

Teck-Pogo, Inc.

**Pogo Mine Project Powerline
Right-of-way**

ADL 416817

Final Decision

Action Requested

Teck-Pogo, Inc. (Teck-Pogo) has applied to the Division of Mining, Land and Water (DMLW), Department of Natural Resources (DNR) for a 125-foot wide private exclusive right-of-way. Teck-Pogo plans to construct, operate and maintain an overhead electrical distribution power line to provide electricity to the Pogo Mine Project. The route for the power line is shown on the map in Attachment 1. The preferred route follows the Shaw Creek Hillside All-Season Road and will extend into the mill site lease for the Pogo Mine development.

Scope of Review and Finding

The scope of the Final Decision is limited to determining whether this use is a good use of state land and whether it provides the greatest economic benefit to the state and the development of its resources. In making this determination, DNR evaluated the reasonably foreseeable, significant effects that the construction, operation and maintenance of the Teck-Pogo power line has on state land. DNR's Final Decision evaluated the application with respect to material issues and facts, available land management information, public and agency comment, and DNR responsibilities under AS 38.04, AS 38.05, and specifically AS 38.05.850. This Final Decision discusses in general terms the potential effects that may occur with the use of the right-of-way and the mitigation measures to be imposed as terms of the right-of-way to reduce or eliminate possible adverse effects.

Authority

The authority to issue a private exclusive right-of-way resides in AS 38.05.850. Rights-of-way issued by the DNR under the authority of AS 38.05.850 are exempt from the best interest finding requirements of AS 38.05.035(e). However, AS 38.05.850, requires public notice before issuing the right-of-way if the director determines, by evaluation of the nature and duration of the intended use, that the right-of-way is not functionally revocable. This applies only to the right-of-way on state land under the jurisdiction and authority of the DNR. Due to the fact that the utility right-of-way will serve the Pogo mine, the scope of the project and anticipated duration, DNR has provided public notice of the request for a utility easement.

Administrative Record

This right-of-way request was applied for under AS 38.05.850. Right-of-way application file (ADL 416817), the Tanana Basin Area Plan (TBAP), and the Pogo Project files comprise the administrative record for this request. DNR's Final Decision to issue a right-of-way for the Pogo Project Powerline along the Shaw Creek Hillside Road route is based upon a complete review of this record including the Right-of-Way Application for the Pogo Project (June 2002), Reclamation and Closure Plan for the Pogo Project (December 2002), Pogo Project Plan of Operations (February 2002, updated November 2002), Pogo Project Environmental Baseline Characterization Documents (December 2000, as updated) and the Final Environmental Impact Statement for the Pogo Gold Mine Project (September 2003) and all the associated public comment and other supporting documents.

Legal Description and Title

The following table summarizes the land title and classification for the power line right-of-way request on DNR managed state land. A map showing land status is Attachment 2. Portions of the powerline route cross state mining claims. The sections where these claims are located are shown in the table below.

LEGAL DESCRIPTIONS FOR POGO POWERLINE (WEST TO EAST)					
LEGAL DESCRIPTION	SECTION	GRANT	STATUS	CLASSIFICATION	Length
T7S, R8E, Fairbanks Meridian	15 SE 1/4, SW 1/4, NW 1/4, NE 1/4	GS 1068	TVSF	8A, 8C, Mineral production/Timber Production/Wildlife habitat	2615.06
	14 NW 1/4	GS 1068	State Patent	7A2, Public Recreation/Wildlife Habitat/Forestry	140.14
	11 SW 1/4, SE 1/4, NE 1/4	GS 1068	TVSF	8C, Mineral production/Timber Production/Wildlife habitat	6220.68
	12 NW 1/4, NE 1/4, SE 1/4	GS 1068	TVSF	8C, Mineral production/Timber Production/Wildlife habitat	6438.67
T7S, R9E, Fairbanks Meridian	7 SW 1/4, SE 1/4	GS 1160	TVSF	8C, Mineral production/Timber Production/Wildlife habitat	4353.31
	18 NE 1/4	GS 1160	State Patent	7A1, Public Recreation/Wildlife Habitat	1222.93
	17 NW 1/4, NE 1/4	GS 1160	State Patent	7A2, Public Recreation/Wildlife Habitat/Forestry	5967.07
	16 NW 1/4, NE 1/4, SE 1/4	GS 1160	TVSF	8C, Mineral production/Timber Production/Wildlife habitat	5414.78
	15 SW 1/4, SE 1/4	GS 1160	State Patent	7A1, Public Recreation/Wildlife Habitat	5410.67
	14 SW 1/4, SE 1/4, NE 1/4	GS 1160	State Patent	7A1, 7A2, Pub. Rec./WL Hab./Forestry	5809.26
	13 NW 1/4, NE 1/4	GS 1160	State Patent	7A2, Public Recreation/Wildlife Habitat/Forestry	3404.46
	12 SE 1/4	GS 1160	State Patent	7A2, Public Recreation/Wildlife Habitat/Forestry	2404.91
T7S, R10E, Fairbanks Meridian	7 SW 1/4, SE 1/4, NE 1/4	GS 1133	State Patent	7A2, Public Recreation/Wildlife Habitat/Forestry	5616.54
	8 NW 1/4, NE 1/4	GS 1133	State Patent	7A2, Public Recreation/Wildlife Habitat/Forestry	4637.34
	5 SE 1/4	GS 1133	State Patent	7A2, Public Recreation/Wildlife Habitat/Forestry	1163.98
	4 SW 1/4, SE 1/4	GS 1133	State Patent	7A2, Public Recreation/Wildlife Habitat/Forestry	5312.95
	3 SW 1/4, SE 1/4	GS 1133	State Patent	7A2, Public Recreation/Wildlife Habitat/Forestry	5288.92
	2 SW 1/4, SE 1/4	GS 1133	State Patent	7A1, Public Recreation/Wildlife Habitat	5288.92
	1 SW 1/4, NW 1/4, NE 1/4	GS 1133	State Patent	7A1, Public Recreation/Wildlife Habitat	6429.63
T6S, R10E, Fairbanks Meridian	36 SE 1/4	GS 3703	TVSF	8D, General use	540.51
T6S, R11E, Fairbanks Meridian	31 SW 1/4, SE 1/4, SE 1/4, NE 1/4	GS 3704	State TA'd	7A1, Public Recreation/Wildlife Habitat	6200.7
	32 NW 1/4	GS 3704	State TA'd	7A1, Public Recreation/Wildlife Habitat	2430.62
	29 SW 1/4, SE 1/4	GS 3704	State TA'd	7A1, Public Recreation/Wildlife	3896.95

				Habitat	
	28 SW 1/4, SE 1/4	GS 3704	State TA'd	7A1, Public Recreation/Wildlife Habitat	5458.43
	27 SW 1/4, NW 1/4	GS 3704	State TA'd	7A1, Public Recreation/Wildlife Habitat	2788.29
	22 SW 1/4, NE 1/4	GS 3704	State TA'd	7A2, Public Recreation/Wildlife Habitat/Forestry	6112.08
	15 SE 1/4	GS 3704	State TA'd	7A2, Public Recreation/Wildlife Habitat/Forestry	1628.21
	14 SW 1/4, NW 1/4, NE 1/4	GS 3704	State TA'd	7A2, Public Recreation/Wildlife Habitat/Forestry	6510.54
	11 SE 1/4	GS 3704	State TA'd	7A2, Public Recreation/Wildlife Habitat/Forestry	102.83
	12 SW 1/4, SE 1/4	GS 3704	State TA'd	7A1, Public Recreation/Wildlife Habitat	5445.09
T6S, R12E, Fairbanks Meridian	7 SW 1/4, NE 1/4	GS 3705	State TA'd	7A1, Public Recreation/Wildlife Habitat	6642.47
	8 NW 1/4	GS 3705	State TA'd	7A1, Public Recreation/Wildlife Habitat	347.42
	5 SW 1/4, SE 1/4, NE 1/4	GS 3705	State TA'd	7A1, Public Recreation/Wildlife Habitat	6521.16
	4 NW 1/4	GS 3705	State TA'd	7A1, Public Recreation/Wildlife Habitat	1709.46
T5S, R12E, Fairbanks Meridian	33 SW 1/4, SE 1/4, NE 1/4	GS 3689	State TA'd	7A1, Public Recreation/Wildlife Habitat	4835.84
T5S, R13E	36 SW 1/4, NW 1/4, NE 1/4, SE 1/4	GS 3690	State TA'd	7D3, Public Recreation/Wildlife Habitat/Forestry	9294.27
T5S, R14E	31 SW 1/4, SE 1/4	GS 3691	State TA'd	7D3, Public Recreation/Wildlife Habitat/Forestry	5037.30
	32 SW 1/4	GS 3691	State TA'd	7D3, Public Recreation/Wildlife Habitat/Forestry	187.00
T6S, R14E	5 NW 1/4, NE 1/4	GS 3707	State TA'd	7D3, Public Recreation/Wildlife Habitat/Forestry	5235.88
	4 NW 1/4	GS 3707	State TA'd	7D3, Public Recreation/Wildlife Habitat/Forestry	2145.84
T5S, R14E	33 SW 1/4, SE 1/4	GS 3691	State TA'd	7D3, Public Recreation/Wildlife Habitat/Forestry	3359.42
	34 SW 1/4, NW 1/4	GS 3691	State TA'd	7D2, Public Recreation/Wildlife Habitat	5693.70
	27 SW 1/4	GS 3691	State TA'd	7D2, Public Recreation/Wildlife Habitat	1625.45

Tanana Basin Area Plan

The right-of-way is located on state lands primarily within the Tanana Basin Area Plan's (TBAP) Subregion 7, management units 7A (Shaw Creek) and 7D (Goodpaster River). The subunits are, 7A1, 7A2, 7D2, and 7D3. Subunits 7A1 and 7D2 both have designated primary uses as public recreation and wildlife habitat. Subunits 7A2 and 7D3 have primary uses of public recreation, wildlife habitat, and forestry. Management units 7A and 7D, including all subunits, are open to mineral entry.

The first portion of the right-of-way will cross Management Unit 7A, which is to be managed for its forest resources and the protection of water quality, wildlife habitat, and public recreation values. The second portion of the right-of-way, and the mine are both in Management Unit 7D, which is recognized for having moderate to high mineral potential, and is to be managed for multiple use with an emphasis on recreation and fish and wildlife. The construction of the right-of-way to facilitate the development of the Pogo Mine is consistent with the plan.

Both Management Units 7A and 7D are subject to the Areawide Land Management Guidelines for Subsurface Resources in the Tanana Basin Area Plan, which include goals for the

management of mineral resources in the planning area. These goals include contributing to Alaska's economy by making subsurface resources available for development, protecting integrity of the environment and affected cultures, and to aid in development of infrastructure, including roads, to support the mining industry. This right-of-way will facilitate the development of the Pogo Mine.

The lower Goodpaster River Corridor is in Subunit 7D1, and is recognized for its scenic and recreational values. Management guidelines for this subunit state that development activities within Subunit 7D shall be designed to minimize the visual impacts to the scenic values of the lower Goodpaster River Corridor. The preference for the powerline to follow the Shaw Creek Hillside All-Season Road alternative is consistent with this guideline, as it is not visible from the lower Goodpaster River Corridor.

Management Unit 7D has a specific guideline for public notice for activities in this management unit. The plan requires consultation with the Goodpaster Review Working Group in reviewing proposed timber sales, access plans, and other activities requiring public notice. This working group consists of 11 organizations that participated in the 1991 review of the Goodpaster River/Quartz Lake management units of TBAP (these organizations are listed in Appendix G of TBAP). DNR has consulted with these organizations in developing this proposed decision, and will continue to consult with them for the duration of this process.

The first portion of the right-of-way also crosses parts of Management Unit 8 of the Tanana Valley State Forest, and generally coincides with a preexisting alignment for a proposed road to provide access for timber harvest and public use of this subunit of the state forest. Management Unit 8 (Shaw Creek), is to be managed for commercial timber production and mineral exploration and production. The management guidelines for this management unit specify that primary all-season access to this management unit is planned from the existing Shaw Creek Road. This powerline is consistent with the Tanana Valley State Forest Management Plan.

Background

General location: The Pogo Gold Mine Project is located about 38 miles northeast of Delta Junction, and about 85 miles east of Fairbanks. The minesite is about 45 miles upstream on the Goodpaster River, a clearwater tributary to the Tanana River. Currently the minesite is accessible only by air, boat, or winter trail.

Area to be developed: Teck-Pogo has applied for authorizations to develop an underground mine at the Pogo site. The estimated geologic resources are about 5.6 million ounces of gold, and the project would employ up to 700 workers during construction and up to 360 workers during operation. The Pogo mine would use a cyanide floatation process to extract the gold, and the tailings would be placed both back underground, and in an engineered disposal facility in the Liese Creek valley. The mine will include this proposed powerline corridor, and a 49-mile access road with a bus terminal/staging area near the Richardson Highway.

Operating period: The Pogo mine will operate 24 hours a day, 365 days a year. Development of the mine is projected to start in the summer of 2003, and the mine construction would take approximately two years. The mine is anticipated to have a life of at least 11 years. At the end of mine life, Teck-Pogo proposes to seal and reclaim the mine, and reclaim the access road and the powerline. Exploration activities are anticipated to continue during the mine life to locate possible areas for expansion and associated mine development. If exploration activities are productive, the mine's life could be extended beyond 11 years.

Mine Access: Teck-Pogo will build a 49-mile access road from the Richardson Highway to the mine site. The access road will be maintained and operated on a year-round basis. The road will be built to a width of either 24 feet, or 18 feet with a safety berm in steeper sections. All bridges will be single lane. Road grades will be limited to 7%. Traffic on the road will consist of approximately 10 to 20 vehicle trips per day during normal operations. Additional traffic will be expected during construction of the mine. Approximately 30,000 to 40,000 tons of freight will be hauled into the mine each year. Teck-Pogo has applied for exclusive use of the road, with an exception to allow use of the road for other major resource development activities under an agreement to reimburse Teck-Pogo for road construction and maintenance costs. Teck-Pogo also proposes to reclaim the entire length of the road. DNR's decision on the road right-of-way modifies this proposal by not requiring the first 23 miles of the road to be reclaimed (please refer to DNR's Final Decision on the Pogo Project Road, ADL #416809).

Powerline Route: The powerline right-of-way generally follows the same alignment as the proposed Shaw Creek Hillside All-Season Road right-of-way, which is the route that Teck-Pogo has applied for to access the Pogo Mine. The powerline will start at a substation where the Shaw Creek Hillside All-Season Road will cross the existing transmission line that parallels the TAPS corridor. The powerline will then generally follow the Shaw Creek Hillside All-Season Road alignment to the mine. The powerline will leave the road alignment for about 4.5 miles near Caribou Creek. Please refer to Attachment 1 for a map of the route.

Traditional Use Finding

In accordance with AS 38.05.830, a traditional use finding is required because DNR has determined that the powerline right-of-way is not functionally revocable based on the use of the right-of-way for development of the Pogo Mine, and the right-of-way is in the unorganized borough. This finding shall consider the effects that the right-of-way may be expected to have on the density of the population in the vicinity of the land, and the potential for conflicts with the traditional uses of the land that could result from the right-of-way.

DNR reviewed information in the record, including the Final Environmental Impact Statement (FEIS), in making its traditional use finding. A comprehensive analysis of the existing population and traditional uses of the land in the vicinity of the Pogo Project and the access routes has been completed and is presented in Chapter 3 of the FEIS for the Pogo Mine Project, herein adopted by reference. This chapter of the FEIS describes in detail the affected environment of the project, including the socioeconomics, population, land use, and traditional subsistence use areas. The FEIS analysis shows that the traditional uses of lands in the project area include subsistence, trapping, hunting, fishing, and boating.

The environmental consequences of the proposed Pogo Mine Project and several alternative development scenarios, access routes, and powerline corridors have also been analyzed during the Pogo Project FEIS process, and are presented in Chapter 4 of the FEIS, herein adopted by reference. The analysis of environmental consequences includes an analysis of the impacts of the proposed project on traditional uses and the population of the affected land, including the impacts on traditional subsistence use areas, socioeconomics, population, and land use.

Because the access to the Pogo Mine will be largely restricted to uses related to the mine, because the entire powerline will be managed to restrict access along the powerline corridor, and because the intent is to have the entire powerline reclaimed after the life of the mine, the impacts on traditional uses, subsistence uses, and other land uses resulting from the powerline right-of-way and the project in general will be minimal. There is a possibility that the powerline could be retained for some period to facilitate other resource development activities in the area, but this

could occur only after the same public process that is required by the road right-of-way decision (please refer to the Pogo Road Final Decision, ADL #416809).

Based on the analysis of environmental consequences of the proposed Pogo Project, DNR is issuing this Final Finding that issuing this right-of-way will have no significant effect on the density of the population in the vicinity of the project, and will have minimal potential for conflicts with the traditional uses of the land in the vicinity of this project.

Agency and Public Review

A. Public Participation

AS 38.05.850 requires public notice of the right-of-way if DNR determines the right-of-way is not functionally revocable. While this private utility right-of-way has a fixed term, will involve minimal disturbance to the underlying soils, and by its terms can be revoked at will by DNR, it is an integral part of the larger capital-intensive Pogo Mine project. Therefore DNR has determined that it is not functionally revocable.

This decision for the Pogo Powerline Right-of-Way was included as an appendix in the Draft Environmental Impact Statement (DEIS) for the Pogo Mine Project, and received the same public review as the DEIS. This review consisted of a 60-day public review period from March 14, 2003 to May 13, 2003, a mailing of the notice of availability of the DEIS, including the DNR documents, to over 400 people and organizations, newspaper advertising in the Fairbanks Daily News Miner and the Delta Wind, and publication of the notice of availability and the DEIS and DNR documents on the DNR and State of Alaska web sites, and the Federal Register.

Two public meetings were held during the 60-day review period. The first meeting was held in Delta Junction on April 29, 2003, and 62 people signed in at the meeting. The second public meeting was held in Fairbanks on April 30, 2003, and 98 people signed in at this meeting. Also, numerous articles appeared in state and local newspapers and trade journals during the public notice period.

In addition, the Environmental Protection Agency and DNR have consulted with affected Indian Tribes and other affected organizations and agencies about the Pogo Mine Project throughout the development of the DEIS. Also, in September of 2000, two public meetings were conducted as part of the scoping process for the EIS development. A more detailed discussion of public and agency participation in this process is included in Chapter 1 of the FEIS.

The FEIS was also noticed in the Federal Register on September 19, 2003 for a 30-day public review period, and advertisements were run in the Fairbanks Daily News Miner and the Delta Wind newspapers. Notice was also sent of the FEIS availability to over 400 people and organizations on the project's mailing list.

Throughout this process, DNR staff have consulted with the agencies and organizations in the Goodpaster Review Working Group, as required by the Tanana Basin Area Plan (see Tanana Basin Area Plan above).

B. Response to Comments

184 comments were submitted to the EPA, DNR, and DEC on the Draft EIS and related agency authorizations. 55 of these were submitted at the public meetings, and the rest were submitted in writing or by e-mail.

Most of the comments supported the Agency Preferred Alternative in the DEIS, which included the Shaw Creek Hillside Route and the powerline route proposed by the applicant.

Only three comments were submitted that addressed the powerline right-of-way directly.

1) Powerline Alignment. Two commentors asked that the powerline be aligned more closely with the road, to avoid the additional disturbance and resulting impacts.

Response. Teck-Pogo has agreed to change the route of the powerline to make it follow the road alignment for the last 14 miles over the divide between the Shaw Creek and Goodpaster valleys. The powerline right-of-way will still be 125 feet wide in this area, but this new alignment will avoid any impacts to the Sutton Creek valley.

2) Powerline Clearing. One commentor asked if the powerline clearing would have any impacts on the tributary Shaw Creek watershed where the proposed route would deviate from the road alignment.

Response. As the powerline alignment has been changed to follow the road alignment and will not traverse this tributary watershed, impacts to this watershed, or any other tributary watershed, will be avoided.

Discussion

Teck-Pogo submitted its preferred route alignment to the DNR in June of 2002. The originally proposed route generally followed Teck-Pogo's preferred mine access route, the Shaw Creek Hillside All-Season Road, with the exception of a 4.5 mile deviation at Caribou Creek, and a 9-mile deviation up Sutton Creek over the divide between the Shaw Creek and Goodpaster River divide. This powerline route was one of two powerline route alternatives evaluated by the DEIS. The second alternative would have paralleled the South Ridge All-Season Road alternative, also evaluated in the Pogo Project DEIS.

As a result of public comments, Teck-Pogo has asked to change the alignment of the portion of the route across the Shaw Creek/Goodpaster divide. The changed alignment will now follow the road alignment over the divide, instead of deviating up the Sutton Creek Valley. This re-alignment will remove all associated impacts from the Sutton Creek valley.

The right-of-way will be for a 138kV transmission line and substation. The transmission line will tap into the existing Golden Valley Electric Association (GVEA) line that parallels the Trans Alaska Pipeline (TAPS) near where the proposed Shaw Creek Hillside All-Season Road will cross the pipeline at milepost 517.2. The transmission line will provide an uninterrupted power supply of up to 10 MW to the minesite. The total length of the proposed powerline is 43 miles.

The powerline design calls for spans of up to 1,100 feet between poles, which will allow for crossing creeks and gullies, and minimizing placement of poles in wetlands or areas with undesirable soils. The poles will be wood H-Frame structures, approximately 70 feet tall, with about 10 feet of pole embedded into the ground. The vegetation will be cleared to near ground level to keep vegetation below the powerlines, and to help protect the line from forest fires. Approximately 29 acres of wetlands and 42 acres of uplands would be disturbed during powerline constructions as some locations will require sidehill cuts. At each pole structure, some ground leveling might be required for pole installation, and pole and anchor installation will require auguring or excavation and backfill. Some of the wetlands will require special pile foundations for the poles. These sites will be accessed by low ground pressure vehicles in winter or via helicopter. Teck-Pogo will be required to operate vehicles in a manner that will prevent

disturbances that will expose the mineral soil to thermal degradation and erosion. In addition, winter use of vehicles, off-trail and off-road, should be limited to areas where there is adequate groundfrost and snow cover to prevent disturbance to the mineral soil.

Because the Shaw Creek Hillside All-Season Road is DNR's preferred route in its Final Decision on the road right-of-way (ADL 416809), DNR's Final Decision here is to issue the Pogo Mine powerline right-of-way along the Shaw Creek Hillside All-Season Road route.

DNR also reviewed and considered the alternative of not building the powerline, and instead utilizing on-site power generation at the minesite. DNR determined that this alternative was not preferred because of the potential environmental impacts from transporting and storing the large quantities of fuel necessary for generating this power. Also, the impacts to air quality and noise at the minesite would be greater with on-site power generation.

Substation: A substation will be constructed where the Pogo powerline taps into the GVEA transmission line. The substation will require clearing and leveling a site of about 1.4 acres in size (200' by 300'). A concrete foundation with a copper ground grid will be installed, high-voltage equipment will be installed, and the area will be fenced with an 8-foot high chainlink fence. A small control building may be constructed inside the fence.

The substation will be constructed and operated by GVEA. Initially, the substation will be within the powerline right-of-way issued by DNR. At some time in the future, it is anticipated that the land under the substation will be leased to GVEA.

Reclamation: Teck-Pogo will be required to reclaim the power line upon completion of Teck-Pogo's mining in the area in accordance with the reclamation provisions of the Right-of-Way Application for the Pogo Project. Teck-Pogo will post a reclamation bond sufficient to cover the costs of reclaiming the powerline (see Reclamation Bond/Indemnification/Insurance below).

Public Access: Because the powerline right-of-way will follow the Pogo Mine access road, and because the mine access road is proposed to be closed to public access for the portion from Gilles Creek to the mine, the powerline corridor will also be closed to public access. This is a private exclusive right-of-way, and is not intended to increase access to the Goodpaster drainage. Teck-Pogo will take measures to physically block access to the powerline corridor in the vicinity of the security gate at Gilles Creek, and at other locations along the right-of-way as necessary.

Reasonably Foreseeable, Significant Effects: The reasonably foreseeable effects of the power line include the following:

- Clearing a 125-foot wide right-of-way, to be maintained for the duration of the right-of-way. Stipulations attached to the DNR authorizations will require the trees to be cut and decked on the sides of the right-of-way or hydro-axed. Approximately 7.7 acres of wetlands and 37.8 acres of uplands would be disturbed during powerline construction. When the right-of-way is reclaimed, vegetation will reestablish itself in the previously cleared area.
- This power line is expected to have minimal viewshed impacts from the Richardson Highway. A portion of the Powerline may be visible from residences on the Shaw Creek Road.
- Impacts from increased public access and ATV use will be minimal because the powerline right-of-way will be closed and physically blocked to public access.

The effects of this right-of-way are expected to be minimal. However, since the development of this powerline right-of-way would facilitate development of the Pogo Mine Project, DNR also considered these anticipated impacts. The impacts of the entire project are discussed in Chapter 4 of the Pogo Project Final Environmental Impact Statement, herein adopted by reference.

Environmental Risk Assessment

The activity involves the construction, operation and maintenance of an overhead electrical distribution line. Gasoline and diesel powered trucks and construction equipment will be used for construction of the power line. Because the early-entry permit and right-of-way authorization will contain the standard stipulations for reporting spills and handling fuel, the environmental risk for the right-of-way is minimal.

Survey

Teck-Pogo will be required to provide the DNR with an approved survey of the right-of-way for the entire constructed powerline based upon DNR's as-built survey instructions.

Reclamation Bond/Indemnification/Insurance

Reclamation Bond: Teck-Pogo has proposed to post a \$2,256,336.00 bond prior to construction of the powerline that may be used to reclaim the route in the event Teck-Pogo is not able to complete the reclamation. DNR has made a determination that this bond amount is adequate, but may require Teck-Pogo to adjust the bond amount if further evaluation changes the reclamation costs estimate for the powerline. This bond must be payable to the State of Alaska, DNR, Division of Mining, Land and Water. The guaranty will be released upon completion of reclamation of the powerline by Teck-Pogo.

Indemnification: Upon notice from the State, Teck-Pogo will defend and indemnify the State with respect to any claim against the State alleged to arise out of the use of the Right-of-Way by Teck-Pogo or any affiliated party unless the claim against the State is based solely upon any alleged intentional act, negligence, or other misconduct on the State's part.

Insurance: Teck-Pogo will be required to maintain adequate insurance for the Pogo Project Road, consistent with the policies and limits required by the Millsite Lease. Teck-Pogo may be required to have General Commercial Liability Insurance, Auto Liability Insurance, Professional Liability Insurance, Pollution Liability Insurance and All Risk Property Insurance. For specific language regarding the requirements to maintain insurance, see Attachment 3, Special Stipulation 6.

Fees

11 AAC 05.010(e)(11) sets the fee for a private right-of-way. Under (B), if it is an exclusive right-of-way, the fee is an annual fee equal to the director's estimate of the yearly fair market rental value. The fee will be determined by an appraisal upon completion of the survey as some of the right-of-way will be within the road right-of-way. No fee will be required for the early entry authorization fee at this time. Once the appraisal and survey determine the acreage and value, the fee will be retroactive to issuance of the early entry authorization.

Term

The term for this power line right-of-way will be 15 years from time the final right-of-way permit is issued. The right-of-way is revocable and could be terminated earlier for non-use. The Director

of the DMLW may extend the term of the right-of-way authorization if the power line is required for the development of additional mineral resources or to provide power to other sources.

Early Entry Authorization/Right-of-way

Once the DNR's Final Decision on this request becomes effective, the DNR will issue Teck-Pogo a land use permit for early entry to authorize construction, use and maintenance on the right-of-way until the final right-of-way is issued. The authorization for powerline construction will be included in the early entry authorization for Shaw Creek mine access road and winter trail. The early entry authorization stipulations are found in Attachment 7 to the Pogo Project Road Final Decision (ADL 416809 and ADL 417066).

Upon submittal of the approved survey, the DNR will issue the final right-of-way to Teck-Pogo.

The right-of-way document will include the stipulations listed in Attachment 3.

Economic Benefits

Article VIII, § 1 of the Alaska Constitution states, "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." Granting a right-of-way for a powerline that would facilitate the development of the Pogo Mine Project is consistent with this policy.

This right-of-way encourages the development of the state's resources by facilitating development of the Pogo Mine Project which is projected to produce 5.6 million ounces of gold. Operations in the right-of-way must be conducted in a manner that would not unduly conflict with other users of the area, neighboring properties and residences. The right-of-way permit will specifically reserve to the State the right to grant additional authorizations to third parties for compatible uses (including other rights-of-way) on or adjacent to the land under the right-of-way. Further, the right-of-way will not convey an interest in state land and, by its terms, is revocable upon violation of any of its terms. The grantee will be required to maintain the powerline corridor in a safe, operable condition, therefore not placing a maintenance burden upon the State. Thus, the nature of a right-of-way interest, as well as the purpose for which it is sought (provide power for a mine) indicates that the grant of right-of-way is consistent with the public interest and is a good use of state land.

Issuance of a right-of-way for a mine powerline also will be consistent with surrounding land uses. The Pogo Project is on state-owned lands within the Goodpaster River Management Unit 7D of the Tanana Basin Area Plan. This entire unit is open to mineral entry and is recognized for having moderate to high mineral potential. The entire unit is to be managed for multiple-use with emphasis on recreation and wildlife habitat. The entire unit is subject to the Areawide Land Management Guidelines for Subsurface Resources in the Tanana Basin Area Plan which includes goals for the management of mineral resources in the planning area. These goals include contributing to Alaska's economy by making subsurface resources available for development, protecting integrity of the environment and affected cultures, and to aid in development of infrastructure, including roads, to support the mining industry.

The first portion of the powerline also crosses parts of the Tanana Valley State Forest, and generally coincides with a preexisting alignment for a DOF proposed road, identified in the management plan for the state forest to provide access for timber harvest and public use of these subunits of the state forest.

In issuing a right-of-way under AS 38.05.850, subsection (a) states that, “[DNR] shall give preference to that use of the land that will be of greatest economic benefit to the state and the development of its resources.” In making this greatest economic benefit determination, DNR reviews its land use planning documents for initial direction, and considers the direct economic benefits to the State, the indirect economic benefits and whether the project encourages the development of State resources (such as gold mining). DNR also examines the negative (such as economic impacts to neighboring businesses) and positive (such as to the value of neighboring state lands) economic impacts to neighboring uses and compares them with the economic benefit of the proposed use. Taking all of this information into consideration (economic benefit of the right-of-way, any economic benefit from a directly competing project and any economic benefit or detriment to neighboring uses), DNR then determines whether the proposed right-of-way provides the greatest economic benefit to the State and the development of its resources (as opposed to leaving the land undeveloped or allowing another use of that land). DNR may also look at how the economic benefits change if the project is configured differently. In the case of the powerline right-of-way, there is no other project directly competing for use of the land. Some of the current uses of state land crossed by the right-of-way are timber harvesting, mineral exploration, viewshed, recreation, hunting, fishing, and subsistence.

In making its decision under 850(a), DNR is incorporating by reference the extensive socioeconomic analysis of the Pogo Mine Project that is part of the DEIS. Section 3.16 of the DEIS is a detailed analysis of the existing socioeconomics of the Pogo Project area, including Delta Junction, Fairbanks North Star Borough, and other communities in the project vicinity. Section 4.11 of the DEIS analyzed the consequences of the Pogo Project on the socioeconomics of the area. It is clear from this analysis that the economic benefits to the region and to Alaska of the use of this land for the Pogo Mine access far outweigh any potential negative economic benefits.

Capital development costs for the Pogo Project are estimated at \$250 million. Up to 700 workers would be employed during the two-year construction period for the Pogo Mine. At full operation, the permanent work force for the mine would total up to 360 workers. Including indirect jobs created by the mine, the Delta area workforce could increase by up to 175 workers, which is anticipated to lead to a 17% increase in the Delta area population (by about 350 residents). Up to 425 new jobs would be created in the Fairbanks North Star Borough, increasing the total population by up to 850 residents.

The average wage at the mine is estimated to be \$66,048/year (source: Pogo Mine FEIS), and the mine’s annual payroll is estimated to be about \$25.4 million. Including indirect jobs created by the mine, Delta’s share of the annual payroll would be up to \$9.4 million annually, or 20% of the Delta areas total payroll. The remaining share of the mine’s annual payroll, including indirect jobs, is estimated to be approximately \$27 million, and would mostly benefit the Fairbanks North Star Borough.

In addition, if a borough is formed for the local area which includes the Pogo Mine, substantial tax revenues could be realized by this new borough from the property taxes on the mine.

Direct economic benefits to the state could amount to as much as \$1,475,000. The direct benefits to the state are those that will occur directly from Teck-Pogo or as a consequence of the Pogo Mine Project, which this right-of-way facilitates. These benefits are estimated below:

- **Road Right-of-Way fee: \$129,624.** This figure is based on a value of \$300/acre, which is the appraised value of the TAPS right-of-way at the location where it crosses the proposed Pogo right-of-way. The Pogo right-of-way would contain approximately 890 acres.

- **Powerline Right-of-Way fee: \$172,000.** This figure is based on 11 annual payments of \$15,636, which is the estimated annual rental fair market value of the powerline right-of-way (the annual rental is 8% of the fair market value of \$195,300, based on \$300/acre for 651 acres).
- **Millsite Lease Rental: \$785,840.** This figure is based on 11 annual payments of \$71,440, the annual rental fair market value of the millsite lease (8% of \$893,000, based on \$250/acre for 3572 acres. The per/acre value is based on the appraisal for the True North millsite lease).
- **Material use fees: \$352,500.** Please refer to the preliminary decision for the Pogo Project material sales (ADL #416816) for the basis for this figure.
- **Uplands mining lease: \$26,236.**
- **Surface lease for staging area: \$8,800.** Recent land sales in the area indicate values between \$1000 and \$2000 per acre. Estimating a value of \$1500/acre, the staging area's FMV would be \$10,050.00, and the annual rental would be \$804 for 11 years.

There is a possibility that the state will recognize added direct benefits from this right-of-way as a result of royalties and taxes. However, royalties and taxes are largely dependant on the mine making a net profit. As such, the amounts that may become due are not yet known and are speculative. These are explained below:

- **Royalties:** The Pogo Gold deposit occurs on state lands. Therefore, it is subject to a production royalty of 3 percent of net profits paid to the State of Alaska. Assuming favorable gold prices, it is anticipated that the Pogo project will pay a significant production royalty to the state during operation.
- **Mining License Tax:** All mines in Alaska are subject to a Mining License Tax. This is a graduated tax imposed on net profits generated from mining activities. If net profits are less than \$40,000, the amount due is \$0.00; if net profits are greater than \$40,000 and less than \$50,000, the amount due is \$1,200 plus 3 percent of the excess greater than \$40,000; if net profits are greater than \$50,000 and less than \$100,000, the amount due is \$1,500 plus 5 percent of the excess over \$50,000; if net profits are greater than \$100,000, the amount due is 7 percent of the excess over \$100,000. There is a 3.5 year holiday from mining license tax at the start of a mining operation. Assuming favorable gold prices, it is anticipated that the Pogo project will pay significant mining license taxes to the state during its mine life.
- **Corporate Income Tax:** All corporations operating in Alaska, regardless of the business they undertake, are subject to Corporate Income Tax. Corporate tax rates in Alaska are based on net income and are graduated from 1 percent to 9.4 percent based on increments of \$10,000 of taxable income. The 9.4 percent maximum rate applies to taxable income of \$90,000 or more. Assuming favorable gold prices, it is anticipated that the Pogo project will pay significant corporate income taxes to the state during its mine life.

There are currently no other known competing projects for the right-of-way or in the vicinity of the right-of-way. However, potential negative impacts to uses in this area from the Pogo Project in general may include a possible reduction in property values to the 6 households of Shaw Creek Road, possible loss of revenues to any commercial hunting guides that may use portions of the project area, and possible impacts to the subsistence economy of the local residents. These negative impacts are expected to be small (see discussion above, and in the Pogo Project Road Final Decision, sections IX.I, IX.L, IX.M, and Chapter 4 of the FEIS), and certainly be outweighed by the positive economic benefits of the project.

Viewed in its entirety, the economic benefits of issuing the right-of-way substantially outweigh any potential negative effects. In addition to the benefits to the state and the development of its resources, the Fairbanks and Delta Junction areas would receive an immediate benefit from

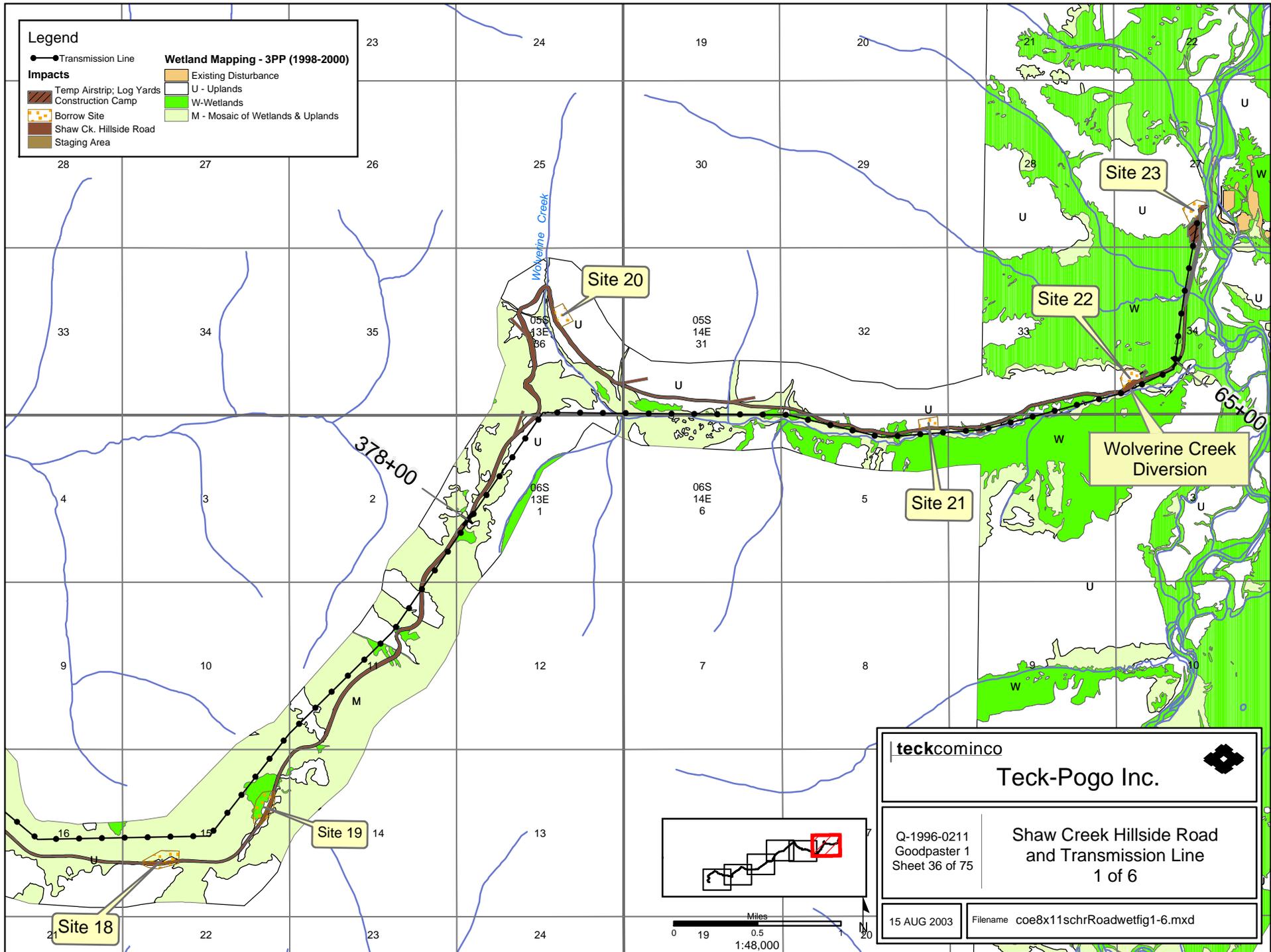
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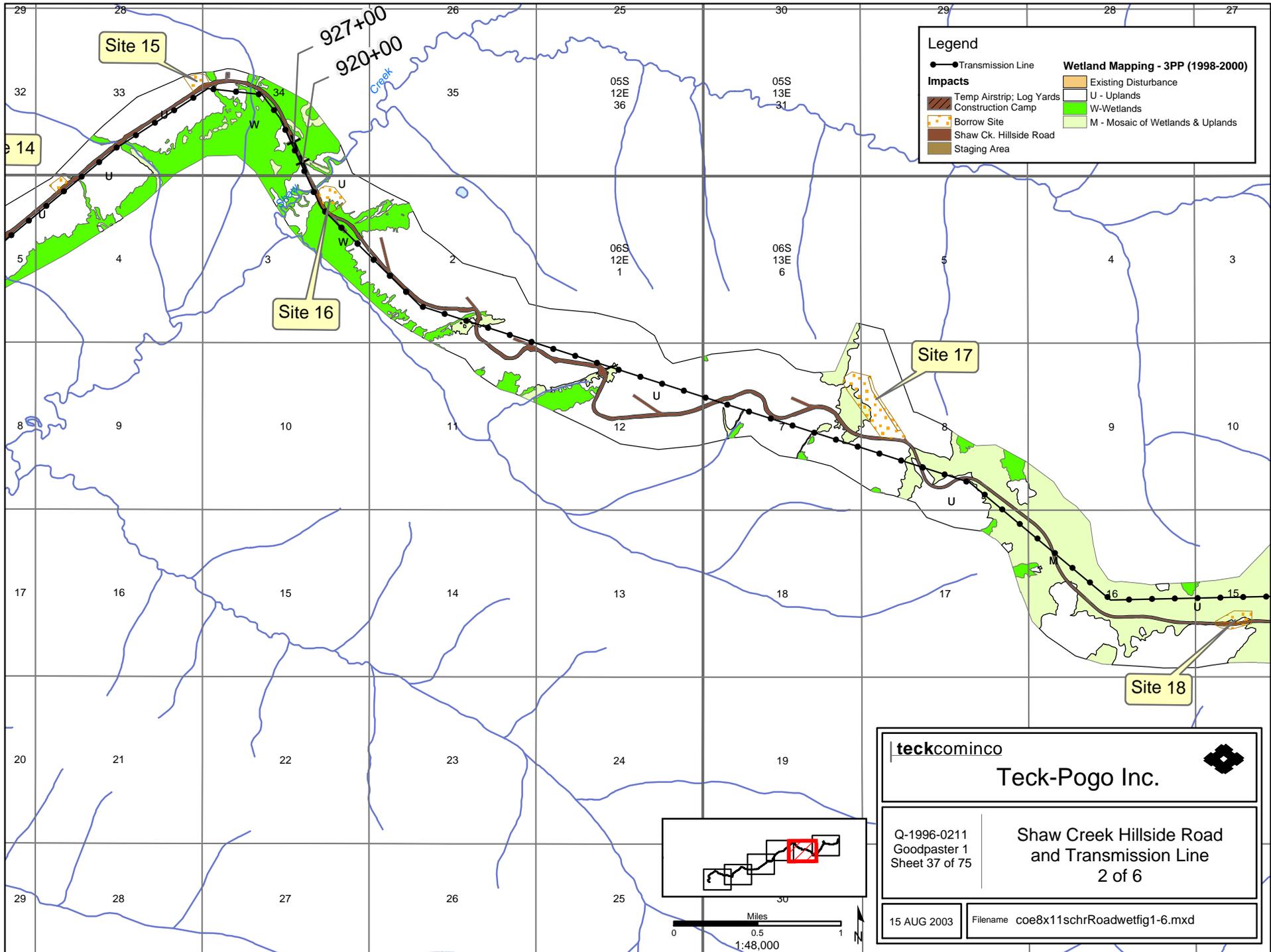
This is a final administrative order and decision of the department for purposes of an appeal to Superior Court. A person adversely affected by this final order and decision may (1) appeal to Superior Court within 30 days in accordance with the rules of the court, and to the extent permitted by applicable law, or (2) first request reconsideration of this decision, in accordance with AS 44.37.011 and 11 AAC 02.020, to Tom Irwin, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501. Any such request for reconsideration must be received at that address, or received by being faxed to 1-907-269-8918, by January 7, 2004. Failure of the commissioner to act on a request for reconsideration by January 17, 2004 is a denial of reconsideration and is also a final administrative order and decision for purposes of an appeal to Superior Court. It may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources. This decision goes into effect January 18, 2004 unless the commissioner first orders reconsideration.

At the time a request for reconsideration is filed, an appellant may submit additional written material to support it, including evidence or legal argument. If the Commissioner orders reconsideration and if the Commissioner in his discretion under 11 AAC 02.050(a) further determines that there are questions of fact to be resolved that require a hearing, the hearing will be held in Fairbanks on January 12, 2004 at 10:00 A.M. at the Department of Natural Resources offices in Fairbanks, located at 3700 Airport Way. The hearing procedures under 11 AAC 02.050(b) will be announced at the time of his determination, if any. If a hearing is held, an appellant may submit additional written material at the hearing.

Attachments

- Attachment 1: Map of power line
- Attachment 2: Land Status Map
- Attachment 3: Special Stipulations





Legend

- Transmission Line
- Existing Disturbance
- U - Uplands
- W - Wetlands
- M - Mosaic of Wetlands & Uplands
- Temp Airstrip; Log Yards
- Construction Camp
- Borrow Site
- Shaw Ck. Hillside Road
- Staging Area

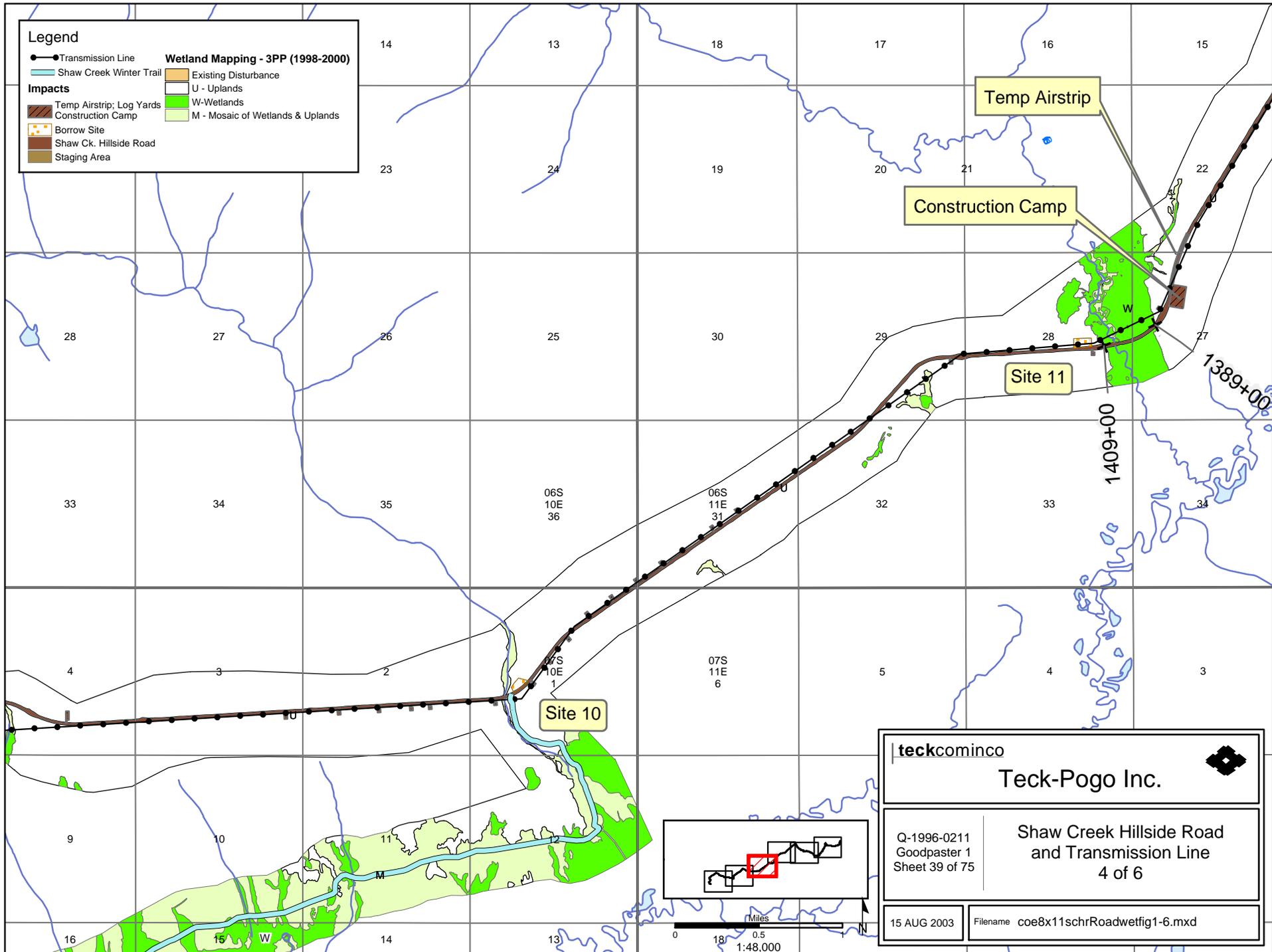
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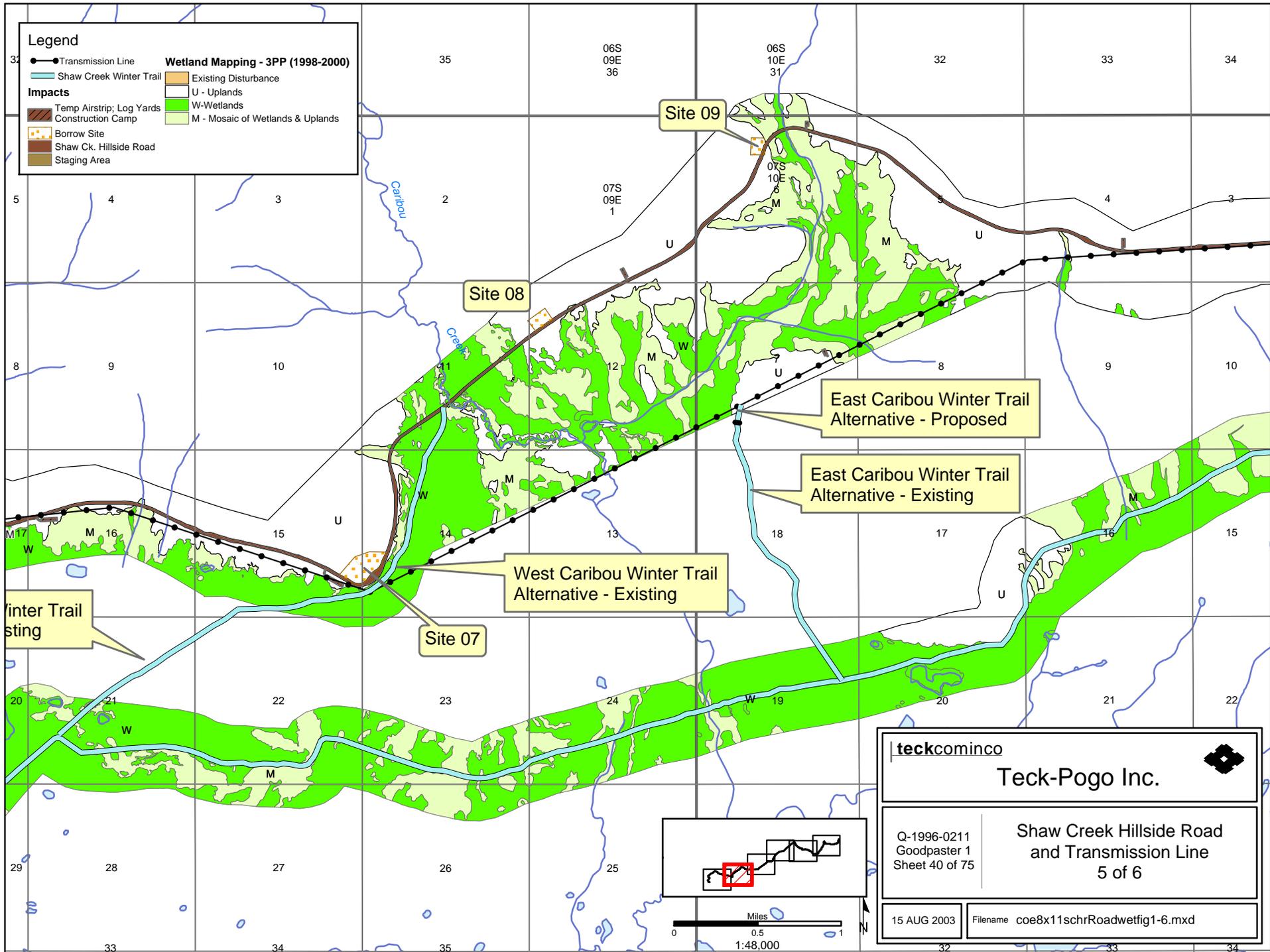
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Sheet 37 of 75

**Shaw Creek Hillside Road
and Transmission Line**
2 of 6

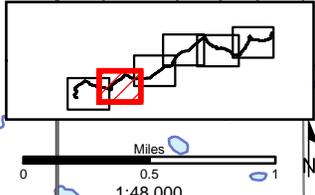
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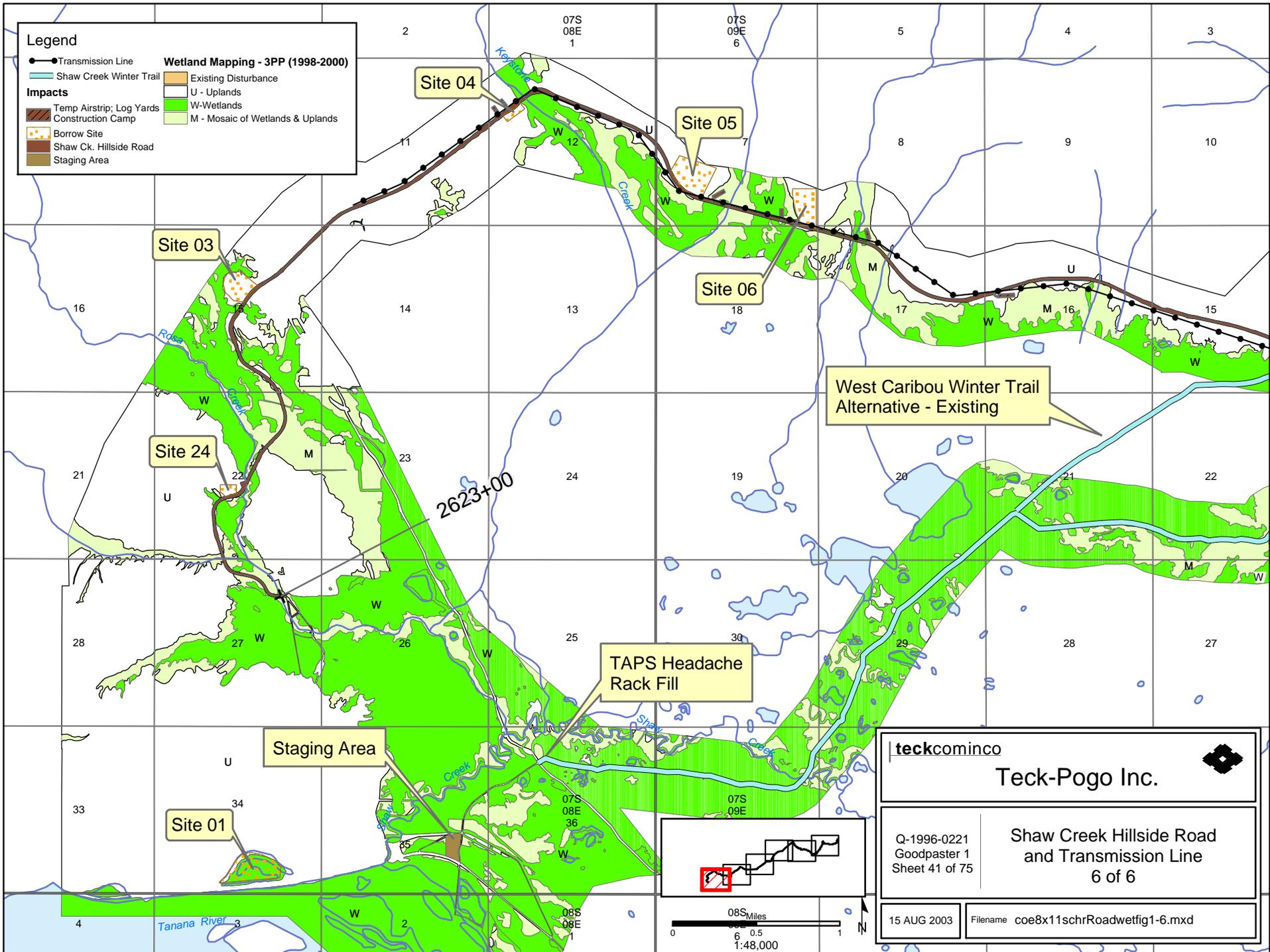


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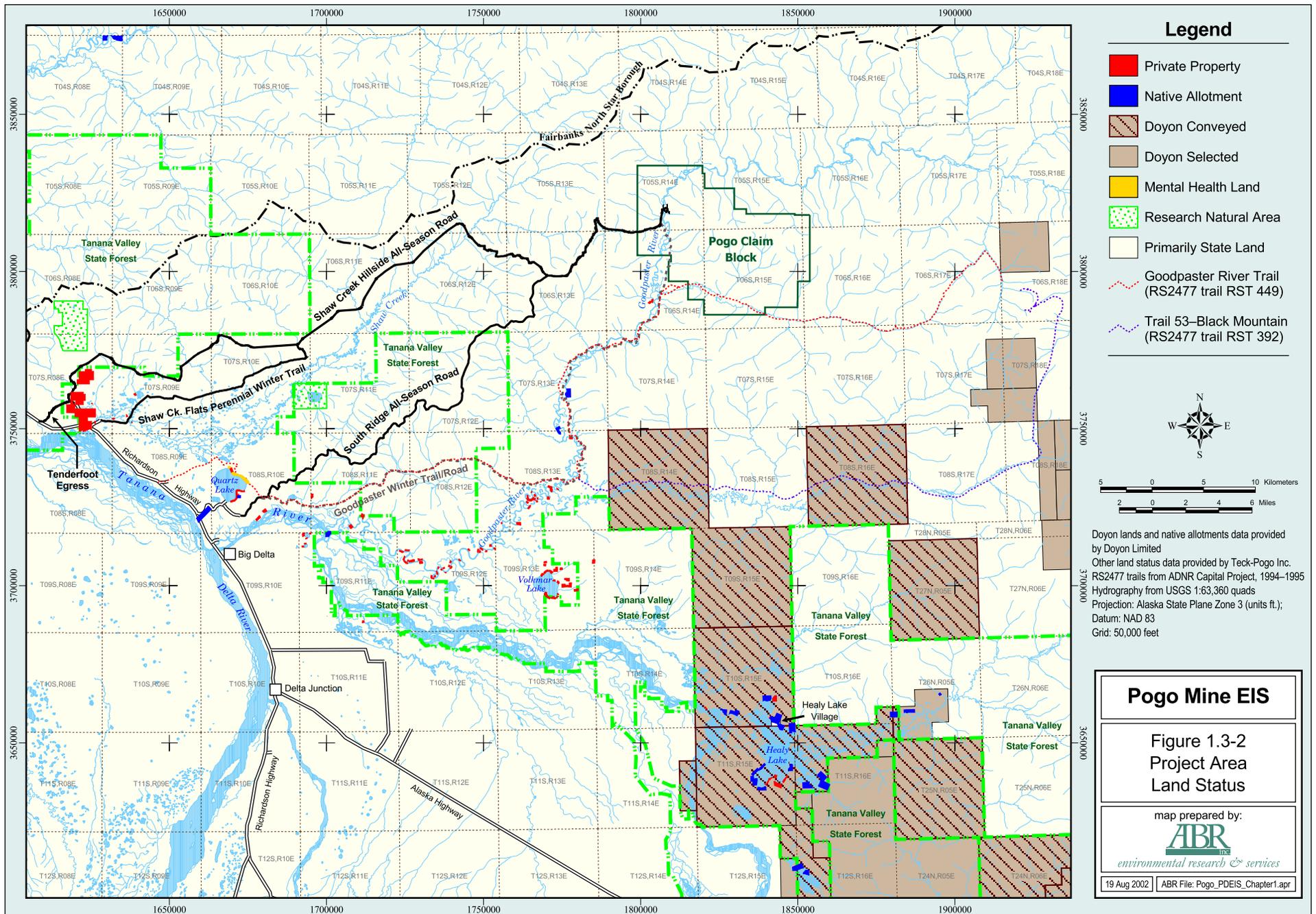


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Q-1996-0211 Goodpaster 1 Sheet 40 of 75	Shaw Creek Hillside Road and Transmission Line 5 of 6		
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Attachment 2: Land Status Map



Legend

- Private Property
- Native Allotment
- Doyon Conveyed
- Doyon Selected
- Mental Health Land
- Research Natural Area
- Primarily State Land
- Goodpaster River Trail (RS2477 trail RST 449)
- Trail 53-Black Mountain (RS2477 trail RST 392)



Doyon lands and native allotments data provided by Doyon Limited
 Other land status data provided by Teck-Pogo Inc.
 RS2477 trails from ADNR Capital Project, 1994-1995
 Hydrography from USGS 1:63,360 quads
 Projection: Alaska State Plane Zone 3 (units ft.);
 Datum: NAD 83
 Grid: 50,000 feet

Pogo Mine EIS

Figure 1.3-2
 Project Area
 Land Status

map prepared by:


Attachment 3

Pogo Project Powerline Right-of-way
Special Stipulations

1. **Authorized Officer.** The Authorized Officer for the Department of Natural Resources is the Northern Regional Manager or designee appointed in writing. The Authorized Officer may be contacted at 3700 Airport Way, Fairbanks, Alaska 99709 or 907-451-2740. The Authorized Officer reserves the right to modify these stipulations or use additional stipulations as deemed necessary. To proceed in areas other than approved, Teck-Pogo (Permittee) must have prior approval from the authorized officer.
2. **Indemnification.** Upon notice from the State, Teck-Pogo will defend and indemnify the State with respect to any claim against the State alleged to arise out of the use of the Right-of-Way by Teck-Pogo or any affiliated party unless the claim against the State is based solely upon any alleged intentional act, negligence, or other misconduct on the State's part.
3. **Valid Existing Rights.** This authorization is subject to all valid existing rights in and to the land under this authorization. The State of Alaska makes no representations or warranties whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
4. **Reservation of Rights.** The Division reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land under this authorization.
5. **Reclamation and Reclamation Bond.** The powerline will be reclaimed to the satisfaction of the Authorized Officer. This powerline authorization is covered by the Pogo Mine Reclamation Bond.
6. **Insurance.** Teck-Pogo will be required to maintain adequate insurance for the Pogo Project powerline, consistent with the policies and limits required by the Pogo Mine Millsite Lease. Teck-Pogo may be required to have General Commercial Liability Insurance, Auto Liability Insurance, Professional Liability Insurance, Statutory Alaska Worker's Compensation and Employer's Liability Insurance, Pollution Liability Insurance and All Risk Property Insurance.
7. **Preference Right.** No preference right for use or conveyance of the land is granted or implied by this authorization.
8. **Alaska Historic Preservation Act.** Teck-Pogo will comply with the stipulations of the Programmatic Agreement By and Among The Advisory Council on Historic Preservation, The U.S. Environmental Protection Agency, The U.S. Army Corps of Engineers, The State of Alaska, and The Alaska State Historic Preservation Officer Regarding the Pogo Gold Mine Project, executed on August 12, 2003.
9. **Assignment.** This permit may be transferred or assigned with prior written approval from the Authorized Officer.
10. **Inspection.** Authorized representatives of the State of Alaska shall have reasonable access (as determined by the state) to the subject parcel for purposes of inspection or land management purposes. The Permittee may be charged fees under 11 AAC 05.010(a)(7)(M) for routine inspections of the subject parcel, inspections concerning non-compliance, and a final close-out inspection.

11. **Compliance with Governmental Requirements.** Permittee shall, at its expense, comply with all applicable laws, regulations, rules and orders, and the requirements and stipulations included in this authorization. Permittee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
12. **Other Authorizations.** The issuance of this authorization does not alleviate the necessity of the Permittee to obtain authorizations required by other agencies for this activity.
13. **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 (federal and state). A revocation may not become effective until 60 days after the Permittee has been notified in writing of the violation during which time the Permittee has an opportunity to cure any such violation.
14. **Use Fee.** Teck-Pogo will be required to pay \$_____ per year for use of the right-of-way (to be determined by the appraisal). No fee will be required for the early entry authorization fee at this time. Once the appraisal and survey determine the acreage and value, the fee will be retroactive to issuance of the early entry authorization. Subsequent use fees are due on or before the anniversary date of this authorization.
15. **Term:** The term of the right-of-way is 15 years. The Director of the DMLW may extend the right-of-way authorization if the powerline is required by Teck-Pogo for the development of additional mineral resources.
16. **Late Payment Penalty Charges.** The Permittee shall pay a fee for any late payment. The amount of the fee is the greater of either the fee specified in 11 AAC 05.010(a)(16)(A), or interest at the rate set by AS 45.45.010(a), and will be assessed on a past-due account until payment is received by the state. A returned check fee as provided in 11 AAC 05.010(a)(16)(B) will be assessed for any check on which the bank refuses payment. Late payment fees shall continue to accumulate until payment is received by the State.
17. **Change of Address.** Teck-Pogo shall maintain a current address with the Division. Any change of address must be submitted in writing to the Authorized Officer.
18. **Construction and Maintenance.** The State assumes no responsibility for construction and maintenance of improvements constructed on state land nor liability for injuries or damages attributable to that construction. The Permittee shall construct and maintain the powerline to Teck-Pogo's design standards for the life of the Pogo Mine. The area subject to this authorization shall be maintained in a neat, clean and safe condition, free of any solid waste, debris or litter.
19. **Forest Resources.** All non-merchantable timber less than nine inches in diameter measured at 4.5 feet above the ground (called Diameter Breast Height (DBH)), brush, and slash shall be disposed of in an approved manner to minimize the risk of fire, insects and disease.
20. **Fire Prevention, Protection, and Liability.** Teck-Pogo shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires and shall assume full liability for fire suppression costs and any damages to state land resulting from escaped fire.
21. **Destruction of Markers.** All survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed lease corner posts shall be protected against damage, destruction, or obliteration. The Permittee shall notify the Authorized Officer

of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the Permittee's expense in accordance with accepted survey practices of the Division of Land.

22. **Operation of Vehicles on the Powerline Right-of-way.** The operation of vehicles will be undertaken to prevent disturbances that will expose the mineral soil to thermal degradation and erosion. Winter use of vehicles, off-trail and off-road, should be limited to areas where there is adequate groundfrost and snow cover to prevent disturbance to the mineral soil.
23. **Fuel and hazardous substances.** No fuel or hazardous substances may be stored on the right-of-way.
24. **Notification.** The Permittee shall immediately notify DNR and DEC by phone of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported.

The DNR 24 hour spill report number is (907) 451-2678; the Fax number is (907) 451-2751. The DEC spill report number is (800) 478-9300. DNR and DEC shall be supplied with all follow-up incident reports.

25. **Public Access.** The Permittee shall take all measures necessary to block access to the portion of the powerline corridor from Gilles Creek to the mine. Appropriate signage must be installed to inform the public that public access is prohibited on this portion of the corridor. Teck-Pogo may implement reasonable and appropriate security measures, as approved by DNR, to comply with this stipulation. Otherwise, there shall be no interference with free public use of state lands.