lease may be modified or amended only by a document signed by both parties. Any purported amendment or modification has no legal effect until placed in writing and signed by both parties.

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

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

Attachment D
Sample Lease Agreement

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

LESSEE:

____

LESSEE

LESSOR:

____

FIRST LAST, Regional Manager
Southcentral Regional Land Office

STATE OF ALASKA)
) ss.
______Judicial District)

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

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

STATE OF ALASKA)
) ss.
Third Judicial District)

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

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

Approved as to form February 9, 1994, and September 25, 2001.
____
/s/ Elizabeth J. Barry, Assistant Attorney General

Recorder's Office: Return the recorded document to:
DNR DMLW, SCRO
ATTN: ADJUDICATOR
550 W 7th Ave., Suite 900C
Anchorage AK, 99501

Attachment E
Sample Additional 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. **Preference Right:** No preference right to a sale of this leasehold is granted or implied by the issuance of this Lease. Any renewal of this Lease will be subject to current statutes and regulations at the time of Lease expiration.

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. **Change of Contact Information**: The Lessee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.

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

6. **Compliance with Government Requirements:** The Lessee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Lessee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.

7. **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 Lessee 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.

8. **Penalty Charges: Late Payment Penalty Charges**: The Lessee 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.
   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.

9. **Visitor Day Use Fee:** All commercial recreation authorizations are subject to a "Visitor Day" fee. As defined in 11 AAC 96.250(18), Visitor Day means "all or any part of a calendar day during which a commercial recreation client is present, with each client representing a separate visitor day if multiple clients are present at any time during a calendar day." This fee, as established in 11 AAC 05.180(d)(2)(D) or (G), is collected once a year and due on the same day as the annual fee.

10. **Assignment:** Stipulation 6 of the Lease Agreement is hereby amended to include the following: In the event the Lessee desires to transfer their interest in the lease to another party

the Lessee shall submit to the AO a request for assignment and a copy of a draft agreement which identifies the provisions of the assignment between the parties. The AO reserves the right to require/renegotiate new terms or conditions for the lease prior to approving any assignment. The AO reserves the right to require an assignment between the Lessee and another party in the event of a change in corporate ownership, LLC/LLP membership or name change involving the leased site.

11. **Performance Guaranty:** Per section 25 of the Lease agreement: The Lessee previously posted a performance guaranty in the amount of **$X,XXX.00** to secure faithful performance with all terms and conditions of the Lease and to insure site restoration of the leasehold. This performance guaranty must remain in effect for the duration of the Lease term or until released in writing by the AO. Failure by the Lessee to provide replacement security shall be grounds for the AO to make a claim upon the existing security to protect the Lessor's interests.

12. **Insurance:** The Lessee shall secure or purchase at its own expense, and maintain in force at all times during the term of this contract, liability coverages and limits consistent with what is professionally recommended as adequate to protect the buyer (the insured) and seller (the State, its officers, agents and employees) from the liability exposures of ALL the insured's operations on state land. Certificates of Insurance must be furnished to the AO prior to the issuance of this lease and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. The Lessee must provide for a 60-day prior notice to the AO before they cancel, not renew or make material changes to conditions to the policy. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of this lease and shall be grounds, at the option of the AO, for termination of the lease. All insurance policies shall comply with, and be issued by, insurers licensed to transact the business of insurance under Alaska Statute, Title 21. The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the Division of Risk Management, Department of Administration. The State of Alaska must be named as an additional named insured on the policy.

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

14. **Concurrent Usage:** The AO reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land covered under this authorization. Authorized users of state land, their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of other authorized concurrent users. Any future concurrent permit, lease or sub-lease will be subject to the

conditions and stipulations contained in the lease, including the additional collection of fees or rents by the AO from any subordinate Lessee or Sublessee.

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

    f) The Lessee is in full compliance with lease conditions and is in good standing with all other authorization per 11 AAC 96.145;

    g) Sublessee must meet the statutory requirement of the Lease;

    h) Submission by the Lessee of a draft copy of the agreement(s) which will govern the relationship and compensation provisions between the Lessee and the Sub-Lessee;

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

    j) A Lessor best interest finding and amendments to the lease contract as necessary, if significant changes to the use and development are proposed.

16. **Alaska Historic Preservation Act:** Under the Alaska Historic Preservation Act, AS 41.35.200, it is unlawful to appropriate, excavate, remove, injure, or destroy any historic, prehistoric, or archaeological resources of the State without a permit from the DNR Commissioner. Should any such resources or sites be discovered, the lessee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in DNR's Division of Parks and Recreation.

17. **Inspections:** Stipulation 13 of the Lease Agreement is hereby amended to include the following: The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the lessee is found to be in noncompliance the authorized area may be subject to reinspection. The lessee may be charged for actual expenses of any inspection or the fee in 11 AAC 05.160.

Attachment E
Sample Additional Stipulations

18. **Incurred Expenses:** The Lessor shall in no way be held liable for expenses incurred by the Lessee connected with the activities directly or indirectly related to this authorization.

19. **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 Lessee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.

20. **Site and Improvements 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. The Lessor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Lessor is to be construed as assumption of responsibility.

21. **Site Disturbance:** Stipulation 4 of the Lease Agreement is hereby amended to include the following:

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

    d) Brush clearing is allowed only to the extent necessary to maintain the present development. The Lessee may use dead timber that is down. The Lessee shall not cut standing timber within the leased area unless specifically authorized by DNR's Division of Forestry.

    The removal of vegetation shall be kept to a minimum and areas requiring disturbance should be seeded or planted as soon as possible after disturbance. To the extent possible, associated vegetation should be left intact to enhance stability, control erosion and enhance scenic qualities.

22. **Hazardous Substances, Explosives:**

    a) No storage of hazardous material/substances or explosives is authorized within the leased area.

b) The use of hazardous substances or explosives must be done in accordance with existing federal, state and local laws, regulations and ordinances. Debris (including soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the sites and managed and disposed of in accordance with state, federal and local laws, statutes and regulations.

23. **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, or municipal lands, or lands which are owned or solely managed by other offices and agencies of the State of Alaska. The Lessee is responsible for proper location within the authorized area.

24. **Moving or Damaging Markers:** The Lessee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against relocation, damage, destruction, or obliteration. The Lessee shall notify the AO of any relocated, damaged, destroyed, or obliterated markers and shall reestablish the markers at the lessee's expense in accordance with accepted survey practices of the DMLW.

25. **Use and Storage of Fuel:** Section 26 of the Lease document is hereby amended to include the following: All fuel storage container(s) with a total combined capacity larger than **55 gallons** shall not be placed within 100 feet from the ordinary high water mark of any water body. When fuel storage container(s) exceed a total combined capacity of **110 gallons**, the containers must be stored within an Alaska Department of Environmental Conservation (ADEC)-approved double-walled tank, or an impermeable diked area, or a portable impermeable containment structure capable of containing 110% of the capacity of the largest independent container. All containers must be clearly marked with the contents and the Lessee's name and ADL number. Drip pans and materials, such as sorbent pads, must be on hand to contain and clean up all spills.

26. **Notification of Discharge:** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO of any unauthorized discharge of any amount of oil to water, a discharge of any amount of a 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 must be made to DEC online at ReportSpills.alaska.gov or by phone at 1-800-478-9300.
Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8528; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email dnr.sero.spill@alaska.gov, (907) 465-3513. The Grantee shall supply the AO with all incident reports submitted to DEC.

Attachment E
Sample Additional Stipulations

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 ADEC 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. **Fire Prevention, Protection and Liability:** The Lessee 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 Lessee's personal property. To report a wildfire, call 911 or 1-800-237-3633.

29. **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 Lessee, 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.

    The receipt of compensation by the AO, with or without knowledge of any default on the part of the Lessee, is not a waiver of any provision of this authorization. The receipt of compensation by the AO after termination or any notice of termination will not reinstate, continue, or extend this authorization, or destroy or in any manner impair the validity of any notice of termination, unless specifically stated by the AO in writing.

30. **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 Lessee 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, to be legal, valid, and enforceable.

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

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

    b) A reclamation plan for the leasehold lands, which must be approved in writing by the AO. The Lessee is responsible for site reclamation within the leasehold.

       The reclamation plan must include a description of the methods and techniques that the Lessee will use to rehabilitate all sites affected by construction and intensive use activities. Under the lease, the Lessee retains all ownership rights to site improvements. In the plan, the Lessee shall describe its intention to remove improvements. The plan must also include a schedule that sets forth the steps required for surface rehabilitation, and a specific time line showing when the Lessee will accomplish each step.

32. **Violations:** Pursuant to 11 AAC 96.145, the Lessee must be in compliance with provisions of this and other authorizations granted under AS 38.05 or 11 AAC 96 before a new authorization may be granted by DMLW.

33. **Lease Termination**: This lease authorization may be terminated upon violation of any of its terms, conditions, stipulations or upon failure to comply with any applicable laws, statutes and regulations (state and federal).

34. **Lease Utilization**: Per 11 AAC 58.510, leases must be utilized for purposes within the scope of the lease and the land classification. Utilization or development for other than the allowed uses or failure to substantially utilize or develop the lease is a violation of the lease. A development plan may be required on all leases. Failure to make substantial use of the land, consistent with the development plan, within five years, will, in the director's discretion, constitute grounds for cancellation.

35. **Agents:** The lease provisions and stipulations apply with equal force upon an agent, employee, contractor or subcontractor designated by the Lessee to perform any lease or lease-related operations. The Lessee is liable for noncompliance caused by any such agent, employee, contractor, or subcontractor.

36. **Additional Authorizations or Permits:** If activities other than those authorized by the lease provisions and stipulations are needed, additional written authorizations or permits and their associated additional fees may be required.

37. **Access and Road Construction:** The Lessee is responsible for providing access to the leasehold. Before constructing any road across state land, the Lessee shall obtain prior approval and authorization from DMLW for the location and construction standards of the road.

Attachment F
Sample Final Easement Document

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

ADL XXXXXX
TYPE OF Easement
NAME OF GRANTEE, unless it's DMLW

This easement is granted this ____ day of _________, ____, by the State of Alaska, acting by and through the Department of Natural Resources, Division of Mining, Land and Water, whose address is ADDRESS, hereinafter referred to as the Grantor. This easement is granted to NAME OF GRANTEE, whose address is GRANTEE'S ADDRESS, hereinafter referred to as the Grantee.

In accordance with the provisions of AS 38.05.850, and the rules and regulations promulgated thereunder, a public utility easement is hereby granted for an indefinite term OR until 11:59 PM on Day, Month, Year, DESCRIBE USE. This easement is located near GENERAL GEOGRAPHIC LOCATION, over and across the following described state lands:

> Within Section XX, Township XXXX, Range XXXX, XXXXX Meridian, in the XXXXXX Recording District. The easement is XXXX feet in length and XX feet in width for a total of XX.XX acres, more or less. [The easement is depicted on XXXXX, included as "Attachment A" to this document.] OR [As-Built Survey EPF XXXXXX, recorded concurrently as Plat #________, XXXXX Recording District].

This easement is subject to the terms and conditions contained herein.

In the event that this easement shall in any manner conflict with or overlap a previously granted easement or right-of-way, the Grantee shall use this easement in a manner that will not interfere with the peaceful use and enjoyment of the previously issued easement or right-of-way. The Grantor reserves the right to set or modify stipulations governing the use of the conflicting or overlapping area.

Any lands included in this easement that are conveyed from state ownership shall be subject to this easement.

This easement shall terminate at the end of the stated term, if any, when the Grantor determines that the easement is no longer in use for the purpose(s) authorized, or the easement is revoked as a result of violation of the terms and conditions contained herein. The State of Alaska shall be forever wholly absolved from any liability for damages that might result if this easement is terminated for any reason.

Now therefore, in accordance with the conditions of this easement including all attachments and documents that are incorporated by reference, the Grantee is authorized to operate and maintain said easement over and across lands herein described. In witness whereof, the Grantor and the Grantee have affixed their signatures on the date(s) specified herein.

[SIGNATURE PAGES FOLLOW]

Attachment F
Sample Final Easement Document

GRANTOR

____
NAME, Natural Resource Manager III
Southcentral OR Southeast OR Northern Regional Land Office, 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 _________________________________ known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

____
Notary Public in and for the State of Alaska
My commission expires with office

Attachment F
Sample Final Easement Document

GRANTEE

____
NAME, TITLE

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.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

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

WHEN RECORDED, RETURN DOCUMENT TO:
Department of Natural Resources
Division of Mining, Land and Water
[REGIONAL OFFICE ADDRESS]

OFFICIAL STATE BUSINESS – NO CHARGE