

**PRELIMINARY FINDING AND DECISION  
COMPETITIVE MATERIAL SALE  
AS 38.05.110-120  
ADL 419234  
Golden Valley Electric Association**

**Proposed Action**

Golden Valley Electric Association (GVEA) has applied to the Division of Mining, Land, and Water (DMLW), Northern Regional Office (NRO) to purchase 309,730 cubic yards of material at fair market value from up to eight (8) new sites in support of the Eva Creek Wind Project. The 8 sites encompass approximately 562-acres, however only 40 acres total will be developed along the Ferry/Moose Creek/Eva Creek Road ("Ferry Road") approximately 15 miles northeast of Healy, Alaska. GVEA requests the use of material from these sites for Ferry Road maintenance and construction, and construction of the wind turbine and building pads. The Eva Creek Wind Project will allow for the construction and use of a 24 megawatt (MW) wind project which in turn will feed into GVEA's 230 kilovolt (kV) Northern Intertie transmission line. The power will then be available for distribution throughout GVEA's service area. Initial material site development is proposed to begin in September of 2011. The proposed length of the contract is two years for the sites developed for construction, and 5 years for the one material site that will be left open for maintenance purposes.

The eight sites will be further refined prior to the Final Decision based upon public comments and discussions with GVEA to consolidate and minimize impacts in the area.

DNR proposes to offer a competitive material sale at a minimum bid price of \$1.50/cy.

This document serves as the State's preliminary best interest finding regarding the sale application.

**Scope of Review and Proposed Finding**

The scope of this preliminary finding and decision is to determine if the proposal may be in the State's best interest to sell 309,730cy of material to GVEA. The scope is based on the statutes, regulations and other facts contained in case file ADL 419234, and the body of this decision. The scope is restricted to this material sale; the proposed lease for the wind project and proposed road upgrades are the subject of separate decisions.

**Authority**

This material sale application is being adjudicated pursuant to AS 38.05.110-120, AS 38.05.035, AS 38.05.945, AS 38.05.115(a), AS 27.19, 11 AAC 71, and 11 AAC 97. The authority to execute the Final Finding and Decision and the material sale contract is delegated to the Regional Manager of the Northern Region Office, Division of Mining, Land and Water.

**Administrative Record**

Case file ADL 419234 comprises the administrative record for this case. Also referenced for this case is ADL 418853, the proposed Public & Charitable lease to GVEA for the wind project. Also referenced is ADL 419216, the proposed access roads between the turbine sites and to Communication Site #2 (see easement or lease file for further information) and ADL 419221, the proposed easement for the Ferry Road realignment. Also referenced is the Tanana Basin Area Plan (TBAP).

**Location and Legal Description**

The material sites total approximately 562 acres with a total disturbance of 40 acres and are located approximately 12 miles north of Healy near Walker and Eva Creek. The 8 potential material sites are all located east of the Nenana River and are not immediately adjacent to the Parks Highway. The sites are shown on the attached map (Attachment A).

Site A: Within the SE1/4 of Section 26 and E1/2 of the SE1/4 of Section 27, Township 10 South, Range 8 West, Fairbanks Meridian.

Site B: Within the NE1/4 and N1/2 of the S/E1/4 of Section 25, Township 10 South, Range 8 West, Fairbanks Meridian.

Site C: Within the NW1/4 of Section 30, Township 10 South, Range 7 West, Fairbanks Meridian.

Site D: Within the SW1/4 of the NW1/4 of Section 29, Township 10 South, Range 7 West, Fairbanks Meridian.

Site E: Within the SW1/4 of the NE1/4 of Section 29, Township 10 South, Range 7 West, Fairbanks Meridian.

Site F: Within the SE1/4 of the SW1/4 of Section 22, Township 10 South, Range 7 West, Fairbanks Meridian.

Site G: Within the W1/2 of the NW1/4 of Section 14 and the E1/2 of the NE1/4 of Section 15, Township 10 South, Range 7 West, Fairbanks Meridian.

Site H: Within the S1/2 of the N1/2 and the N1/2 of the S1/2 of Section 11, Township 10 South, Range 7 West, Fairbanks Meridian.

**Borough/Municipality:** Denali Borough

**Regional/Village Corporation/Council:** Doyon Regional Corporation, however no corporate owned lands are within the material site boundaries.

**U.S.G.S. Map:** Fairbanks A-4 and A-4 1:63,360 Quadrangle

**Title**

**Acquisition:** GS 24 (combined with GS 689) General Grant Patented 1963 Patent# 1232740 and 1984 Patent# 50-84-0695.

**Restrictions:** Standard Reservations.

**Other Conflicts and Pending Interests:** Material Site B lies within close proximity to a private parcel. ADL 416667 is a private parcel that was purchased through the DNR Remote Recreational Land Disposal Program. The private property owner will be notified during the Public Notice process.

Material site B is also partially within a proposed Remote Recreation Cabin Site disposal boundary area.

All of the proposed material sites are located in a gas exploration area licensed to Usibelli Coal Mine under ADL 390606.

**Planning and Classification**

The proposed project is located within the 1991 update of the Tanana Basin Area Plan in the following subunits;

Sites A and B: 4F1 (Parks Highway Corridor) is designated for, and classified as settlement, with secondary uses identified as forestry, public recreation, and wildlife habitat. There is nothing in the plan which would prevent issuance of this authorization.

Sites C, D, and E: 4D2 (Usibelli) and 4M1 (Rex Dome to Liberty Bell Mine). 4D2 is designated for, and classified as resource management, with an emphasis on habitat, minerals, and settlement. No secondary uses are identified. 4M1 is designated for, and classified as, minerals and wildlife habitat, with secondary uses identified as public recreation. There is nothing in the plan which would prevent issuance of this authorization.

Sites F, G, and H: 4M1 is designated for, and classified as, minerals and wildlife habitat, with secondary uses identified as public recreation. There is nothing in the plan which would prevent issuance of this authorization.

**Borough Zoning:** This area is zoned unrestricted per Chapter 9.15.020 of the Denali Borough Code. There are no use prohibitions for land zoned unrestricted.

### **Traditional Use Finding (AS 38.05.830)**

The proposed project is located within a borough boundary, and thus does not require a traditional use finding.

### **Waterbodies**

There are no waterbodies within the proposed project area.

### **Access**

Access is via the existing Alaska Railroad Nenana River bridge and the Ferry Road (Ferry-Eva-Moose Creek Omnibus road). The sites are located on the east side of the Nenana River, and therefore not directly connected to the Parks Highway. New roads may need to be established from the existing infrastructure into each pit location.

### **Environmental Risk**

GVEA submitted an Environmental Risk Questionnaire with its material sale application. There has not been a Phase 1 inspection for the material sites to determine if the area is presently contaminated. The area has been used for over 70 years by Alaskans, but there is no reason to suspect any significant contamination in the area.

The applicant plans to generate, use, store, transport, dispose of, or otherwise come into contact with toxic and/or hazardous materials & hydrocarbons during the course of the project. The applicant plans to use a construction contractor who will be responsible for preparation and implementation of a Hazardous Materials Control Plan (HMCP) and a Spill Prevention Control and Countermeasure (SPCC) plan, which will include further information on environmental risk such as quantities, fuel types, procedures, and environmental risk assessment and mitigation. These documents will be provided to DNR upon receipt from the contractor. Information on estimated crews and equipment needed for the development of material sites are as follows:

Clearing and Grubbing: 4 crew members, 2 loader excavators, 2 hydroaxes, 2 dozers.

Site Grading & Road Construction: 20 crew members, 2 excavators, 2 compactors, 2 graders, 2 water trucks, 2 dozers, 1 concrete batch plant, 20 concrete trucks, 2 screening plants, 1 rock crusher.

Site Cleanup: 5 crew members, 2 pick-up trucks.

Maintenance: 4 crew members, 2 pick-up.

### **Performance Guarantees, Deposit, and Insurance**

GVEA will be required to post a Land Use Performance Guaranty bond, as determined by 11 AAC 71.095(b)(3). The bond will be 5% of the total contract price. A deposit will be required. Insurance will be required and is addressed in the stipulations.

### **Survey and Appraisal**

**Survey:** A survey or record of survey will be required as this is a new site. Boundaries of the site will need be established prior to development.

**Appraisal:** The Division has established a minimum bid price of \$1.50 per cubic yard for material sites not on the road system. A bid deposit of 10% of minimum bid will be required to participate in the material sale auction. The bid deposit for the high bidder will be retained by DNR for the life of the contract.

## Agency Comments

Agency comments were solicited from the Alaska Department of Environmental Conservation (DEC) Contaminated Sites Program; Alaska Department of Environmental Contamination Compliance Program; the US Fish & Wildlife Service; Alaska Department of Natural Resources (DNR) State Historic Preservation Office; the US Army Corps of Engineers; Alaska Department of Natural Resources Division of Oil & Gas; the US Bureau of Land Management (BLM); Alaska Department of Natural Resources State Pipeline Coordinators Office; Alaska Department of Fish & Game (ADF&G) Habitat Division; the Denali Borough; The Alaska Department of Transportation (DOT), The Alaska Railroad (ARR), the Alaska Department of Natural Resources Alaska Coastal Management Program (ACMP), & the Alaska Department of Natural Resources Division of Mining, Land & Water (DMLW) Land Sales unit. Comments were requested on May 12<sup>th</sup>, 2011. The agency review included the lease, easements, and material sale applications for the GVEA Eva Creek Wind Project.

Comments were received from DEC Contamination Compliance Program-Drinking Water Protection:

*Thank you for the opportunity to comment on the proposed GVEA Eva Creek Wind Energy Project, as described in the Applications for Material Sale, Lease, and Easements. This Project, as described in the Applications, is not located near any active identified public drinking water systems (PWS) or associated Drinking Water Protection Areas (DWPA). However, the Lease Application does indicate that a transient non-community water system (TNCWS; formerly called a Class B public water system) well will be established near the Warm Storage Building. As far as I know, plans have not yet been submitted to the DEC Drinking Water Program Engineering Section in the Fairbanks office, so the location of the proposed PWS well relative to DEC regulations has not been identified by DEC. For this reason, my response is under the assumption that the PWS well will be located near the location of the proposed gravel extraction activities, including but not limited to, the gravel quarry(s) and access roads used by heavy equipment and for fuel transport. It is our recommendation that best management practices (BMP) are implemented for the project in its entirety in accordance with DEC regulations. And for the gravel extraction activities, please ensure that the project conforms with the attached DEC "User's Manual: Best Management Practices for Gravel Pits and the Protection of Surface Water Quality of Alaska" (June 2006), and the attached "DEC Drinking Water Program General Recommendations for Gravel/Rock Extraction Projects", which primarily addresses protections measures for groundwater quality.*

**DNR Response: DNR will attach the *Best Management Practices for Gravel Pits and the Protection of Surface Water Quality of Alaska* and the DEC Drinking Water Program General Recommendations for Gravel/Rock Extraction Projects to the contract.**

Comments were received verbally from DMLW Land Sale Unit:

*Material Site B is within a Remote Recreation Cabin Site disposal area. There is no objection to a material site being developed in the unit as it could be used for future roads and building pads.*

**DNR Response: Comment noted.**

Comments were received from DNR DMLW Coal Program Manager:

*At this time I don't see any conflict with coal projects.*

**DNR Response: Comment Noted.**

Comments were received from DOT Northern Region:

*DOT Northern Region ROW has no objections to this action. We are already coordinating the road relocation issues with DNR and GVEA.*

**DNR Response: DNR will continue to work with DOT and GVEA regarding the road relocation issues.**

Comments were received from ADF&G Habitat Division:

*ADF&G has reviewed the subject requests for road right of way, material sites, wind tower sites, and communications site. Proposed right of way generally follows existing roads and trails which are heavily used by hunters in the fall - particularly during the September moose harvest season.*

*To minimize impacts on existing recreational hunters, we recommend that construction related activities associated with road construction not occur during the September harvest (September 1st to September 25th). Activities either before or after the September hunting season would have minor effect on existing use of the area. Post-construction use of the roads by GVEA for maintenance activities would likely be of insufficient magnitude to create future impacts on recreational uses.*

**DNR Response:** The building and operation of the Eva Creek Wind Farm will require the applicant to use the Ferry Road during the September moose harvest season. In addition, upgrade of the road must take place prior to erecting the wind turbines, thus the material sites will be needed early in the development. GVEA has acknowledged the heavy recreational use and does not intend to close access on the road. GVEA is working out the schedule of construction and use in the area. Access will be maintained, but will be minimally impacted during hunting season. A Traffic Safety Plan will be submitted prior to the issuance of the Early Entry Authorization (EEA), and will be addressed in the Project Specific Stipulations.

This comment will also be addressed in the adjudication of ADL 419221, the Ferry Road easement when a decision is made regarding the road application.

#### **Public Notice:**

Pursuant to AS 38.05.945, public notice is required for a lease. Notices will be published in the Fairbanks Daily News Miner, the Anchorage Daily News, and posted on the State of Alaska Public Notice Website. A notice will be sent to the Healy, Anderson, Cantwell, Clear, Fairbanks, Nenana and Denali Park postmasters. Pursuant to AS 38.05.945 and .946, a notice will be sent to the Denali Borough. A courtesy notice will also be sent to the Doyon Regional Corporation and nearby land/interest holders in the Ferry area. To ensure consideration and eligibility to appeal the Final Finding & Decision, comments must be submitted in writing during the comment period. A notice of the Final Finding & Decision will be sent to anyone who comments.

#### **Discussion**

GVEA has applied for a Public and Charitable lease (ADL 418853) under AS 38.05.810(e) to construct and operate a 24 MW wind project on ridges above the Eva Creek Valley, located east of the Nenana River and approximately 15 miles northeast of Healy, AK. In support of its proposal, GVEA has also applied for easements to accommodate roads and power lines within the wind project (ADL 419216) and a material sale contract to supply aggregate for a concrete batch plant, fill and surfacing for upgrades to Ferry Road, and for roads and turbine pads within the wind project.

The Ferry Road is an Omnibus road on a right-of-way held by the DOT. DOT does not maintain the road, however. It is used both by local residents and visitors for hunting, mining, mountain biking, trapping, various other outdoor recreation activities, and general access to state lands lying farther east and north. GVEA must upgrade the road so that turbine subassemblies can be transported up to the generation sites and so that its crews can access the sites during all seasons of the year for maintenance and operations. Improving the road will benefit all users.

GVEA originally applied for eight material sites ranging in size from 4 to 210 acres. The intent for filing for many large sites was to enable widespread geotechnical sampling to locate material in sufficient quantity and of sufficient quality to support the project requirements. Ultimately, exploratory drilling was conducted at three locations. It is anticipated that when a construction contractor is chosen, the contractor will choose the sites that it intends to use and the area and number of sites will be reduced. More recently, GVEA has estimated that the total disturbance for the sites that will be used is 40 acres. The boundary lines for sites A and B have been revised to exclude private land that was previously included within the area covered by the application. In addition, site H at the top of the ridge was expanded. When a contractor is chosen

for the project, the specific material sites intended for mining will be identified. The number of sites will likely be reduced to two or three, one of which will remain in use for the long term to supply material for maintenance needs.

Material site development at any one location will be restricted to what is necessary for the safe operation & development of the site. The material sale contract only covers material site development and extraction. Any lay down areas, concrete batch plant setup areas, and construction camps will need a separate authorization. A Land Use Permit would be appropriate for these temporary authorizations.

The material needed to construct Communication Site #2 and the associated access road west of the Parks Highway will be addressed separately. GVEA's contractor will identify the most appropriate source, and if that source is State owned, apply for a negotiated material sale from an existing site.

During construction, the access route to the material sites and the leases will present some potential for conflict between users, particularly during hunting season. GVEA has committed to a traffic management plan that will maintain access during periods of overlapping use.

In summary, this material is reasonably necessary for GVEA to construct and maintain its wind project. The size and configuration of the material sites will be reduced prior to a final decision being issued for this project. Following project construction, only one site will remain open to service longer term maintenance needs. The others will be reclaimed and closed unless a need is demonstrated for another site to service local residential requirements. The special stipulations are adequately protective. The Final Finding and Decision will address site disturbance consolidation.

**Recommendation**

The material removed from these new sites will assist with the upgrade, construction, and maintenance of the GVEA Eva Creek Wind Project and access to the project area. This project will benefit the members of the GVEA Cooperative, provide temporary employment,, and provide upgraded access to the public lands surrounding the Ferry Road. I find that this action may be in the State's best interest and that it should proceed to public notice.

  
\_\_\_\_\_  
Owen Coskey

7.15.2011  
\_\_\_\_\_  
Date

Natural Resource Specialist

**Preliminary Decision:**

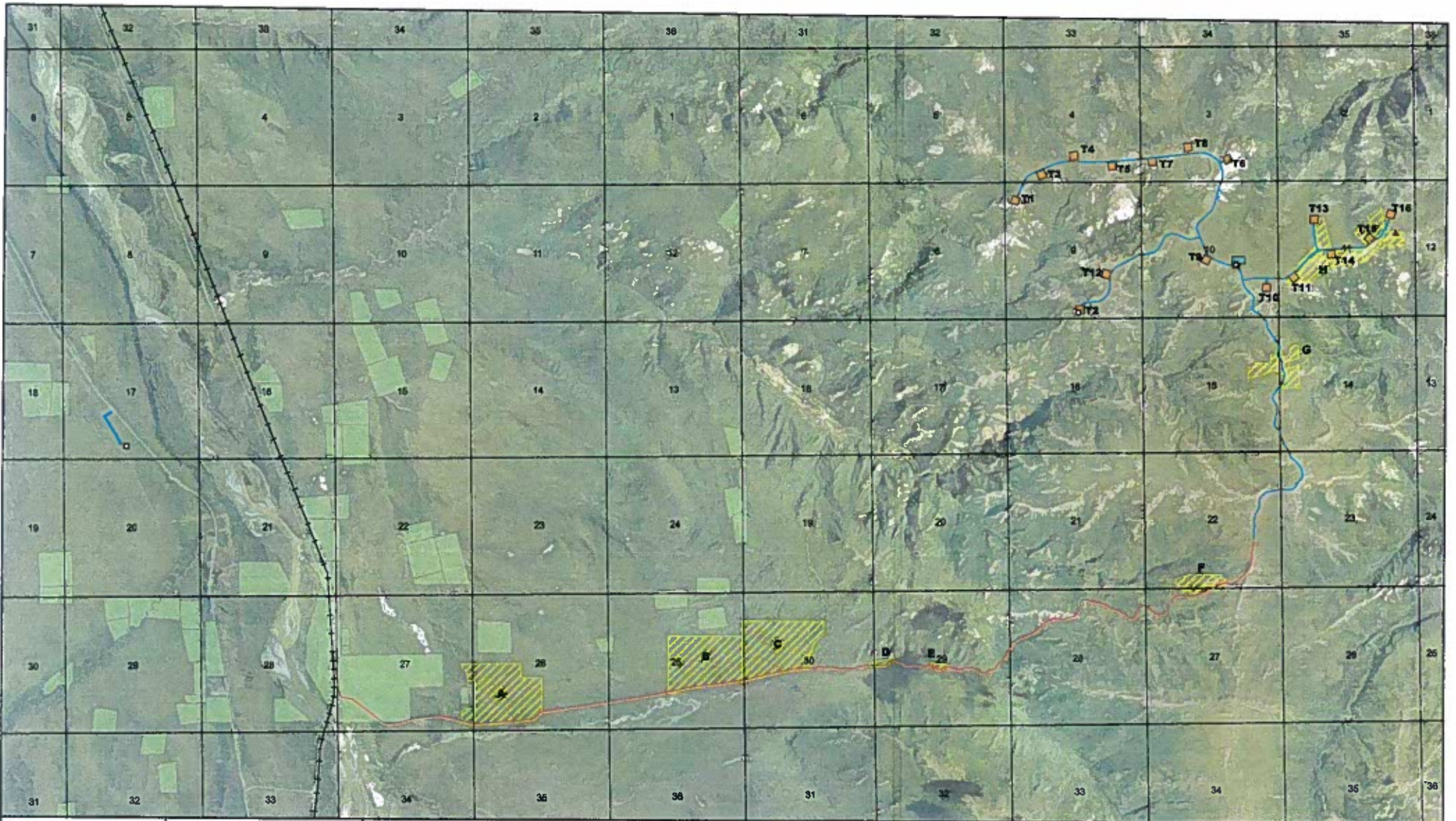
I find that the proposed action may be in the state's best interest and it is hereby approved to proceed with public notice. The Special Provisions in Attachment B are proposed for inclusion in the lease contract. Additional stipulations identified during the public notice period may be included as well.

  
\_\_\_\_\_  
Chris Milles  
Northern Region Manager

7.15.2011  
\_\_\_\_\_  
Date




# ATTACHMENT A



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 0 0.5 1 Miles
   
 Coordinate System: NAD 83 StatePlane Zone 4
   
 Imagery: ESRI LYR Aerial Imagery, modified 2010
   
 Section Lines: ADNAR PLS\_SECTION\_PY
   
 Produced: July 2011

## Eva Creek Wind Energy Project

### Legend

-  Railroad
-  Section Lines
-  Private Parcels
-  ADOT Public Easement ADL# 419221
-  GVEA Public Easement ADL# 419216
-  Material Sites ADL# 419234
-  GVEA Lease ADL# 418853
-  Comm Sites
-  Met Tower
-  Buildings
-  Turbine Pads



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**ADL 419234  
Special Stipulations  
Attachment B**

**The Material Contract will be subject to the following Special Stipulations:**

**1. Authorized Officer.**

- a. The Authorized Officer for the Department of Natural Resources is the Northern Regional Manager or her designee. The Authorized Officer may be contacted at 3700 Airport Way, Fairbanks, Alaska 99709 or 907-451-2740.
- b. The Authorized Officer reserves the right to modify these stipulations or use additional stipulations as deemed necessary.

**2. Indemnification.** Permittee assumes all responsibility, risk and liability for its activities and those of its employees, agents, contractors, subcontractors, licensees, or invitees, directly or indirectly related to this permit, including environmental and hazardous substance risk and liability, whether accruing during or after the term of this permit. Permittee shall defend, indemnify, and hold harmless the State of Alaska, its agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by Permittee, its employees, agents, contractors, subcontractors, licensees, or invitees, unless the proximate cause of the injury or damage is the sole negligence or willful misconduct of the State or a person acting on the State's behalf. Within 15 days, Permittee shall accept any such cause, action or proceeding upon tender by the State. This indemnification shall survive the termination of the permit.

**3. Valid Existing Rights.** This authorization is subject to all valid existing rights in and to the land under this authorization material sale. The State of Alaska makes no representations or warranties whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.

**4. Reservation of Rights.**

- 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.
- b. The Division may require authorized concurrent users of state land to enter into an equitable operation or maintenance agreement.
- c. Authorized concurrent users of state land, their agents, employees, contractors, subcontractors, and licensees, shall not interfere with the operation or maintenance activities of each user.

**5. Performance Guaranty.** The permittee shall provide a surety bond or other form of security acceptable to the Division in the amount of **\$23,229.75** payable to the State of Alaska. Such performance guaranty shall remain in effect for the term of this authorization and shall secure performance of the permittee's obligations hereunder. The amount of the performance guaranty may be adjusted by the Authorized Officer upon approval of amendments to this authorization, changes in the development plan, upon any change in the activities conducted or performance of operations conducted on the premises. If Permittee fails to perform the obligations under this permit within a reasonable time, the State may perform Permittee's obligations at Permittee's expense. Permittee agrees to pay within 20 days following demand, all costs and expenses reasonably incurred by the State of Alaska as a result of the failure of the permittee to comply with the terms of this permit. The provisions of this permit shall not prejudice the State's right to obtain a remedy under any law or regulation. If the authorized officer determines that the permittee has satisfied the terms and conditions of this authorization the performance guaranty may be released. The performance guaranty may only be released in a writing signed by the Authorized Officer.



6. **Insurance.** The permittee shall secure or purchase at its own expense, and maintain in force at all times during the term of this permit, the following policies of insurance to protect both the permittee and the permittor (the State, its officers, agents and employees). Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the permittee's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the Authorized Officer prior to occupancy. The certificate must provide for a 60-day prior notice to the State in the event of cancellation, nonrenewal or material change of conditions. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of this permit and shall be grounds, at the option of the State, for termination of the permit. All insurance policies shall comply with, and be issued by, insurers licensed to transact the business of insurance under Alaska Statute, Title 21.

**Commercial General Liability Insurance:** Such policy shall have minimum coverage limits of \$[\_\_\_\_\_,000,000] combined single limit per occurrence. The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the Division of Risk Management, Department of Administration. The State must be named as an additional named insured on the policy with respect to the operations of the permittee on or in conjunction with the permitted premises, referred to as ADL 419234.

7. **Alaska Historic Preservation Act.** The permittee shall consult the Alaska Heritage Resources Survey (907) 269-8721 so that known historic, archaeological and paleontological sites may be avoided.

The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state-owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Outdoor Recreation (907) 269-8721 and shall be notified immediately.

8. **Site Restoration.**

- a. Upon expiration, completion, or termination of this authorization, the site shall be vacated and all improvements, personal property, and other chattels shall be removed or they will become the property of the state.
- b. The site shall be left in a clean, safe condition acceptable to the Authorized Officer. All solid waste debris and any hazardous wastes that are used and stored on the site shall be removed and backhauled to an ADEC approved solid waste facility.
- c. The site shall be restored to a condition acceptable to the Authorized Officer.
- d. A Restoration Plan must be approved by the Authorized Officer at least 30 days prior to expiration, completion, or termination of this authorization, whichever is sooner.
- e. Land returned to the Department of Natural Resources for any reason shall be returned in an environmental, physical, and marketable condition acceptable to the Authorized Officer.

9. **Mining and Reclamation Plan.** During the term of the contract, mining activities shall occur as described in the buyer or site operator's approved Mining and Reclamation plans. Reclamation shall be to the standards of the Division and shall include repair of access roads to and within the sites, disposal of remaining stockpiles, other procedures that will be used to stabilize and reclaim the areas and any other site specific measures that may be necessary.

10. **Inspection.**

- a. Authorized representatives of the State of Alaska shall have reasonable access to the subject parcel for purposes of inspection.

b. The permittee may be charged fees under 11 AAC 05.010(a)(7)(M) for routine inspections of the subject parcel, inspections concerning non-compliance, and a final close-out inspection.

11. **Compliance with Governmental Requirements; Recovery of Costs.** Permittee shall, at its expense, comply with all applicable laws, regulations, rules and orders, and the requirements and stipulations included in this authorization. Permittee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
12. **Other Authorizations.** The issuance of this authorization does not alleviate the necessity of the permittee to obtain authorizations required by other agencies for this activity.
13. **Returned Check Penalty.** A returned check fee as provided in 11 AAC 05.010 will be assessed for any check on which the bank refuses payment. Late payment penalties shall continue to accumulate.
14. **Change of Address.** Any change of address must be submitted in writing to the Authorized Officer.
15. **Destruction of Markers.** All survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed lease corner posts shall be protected against damage, destruction, or obliteration. The permittee shall notify the Authorized Officer of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the permittee's expense in accordance with accepted survey practices of the Division of Land.
16. **Site Maintenance.** The area subject to this authorization shall be maintained in a neat, clean and safe condition, free of any solid waste, debris or litter. The buyer is responsible for all material extraction and transport. Any survey stakes or markers that are removed must be replaced at the buyer's expense. The disposal of hazardous substances or hydrocarbons is prohibited.
17. **Excess Extraction.** Material extraction in excess of the contract amount will be considered taken in trespass and at the discretion of the Director of the Division, charged to and paid for by the buyer at no less than triple the unit contract price or up to three times the pecuniary gain realized by the buyer as a result of the trespass. Said trespass penalties are in addition to any other administrative or legal proceedings imposed by the state.
18. **Notification.** The permittee shall immediately notify DNR and DEC by phone of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported.  
  
The DNR 24 hour spill report number is (907) 451-2678; the Fax number is (907) 451-2751. The DEC spill report number is (800) 478-9300. DNR and DEC shall be supplied with all follow-up incident reports.
19. **Extraction Area.** This contract authorizes removal of material only from the area defined in Section 1(a) of this contract. The buyer is responsible for properly locating the material site area and the working limits within that area, as shown on the attached map.
20. **Use of Material.** This contract authorizes the excavation and use of up to **309,730 cy** of material for the express purpose of **providing material necessary for construction and maintenance of GVEA Eva Creek Wind Project and Ferry Road access.** The buyer is required to provide DNR with records of material usage broken down by each material site authorized in this contract.
21. **Material Prices.** If, during the term of this contract and upon thirty (30) days written notice of the price adjustment, the representative sales price for materials is adjusted pursuant to the requirements of 11 AAC 71.090(c), then the new price will apply to materials mined under this contract after the effective date of the price change.
22. **Water Quality.** The buyer shall comply with the State of Alaska water quality standards pursuant to 18 AAC 70, including discharge standards when conducting material washing operations. The buyer will also adhere to DEC "User's Manual: Best Management Practices for Gravel Pits and the Protection of Surface Water Quality of Alaska"

(June 2006), and the attached "DEC Drinking Water Program General Recommendations for Gravel/Rock Extraction Projects".

**23. Solid Waste and Debris.**

- a. Trails, campsites, and work areas must be kept clean. All solid waste shall be backhauled to a solid waste disposal site approved by the Department of Environmental Conservation.
- b. Trash, survey lath, roadway markers, and other debris shall be picked up and properly disposed of prior to freeze-up of the following year.

*This stipulation is intended to prevent accumulation of solid waste on the tundra, to prevent the loss and contamination of habitat, and to protect state land from unauthorized solid waste disposal or burial (6 AAC 80.130, 6 AAC 80.040).*

**24. Reporting:** An annual report is due by January 31<sup>st</sup> of each year, without prior notice to the buyer that details the volume of material removed during the calendar year of January 1 through December 31. This report shall be filed regardless of whether material was removed during the reporting period. Failure to file the report by the deadline may result in suspension of the contract and financial penalties.

**25. Vehicle Maintenance.** Vehicle maintenance shall be performed only over an effective impermeable barrier.

**26. Fuel and Hazardous Substances.** Secondary containment shall be provided for fuel or hazardous substances.

- a. **Container marking.** All independent fuel and hazardous substance containers shall be marked with the contents and the permittee's or contractor'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. Trained personnel shall attend transfer operations at all times. Vehicle refueling shall not occur within the annual floodplain or tidelands.
- c. **Storing containers within 100 feet of waterbodies.** Containers with a total capacity larger than 55 gallons, which contain fuel or hazardous substances, shall not be stored within 100 feet of a waterbody.
- 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.
- e. **Definitions.**

**"Containers"** means any item that is used to hold fuel or hazardous substances. This includes tanks, drums, double-walled tanks, portable testing facilities, fuel tanks on small equipment such as light plants and generators, flow test holding tanks, slop oil tanks, bladders, and bags. Manifolded tanks or any tanks in a series must be considered as single independent containers. Vehicles, including mobile seismic tanks, are not intended to be included under this definition.

**"Hazardous substances"** are defined under AS 46.03.826(5) as (a) an element or compound which, when it enters the atmosphere, water, or land, presents an imminent and substantial danger to the public health or welfare, including fish, animals, or vegetation; (b) oil; or (c) a substance defined as a hazardous substance under 42 U.S.C. 9601(14).

**"Secondary containment"** means an impermeable diked area or portable impermeable containment structure capable of containing 110 percent of the volume of the largest independent container. Double-walled tanks do not qualify as secondary containment unless an exception is granted for a particular tank.

**"Surface liner"** means any safe, non-permeable container (e.g., drips pans, fold-a-tanks, etc.) designed to catch and hold fluids for the purpose of preventing spills. Surface liners should be of adequate size and volume based on worst-case spill risk.

## **27. Timber salvage.**

- a. Timber less than six inches in diameter, brush, and slash shall be disposed of so as to minimize the risk of fire and disease. To determine proper disposal methods, the permittee shall contact the Division of Forestry at 907.883.5134.
- b. Marketable timber (6" DBH and larger) will be hand felled, limbed, topped at 4" diameter and stacked in an area not susceptible to flooding. To determine if the timber must be salvaged, the permittee shall contact the Division of Forestry at 907.883.5134.

## **DEC Drinking Water Program General Recommendation for Gravel/Rock Extraction Projects**

### Recommendations

1. Maintain a four (4)-foot vertical separation distance between extraction operations and the seasonal high water table.
2. Minimize stormwater run-on to the property and run-off from the property. If run-on does enter the property, then we recommend that a decrease in the recommended 4-foot vertical separation distance be contingent upon restricting any surface run-on upgradient of the extraction pit or diverting any run-on to downgradient of the extraction pit and away from identified regulated public drinking water systems.
3. Restrict activities that could significantly change the natural groundwater gradient.
4. All data, including but not limited to, water quality results (field and lab), well survey data, well water levels, subsurface lithologic descriptions and depth, and groundwater flow direction and gradient information, shall be made freely available to the permitting agency upon verbal request, as well as allowing the permitting agency to provide the data to other public agencies and to the general public upon request.
5. Identify on a map in the permit application the location of DEC's, or DEC-approved, existing drinking water protection areas for active regulated public drinking water sources (springs, wellheads, or surface water intakes) that intersect the boundary of the proposed project area.
6. For active regulated public drinking water sources within at least 1,000 feet of the proposed project area, based on the best available location information, that do not have a drinking water protection area already delineated, we recommend identifying on a map in the permit application the location of a radius buffer based on that required for other potential sources of contamination declared in DEC Regulation 18 AAC 80, the *Minimum Separation Distances between Drinking Water Sources and Potential Sources of Contamination*, around the drinking water source, as a provisional drinking water protection area.
7. Minimize equipment storage, maintenance and operation, and other extraction-related activity, within at least one-quarter of the distance of the several-month time-of-travel capture area (DEC's Zone A) of the identified drinking water protection areas or within generated provisional drinking water protection areas as defined above.
8. Implement best management practices where equipment storage, maintenance and operation, and other extraction-related activity is to occur within an identified drinking water protection area or provisional drinking

water protection area, in accordance with DEC's publication: "User's Manual: Best Management Practices for Gravel Pits" (2006). Last Date Modified: Thursday, March 10, 2011

9. All water quality sampling and hydrologic data collection must be accomplished under the supervision of a qualified professional engineer or Hydrogeologist and follow a written sampling plan approved by the permitting entity.

10. Upon issuance of a conditional use permit allowing extraction of materials from below the seasonal high water table, no extraction shall be allowed below the first aquitard encountered within the saturated zone.

11. The permit application shall be posted for public notice for at least 30 days.