



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

DIVISION OF MINING, LAND & WATER
Mining Section

MINE PERMITTING FAIRBANKS
3700 Airport Way
Fairbanks, Alaska 99709
Main: 907.458-6896
Fax: 907.451-2703
dnr.fbx.mining@alaska.gov

Graphite One (Alaska)
777 Hornby St. Suite 600
Vancouver BC V6Z 1S4

Kougarok LLC
P.O. Box 1712
Nome AK 99762

RE: Multi-Year 2022-2026 APMA 2299– Permit Replacement

Dear Graphite One (Alaska) & Kougarok LLC:

Please find enclosed a new Miscellaneous Land Use Permit for Hardrock Exploration & Reclamation related to the Application for Permits to Mine in Alaska (APMA) #2299. This new permit is intended to replace the previous permit due to the updated mining plan to include a trench for bulk sampling and construction of an exploration trail for the purpose of moving drill rigs within claim block.

Please be sure to discard the previous permit and begin using this new permit. If you have any questions, you may reach me with the contact information shown below.

Sincerely,

A handwritten signature in blue ink that reads "Dave Charron".

Dave Charron
Dept. of Natural Resources – Mining Section
Phone: 907-451-2736 Fax: 907-451-2703

A handwritten date in blue ink that reads "6/2/23".

Date



THE STATE
of **ALASKA**
DIVISION *of* MINING,
LAND *and* WATER

**MISCELLANEOUS LAND USE PERMIT
FOR HARDROCK EXPLORATION & RECLAMATION**

**PERMIT # 2299
Amendment #2**

The Alaska Department of Natural Resources, Division of Mining, Land, & Water, in accordance with and subject to the requirements and general stipulations of Alaska Statute 27.19 (Reclamation), Alaska Statute 38.05 (Alaska Land Act); and Alaska Administrative Code Title 11, Chapter 86 (Mining Rights), Chapter 96 (Miscellaneous Land Use), and Chapter 97 (Mining Reclamation) does hereby grant a Miscellaneous Land Use Permit to:

GRAPHITE ONE (ALASKA)
777 HORNBY ST. SUITE 600
VANCOUVER, BC ~~V6Z~~ 1S4

KOUGAROK LLC
P.O. BOX 1712
NOME, AK 99762

This permit is for activities upon State lands described by the following locations: See Attached List, excluding valid, prior, and existing mineral rights. All activities are subject to the Terms of Permit attached hereto and made a part hereof.

This permit is valid through 12/31/2026, unless sooner revoked at will or for cause. You have submitted a Letter of Intent to do Reclamation and are exempt from reclamation bonding. In accordance with AS 27.19.050(c), you are required to file an Annual Reclamation Statement by December 31st each year this permit application is in effect, including photographs or video tape of the completed reclamation work. When submitting photography for approval, please photograph reclamation work prior to snowfall.

Activities may only be conducted on mineral locations listed in this authorization.

Changes to the originally permitted activity described in Application for Permits to Mine in Alaska # 2299 shall be submitted to this office in writing and approved in advance before such work can begin.

This decision takes effect immediately.

Approved: _____

Dave Charron
Dave Charron
Authorized Officer

Date: _____

6/2/23

TERMS OF PERMIT

Sec 1. RECLAMATION STIPULATIONS:

In accordance with AS 38.05 (Alaska Land Act), approval of your application is hereby granted, and the following reclamation stipulations will be used:

- a. Topsoil and overburden muck, not promptly redistributed to an area being reclaimed, shall be separated and stockpiled for future use. This material shall be protected from erosion and contamination by acidic or toxic materials and shall not be buried by broken rock.
- b. The area reclaimed shall be reshaped to blend with surrounding physiography using strippings, and overburden, then be stabilized to a condition that shall retain sufficient moisture to allow for natural revegetation.
- c. Stockpiled topsoil, overburden muck and organic material shall be spread over the contoured exploration to promote natural plant growth.
- d. Exploration trenches shall be backfilled, and the surface stabilized to prevent erosion. Brush piles, stumps, topsoil, and other organics shall be spread on the backfilled surface to inhibit erosion and promote natural revegetation. Exploration trenches will have water bars installed as needed for erosion control. Exploration trenches on state lands shall be flagged and signs posted to notify the public of the existence of the open trenches. All exploration trenches shall be reclaimed by the end of the exploration season in which they are constructed, unless specifically approved by the Division of Mining, Land & Water.
- e. Shallow auger holes (limited to depth of overburden) shall be backfilled with drill cuttings or other locally available material in such a manner that closes the hole to minimize the risk to humans, livestock and wildlife.
- f. All drill hole casings shall be removed or cut off at, or below, ground level.
- g. All drill holes shall be plugged by the end of the exploration season during which they are drilled, unless otherwise specifically approved by the Division of Mining, Land & Water.
- h. All drill holes shall be plugged with bentonite holeplug, a benseal mud, or equivalent slurry, for a minimum of 10 feet within the top 20 feet of the drill hole in competent material. The remainder of the hole will be backfilled to the surface with drill cuttings. If water is encountered in any drill hole, a minimum of 7 feet of bentonite holeplug, a benseal mud, or equivalent slurry shall be placed immediately above the static water level in the drill hole. Complete filling of the drill holes, from bottom to top, with a bentonite holeplug, benseal mud, or equivalent slurry is also permitted and is considered to be the preferred method of hole closure.
- i. If artesian conditions are encountered, the operator shall contact the Department of Environmental Conservation (907) 451-2136 for hole plugging requirements.
- j. Upon completion of drilling activity, drill pads shall be reclaimed as necessary, including reseeding, to encourage natural revegetation of the sites and protect them from erosion.
- k. Roads and surface disturbance shall be held to a minimum. Exploration roads, drills pads and trenches shall be constructed in such a manner that vegetation and topsoil will not be buried beneath overburden or broken rock. This may require the use of a track excavator for construction of these facilities on slopes so as to allow for segregation of materials during construction and subsequent reclamation. Exploration roads will have water bars installed for erosion control, and at the end of the project will be reclaimed by backfilling, contouring, and spreading of organic rich overburden to promote stabilization and natural revegetation.

Sec 2. OPERATION OF VEHICLES OUTSIDE OF CLAIM BLOCK: This permit does not authorize any operation of vehicles outside of the claim block. Operation of vehicles outside of the claim block must be within the scope of generally allowed uses as described in 11 AAC 96.020-.025.

Sec 3. GENERAL PROVISIONS: Operations under this permit shall be conducted in conformance with applicable Federal, State, and local laws and regulations now, or hereafter, in effect during the life of the permit.

Sec 4. SURFACE USE. A locator does not have exclusive use of the surface of the location. A locator may not restrict public access to the surface without approved authorization. (11 AAC 86.145) Issuance of this permit is not automatic authorization to restrict public access. In accordance with Alaska Statute 02.20.050, no airstrip,

public or private, may be blocked or rutted in such a way as to endanger aircraft.

Sec 5. SURFACE STRUCTURES: The building, placing, or use of surface structures or other surface improvements, including airstrips and roads, within the boundaries of a mining property must be approved by the Director, in writing, through a plan of operations, land use permit, or other written authorization. (11 AAC 86.145) As indicated above, roads and airstrips cannot be blocked to restrict public access. Issuance of this permit is not automatic authorization for surface structures to remain beyond the expiration of this permit. Upon the expiration of this permit, if surface structures remain, they must be immediately authorized through another operations approval and land use permit or other written authorization, even if no mining is occurring, otherwise the surface structures will be deemed to be in trespass.

- a. The request to place and utilize and/or use existing structures listed in the application, during the time frame of seasonal mining activity is approved, subject to the stipulations contained in Section 8 of this authorization. Use of structures is authorized only for activities directly associated with the mining operations de-scribed in the application. Mining camp facilities shall not be used to conduct or support tourism related activities, hunting, fishing, or outfitting.
- b. Structures shall not be placed within 100 ft of a water body. Under unique or special circumstances, the Authorized Officer may grant exception to this stipulation on a case-by-case basis. Requests for exceptions should be made to the Authorized Officer.
- c. Improvements, additions to, or enlargements of the existing structure are not authorized. Routine maintenance and upkeep is permitted. Routine maintenance is defined as normal and minor repairs which do not increase the size or scope of the existing structure.

Sec 6. OTHER OPERATIONS:

- a. The Division reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land under this authorization. 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.
- b. Where this permit grants the right to enter land owned, leased, or otherwise lawfully occupied by another, the permittee shall make provisions before entering the land to pay for all damages sustained by said owner, lessee, or lawful occupant by reason of entering upon said land. (AS 38.05.130).

Sec 7. ALASKA HISTORIC PRESERVATION ACT: The Alaska Historic Preservation Act (AS41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any State-owned historic, prehistoric (paleontological) or archaeological site without a permit from the Commissioner. If cultural or paleontological resources are inadvertently discovered as a result of or during the activities authorized by this plan approval, all activities which would disturb such resources shall be stopped and measures taken to protect the site. The State Historic Preservation Officer (907-269-8722) shall be contacted immediately so that compliance with state laws may begin. If burials or human remains are found, in addition to the State Historical Preservation Officer, the State Troopers are to be notified immediately.

Sec 8. DISPOSAL OF BUILDINGS, STRUCTURES, AND DEBRIS ON STATE LAND: A miner shall remove, dismantle, or otherwise properly dispose of buildings and structures constructed, used, or improved on state land, unless granted written authorization for the structures to remain. A miner shall remove or otherwise properly dispose of all equipment, scrap iron, tools, piping, hardware, chemicals, fuels, waste, and general mining debris on state lands in a manner approved by ADEC ((11 AAC 97.210) and 11 AAC 96.040(f)). All structures, equipment, and debris remaining unclaimed on state land 180 days after the claims are no longer valid, are subject to disposition by the state as provided in 11 AAC 97.630. The locator shall pay to the state all costs of moving, storing, and disposing of such structures, equipment, and debris. The state shall not be responsible for any damages to or loss

of structures and equipment caused by the moving, storing, or disposal.

Sec 9. **INSPECTION AND ENTRY:** Permittee shall permit the authorized representatives of the Division to enter into and upon the area and facilities covered under this plan approval at all reasonable times without notice.

Sec 10. **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. A permittee who is charged & convicted of any violation of state hunting, trapping, and/or fishing license may be subject to revocation of this permit.

Sec 11. **FUEL AND HAZARDOUS SUBSTANCES:** Secondary containment shall be provided for fuel or hazardous substances in accordance with EPA Emergency Spill Response Regulations.

- a. Container marking. All independent fuel and hazardous substance containers shall be marked with the contents and the permittee's name using paint or a permanent label.
- b. Fuel or hazardous substance transfers. Secondary containment or a surface liner must be placed under all container or vehicle fuel tank inlet and outlet points, hose connections, and hose ends during fuel or hazardous substance transfers. Appropriate spill response equipment must be on hand during any transfer or handling of fuel or hazardous substances to respond to a spill of up to five gallons. Transfer operations shall be attended by trained personnel at all times.
- c. Storing containers within 100 feet of water bodies. Containers with a total capacity larger than 55 gallons which contain fuel or hazardous substances shall not be stored within 100 feet of a water body.
- d. Exceptions: The Authorized Officer may under unique or special circumstances grant exceptions to this stipulation on a case-by-case basis. Requests for exceptions should be made to the Authorized Officer.

Sec 12. **NOTIFICATION:** The permittee shall immediately notify the Division of Mining, Land & Water and the Department of Environmental Conservation, by telephone, of any unauthorized discharges of oil to water (including tundra); any discharge of hazardous substances other than oil; and any discharge of oil greater than 55 gallons solely to land and outside an impermeable revetment. If a discharge is greater than 10 gallons but less than 55 gallons it must be reported within 48 hours by telephone or fax. If a discharge is less than 10 gallons it may be reported in writing on a monthly basis. If an unauthorized discharge greater than 55 gallons is made to a secondary containment, it must be reported within 48 hours by phone or fax.

The DNR 24-hour spill report number is (907) 451-2678; the fax number is (907) 451-2751. The DEC spill report number, for the Northern Region, is (907) 451-2121; the Southcentral Region is (907) 269-7548. The DEC 24-hour report number is (800) 478-9300. Division of Mining, Land & Water and ADEC shall be supplied with all follow-up incident reports.

Sec 13. **CHANGE OF ADDRESS:** Any change of address must be submitted in writing to the Division at 3700 Airport Way, Fairbanks, AK 99709-4699.

Sec 14. **OTHER PERMITS:** Be advised that issuance of this permit does not relieve the applicant of the responsibility of securing other permits required by Federal, State, or local authorities. Neither does this approval constitute certification of any property right nor land status claimed by the applicant.

Sec 15. **SAVE HARMLESS:** The recipient of this permit (permittee) shall indemnify, save harmless, and defend the Department, its agents and its employees from any and all claims, actions or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or the permittee's performance under this permit. However, this provision has no effect, if, and only if, the sole proximate cause of

the injury is the Department's negligence.

Sec 16. DEFAULT: If permittee should fail to comply with the terms and stipulations contained in this permit, the provisions of the Miscellaneous Land Use Regulations (11 AAC 96) and (AS 27.19), Reclamation Act, and after receiving written notice, fails to remedy such default within the time specified in the notice, the Director may cancel this permit.

Sec 17. APPEAL: An eligible person affected by this decision may appeal to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department. Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

All land use activity is subject to the Generally Allowed Uses on State Land as listed in 11 AAC 96.020. Questions concerning these regulations or this permit should be directed to the State Division of Mining Land & Water, Northern Regional Office, 3700 Airport Way, Fairbanks, AK 99709-4699; or by telephone to (907) 451-2736.

Special Stipulations:

Drilling Waste and Cuttings Management:

1. Drilling mud and cuttings shall not be discharged into lakes, kettle ponds, streams, rivers, or wetlands.
2. Recirculation tanks or in-ground sumps to contain drilling mud, cuttings and discharged water from the drilling process must be used at any site utilizing water to aid in the drilling activity. Acceptable techniques include dug sumps, tanks and other settling or filtration devices designed specifically for cuttings management and previously approved by DNR.
3. Drill cuttings and additives in sumps must be allowed to sufficiently settle out of the drill water prior to backfilling the sump.
4. Settled drilling mud and all drill cuttings shall be sufficiently buried and graded to reasonably prevent oxidation.

Action Requirements on Inspection Reports

Complete and report any outstanding work requirements identified in any Department inspection report by the date specified in the inspection report for completion.

Fire Prevention, Protection, and Liability:

- a. The applicant 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.
- b. The State of Alaska is not liable for damage to the applicant's personal property and is not responsible for forest fire protection of the applicant's activity.

File Annual Work Plan

Each calendar year of the permit, the applicant shall file a work plan detailing the number, type and location of proposed activities under this authorization to be conducted for that exploration year, including any repairs and details of the repair plans. The Annual Work Plan is due by March 31. If no work is proposed, a timely statement shall still be filed.

You are also required to file an Annual Exploration Report by December 31st of each year; please ensure that your report contains the following information:

- A written narrative describing your activities and the reclamation measures utilized at all disturbances.
- A topographic map showing the portion of the claim block where surface disturbing exploration activities have occurred. The plan map should be at a scale of 1"=1/2 mile, or other appropriate scale sufficient to illustrate: existing trails and roads; new trails and roads; drill hole locations (other than shallow auger holes); trench locations; the camp location; and, any other surface disturbances (please distinguish between reclaimed and unreclaimed features).
- A photo, with appropriate caption, of each reclaimed drill site and exploration trench.
- A photo of representative sections of any new road or trail construction.
- A detailed description of the methods used to plug the drill holes.
- A list of Mining Claims by ADL# that contain unreclaimed disturbance at the end of the year and a total acreage that remains unreclaimed.

Water Use:

In any fish bearing waters, each water intake structure shall be centered and enclosed in a screened box designed to prevent fish entrapment, entrainment or injury. The effective screen opening may not exceed ¼ inch. To reduce fish impingement on screened surfaces, water velocity at the screen/water interface may not exceed 0.5 feet per second when the pump is operating.

Comments from The U.S. Fish and Wildlife Service agency comment received:

The most effective Best Management Practice (BMP) to avoid eagle take is to leave their nest in Place (nests are protected year around even if they are unused) and avoid nearby disturbances (within one-half mile) during their nesting season. If project-related disturbances (e.g., drilling, blasting, aircraft noise, other construction activities) cannot be timed to occur outside the eagle nesting season (March 1–August 31 or navigate to <https://www.fws.gov/alaska-bird-nestingseason>), the US Fish and Wild Life Service (Service) in Alaska recommends, prior to commencement of activities, conducting eagle nest surveys within one-half mile of the project footprint, including cliffs of tributary streams, to determine if, and where, eagles may be nesting. If nests are located within one-half mile of the project footprint, the Service recommends following the *National Bald Eagle Management Guidelines* for Bald Eagles and contacting the Service's office for Golden Eagles, as well as for other questions regarding Raptors and project activities, including the potential need for an eagle incidental take permit. The Service also encourage reviewing their Alaska webpage for Bald Eagle Nesting and Sensitivity to Human Activity, and the National Bald and Golden Eagle Management webpages available at <https://www.fws.gov/Alaska-eagle-nesting> and <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>. USFWS contact information – Northern Alaska: (907) 456-0203; Southern Alaska: (907) 271- 2888.

The Migratory Bird Treaty Act (MBTA) prohibits the take (attempt to or to pursue, hunt, shoot, wound, kill, trap, capture, or collect) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service. Immediately to the north of, and adjacent to the Kigluaik Mountains, and thus the project area, is the Imuruk Basin, which is

designated as an Important Bird Area (IBA) for Red-throated Loon, Black Scoter, Tundra Swan, and Glaucous Gull during the nesting season. Additionally, there are about 15 bird species of conservation concern that may be found within the project area. Depending upon the timing, extent, and type of construction, the proposed project may affect these, and other species, of nesting birds within the project area. Therefore, to minimize impacts to migratory birds, the Service recommends and appreciates the project employing Best Management Practices (BMP) to help avoid disturbing migratory bird habitat during the nesting season when nests and hatchlings are most vulnerable (May 10-July20 for this project site). Additional information is available at <https://ipac.ecosphere.fws.gov/location/HJSUVI5NGJHMNCWD4YKCSHKBBM/resources#migratory-birds>.

Commencement of permitted activities deems an acceptance of these stipulations.





THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

DIVISION OF MINING, LAND & WATER
Mining Section

550 West 7th Avenue, Suite 900B
Anchorage, Alaska 99501-3577
Minerals Property Management Main: 907.269.8642
Fax: 907.269.8949
Coal Regulatory/Abandoned Mine Lands Main: 907.269.8631
Fax: 907.269.8930
TDD: 907.269.8411

APMA F20222299 Amendment #2 Graphite Creek Nome & Port Clarence Mining Districts Memorandum of Decision

Applicant(s):
Graphite One (Alaska)
Kougarok LLC

June 2, 2023

1. Requested Land Use and Proposed Activity Description:

Broad Proposed Activity Description:

The applicant (Graphite One) requested an amendment to their Hardrock Exploration & Reclamation activities on lands managed by the State of Alaska. Amendment #2 proposes to construct an 8.67-mile-long exploration trail from Graphite Creek Camp throughout the claim block for the purpose of facilitating the movement of drilling rigs over the deposit without using helicopters. Additionally, Graphite One is proposing to excavate one trench for bulk sampling. The trench would be approximately 10 feet wide, 60 feet long, and 5 feet deep.

The main access to the claim block and upland mining lease is via helicopter support.

Proposed Surface Occupancy:

No changes to the proposed surface occupancy.

Fuel Storage:

No changes to the proposed fuel storage.

Acreage Disturbance and Reclamation Bonding:

Current ground disturbance 3.5 acres. Trenched acres are approximately 0.0138 acres. Reclamation is anticipated to be 0.65 acres. Explorations trails are not included in mined disturbance acreage.

Water, Fish, Wildlife, Wetlands and Cultural Surveying:

Water use and water quality, fish and habitat mitigation, wildlife mitigation, wetlands impact and cultural resources are managed and regulated by the following agencies:

- Alaska Department of Natural Resources, Division of Mining, Land & Water, Water Section (DMLW-Water)

- Alaska Department of Natural Resources, Office of History and Archeology (OHA)
- Alaska Department of Fish and Game, Habitat Division (ADFG)
- Alaska Department of Environmental Conservation (ADEC)
- U.S. Army Corps of Engineers, Alaska District (USACE)

2. Relevant Statutory Authorities

- AS 38.05.020 Authority and Duties of the Commissioner
- AS 38.05.035 Powers and Duties of the Director
- AS 38.05.255 Surface Use of Land or Water
- AS 38.05.850 Permits
- AS 27.19 Reclamation

3. Relevant Regulatory Authorities

- 11 AAC 97 Mining Reclamation
- 11 AAC 96 Miscellaneous Land Use
- 11 AAC 86 Mining Rights

4. Proposed Permit Area Location Information

a. Geographic Location:

The proposed operation is located Graphite Creek, on the lands encumbered by See Attached List claim list.

b. Legal Description:

KRM T5S R34W Sections 9-17, & 20-35,
KRM T5S R35W Sections 25-27 & 34-36

5. Land Status Information

The requested activities lie within the State of Alaska general selection GS 4063. The subject lands within KRM T005S R034W received Tentative Approval to the State on May 5, 2006, revised on March 27, 2018; and March 23, 2020, to include lands formerly excluded in 2006.

The requested activities lie within the State of Alaska general selection GS 6335. The subject lands within KRM T005S R035W received Tentative Approval to the State on May 5, 2006.

The requested activities lie within State of Alaska general grant lands.

Interests within or near the sections listed above: These interests are identified in Alaska's Land Administration System and Alaska Mapper both available online at <http://dnr.alaska.gov/mlw/index.htm>

Mineral Closing Orders

None

Leasehold Location Order

None

Municipal Selection

None.

Other Permits, Leases or Actions

None

Land Agreements, Settlements, Conveyances, Reconveyances and Municipal Entitlements of land

No authorization should be granted to access or use non-state lands.

Other Land Information

Regional Native Corporation: Bering Straits Native Corporation

Village Corporation: Sitnasuk Native Corporation

Other Federally Recognized Tribe: Mary's Igloo, Teller, and Brevig Mission.

Description of activities above lie within the management provisions or may be affected by the Northwestern Area Plan for the following regions:

Area Plan: Northwest Area Plan

Plan Name: NW Seward Plan

Description: Mi, Rd, & Ha, S-05 & S0-1

- **Designation:** Mineral, Recreation and Habitat
- **Classification:** None
- **Prohibited Uses:** None
- **Management Intent:**
- S-01. Manage for sensitive species, grazing, and habitat values. Grazing is recognized as an appropriate use. Mineral development may be appropriate within the unit but shall consider impacts upon grazing activities and habitat and shall adhere to the following guideline: Authorizations issued in this unit involving long-term or permanent uses are to consider impacts upon the WACH, particularly during the winter when parts of this unit are used as part of their winter range. Consult ADF&G prior to issuing an authorization involving long term or permanent use. Maintain access associated with local/regional trails and RS 2477 routes. Utilization of state gravel resources for the improvement of the airstrip at Pilgrim Hot Springs and the access road connecting the airstrip to the main highway is considered appropriate.
- S-05. Manage for recreation and mineral values. Mineral development may be appropriate within the unit but shall consider impacts upon habitat and recreational values/uses.

6. Access

Primary access to the claim block will be helicopter supported. An exploration trail will be constructed through the claim block, over state mining claims, for the purpose of moving drill rigs.

7. Permitting Background/History of Applicant Compliance

Reviewing the Alaska Land Administration System (LAS) Graphite One (Alaska) and Kougarok LLC do not have outstanding non-compliance with the State of Alaska.

8. Project Review and Agency Notice

The Division provided the application for review and opportunity to comment for the activities considered for authorization under this summary. The following entities were notified on 5/11/2023 for comment on the application: The Alaska Department of Fish and Game (ADFG),

Alaska Department of Environmental Conservation (ADEC), ADNR Water Resources Section (ADNR-Water), ADNR State Historic Preservation Office (AK SHPO), U.S. Army Corps of Engineers (USACE), Bureau of Land Management (BLM), and all interested parties that requested notification. Agencies were given the opportunity to review the application materials and submit comments for a 14-day period.

Agency Review Comment and Issue Response

The U.S. Fish and Wildlife Service: Comments from USFWS agency comment received from previous APMA reviews, which still applies, are included in this decision, and are included in the LUP:

The most effective Best Management Practice (BMP) to avoid eagle take is to leave their nest in place (nests are protected year around even if they are unused) and avoid nearby disturbances (within one-half mile) during their nesting season. If project-related disturbances (e.g., drilling, blasting, aircraft noise, other construction activities) cannot be timed to occur outside the eagle nesting season (March 1–August 31 or navigate to <https://www.fws.gov/alaska-bird-nestingseason>), the US Fish and Wild Life Service (Service) in Alaska recommends, prior to commencement of activities, conducting eagle nest surveys within one-half mile of the project footprint, including cliffs of tributary streams, to determine if, and where, eagles may be nesting. If nests are located within one-half mile of the project footprint, the Service recommends following the *National Bald Eagle Management Guidelines* for Bald Eagles and contacting the Service’s office for Golden Eagles, as well as for other questions regarding Raptors and project activities, including the potential need for an eagle incidental take permit. The Service also encourage reviewing their Alaska webpage for Bald Eagle Nesting and Sensitivity to Human Activity, and the National Bald and Golden Eagle Management webpages available at <https://www.fws.gov/Alaska-eagle-nesting> and <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>. USFWS contact information – Northern Alaska: (907) 456-0203; Southern Alaska: (907) 271- 2888.

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Public Notice:

The Division issued a public notice of the application and supporting documents on 5/11/2023. Notice was distributed using the State of Alaska Online Public Notice System.

Online Public Notice and Request for Information

No public comments were received.

9. Potential Environmental Risk

This decision considers the environmental factors directly related to the authorization for use of state lands, specifically whether the approval of the authorization is in the State's interest. The purpose of this consideration is to identify any associated mitigation measures or other requirements necessary to protect the public interest while informing the overall decision of whether or not to approve the authorization.

The environmental risks associated with this activity are low. The application stated that fuel will be transported via helicopter in double-walled fly tanks aka fuel cubes. Any spill which could occur would be small and readily containable. Risks associated with approved activities are mitigated by following permit stipulations.

10. Performance Guaranty:

Pursuant to 11 AAC 96.060(b), a performance guaranty is determined "based on the scope and nature of the activity planned and the potential cost of restoring the permit site."

Upon review of the scope and nature of the proposed activities, in combination with the applicants' history of acceptable compliance, the DNR has determined to waive the requirement under 11 AAC 06.060 for a performance guaranty. The DNR reserves the right to evaluate the performance guaranty at any time during the life of the permit, and at least annually. If a performance guaranty is required and not timely provided, the authorization will be nullified without further consideration.

11. Insurance

Insurance is a means to protect the state from liabilities incurred through the use of state property, or from damage to state property as a result of accidental or catastrophic events.

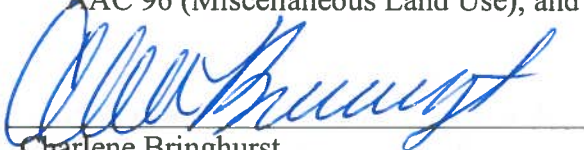
In consideration of the requirements of 11 AAC 96.065, the DNR waives this requirement based on the scope and nature of the proposed activities. The DNR reserves the right to evaluate the insurance requirement at any time during the life of the permit, and at least annually. If insurance is required and not timely provided, the authorization will be nullified without further consideration.

12. Determination


When adjudicating an application, DMLW considers the impact the authorization will have on state resources by evaluating the proposed impacts to surface and subsurface estates, increased footprint of the mining or exploration operation, and if the proposed corresponds adequately to the level of mining currently and in the future. This information is used to assess the risk of damage, contamination, or other liability to state resources, and determine the best course to mitigate that risk through insurance, bonding, or alternative activities.

DNR has determined it appropriate to issue a stipulated miscellaneous land use permit (MLUP) to conduct Hardrock Exploration & Reclamation activities on lands owned by the State of Alaska with appropriate stipulations to mitigate impacts to state lands.

The applicant is advised to review authorization documents carefully as well as the regulations under AS 27.19 (Reclamation), AS 38.05 (Alaska Land Act), 11 AAC 86 (Mining Rights), 11 AAC 96 (Miscellaneous Land Use), and 11 AAC 97 (Reclamation).


Charlene Bringhurst
Natural Resource Specialist III

6/2/23
Date


David Charron
Geologist IV

6/2/23
Date

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may appeal the decision to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department. Appeals may be mailed or hand-delivered to the DNR Commissioner’s Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department’s website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

Attachments:
Attachment A-Special Stipulations

ATTACHMENT A

Modified or Special Stipulations to be applied to MLUP for Mining Operations Standard Hardrock Exploration Stipulations are included in LUP.

Comments from The U.S. Fish and Wildlife Service agency comment received from previous APMA reviews, which still applies, are included in this decision, and are included in the LUP:

The most effective Best Management Practice (BMP) to avoid eagle take is to leave their nest in Place (nests are protected year around even if they are unused) and avoid nearby disturbances (within one-half mile) during their nesting season. If project-related disturbances (e.g., drilling, blasting, aircraft noise, other construction activities) cannot be timed to occur outside the eagle nesting season (March 1–August 31 or navigate to <https://www.fws.gov/alaska-bird-nestingseason>), the US Fish and Wild Life Service (Service) in Alaska recommends, prior to commencement of activities, conducting eagle nest surveys within one-half mile of the project footprint, including cliffs of tributary streams, to determine if, and where, eagles may be nesting. If nests are located within one-half mile of the project footprint, the Service recommends following the *National Bald Eagle Management Guidelines* for Bald Eagles and contacting the Service's office for Golden Eagles, as well as for other questions regarding Raptors and project activities, including the potential need for an eagle incidental take permit. The Service also encourage reviewing their Alaska webpage for Bald Eagle Nesting and Sensitivity to Human Activity, and the National Bald and Golden Eagle Management webpages available at <https://www.fws.gov/Alaska-eagle-nesting> and <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>. USFWS contact information – Northern Alaska: (907) 456-0203; Southern Alaska: (907) 271- 2888.

The Migratory Bird Treaty Act (MBTA) prohibits the take (attempt to or to pursue, hunt, shoot, wound, kill, trap, capture, or collect) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service. Immediately to the north of, and adjacent to the Kigluaik Mountains, and thus the project area, is the Imuruk Basin, which is designated as an Important Bird Area (IBA) for Red-throated Loon, Black Scoter, Tundra Swan, and Glaucous Gull during the nesting season. Additionally, there are about 15 bird species of conservation concern that may be found within the project area. Depending upon the timing, extent, and type of construction, the proposed project may affect these, and other species, of nesting birds within the project area. Therefore, to minimize impacts to migratory birds, the Service recommends and appreciates the project employing Best Management Practices (BMP) to help avoid disturbing migratory bird habitat during the nesting season when nests and hatchlings are most vulnerable (May 10-July20 for this project site). Additional information is available at <https://ipac.ecosphere.fws.gov/location/HJSUVI5NGJHMNCWD4YKCSHKBBM/resources#migratory-birds>.

Action Requirements on Inspection Reports

Complete and report any outstanding work requirements identified in any Department inspection report by the date specified in the inspection report for completion.

Fire Prevention, Protection, and Liability:

1. The applicant shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires and shall assume full liability for any damage to state land resulting from the negligent use of fire.

2. The State of Alaska is not liable for damage to the applicant's personal property and is not responsible for forest fire protection of the applicant's activity.

Annual Exploration / Reclamation Report:

Attached in application.

File Annual Work Plan

Each calendar year of the permit, the applicant shall file a work plan detailing the number, type, and location of proposed activities under this authorization to be conducted for that exploration year, including any repairs and details of the repair plans. The Annual Work Plan is due by March 31. If no work is proposed, a timely statement shall still be filed. You are also required to file an Annual Exploration Report by December 31st of each year; please ensure that your report contains the following information:

1. A written narrative describing your activities and the reclamation measures utilized at all disturbances.
2. A topographic map showing the portion of the claim block where surface disturbing exploration activities have occurred. The plan map should be at a scale of 1"=1/2 mile, or other appropriate scale sufficient to illustrate existing trails and roads; new trails and roads; drill hole locations (other than shallow auger holes); trench locations; the camp location; and any other surface disturbances (please distinguish between reclaimed and un-reclaimed features).
3. A photo, with appropriate captions, of each reclaimed drill site and exploration trench.
4. A photo of representative sections of any new road or trail construction.
5. A detailed description of the methods used to plug the drill holes.
6. A list of Mining Claims by ADL# that contain un-reclaimed disturbance at the end of the year and a total acreage that remains un-reclaimed.