

Hoopla, crew 6
By Trinity River /
Willow Creek

expires June 30, 2012
renews automatically
for 5 consecutive year
terms.

**EQUIPMENT STORAGE
AND
STOCKPILE SITE**

LICENSE AGREEMENT

This LICENSE AGREEMENT, hereinafter referred to as AGREEMENT, made and entered into this 20 day of October, 2009, by and between the **SWANSON MINING CORPORATION**, a Delaware corporation, hereinafter referred to as OWNER, and the COUNTY OF HUMBOLDT, a political subdivision of the State of California, hereinafter referred to as COUNTY.

WITNESSETH:

WHEREAS, OWNER represents and warrants that it is the owner in fee of a parcel of land in the south half portion of Section 15, Township 6 North, Range 5 East, Humboldt Base and Meridian, also known as Assessor's Parcel Number 524-091-006, hereinafter referred to as SITE, and as such has the exclusive right to enter into this AGREEMENT; and

WHEREAS, COUNTY desires to enter upon said SITE for the purposes of stockpiling aggregate material and temporary equipment storage for equipment used in connection with the hauling to and from said SITE for the maintenance and repair of COUNTY roads; and

NOW, THEREFORE, in consideration of the mutual covenants and promises contained below, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties hereto, COUNTY and OWNER agree as follows:

1. **LICENSE**

OWNER grants permission, subject to all the terms and conditions of this AGREEMENT, for COUNTY and COUNTY'S officers, agents, employees, contractors, and volunteers to use a portion of OWNER'S property as identified by Assessor's Parcel No. 524-091-006. The approximate SITE location is shown on the Assessor's Parcel Map attached hereto as Exhibit 1 which is incorporated herein by reference.

2. **LICENSE IS NOT A LEASE**

This AGREEMENT does not constitute a lease, but constitutes a mere license agreement and COUNTY is limited to the use of the premises expressly and specifically described in Sections 1 & 4.

3. **TERM**

The initial term of this AGREEMENT shall commence on July 1, 2009, and shall terminate on June 30, 2012. This AGREEMENT shall renew automatically for successive one (1) year terms not to exceed five (5) automatic renewal terms, unless either party provides written notice of termination.

Notice of termination of this AGREEMENT shall be sixty (60) days following date set forth in written notice of termination by either party to the other party. Notice shall be provided pursuant to Paragraph 8, herein titled NOTICE.

COUNTY within the allotted time frame of sixty (60) days shall cause SITE to be restored to the condition, as nearly as possible, as said SITE existed prior to date of this AGREEMENT.

4. **USE OF PREMISES**

COUNTY shall use SITE solely for the following purposes:

Stockpiling aggregate material and temporary equipment storage for equipment used in connection with the hauling or removal of the aggregate material associated with stockpiling operation.

Use of SITE by COUNTY shall be in compliance with all applicable laws including laws governing the use of hazardous materials. COUNTY shall not store hazardous materials on SITE. For purposes of this paragraph, hazardous materials are defined as any noxious or hazardous substance the use of which is regulated by Federal or State laws.

5. **COMPENSATION**

COUNTY shall pay to OWNER the sum of Fifty Dollars (\$50.00) per month as compensation for the use of said SITE referred to in Section 1 for an annual rate of Six Hundred Dollars (\$600.00), payable in advance prior to July 1 of each calendar year.

COUNTY agrees to pay OWNER the agreed upon sum of Fifty Dollars (\$50.00) per month for the month of Board approval and for the remainder of the fiscal year of July 1, 2009 through June 30, 2010 for the use of said SITE within thirty (30) days of Board approval.

6. **LICENSOR'S ACCESS TO PREMISES**

OWNER shall have access to and use of said SITE at all times and COUNTY shall not restrict OWNER'S use thereof.

7. **HOLD HARMLESS INDEMNIFICATION**

A. OWNER shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, agents, employees, and volunteers from any and all claims, Swanson Stockpile Agr.doc

demands, losses, damages, and liabilities of any kind or nature, including attorneys' fees which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents, or employees) in connection with OWNER'S duties and obligations under this AGREEMENT and any amendments hereto.

B. COUNTY shall indemnify, defend, and hold harmless OWNER from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by OWNER) in connection with COUNTY'S duties and obligations under this AGREEMENT and any amendments hereto.

C. Notwithstanding paragraphs A and B in the event OWNER and COUNTY are both held to be negligently or willfully responsible, OWNER and COUNTY shall bear their proportionate share of liability as determined in any such proceeding. OWNER and COUNTY shall bear their own costs and attorney fees.

D. Acceptance of insurance, if required by this AGREEMENT, does not relieve OWNER from liability under this indemnification clause. This indemnification clause shall apply to all damages, and claims for damages, suffered by OWNER regardless if any insurance is applicable.

8. **NOTICE**

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail to the respective addresses set forth below. Notice shall be deemed communicated two (2) County working days from time of mailing if mailed as provided herein.

OWNER: Swanson Mining Corporation
Attn: Diana Wells, President
PO Box 157
Westley, CA 95387

COUNTY: County of Humboldt Department of Public Works
Attn: Thomas K. Mattson, Director
1106 Second Street
Eureka CA 95501

9. **COUNTY'S INSURANCE**

Without limiting COUNTY'S indemnification provided herein, COUNTY shall take out and maintain, throughout the term of this AGREEMENT, the following policies of insurance placed with insurers with a current A.M. Bests rating of no less than A: VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of COUNTY, its agents, employees, or sub-lessees:

A. Comprehensive/Liability Insurance

Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$1,000,000 per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit. Said policy shall contain, or be endorsed with, the following provisions:

(1) The OWNER, its officers, employees and agents, are covered as additional insured for liability arising out of the operations performed by or on behalf of COUNTY. The coverage shall contain no special limitations on the scope of protection afforded to OWNER, its officers, agents, and employees.

(2) The policy shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (10 days for non-payment of the premium) to OWNER by certified mail.

(3) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

(4) For claims related to this project, COUNTY'S insurance is primary coverage to the OWNER'S, and any insurance or self-insurance programs maintained by OWNER are excess to COUNTY'S insurance and will not be called upon to contribute with it.

(5) Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided to COUNTY, its officers, employees, and agents.

B. By its signature hereunder, COUNTY certifies that COUNTY is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and COUNTY will comply with such provisions in connection with any work performed on the premises. Any persons providing services with or on behalf of COUNTY shall be covered by workers' compensation (or qualified self-insurance).

10. LICENSE IS PERSONAL

The License herein granted is personal to COUNTY and no right hereunder may be assigned, sublet, or otherwise transferred in whole or in part without prior written consent of OWNER, which consent may be withheld in OWNER'S sole discretion, and any attempt to assign, sublet, or transfer shall be of no force or effect whatsoever unless and until OWNER shall have given written consent.

11. **NUCLEAR FREE CLAUSE**

OWNER certifies by its signature below that OWNER is not a nuclear weapons contractor, in that OWNER is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. OWNER agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor, as defined above. COUNTY may immediately terminate this AGREEMENT if it determines that the foregoing certification is false or if OWNER becomes a nuclear weapons contractor.

12. **JURISDICTION AND APPLICABLE LAWS**

This AGREEMENT shall be construed under the laws of the State of California. Any dispute arising hereunder or relating to this AGREEMENT shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure Sections 394 and 395.

13. **AGREEMENT MODIFICATION**

This AGREEMENT may be modified only by a subsequent written agreement signed by COUNTY and OWNER.

14. **LICENSOR NOT OFFICER, EMPLOYEE, OR AGENT OF COUNTY**

While engaged in carrying out and complying with the terms and conditions of this AGREEMENT, OWNER is an independent contractor and not an officer, employee, or agent of COUNTY.

15. **ATTORNEYS' FEES**

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this AGREEMENT to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees (including reasonable value of services rendered by County Counsel) to be fixed by the court, and such recovery shall include court costs and attorneys' fees (including reasonable value of services rendered by County Counsel) on appeal, if any. As used herein, "the party prevailing" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

16. **WAIVER OF BREACH**

The waiver by either party of any breach of any provisions of this AGREEMENT shall not constitute a continuing waiver of any subsequent breach of the same or a different provision of this AGREEMENT.

17. **BREACH, REMEDY FOR**

In the event of breach of this AGREEMENT by OWNER or COUNTY, COUNTY and/or OWNER shall have all rights and remedies provided by law or inequity.

18. **BINDING EFFECT**

All provisions of this AGREEMENT shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, successors, and assigns.

IN WITNESS WHEREOF, this AGREEMENT has been executed in duplicate by the parties hereto upon the date first above written.

(SEAL)
ATTEST:
CLERK OF THE BOARD

BY *Melki Turner*

APPROVED AS TO FORM:
COUNTY COUNSEL

BY *R Zyber*

INSURANCE CERTIFICATES
REVIEWED AND APPROVED

BY *John Galt*
RISK MANAGER

OWNER:
SWANSON MINING CORPORATION
A Delaware corporation

BY *Diana L Wells*

NAME *Diana L. Wells*

TITLE *President*

BY *Jean O'Neil*

NAME *JEAN O'NEIL*

TITLE *Secretary/Treasurer*

COUNTY:

BY *Jimmy Smith*

CHAIRPERSON,
BOARD OF SUPERVISORS,
COUNTY OF HUMBOLDT,
STATE OF CALIFORNIA



Location Map- Swanson Site

EXHIBIT 1

Humboldt County
Community Development Services
ezoellner@co.humboldt.ca.us; APR 2009

Map Disclaimer:
While every effort has been made to assure the accuracy of this information, this map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



HUMBOLDT COUNTY

NOTICE OF EXEMPTION

TO: _____ Secretary for Resources
1416 Ninth Street, Room 1311
Sacramento, CA 95814

APPLICANT: Humboldt County Public Works
1106 Second St.
Eureka, CA 95501
707-445-7741

 X County Clerk
County of Humboldt

Project Title: SWANSON MINING CORP. EQUIPMENT STORAGE AND STOCKPILE SITE

Project Location-Specific: TOWNSHIP 6 NORTH, RANGE 5 EAST, SECTION 15

Project Location-County: HUMBOLDT COUNTY

Description of Nature, Purpose, and Beneficiaries of Project: THE PROPOSED PROJECT IS TO ENTER INTO AN AGREEMENT WITH THE PROPERTY OWNER TO USE A PRE-EXISTING STORAGE SITE FOR STOCKPILING AGGREGATE MATERIAL AND TEMPORARILY STORING EQUIPMENT.

Name of Public Agency Approving Project: HUMBOLDT COUNTY PUBLIC WORKS DEPARTMENT

Name of Person or Agency Carrying Out Project: HUMBOLDT COUNTY PUBLIC WORKS DEPARTMENT

Exempt Status: (Check One)

- Ministerial (Sec. 15268)
- Declared Emergency (Sec. 15269[a])
- Emergency Project (Sec. 15269[b] and [c])
- x Categorical Exemption. State type and section number:

- 15301 – EXISTING FACILITIES
- 15304 – MINOR ALTERATIONS TO LAND

Reason why project is exempt: : THIS IS A CLASS 1 PROJECT TO MAINTAIN AN EXISTING STOCKPILE AND STORAGE FACILITY, AND A CLASS 4 PROJECT THAT INCLUDES MINOR GRADING WITHIN THE FACILITY.

Contact Person: NAME
HUMBOLDT COUNTY PUBLIC WORKS

Telephone: 707-445-7741

Signature of Receiving Party

A. Glabczynski
Signature of Humboldt Co. Rep.

Title

ENVIRONMENTAL ANALYST
Title

Date received for filing

Date Signed

CAROLYN CRNICH
Humboldt County Clerk

AUG 13 2009

BY *J. Johnson*

F I L E D