

Attachment 6

FGMI True North Project Road Right-of-way
Proposed Special Stipulations

1. **Authorized Officer.** The Authorized Officer for the Department of Natural Resources is the Northern Regional Manager or designee. 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.
2. **Indemnification. Standard Stipulation #4 is amended to read as follows:** FGMI assumes all responsibility, risk, and liability for all activities conducted by FGMI on the public rights-of-way, including construction, maintenance, and environmental and hazardous substances risks and liabilities that occur during their use of the right-of-way. FGMI shall defend, indemnify, and hold harmless the state and its employees from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by or on behalf of FGMI on the rights-of-way, including acts or omissions of independent contractors, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the state or anyone acting on the state's behalf. Within 15 days FGMI shall accept any such cause or action or proceeding upon tender by the state.

Environmental and hazardous substance risks and liabilities may survive FGMI's use of the road.

FGMI shall require that all indemnities obtained from all contractors and subcontractors, of FGMI, be extended to include the state as an additional named indemnitee.

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. **Performance Guaranty.** The permittee shall provide a surety bond or other form of security acceptable to the Division in the amount of \$ _____ payable to the State of Alaska. Such performance guaranty shall remain in effect for the term of this authorization and shall secure performance of the permittee's obligations hereunder. The amount of the performance guaranty may be adjusted by the Authorized Officer upon approval of amendments to this authorization, changes in the development plan, upon any change in the activities conducted or performance

of operations conducted on the premises. If Permittee fails to perform the obligations under this permit within a reasonable time, the State may perform Permittee's obligations at Permittee's expense. Permittee agrees to pay within 20 days following demand, all costs and expenses reasonably incurred by the State of Alaska as a result of the failure of the permittee to comply with the terms of this permit. The provisions of this permit shall not prejudice the State's right to obtain a remedy under any law or regulation. If the authorized officer determines that the permittee has satisfied the terms and conditions of this authorization the performance guaranty may be released. The performance guaranty may only be released in a writing signed by the Authorized Officer.

6. **Insurance.** The DMLW will determine the appropriate levels of insurance to protect the state's interests prior to the Final Decision.
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.** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state-owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Outdoor Recreation (907) 269-8720 and shall be notified immediately.
9. **Termination.** This permit does not convey an interest in state land and as such is revocable immediately, with or without cause.
10. **Assignment.** This permit may be transferred or assigned with prior written approval from the Authorized Officer.
11. **Road Construction.** Drainage structures shall be adequate in size and number to maintain natural drainage patterns. They shall be properly located and maintained to prevent ponding and erosion.
12. **Survey.** The permittee shall submit a survey, depicting the as-built location of the road, acceptable to the standards of the Division of Land prior to the expiration of this early entry authorization.
13. **Inspection.** Authorized representatives of the State of Alaska shall have reasonable access to the subject parcel for purposes of inspection. 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.
14. **Compliance with Governmental Requirements; Recovery of Costs.** 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.

- 15. 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.
- 16. Violations.** This authorization is revocable immediately 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). Should any unlawful discharge, leakage, spillage, emission, or pollution of any type occur due to permittee's, or its employees', agents', contractors', subcontractors', licensees', or invitees' act or omission, permittee, at its expense shall be obligated to clean the area to the reasonable satisfaction of the State of Alaska.
- 17. Amendments.** To proceed in areas other than approved, the applicant must have prior authorization from the Northern Regional Office of the Division of Mining, Land and Water.
- 18. Use Fee.**

On state managed and owned lands, not including School Trust Lands, FGMI shall pay to the Division an annual use fee of \$ _____ without the necessity of any billing by the Division. The fee for a private non-exclusive right-of-way is set by 11 AAC 050.010(e)(11)(A) as "an annual fee of \$100 per acre, but not less than \$200." This fee will apply to the right-of-way width on state owned and managed land, not including School Trust lands, and lands where the DMLW is authorizing construction, use and maintenance of RS 2477 or Omnibus Act road rights-of-way under a land use permit.

On School Trust Lands, FGMI shall pay a one time fee of \$ _____. FGMI will be required to obtain an appraisal to determine the full, fair market value at the highest and best use of the School Trust lands prior to the expiration of this early entry authorization.

The use fee is due on or before the anniversary of the effective date of this permit without the necessity of any billing by the Division.

This use fee is subject to adjustments in the fee schedule set forth in 11 AAC 05.010.

Material Pricing: FGMI will purchase any material that is removed from state land during road construction. The sand, gravel, and soft rock price is \$ 1.10 per cubic yard, if the amount is less than 2500 cubic yards, or \$1.00 if the amount is over 2500 cubic yards. The common rock price is \$ 1.50 per cubic yard, if the amount is less than 2500 cubic yards, or \$1.40 if the amount is over 2500 cubic yards. FGMI will be required to submit an accounting of the material removed from state land and payment for the material by a date to be specified in the early entry authorization/land use permit.

19. **Term:** The term of the early entry authorization will be one year. The term of the right-of-way is 10 years. The Director of the DMLW may extend the right-of-way authorization if the road is required for the development of additional mineral resources.
20. **Late Payment Penalty Charges.** The permittee shall pay a fee for any late payment. The amount is the greater of either the fee specified in 11 AAC 05.010 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.
21. **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. Late payment penalties shall continue to accumulate.
22. **Change of Address.** Any change of address must be submitted in writing to the Authorized Officer.
23. **Maintenance.** The State assumes no responsibility for maintenance of improvements constructed on state land nor liability for injuries or damages attributable to that construction.
24. **Forest Resources.** Timber less than six inches in diameter, brush, and slash shall be disposed of to minimize the risk of fire and disease. Marketable timber (6" DBH and larger) will be felled, limbed, topped at 4" diameter and stacked. To determine proper disposal methods, the permittee shall contact the Division of Forestry at 907-451-2600.

Clearing of vegetation shall be kept to the minimum necessary. Clearing shall only occur within the authorized area.
25. **Fire Prevention, Protection, and Liability.** The permittee shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires and shall assume full liability for any damages to state land resulting from the negligent use of fire.
26. **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.
27. **Site Maintenance.** The area subject to this authorization shall be maintained in a neat, clean and safe condition, free of any solid waste, debris or litter.
28. **Fuel and hazardous substances.** No fuel or hazardous substances may be stored on the right-of-way. The use and storage of hazardous substances by the permittee must be done in accordance with existing federal, state, and local laws, regulations,

and ordinances. Hazardous substances must be removed from the site and managed in accordance with state and federal law. 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 site and managed and disposed of in accordance with state and federal law. The site shall be protected from leaking or dripping hazardous substances or fuel during construction and maintenance of the right-of-way. The permittee shall place drip pans or other surface liners designed to catch and hold fluids under the parked equipment and vehicles, or the permittee shall develop an area for storage using an impermeable liner or other suitable containment mechanism.

29. **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.

30. **Public Access.** All operations must be conducted in a manner that will ensure minimum conflict with other users of the area. There shall be no interference with free public use of state lands. Public access may not be restricted without prior approval of the Authorized Officer.

31. **Required Plans.** FGMI will submit the following plans.

Transportation Plan: FGMI will be required to prepare a Transportation Plan for submittal to DMLW prior to using the road to haul ore. The plan shall address the volume of traffic, hours of operation, road signage and traffic patterns, road closures, dust abatement, and reasonable and practical alternatives for mitigating these concerns. The plan shall also address light and noise mitigation. The plan shall address the best reasonable, practical alternatives to reduce light and noise concerns associated with the over-the-highway trucks use of the True North Project Road.

Revegetation Plan: FGMI will be required to submit a Revegetation Plan prior to beginning road construction. The plan will address revegetating cuts and fills to reduce the visual impact of the road and to reduce the potential for erosion.

Reclamation and Maintenance Plan: FGMI will be required to submit a Reclamation and Maintenance Plan within 120 days of completion of reclamation on the True North Project, or a upon a request that the right-of-way be transferred to another entity. The plan will address long-term maintenance of the road.

Road Design Plan: FGMI shall submit for review, prior to beginning construction, a complete set of road designs. An engineer registered in Alaska shall stamp the road design plans.