



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 V6Z1S4

**Kougarok LLC**  
P.O. Box 1712  
Nome, AK 99762

RE: Multi-Year 2022-2026 Hardrock Exploration & Reclamation #2299  
Hardrock Exploration - Graphite Creek - Nome & Port Clarence Mining District  
KRM T5S R34W Sections 9-17, & 20-35, KRM T5S R35W Sections 25-27 & 34-36

As you may be aware, effective August 6, 1994, State Mining Regulation 11 AAC 96.040 was amended to allow the State of Alaska, Department of Natural Resources, to issue Land Use Permits for a specified term of up to five years, provided the application meets the requirements for multi-year permits. This office has reviewed and adjudicated your proposed plans and has issued a Miscellaneous Land Use Permit (MLUP) for the activities described that will remain in effect until 12/31/2026, unless sooner revoked at will or for cause.

You are advised further APMA's involving this project will not be required to be submitted during the time frame of your permit, unless proposed changes occur. Any changes or modifications to your original activity must be submitted in writing and approved in advance before the commencement of such activity.

Although this office intends to conduct annual field assistance visits to ensure your activity conforms to the plans submitted, please note, by December 31<sup>st</sup> of each year your permit is in effect, you are required to submit the following:

1. A 2022 Reclamation Statement detailing the reclamation actions taken during that mining season. This statement serves as the annual report required under 11 AAC 97.320(a).
2. A Reclamation Plan form for the 2023 season (Use Reclamation/Signature Page of the APMA).

These items will be distributed annually, to those agencies on the APMA distribution listing. Be advised that issuance of any permit by the Division of Mining does not relieve you of the responsibility of securing other permits required by federal, state, or local governmental agencies.

Best wishes for a safe and successful mining season. If this office can be of further assistance, please feel free to contact us.

Sincerely,

*Dave Charron*

\_\_\_\_\_  
Dave Charron  
Authorized Officer

6/24/22

\_\_\_\_\_  
Date



THE STATE  
*of* **ALASKA**

DIVISION *of* MINING,  
LAND *and* WATER

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

**PERMIT # 2299**

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 V6Z1S4**

**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 31<sup>st</sup> 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: 6/24/22

## **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 described 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 (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. 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](mailto:dnr.appeals@alaska.gov). Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(6), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A .pdf or print copy of 11 AAC 02 may be obtained by contacting Erik Fossum via phone at (907) 269-8429, via email at [erik.fossum@alaska.gov](mailto:erik.fossum@alaska.gov), and is also 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.

Commencement of permitted activities deems an acceptance of these stipulations.

## **Special Advisories and Stipulations:**

### **Advisory Regarding Eagles and Migratory Birds**

The most effective Best Management Practice (BMP) to avoid eagle take is to leave their nest in place and avoid nearby disturbances 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-nesting-season>), the US Fish and Wildlife 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>.

The Migratory Bird Treaty Act (MBTA) prohibits the take (including killing, capturing, selling, trading, and transport) 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 Practice (BMP) to help avoid disturbing migratory bird habitat during the nesting season when nests and hatchlings are most vulnerable. Additional information is available at <https://ipac.ecosphere.fws.gov/location/HJSUVI5NGJHMNCWD4YKCSHKBBM/resources#migratory-birds>.

### **Solid Waste Disposal**

Inert Solid Waste and Septic Disposal is authorized, subject to the terms of imposed by the Alaska Department of Environmental Conservation’s Remote Camp and Lodges General Permit. Failure to abide by the general permits stipulations may result in the revocation of this Miscellaneous Land Use Permit. The permittee shall copy the Authorized Officer on all reporting and communications regarding the activities authorized by the DEC General Permit, including final completion reports.

### **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.

### **Annual Exploration / Reclamation Report:**

#### **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 31<sup>st</sup> 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.







ADL 721254	Active (35)	Mining Claim (713)	GCN 023	Graphite One (Alaska) Inc	20-NOV-15	160
ADL 721255	Active (35)	Mining Claim (713)	GCN 024	Graphite One (Alaska) Inc	20-NOV-15	160
ADL 721256	Active (35)	Mining Claim (713)	GCN 025	Graphite One (Alaska) Inc	20-NOV-15	160
ADL 721257	Active (35)	Mining Claim (713)	GCN 026	Graphite One (Alaska) Inc	20-NOV-15	160
ADL 721258	Active (35)	Mining Claim (713)	GCN 027	Graphite One (Alaska) Inc	20-NOV-15	160
ADL 721259	Active (35)	Mining Claim (713)	GCN 028	Graphite One (Alaska) Inc	20-NOV-15	160
ADL 721260	Active (35)	Mining Claim (713)	GCN 029	Graphite One (Alaska) Inc	20-NOV-15	160

\*\*\*END OF REPORT\*\*\*

**Report Information**

<b>Source ID</b>	60
<b>Source Name</b>	MV_ST_MINING
<b>Source Description</b>	
<b>Run Date and Time</b>	05/17/2022 02:44:14 AKDT
<b>Record Count</b>	135

**SQL Statement**

SELECT



**APMA F20222299**  
**Graphite Creek**  
**Nome & Port Clarence Mining Districts**  
**Memorandum of Decision**

**Applicant(s):**  
Graphite One (Alaska)

Kougarok LLC

June 24, 2022

**1. Requested Land Use and Proposed Activity Description:**

***Broad Proposed Activity Description:***

The applicant requests Hardrock Exploration & Reclamation activities on lands managed by the State of Alaska. Exploration will include 52 diamond drilling core, 56 geotechnical sonic drill holes and 50 test pits. Drill pads to be constructed will be 30-ft by 30-ft. Sumps may be constructed as part of the drill pad and will be approximately 6-ft deep. Drill pad construction will segregate and stockpile the topsoil/organics and materials at the site. All drilling fluids will be bio-degradable with an onsite MSDS. Drill hole casing will be cut and capped below the surface. Drill holes will be plugged for a minim of 10-ft within the top 20-ft of the drill hole. The remainder of the hole will be filled with drill cuttings or bentonite pellets. Some drill hole will be kept open for the purpose of sampling water chemistry. Nonessential drill pads will be reclaimed concurrently and at the end of the exploration season. The goal for reclamation will be to maintain a surface disturbance of less than 5 acres.

Approximately 50 test pits will be dug with a small excavator. Pits dimensions are 6 feet deep, 10 feet long and 2 feet wide. Reclamation of the pits will be completed contemporaneously as possible.

Access to the claim block and upland mining lease is via helicopter support. A geotechnical exploration program for potential road access is adjudicates separately by the DNR lands department.

Camp facilities include temporary structures for support of up to 60 personnel. Approximately 40 platforms for tents, along with several hard sided structures for kitchen and hygiene facilities. Several 20 foot connexes will be on site for over winter storage.

***Proposed Surface Occupancy:***

1 CAT 30SCR mini excavator, plus attachment buckets  
1 ASV RT-SOSkid Steer  
1 Kubota KX41 mini excavator  
2 Can am Defender 6x6  
1 Diamond drill  
1 Sonic drill  
1 Honda Forman 4x4  
2 Honda Pioneer 1000  
1 Hydra core HC 1000 drill  
1 25 hp water pumps for drill, 21 gpm max, 2-inch screened intake  
1 16 hp water pumps for drill, 29 gpm max, 2-inch screened intake  
1 35 hp water pumps for drill, 35 gpm max, 2-inch screened intake  
1 ASV SC-SO Scout Tracked dump bed  
1 Kubota RTV900xt UTV 4x4  
1 Shindaiwa DGK100 Genset  
1 Shindaiwa DGK60D Genset  
40 platforms for tents  
Several 20 foot connexes

***Fuel Storage:***

The fuel depot will be registered with ADEC per ADEC regulations for a class II facility. Four double walled 1000 gallon tanks two double walled 787 gallon fly tanks, and two 1500 gallon double walled tanks Total volume of petroleum products on site will not exceed 10,000 gallons. A spill log will be kept and reported to ADEC.

***Acreege Disturbance and Reclamation Bonding:***

Current ground disturbance 3.5 acres. One half acre of additional disturbance is proposed for 2022. Reclamation is anticipated to be 0.65 acres.

***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 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: N/A

Village Corporation: N/A

Other Federally Recognized Tribe: N/A

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 a longterm 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

Helicopter supported activities. Staging areas and a geotechnical survey for potential future access is adjudicated separately by the DNR lands section.

## 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 5/17/2022 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 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 responded with a letter pertaining to avian habit. Based on this correspondence the following stipulations are included with MLUP 2299:

The most effective Best Management Practice (BMP) to avoid eagle take is to leave their nest in place and avoid nearby disturbances 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-nesting-season>), 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>.

The Migratory Bird Treaty Act (MBTA) prohibits the take (including killing, capturing, selling, trading, and transport) 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 Practice (BMP) to help avoid disturbing migratory bird habitat during the nesting season when nests and hatchlings are most vulnerable. Additional information is available at <https://ipac.ecosphere.fws.gov/location/HJSUVI5NGJHMNCWD4YKCSHKBBM/resources#migratory-birds>.

**Public Notice:**

The Division issued a public notice of the application and supporting documents on 5/17/2022. Notice was distributed using the State of Alaska Online Public Notice System.

**Online Public Notice and Request For Information**

Two comments were received and addressed from the Mary's Igloo and Brevig Mission.

**9. Potential Environmental Risk**

*Reclamation, Remediation and Removal*

Abnormal environmental risks were not identified.

*Fuel*

Secondary containment with a Spill Prevention Control and Countermeasure Plan. Personnel will be trained in the detailed spill response.

**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 damages to State property.

**Insurance Requirement:**

In consideration with the requirements of 11 AAC 96.070, 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**

DNR has determined it appropriate to issue a stipulated miscellaneous land use permit to conduct Hardrock Exploration & Reclamation activities on lands owned by the State of Alaska.

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).

### **Modified or special stipulations to be applied to the MLUP**

Hardrock Exploration Stipulations are included.

Advisory added in response to the U.S. Fish and Wildlife Service agency comment include:

The most effective Best Management Practice (BMP) to avoid eagle take is to leave their nest in place and avoid nearby disturbances 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-nesting-season>), 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>.

The Migratory Bird Treaty Act (MBTA) prohibits the take (including killing, capturing, selling, trading, and transport) 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 Practice (BMP) to help avoid disturbing migratory bird habitat during the nesting season when nests and hatchlings are most vulnerable. 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 damages 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 31<sup>st</sup> 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 caption, 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.

### **13. Attachments**

MLUP – 2299

Attachment A Comments and Responses F250222299

The following are responses to public comments submitted to the Department of Natural Resources' (DNR's or Department) Division of Mining, Land and Water, concerning the Application for Permits to Mine in Alaska (APMA) F20222299 (hereinafter the "application" and the "permit") requesting authorization to conduct mineral exploration, geotechnical investigation, and reclamation.

### **Comment Overview**

In rendering a decision on the April 14, 2022, application, the Department considered comments submitted during the comment period, which ran from May 17, 2022 to June 1, 2022.

DNR received two comments via email or letters regarding APMA F20222299. Two comments were received from Hal Shepherd on behalf of the Traditional Councils for Mary's Igloo and Brevig Mission. All applicable comments within the scope of the application review were considered, especially those with scientifically supported information or relevant concerns regarding multiple uses on state land.

### **Comment Category: Application packet is not available for comment review.**

Although the Notice provides that "APMA forms include applications for Miscellaneous Land Use Permits (MLUPs), Approved Plan of Operations, and Reclamation Plan Approvals for mining operation," none of these forms have been made available to the public for review. In fact, just a few days before the comment deadline, the Tribe was able to obtain a copy of the Graphite One's "Application for Permits to Mine in Alaska" in question.

The fact that DNR did not make the APMA forms available with the notice and the TWUAs request as promised meant that the Tribe did not have enough time prior to the comment deadline to adequately review and comment on the environmental impacts of the permit applications and requests.

**DMLW Response:** Thank you for your comment. The Notice to the Public and Request for Information was posted to on the State of Alaska Online Public Notice System website, with a comment period from May 17<sup>th</sup> through June 1<sup>st</sup>, 2022. This posting included contact information to formally request the complete application packet. The complete Application Packet was also available upon the posting's web page as a link under "Attachments".

### **Comment Category: Temporary Water Use Authorizations (TWUAs).**

On two separate occasions the Division of Mining Land and Water (DMLW) informed the consultant for the Tribe - Hal Shepherd that it would make available any request by Graphite One Alaska to extend Temporary Water Use Authorizations (TWUAs) that expired last year. Yet despite the fact that included with the MLUPs that were received by the DMLW on April 14, 2002 was Graphite One's request "for 4 new [TWUAs] to replace TWUAs F2017-029 and F2017-030 (issued on May 31, 2017, expiring on December 31, 2021),"<sup>1</sup> the Division never informed Mr. Shepherd of these requests.

It is highly likely that, the mining company will continue to pull water from 6 streams that drain the area of the mine site, in order to conduct what appears to be similar exploration activity that it has gone on over the past 5 years. In fact, Number 2299 received by DNR on April 14, 2022, on

page 7, provides that it has applied for Temporary Water Use Authorizations (TWUAs to conduct the exploration activity in question and the "Temporary Water Use Authorizations F2017-029" attached to the application provides that, the new TWUAs will include water for exploration drilling, and the camp water source."<sup>2</sup>

Earlier this month, the Tribe(s) received a notice that Graphite One submitted an application for cross-country travel of a drill rig which would be used for geotechnical investigations related to a potential mining road. Despite the Notice's claim that "Drilling would require at most less than 5000 gallons of water per day...," it is clear that when combined with water that Graphite One will need during the 2022 exploration season, the entity is like to exceed the statutory water use and will further decrease stream flows relied upon by anadromous species.

In addition, although TWUAs F2017-029 do not specify which water bodies the water bodies will be sourced for the new water use, it does provide that the previous TWUAs "authorized the withdrawal of up to 64,800 gallons per day from six creeks and two ponds for exploration drilling, and up tot 2,400 per day from two sources for the camp." According to state water regulations, "[u]pon the commissioner's receipt of a written request from the

**DMLW Response:** Thank you for your comment. It has provided to the Division's Water Resources Section. TWUAs are adjudicated separately from Miscellaneous Land Use Permits (MLUPs) and are outside the scope of this MLUP decision.

**Comment Category: Damage to Subsistence Resources**

According to the Notice, DNR it is reviewing and adjudicating the MLUP application for exploration activity, reclamation approval on state lands and winter cross country travel on state lands not within state mining locations. Because it would be utilized at the beginning of Green-Up and used throughout the growing season the exploration in the pristine environment of the Kigluik Mountain range will cause significant damage to plants that are necessary for moose, reindeer and other species for forage and habitat needs.

In addition to loss of vegetation from mining exploration especially during snowpack melt and rain events could result in sedimentation run-off into anadromous and other streams that drain the exploration site. Therefore, the issuance of the permit potentially violates federal and state laws that require DVMLW to mitigate impacts to subsistence resources prior to issuance of the permit.

**DMLW Response:** Thank you for your comment. The applicant does not currently propose roads as part of the application. Mobilization of personnel and equipment will be via helicopters. Drill pads constructed using heavy timbers will be placed on the rocky slopes with minimal or no excavation or vegetive clearing. Drill pads will be field fitted and approximately 30-ft by 30-ft. If ground conditions allow, sumps will be excavated using hand tools and will be approximately 6-ft by 6-ft. If ground conditions do not allow excavation of sumps to prevent runoff, sediment fencing, hay bales or wattles will be used to contain drilling activities. The application proposes a maximum footprint for 2022 of 4 acres total disturbance. All disturbance will be required to be reclaimed according to the state's mine reclamation performance standards<sup>1</sup> and the provisions of the issued MLUP. These standards provide for stockpiling of topsoil and vegetative mat disturbed, and the revegetation of the exploration areas. Reclamation must be conducted as

---

<sup>1</sup> See 11 AAC 97.200 Land Reclamation Performance Standards, which is attached to this response as Appendix A.

contemporarily as practicable, leaving the site in stable condition. The permittee is required to comply with all applicable federal and state water quality laws and must obtain authorization for the Department of Environmental Conservation's Alaska Pollutant Discharge Elimination and Wastewater Discharge Authorization Program for turbid sediment discharge into waterways.

After consulting the Northwest Area Plan<sup>2</sup> the management intent is to *“Manage for recreation and mineral values. Mineral development may be appropriate within the unit but shall consider impacts upon habitat and recreational values/uses.”* The resources and uses include *“the Kigluaik Mountains, which contain both high mineral and recreation values. The unit is co-designated Mineral/Public Recreation to acknowledge the two uses and the two values that exist within this unit. Habitat values are also important in this unit. Mining potential is rated as very high and a number of federal claims already exist. It is also used by Nome residents for a variety of backcountry recreational activities.”*

The applicant has proposed de minimis disturbance and this application was considered pursuant to the Northwest Area Plan's management intent.

---

<sup>2</sup> For the comprehensive Northwest Area plan please visit  
[https://dnr.alaska.gov/mlw/planning/areaplans/northwest/pdf/nwap\\_2008\\_complete.pdf](https://dnr.alaska.gov/mlw/planning/areaplans/northwest/pdf/nwap_2008_complete.pdf)

**11 AAC 97.200. Land reclamation performance standards**

(a) A miner shall reclaim areas disturbed by a mining operation so that any surface that will not have a stream flowing over it is left in a stable condition.

(1) For the purposes of [AS 27.19.100\(6\)](#) and this section, a stable condition that "allows for the reestablishment of renewable resources on the site within a reasonable period of time by natural processes" means a condition that can reasonably be expected to return waterborne soil erosion to pre-mining levels within one year after the reclamation is completed, and that can reasonably be expected to achieve revegetation, where feasible, within five years after the reclamation is completed, without the need for fertilization or reseeding. If rehabilitation of a mined site to this standard is not feasible because the surface materials on the mined site have low natural fertility or the site lacks a natural seed source, the department recommends that the miner fertilize and reseed or replant the site with native vegetation to protect against soil erosion; however, [AS 27.19](#) does not require the miner to do so. Rehabilitation to allow for the reestablishment of renewable resources is not required if that reestablishment would be inconsistent with an alternate post-mining land use approved under [AS 27.19.030\(b\)](#) on state, federal, or municipal land, or with the post-mining land use intended by the landowner on private land.

(2) If topsoil from an area disturbed by a mining operation is not promptly redistributed to an area being reclaimed, a miner shall segregate it, protect it from erosion and from contamination by acidic or toxic materials, and preserve it in a condition suitable for later use.

(3) If the natural composition, texture, or porosity of the surface materials is not conducive to natural revegetation, a miner shall take measures to promote natural revegetation, including redistribution of topsoil, where available. If no topsoil is available, a miner shall apply fines or other suitable growing medium, if available. However, a miner may not redistribute topsoil and fines over surfaces likely to be exposed to annual flooding, unless the action is authorized in an approved reclamation plan and will not result in an unlawful point- or non-point-source discharge of pollutants.

(b) A miner shall reclaim an area disturbed by a mining operation so that the surface contours after reclamation is complete are conducive to natural revegetation or are consistent with an alternate post-mining land use approved under [AS 27.19.030\(b\)](#) on state, federal, or municipal land, or with the post-mining land use intended by the landowner on private land. Measures taken to accomplish this result may include backfilling, contouring, and grading, but a miner need not restore the site's approximate original contours. A miner shall stabilize the reclaimed site to a condition that will retain sufficient moisture for natural revegetation or for an alternate post-mining land use approved under [AS 27.19.030\(b\)](#) on state, federal, or municipal land, or for the post-mining land use intended by the landowner on private land.

(c) A pit wall, subsidence feature, or quarry wall is exempt from the requirements of (a) and (b) of this section if the steepness of the wall makes them impracticable or impossible to accomplish. However, a miner shall leave the wall in a condition such that it will not collapse nor allow loose rock that presents a safety hazard to fall from it.

(d) If a mining operation diverts a stream channel or modifies a flood plain to the extent that the stream channel is no longer stable, a miner shall reestablish the stream channel in a stable location. A miner may not place a settling basin in the way of the reestablished channel location unless the fines will be properly removed or protected from erosion.