



**This Property is subject to an Environmental Covenant
approved by the Alaska Department of Environmental Conservation**

ENVIRONMENTAL COVENANT

Grantor(s): State of Alaska, Department of Natural Resources
Division of Mining, Land, & Water
3700 Airport Way
Fairbanks, AK 99709

Holder/Grantee(s): State of Alaska, Department of Natural Resources
Division of Mining, Land, & Water
3700 Airport Way
Fairbanks, AK 99709

Check the following:

- Original Covenant
 Amendment of Covenant

RECITALS

- I. This document is an environmental covenant (hereafter "Covenant") executed pursuant to Alaska Statute (AS) 46.04.300–46.04.390, the Alaska Uniform Environmental Covenants Act (hereafter, "the Act"), and Title 18 of the Alaska Administrative Code (AAC) 75.325–390, (the "Site Cleanup Rules").
- II. The Property that is the subject of this Covenant is situated in Fairbanks, Alaska, is shown on the map attached as Appendix A, and is legally described as follows:

Government Lot 2 of the U.S. Government Plat of Survey accepted 1/5/1964 within Section 28, Township 1 North, Range 2 West, Fairbanks Meridian (the "Property").
- III. Hazardous substances, pollutants, and/or contaminants are present on or within the Property. As a result, all or part of the Property is a DEC-listed contaminated site. The contaminated site here is commonly known as follows:

DEC Site Name: Grant Mine (the "Site")

DEC Hazard ID: 731

Site Address: 1.2 miles up Saint Patrick Road, Ester Dome, Fairbanks, AK 99708

The current boundaries of the contaminated area are shown in the map attached as Appendix A. In the event the contamination moves, the Site boundaries will shift as needed to encompass the contamination in accordance with the definition of "site" in 18 AAC 75.990(115) and 18 AAC 78.995(134).

- IV. This Covenant subjects the Property to certain activity and use limitations and requires the Grantor to comply with those limitations as set forth herein and in accordance with the Act. The applicable activity and use limitations described in this Covenant are necessary to protect human health, safety, welfare, or the environment and to ensure the integrity of the cleanup remedy conducted at the Site. Environmental documents pertaining to the cleanup are available from the Alaska Department of Environmental Conservation (DEC or "Department") at the Contaminated Sites Program Website at <http://dec.alaska.gov/spar/csp/>.
- V. The Site is the subject of an environmental response project under the Site Cleanup Rules (18 AAC 75.325–18 AAC 75.390). This Covenant is required because following completion of a cleanup, residual contamination remains on the Property, which is safe for some, but not all, activities and uses; and because an engineered feature—a 30-inch compacted silt cap—is present on the Site that will not function as intended if disturbed and requires ongoing monitoring. Residual contamination remaining on the Property includes the following hazardous substances, pollutants, or contaminants (Contaminants):

<u>Media</u>	<u>Contaminants</u>
Soil	<i>Metals: antimony, free cyanide, mercury, and silver</i>

- VI. The Department enters into this Covenant as a "department" under the Act, with all attendant rights of a "department" under the Act, which include but are not limited to the right to enforce this Covenant. This is not an ownership interest and the rights of DEC under the Act are not an interest in real property.
- VII. For purposes of indexing in the Alaska Department of Natural Resources (DNR) Recorder's office Grantor-Grantee index only, DNR shall be considered the **Grantor**, and DNR shall be considered the **Grantee(s)**.

COVENANT

Grantor hereby grants to the Grantee and its successors and assignees, the following requirements and restrictions and declares that the Property described in the legal description above shall hereinafter be bound by, held, sold, and conveyed subject to the activity and use limitations set forth below, which shall run with the Property in perpetuity and be binding on the Grantor and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein. Furthermore, it is the intent of the Grantor that such requirements and restrictions shall supersede any prior interests in the Property.

Summary of Environmental Actions – The Property contains portions of the Grant Mine where a response action was performed by Roger Burggraf due to past milling and underground mining operations. A primary tailings impoundment was constructed in 1985, which consisted of a compacted silt constructed liner bordered by a 45-foot-high earthen berm. The impoundment received the tailings from the cyanide process used to extract gold from 1985 to 1989. The tailings slurry contained waste rock, lime, sodium cyanide, and water. In 1985, two supply wells uphill from the tailings impoundment were found to have concentrations of cyanide above the federally established maximum contaminant level of 0.2 milligrams per liter. The wells were sampled after tailings were accidentally discharged upslope of the impoundment, allowing tailings to reach the groundwater through one of the supply wells. The well casing was removed and sealed with pressure grouting in 1989. Site characterization under 18 AAC 75.335 began with sampling of the adjacent supply well and two monitoring wells installed downgradient from the primary tailings impoundment. Groundwater was monitored from the upgradient supply wells from 1988 to 1989 and documented decreasing levels of total cyanide. Groundwater was then monitored in the downgradient wells from 1989 to September 2021 when three consecutive monitoring events resulted in free cyanide levels and all other contaminants except arsenic below DEC cleanup levels. Although arsenic was present above the groundwater cleanup levels, the concentration was less than 20 percent of the background concentrations reported in the 1994 EPA site investigation. The remaining tailings held in the unlined secondary tailings impoundment were excavated in October 2019 and deposited into the lined facility of the primary tailings impoundment. In 2021 the earthen berm surrounding the impoundment was dismantled and spread over the tailings. The tailings impoundment was then capped in accordance with DEC Solid Waste regulations, 18 AAC 60.455 which defines mining waste, and 18 AAC 60.485 which presents capping/cover criteria for industrial waste. The concentrations of antimony, free cyanide, mercury, and silver in soil are above the DEC approved cleanup levels in the capped tailings impoundment.

Activity and Use Limitations - By acceptance and recordation of this Covenant, the Property is hereby subject to the following requirements and restrictions, now or at any time in the future:

- A. Grantor, its successors and assigns, all present and subsequent owners, and current and future occupants, lessees or other persons holding or acquiring an interest in the Property shall not take any of the following actions without prior written approval from DEC:
 - 1) Any action that may negatively impact or interfere with either the response action or any operation, maintenance, inspection or monitoring of that response action (18 AAC 75.395). “Response action” shall mean “any action taken to respond to a release or threatened release of a contaminant, including mitigation, cleanup, or removal.”
 - 2) Any action that may increase the risks to human health, safety, welfare, or to the environment at the Property. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as part of the remedial action or that creates a new exposure pathway for residual contamination remaining on the Property.
 - 3) Construct, modify, or use buildings on the contaminated area of the Property.
 - 4) Grade, excavate, dig, till, or otherwise disturb the contaminated area of the Property.

- 5) Use the Property for residential purposes including child day care, educational facilities, playgrounds, hospitals, or similar facilities.
- 6) Subdivide or replat of the Property.

B. Grantor, its successors and assigns, all present and subsequent owners, and current and future occupants, lessees or other persons holding or acquiring an interest in the Property shall:

- 1) Ensure the engineered feature is inspected every month for five years between the months of April through October following closure and maintained as needed to prevent contact by humans or animals with subsurface contaminated soil, and to prevent the infiltration of water and potential leaching of contaminants. Following the first five years, the engineered feature will be inspected once every five years. Grantor shall report any damage to the engineered feature to DEC using the contact info below within ten (10) days after discovery. Grantor shall ensure the engineered feature is repaired as quickly as possible. Documentation of the repairs shall be submitted to DEC within 30 days after discovery.
- 2) Notify DEC if contaminated soil on the Property becomes accessible in the future, characterize the contamination, and, if determined necessary by DEC, cleanup the soil pursuant to DEC's Site Cleanup Rules.

C. DEC approval is required prior to moving soil where contamination remains above applicable cleanup levels. If DEC approval for movement is granted, any moved soil must still be characterized and managed following regulations applicable at that time. Movement or use of contaminated material in a manner that results in a violation of 18 AAC 70 Water Quality Standards is prohibited.

Included in Appendix A is/are a Site Survey or Diagram(s) drawn to scale that shows the Property boundaries, locations of existing structures, the area that has been cleaned up, the approximate location and extent of remaining soil and/or groundwater contamination which is subject to the activity and use limitations described in this Covenant

Conveyance of Interest - The Grantor, when conveying any interest in any part of the Property, including but not limited to title, easement, leases, or other interests must notify DEC at least 30 days prior to conveyance, and must include in any conveyance document, a complete copy of this Covenant and Appendices.

Successors - The requirements, terms, conditions, and restrictions of this Covenant shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs,

successors, and assigns. The rights of the Grantee under this instrument are freely assignable, subject to the notice provisions contained in this Covenant.

Prior Notification for Changes in Land Use, including Proposed Construction - No less than 30 days before taking action on the contaminated area of the property, the Grantor shall notify DEC of the following:

- Its intent to propose changes in use of the Property that may affect exposure to contaminants, and what those changes will be.
- Its intent to apply for a building permit for activities that may affect exposure to contaminants on the Property, and what those activities will be.
- Its intent to propose any work affecting the contamination on the Property, and what that work will be.

Reporting - Grantor shall report to DEC every five (5) years to document the status of compliance with the activity and use limitations described in this Covenant.

Reporting - Any notice, demand, request, consent, approval, or communication that a party desires or is required to give to another party shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:
Department of Natural Resources
Division of Mining, Land & Water:
3700 Airport Way
Fairbanks, AK 99709

To Roger Burggraf:
830 Sheep Creek Road
Fairbanks, AK 99709

To DEC:
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response
Contaminated Sites Program
Attention: Institutional Controls Unit
P.O. Box 111800
Juneau, AK 99811-1800
Or be submitted electronically to CS.Submittals@alaska.gov.

Authorizations - Grantor shall restrict authorizations, including leases, for any portion of the Property to only those uses and activities consistent with this Covenant. Further, Grantor shall notify all authorized users of the Property of all requirements and restrictions on the use of the Property.

Consent to Access - Grantor hereby consents to employees, contractors, and authorized representatives of DEC and Mr. Burggraf to enter and have continued access to the Property at reasonable times for the purpose of:

- A. Implementing, operating, and maintaining the environmental response project;
- B. Monitoring and conducting periodic reviews of the environmental response project, including and without limitation: sampling air, water, groundwater, sediments and soils;
- C. Verifying any data or information submitted to DEC or Mr. Burggraf; and
- D. Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, the environmental response project, or of any federal or state environmental laws or regulations.

Nothing in this Environmental Covenant shall limit or otherwise affect DEC or Mr. Burggraf's rights of entry and access for the purpose of emergency response actions under CERCLA, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP, 40 Code of Federal Regulations (C.F.R.) Part 300 – 399), or other federal and state law.

Enforcement - The Department and other parties, including parties to the Covenant, described in AS 46.04.335 are empowered to administer and enforce the terms of this Covenant using civil authority granted to them in AS 46.03. In addition, the Department may use administrative authority granted by AS 46.03.

Waiver of Certain Defenses - This Covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, acquiescence, or any similar doctrine as set forth in AS 46.04.325(f).

Representations and Warranties - Grantor hereby represents and warrants to DEC, holder(s), Grantor(s), Grantee(s), and any other signatories to this Covenant that, at the time of execution of this Covenant, the Grantor lawfully manages, controls, and holds title to the Property on behalf of the State of Alaska; that Grantor has a good and lawful right and power to bind the Property as provided in this Environmental Covenant; and that the Property is free and clear of encumbrances.

Amendment or Termination - This Covenant runs with the land and is perpetual, unless amended or terminated pursuant to AS 46.04.325 or 46.04.330. This covenant may be amended or terminated if signed consent is given by DEC and the then-current Holder. Other than DEC, all signers who are not the Holder at the time of amendment or termination waive the right to consent to an amendment or termination of the Covenant. If consent for amendment or termination cannot be obtained, the procedures under AS 46.04.325 apply.

Controlling Law - This Covenant shall be construed according to and governed by the laws of the State of Alaska.

Liberal Construction - Any general rule of construction to the contrary notwithstanding, this Covenant shall be liberally construed in favor of the establishment of activity and use limitations that run with the land to effect the purpose of this Covenant and the policy and purpose of the environmental response project and its authorizing legislation. If any provision of this Covenant is found to be ambiguous, an interpretation consistent with the purpose of this Covenant that would render the provision valid shall be favored over any interpretation that would render it invalid.

Joint Obligation - If there are two or more parties identified as Grantor herein, the obligations imposed by this Covenant upon them shall be joint and several.

Effective Date - This Covenant is effective on the date it is recorded with the appropriate recorders' office.

List of Appendices:

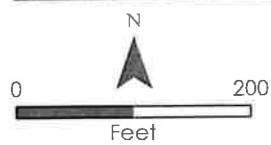
Appendix A – Legal Description, Map(s) of the Property and Diagram(s) Showing Location of the Contamination

Appendix A

**Legal Description, Map(s) of the Property and Diagram(s) Showing
Location of the Contamination (drawn to scale)**

Grant Mine

Saint Patrick Road Fairbanks, Alaska



May 2023

Government Lot 2 of the U.S. Government Plat of Survey accepted 1/5/1964 within Section 28, Township 1 North, Range 2 West, Fairbanks Meridian

GRANTOR(S) SIGNATURE BLOCK

The undersigned Grantor warrants she/he holds the title to _____ [property] _____
OR _____ [easement, right-of-way or other on the property] _____ and has
authority to execute this instrument.

EXECUTED this _____ day of _____, 20____.

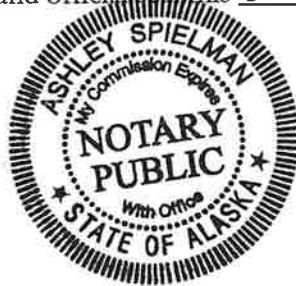
John C Boyle III _____ Comm. 351111 _____
Printed Name Title

[Handwritten Signature] _____ 8 September 23 _____
Signature Date

-----INDIVIDUAL

THIS IS TO CERTIFY that on this 8th day of September 2023 the undersigned personally
appeared before me, acknowledged that she/he is the individual described herein and who signed and
executed the within and foregoing instrument at her/his free and voluntary act and deed pursuant to
AS 46.04.300-46.04.390 for the uses and purposes therein.

WITNESS my hand and official seal this 8th day of September 2023 at
Anchorage, Alaska.



Ashley Spielman
Notary Public in and for the State of Alaska

My Commission Expires: with office

-----CORPORATION

THIS IS TO CERTIFY that on this _____ day of _____ 20____ the undersigned personally
appeared before me, acknowledged that she/he is the _____ [title] _____ of the
corporation described herein and who signed and executed the within and foregoing instrument by
free and voluntary act and deed of said corporation, pursuant to AS 46.04.300-46.04.390 for the uses
and purposes therein.

WITNESS my hand and official seal this _____ day of _____ 20____ at _____,
Alaska.

Notary Public in and for the State of Alaska

My Commission Expires: _____

-----Representative

THIS IS TO CERTIFY that on this _____ day of _____ 20____ the undersigned personally appeared before me, acknowledged that she/he is the _____ [type of representative] _____ of _____ [name of Grantor] _____ described herein and who signed and executed the within and foregoing instrument to be the free and voluntary act and deed of the Grantor pursuant to AS 46.04.300-46.04.390 for the uses and purposes therein.

WITNESS my hand and official seal this _____ day of _____ 20 ____ at

_____, Alaska.

Notary Public in and for the State of Alaska

My Commission Expires: _____



Notice Approved by Authorized DEC Representative Date

9/11/23

Emma Pokon

Printed Name of Authorized DEC Representative

Acting Commissioner

Title