

Authorization ID: GLA1130  
Contact Name: Alaska Railroad Corporation  
Expiration Date: 12/31/2040  
Use Code: 423, 523, 814

FS-2700-4 (VER. 03/17)  
OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE**

**SPECIAL USE PERMIT**

**Authority: ORGANIC ADMINISTRATION ACT June 4, 1897**

The ALASKA RAILROAD CORPORATION of P.O. BOX 107500, ANCHORAGE, AK UNITED STATES 99510 (hereinafter "the holder" or "ARRC") is authorized to use or occupy National Forest System lands in the CHUGACH NATIONAL FOREST or Glacier and Seward Ranger Districts of the National Forest System, subject to the terms and conditions of this special use permit (the permit).

This permit covers 5.2 acres or 0 miles in the Sec. 35, T. 10 N., R. 2 E., SEWARD MERIDIAN; Sec. 12, T. 8 N., R. 2 E., SEWARD MERIDIAN; Sec. 27, T. 10 N., R. 2 E., SEWARD MERIDIAN; and Sec. 2, T. 5 N., R. 2 E., SEWARD MERIDIAN ("the permit area"), as shown on the map attached as Appendix A-1 to Appendix A-6, incorporated herein and made part of this permit.

This permit is issued for the continued operation and maintenance of improvements at the following locations, and for construction of remote avalanche systems at Kern, Centerline, and Door 4, and for the installation of a Type II Magazine at Tunnel as part of the ARRC Avalanche Control System.

**IMPROVEMENTS AND ACTIVITIES AUTHORIZED IN PRIOR PERMITS**

As shown on maps Appendices A-1 (overview) through A-4. Appendix A-5 (Goat Habitat) and Appendix A-6 (No Fly Zones) are also attached.

**Whittier Branch: ARRC (T.8 N., R.3 E., Sec. 12 & 13) (Appendices A-1 and A-4)**

1. 30'x 40' gravel pad, of which 20'x 20' is finished with recycled asphalt pavement and includes a 20' clearing on west side of pad for snow storage for a mobile gun mount.
2. Weather Station – to be installed. Will be either a stand-alone station near the ridge or part of the tower accessory to assess wind, temperature, Rh, and solar.
3. Six Remote Avalanche Control System (RACS) towers at Door 4. Construction will occur as funding is available.
4. Three seasonal helicopter landing zones. This permit authorizes use of existing gun mounts as helipads during construction and for yearly set-up and take down of the RACS control boxes.
5. Seasonal helicopter access for RACS tower inspection and maintenance.
6. Seasonal helicopter access for reloading of RACS that (through design) stay on the mountain.
7. Door 1, Door 2, Door 4 Avalanche Target Areas (See Attached Maps)

*Avalanche Target Areas are locations, usually steep open faces, bowls, ridges and chutes, that are approved for avalanche mitigations.*

Kern: MP 71.2 – 71.5, Seward Hwy (T. 10 N., R 2 E., Sec. 27) (Appendices A-1 and A-3)

1. Six remote avalanche control towers.
2. Three seasonal helicopter landing zones for use during construction and summer tower inspections.
3. Kern Target Area. (See Attached Maps)

Centerline: MP 69.9 Seward Hwy (T. 9 N., R. 2 E., Sec. 2 and T. 10 N., R. 2 E., Sec. 35) (Appendices A-1 and A-3)

1. One 25' x 12" diameter mast supporting Doppler radar, two geophones, and an avalanche splitting wedge.
2. One Tensometer cable spanning the gully that attaches to the splitting wedge and anchors to a foundation on the other side that senses avalanches coming down the gully.
3. Four remote avalanche control towers, to be constructed as funding is available.
4. Three seasonal helicopter landing zones for use during construction and summer tower inspections.
- 5 Centerline Target Area (See Attached Maps).

Peterson: MP 67.2-68.1, Seward Hwy (T. 9 N., R. 2 E., Sec. 12) (Appendix A-1)

1. Peterson Target Area (See Attached Maps)

Mile 53: ARRC (T. 7 N., R. 2 E., Sec. 22 & 27) (Appendix A-1)

1. MP 53 Target Area (See Attached Maps)

Tunnel: MP 51 ARRC (T.7.N, R.2.E., SE1/4, SM.) (Appendix A-2)

1. Howitzer mount in year-round weather port (tan)
2. One 20' x 30' Type I artillery ammunition and explosives magazine
3. One 3' x 3' Type II explosives magazine
4. One 400' x 20' access road
5. One Type II Magazine at Old Tunnel; Type 1 storage site will be added in 2021.
6. One 650' x 20' access road (Old Tunnel Type I magazine access road).
7. One weather station on a 30' x 30' pad with a 20" x 24" x 15' high tower with weather instruments attached, and a 20" x 20" x 10' tower with weather instruments attached. Power and phone cables are buried in conduit from the tower to the Tunnel Section House.
8. Mile 51 Target Area (See Attached Maps)

Mile 49: MP 49 ARRC (T. 7 N., R. 2 E., Sec. 36) (Appendix A-1) 1. Mile 49 Target Area (See Attached Maps)

Grandview: MP 45-47 ARRC, (T. 6 N., R 2 E., Sec. 11, 12, 13 & 14) (Appendix A-1)

1. Grandview Target Area (See Attached Maps)

Mile 43: MP 43 ARRC (T. 6 N., R. 2 E., Sec. 16) (Appendix A-1)

1. One weather station consisting of a 20' x 12" diameter mast supporting wind and temperature sensors, solar panel and battery box.
2. Mile 43-10: one 20' tall mast with two blaster boxes with attached geophone.
3. Mile 43-30: one 20' tall mast with two blaster boxes with attached geophone.
4. Mile 43 Target Area (See Attached Maps)



Miles 21-22: MP 21-22 ARRC (T. 4 N., R. 1 E., Sec. 32 and T. 3 N., R. 1 E., Sec. 5) (Appendix A-1)

1. Mile 21.7 Target Area (See Attached Maps)

Mile 18: MP 18 ARRC (T. 3 N., R. 1 E., Sec. 20) (Appendix A-1)

1. Mile 18 Target Area (See Attached Maps)

Mile 16: MP 16 ARRC (T. 3 N., R. 1 E., Sec. 28 & 29) (Appendix A-1)

1. Mile 16 Target Area (See Attached Maps)

#### AUTHORIZED NEW WORK PROPOSED BY ARRC

Holder is authorized to conduct avalanche control work along the ARRC right-of-way using a howitzer, avalauncher, RACS, hand charging and helicopter bombing. Howitzer work for 49 Mile will be from a covered gun mount near the railroad tracks at Tunnel on National Forest System Lands. Firing for 53 Mile will be from a covered gun mount at 54 Mile located on ARRC right-of-way. Prior to the installation of RACS, Kern and Centerline firing will be from the ARRC gun mount at Seward Highway mile 88.5 on Anchorage Municipality Lands; Door 4 firing will be from ARRC gun mount at MP 4.5 Portage Glacier Highway mile 4.5 on National Forest System Lands.

Holder is also authorized to construct, install and operate avalanche control towers and seasonal helicopter landing zones at Kern, Centerline and Door 4. Construction will occur during the summer months as funds become available. Additionally, ARRC will clear alders from old Tunnel access road, and a Type II Magazine will be installed.

#### USFS DESIGNATED ROLES FOR 2021

Authorized Officer – Jeff Schramm, Forest Supervisor	(907) 743-9500
Forest Archaeologist – John Kinsner	(907) 743-9500
Permit Administrator – Dede Srb	(907) 424-4726

The following Appendices are attached, and made part of this permit:

Appendix A-1 through A-6: Maps  
Appendix B: Stipulations  
Appendix C: Avalanche Safety Plan

#### TERMS AND CONDITIONS

##### I. GENERAL TERMS

**A. AUTHORITY.** This permit is issued pursuant to the ORGANIC ADMINISTRATION ACT June 4, 1897 and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

**B. AUTHORIZED OFFICER.** The authorized officer is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

C. **TERM.** This permit shall expire at midnight on 12/31/2040, 20 Years from the date of issuance.

D. **CONTINUATION OF USE AND OCCUPANCY.** This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit for the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Issuance of a new permit is at the sole discretion of the authorized officer. At a minimum, before issuing a new permit, the authorized officer shall ensure that (1) the use and occupancy to be authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

E. **AMENDMENT.** This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

**F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL**

**REQUIREMENTS.** In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

G. **NON-EXCLUSIVE USE.** The use or occupancy authorized by this permit is not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for all lawful purposes.

H. **ASSIGNABILITY.** This permit is not assignable or transferable.

**I. TRANSFER OF TITLE TO THE IMPROVEMENTS.**

1. **Notification of Transfer.** The holder shall notify the authorized officer when a transfer of title to all or part of the authorized improvements is planned.

2. **Transfer of Title.** Any transfer of title to the improvements covered by this permit shall result in termination of the permit. The party who acquires title to the improvements must submit an



application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the improvements. The authorized officer shall determine that the applicant meets requirements under applicable federal regulations.

## **J. CHANGE IN CONTROL OF THE BUSINESS ENTITY.**

1. Notification of Change in Control. The holder shall notify the authorized officer when a change in control of the business entity that holds this permit is contemplated.

(a). In the case of a corporation, control is an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation.

(b). In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, control is a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity.

(c). In other circumstances, control is any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

2. Effect of Change in Control. Any change in control of the business entity as defined in paragraph 1 of this clause shall result in termination of this permit. The party acquiring control must submit an application for a special use permit. The Forest Service is not obligated to issue a new permit to the party who acquires control. The authorized officer shall determine whether the applicant meets the requirements established by applicable federal regulations.

## **II. IMPROVEMENTS**

**A. LIMITATIONS ON USE.** Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

**B. PLANS.** All plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans must be prepared by a professional engineer, architect, landscape architect, or other qualified professional based on federal employment standards acceptable to the authorized officer. These plans and plan revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built plans, maps, or surveys upon completion of the work.

**C. CONSTRUCTION.** Any construction authorized by this permit shall be completed by December 31, 2030.

### **III. OPERATIONS.**

**A. PERIOD OF USE.** Use or occupancy of the permit area shall be exercised at least 365 days each year.

**B. CONDITION OF OPERATIONS.** The holder shall maintain the authorized improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect national forest resources. The holder shall comply with inspection deemed appropriate by the authorized officer.

**C. OPERATING PLAN.** The holder shall prepare and annually revise by January 1 an operating/safety plan. The operating plan shall be prepared in consultation with the authorized officer or the authorized officer's designated representative and shall cover all operations authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's operations for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of operations and shall be attached to this permit as an appendix. The authorized officer may require an annual meeting with the holder to discuss the terms and conditions of the permit or operating plan, annual use reports, or other concerns either party may have.

**D. MONITORING BY THE FOREST SERVICE.** The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and transmission facilities at any time for compliance with the terms of this permit. The holder shall comply with inspection requirements deemed appropriate by the authorized officer. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or transmission facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms and conditions of this permit.

### **IV. RIGHTS AND LIABILITIES**

**A. LEGAL EFFECT OF THE PERMIT.** This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR 214 and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

**B. VALID EXISTING RIGHTS.** This permit is subject to all valid existing rights. Valid existing rights include those derived under mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.



**C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS.** The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

**D. SERVICES NOT PROVIDED.** This permit does not provide for the furnishing of road or trail maintenance, water, fire protection, search and rescue, or any other such service by a government agency, utility, association, or individual.

**E. RISK OF LOSS.** The holder assumes all risk of loss associated with use or occupancy of the permit area, including but not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If authorized temporary improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

**F. DAMAGE TO UNITED STATES PROPERTY.** The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs and damage to government-owned improvements covered by this permit.

1. The holder shall be liable for all injury, loss, or damage, including fire suppression, prevention and control of the spread of invasive species, or other costs in connection with rehabilitation or restoration of natural resources resulting from the use or occupancy authorized by this permit. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.J.

2. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States to the same extent as provided under clause IV.F.1, except that liability shall not include reasonable and ordinary wear and tear.

**G. HEALTH AND SAFETY.** The holder shall take all measures necessary to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees or agents. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.



## **H. ENVIRONMENTAL PROTECTION.**

1. For purposes of clause IV.H and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

2. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use and occupancy of the permit area. Environmental damage includes but is not limited to all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. If the environment or any government property covered by this permit becomes damaged in connection with the holder's use and occupancy, the holder shall as soon as practicable repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

3. The holder shall as soon as practicable, as completely as possible, and in compliance with all applicable laws and regulations abate any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during or after the term of this permit that causes or threatens to cause harm to the environment, including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources.

**I. INDEMNIFICATION OF THE UNITED STATES.** The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use or occupancy authorized by this permit. This indemnification provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees in connection with the use or occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous materials, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in addition to or as an alternative to monetary indemnification.

**J. BONDING.** The authorized officer may require the holder to furnish a surety bond or other security for any of the obligations imposed by the terms and conditions of this permit or any applicable law, regulation, or order.



## **V. RESOURCE PROTECTION**

**A. COMPLIANCE WITH ENVIRONMENTAL LAWS.** The holder shall in connection with the use or occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., the Oil Pollution Act, as amended, 33 U.S.C. 2701 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., CERCLA, as amended, 42 U.S.C. 9601 et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.

**B. VANDALISM.** The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer.

### **C. PESTICIDE USE.**

1. Authorized Officer Concurrence. Pesticides may not be used outside of buildings in the permit area to control pests, including undesirable woody and herbaceous vegetation (including aquatic plants), insects, birds, rodents, or fish without prior written concurrence of the authorized officer. Only those products registered or otherwise authorized by the U.S. Environmental Protection Agency and appropriate State authority for the specific purpose planned shall be authorized for use within areas on National Forest System lands.

2. Pesticide-Use Proposal. Requests for concurrence of any planned uses of pesticides shall be provided in advance using the Pesticide-Use Proposal (form FS-2100-2). Annually the holder shall, on the due date established by the authorized officer, submit requests for any new, or continued, pesticide usage. The Pesticide-Use Proposal shall cover a 12-month period of planned use. The Pesticide-Use Proposal shall be submitted at least 60 days in advance of pesticide application. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time a Pesticide-Use Proposal was submitted.

3. Labeling, Laws, and Regulations. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers. No pesticide waste, excess materials, or containers shall be disposed of in any area administered by the Forest Service.

**D. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES.** The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall follow the applicable inadvertent discovery protocols for the undertaking provided in an agreement executed pursuant to section 106 of the National Historic Preservation Act, 54 U.S.C. 306108; if there are no such agreed-upon protocols, the holder shall leave these discoveries intact and in place until



consultation has occurred, as informed, if applicable, by any programmatic agreement with tribes. Protective and mitigation measures developed under this clause shall be the responsibility of the holder. However, the holder shall give the authorized officer written notice before implementing these measures and shall coordinate with the authorized officer for proximate and contextual discoveries extending beyond the permit area.

**E. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA).**

In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall follow the applicable NAGPRA protocols for the undertaking provided in the NAGPRA plan of action or the NAGPRA comprehensive agreement; if there are no such agreed-upon protocols, the holder shall as soon as practicable notify the authorized officer of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

**F. PROTECTION OF THREATENED AND ENDANGERED SPECIES, SENSITIVE SPECIES, AND SPECIES OF CONSERVATION CONCERN AND THEIR HABITAT.**

1. Threatened and Endangered Species and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., as amended, or within designated critical habitat shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on listed species or designated critical habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing threatened or endangered species or designated critical habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

2. Sensitive Species and Species of Conservation Concern and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals designated by the Regional Forester as sensitive species or as species of conservation concern pursuant to FSM 2670 shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on sensitive species or species of conservation concern or their habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing sensitive species or species of conservation concern or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.



**G. CONSENT TO STORE HAZARDOUS MATERIALS.** The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include, or in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

1. If the holder receives consent to store hazardous material, the holder shall identify to the Forest Service any hazardous material to be stored at the site. This identifying information shall be consistent with column (1) of the table of hazardous materials and special provisions enumerated at 49 CFR 172.101 whenever the hazardous material appears in that table. For hazard communication purposes, the holder shall maintain Material Safety Data Sheets for any stored hazardous chemicals, consistent with 29 CFR 1910.1200(c) and (g). In addition, all hazardous materials stored by the holder shall be used, labeled, stored, transported, and disposed of in accordance with all applicable federal, state, and local laws and regulations.

2. The holder shall not release any hazardous material as defined in clause IV.H for non-federal entities onto land or into rivers, streams, impoundments, or natural or man-made channels leading to them. All prudent and safe attempts must be made to contain any release of these materials. The authorized officer in charge may specify specific conditions that must be met, including conditions more stringent than federal, state, and local regulations, to prevent releases and protect natural resources.

3. If the holder uses or stores hazardous materials at the site, upon revocation or termination of this permit the holder shall provide the Forest Service with a report certified by a professional or professionals acceptable to the Forest Service that the permit area is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the permit area, into surface water at or near the permit area, or into groundwater below the permit area during the term of the permit. If a release or discharge has occurred, the professional or professionals shall document and certify that the release or discharge has been fully remediated and that the permit area is in compliance with all applicable federal, state, and local laws and regulations.

#### **H. CLEANUP AND REMEDIATION.**

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.



2. Except with respect to any federally permitted release as that term is defined under Section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service free and clear of contamination.

## **VI. LAND USE FEE AND DEBT COLLECTION**

**A. LAND USE FEES.** The use or occupancy authorized by this permit is exempt from a land use fee or the land use fee has been waived in full pursuant to 36 CFR 251.57 and Forest Service Handbook 2709.11, Chapter 30.

## **VII. REVOCATION, SUSPENSION, AND TERMINATION**

**A. REVOCATION AND SUSPENSION.** The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state, or local law.
2. For noncompliance with the terms of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VII.B, the authorized officer shall give the holder written notice of the grounds for revocation or suspension and a reasonable period, typically not to exceed 90 days, to cure any noncompliance.

**B. IMMEDIATE SUSPENSION.** The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the on-site review, the authorized officer's supervisor shall promptly affirm, modify, or cancel the suspension.

**C. APPEALS AND REMEDIES.** Written decisions by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the



holder against the Forest Service.

**D. TERMINATION.** This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and termination upon change of control of the business entity. Termination of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

**E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW PERMIT.** Upon revocation or termination of this permit without issuance of a new permit, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

#### **VIII. MISCELLANEOUS PROVISIONS**

**A. MEMBERS OF CONGRESS.** No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

**B. CURRENT ADDRESSES.** The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

**C. SUPERSEDED PERMIT.** This permit supersedes a special use permit designated AK Railroad SEW648, dated 1/19/2016; GLA927, dated 7/10/2015; GLA903, dated 5/13/2014.

**D. SUPERIOR CLAUSES.** If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

**E. DESIGNATION OF HOLDER REPRESENTATIVE** (R10-X101). The holder (or use name of authorized group) must designate in writing to the authorized officer the name and title of the person who is authorized to act in all matters connected with the privileges authorized by this permit. In the event the designated representative is to be changed for any reason, the authorized officer must be notified of the replacement as soon as possible.

**F. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES** (R10-X106). Items of historic, prehistoric, or paleontological value are protected under various Federal laws, including the Antiquities Act of 1906 (16 U.S.C. 433), the Archaeological Resource Protection Act of 1979 (16 U.S.C. 47033) as amended, and Federal regulations. If historic, prehistoric, or paleontological objects or sites are discovered during ground disturbing activities under this permit, the holder must cease



such activities in the vicinity of the discovery. The holder is responsible for protecting the objects or sites from further disturbance until the Forest Service is notified. The holder must not resume activities in the area of the objects or sites until written approval from the Forest Supervisor is given. Failure to comply with this clause may result in criminal prosecution of the holder for violation of a Federal law or regulation.

## **G. STORAGE AND USE OF EXPLOSIVES AND MAGAZINE SECURITY (B-29).**

### 1. Applicable Legal Framework

a) The purchase, storage, and handling of explosives by the holder under this permit are subject to applicable state and Forest Service requirements, as well as storage requirements in United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulations at 27 CFR Part 555. The holder is not otherwise subject to ATF oversight, jurisdiction, licensure, and permitting requirements. Inspections of magazines authorized by this permit are subject to all state inspection requirements and shall be conducted by the state. Property records and inventories of these magazines shall be reconciled by the holder in accordance with state requirements.

b) The purchase, storage, and handling of military weapons and ammunition used for avalanche mitigation by the holder under this permit are subject to an agreement between the Department of the Army (DOA) and the holder. The holder is not subject to United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), oversight, jurisdiction, licensure, and permitting requirements. However, the holder is subject to applicable Forest Service requirements. Inspections of magazines authorized by this permit that contain ammunition purchased by the holder from DOA under an agreement between the holder and DOA are subject to all DOA inspection requirements under that agreement and shall be conducted by DOA and the holder. Property records and inventories of these magazines shall be reconciled by the holder in accordance with the holder's agreement with DOA.

2. Documentation of Inspections. All required inspections, including inspections required every seven days, shall be documented in a log. The log shall indicate the inspection type, date of inspection, and the date all deficiencies identified in any inspection report were corrected. A current copy of the log; corresponding inspection reports, if any; and a copy of the holder's current ATF-issued federal explosives license or federal explosives permit, if applicable, shall be included annually in the operating plan for review by the authorized officer.

3. Loss or Theft of Explosive Material. Any loss or theft of explosive material shall be reported to ATF or the Department of the Army (DOA), as appropriate, local law enforcement authorities, and the Forest Service within 24 hours of discovery.

### 4. Minimum Standards for Locks and Keys.

(a) ATF Requirements. Locks and keys for authorized magazines and key security shall meet ATF requirements at 27 CFR Part 555.

(b) Replacement and Documentation. Locks and keys shall be replaced periodically at least every ten



years. In the case of deterioration or a potential breach in security, such as lost keys, any affected keys and locks shall be replaced immediately. Periodic lock and key replacement shall be documented in a log. The log shall include the date of the most recent replacement. A current copy of the log shall be included annually in the operating plan for review by the authorized officer.

(c) Key Control for Magazines Containing Explosives Not Purchased From DOA. Key control for magazines authorized by this permit containing explosives not purchased from DOA shall at a minimum provide for appointment of a custodian, maintenance of a list of personnel authorized to use and issue keys, a locked container for key storage, and documentation of locks and keys on a key control register and inventory.

**H. IMPROVEMENT RELOCATION** (X-33). This authorization is granted with the express understanding that should future location of United States Government-owned improvements or road rights-of-way require the relocation of the holder's improvements, such relocation will be done by, and at the expense of, the holder within a reasonable time as specified by the Authorized Officer.



**THIS PERMIT IS ACCEPTED SUBJECT TO ALL ITS TERMS AND CONDITIONS.**

**BEFORE ANY PERMIT IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS AND CONDITIONS OF THE PERMIT.**

ACCEPTED:



7/19/2021

BRIAN LINDAMOOD, ALASKA RAILROAD CORPORATION      SIGNATURE      DATE  
VP ENGINEERING & CHIEF ENGINEER

APPROVED:

**JEFF SCHRAMM** Digitally signed by JEFF SCHRAMM  
Date: 2021.07.20 18:09:28 -08'00'

JEFF SCHRAMM, CHUGACH FOREST SUPERVISOR      SIGNATURE      DATE

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