



STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES

## Alaska Geologic Materials Center *Data Report No. 371*



No. 371: The History of the Orange Hill Alaska Copper-Molybdenum Property Under Northwest Explorations Joint Venture Ownership – (1970 to 2005) and Plan of Operation (2006)



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**THE HISTORY OF THE ORANGE HILL, ALASKA COPPER-MOLYBDENUM PROPERTY  
UNDER NORTHWEST EXPLORATIONS JOINT VENTURE  
OWNERSHIP – (1970 TO 2005)**

The Orange Hill property ("Property") is a parcel of eighteen patented mineral claims and one patented mill site encompassing 363.23 acres located at the toe of Nabesna Glacier at a distance of approximately 12 miles by trail from the end of the Nabesna Road. The distinctive orange color of the hill stems from the weathering of a large body of disseminated copper, molybdenum, silver and gold mineralization that forms the bedrock of the property.

The Property is owned by Northwest Explorations Joint Venture ("Venture") organized for the purpose of conducting mineral exploration in Alaska. At the time of organization, AJV Corporation contributed to the Venture the Orange Hill Property, consisting of eighteen patented mining claims with mill site and contiguous group of unpatented mineral claims encompassing approximately 1900 acres. Ultimately, the Orange Hill Property was increased in size to 3606 acres of contiguous mining claims.

The Venture was organized in 1970 subject to the provisions of Subchapter K of Chapter 1 of Subtitle A of the U.S. Internal Revenue Code of 1954. The organizing participants were AJV Corporation, The Louisiana Land & Exploration Company, Brown & Root, Inc., and Highland Resources, Inc. The AJV Corporation (name later changed to Geo-Enterprise, Inc.) is a privately held company headquartered in Spokane. The Louisiana Land & Exploration Company was a NYSE listed company, which was subsequently merged into Echo Bay Mines, Inc. Brown & Root, Inc., now Kellogg Brown & Root, Inc., a wholly owned subsidiary of Halliburton Co. was private company organized by the Brown brothers. Highland Resources, Inc. was a privately, founder of Brown & Root, Inc. Highland Resources, Inc. was a closely held private company owned company of George R. Brown. In 1984, the mineral and petroleum assets of Highland Resources, Inc. were merged into The George R. Brown Partnership. In 1998, the interest of Louisiana Land & Exploration Company was acquired by the remaining Joint Venturers.

Once organized, the Venture focused primary attention on exploration of the Orange Hill porphyry copper-molybdenum deposit. Exploration was also conducted on the Venture's other holdings including a series of other porphyry copper-molybdenum deposits located on the northeastern flank of the Wrangell Range, as well as massive sulfide deposits in the Prince William Sound. By the close of the 1974 field season, over 40 holes had been drilled At Orange Hill establishing a demonstrated reserve in excess of 100 million tons at an average grade of approximately 0.3% - 0.4% copper equivalents (including molybdenum and silver credits). The likelihood of doubling the reserves was considered excellent.

On the basis of such findings, the Venture entered into an Exploration Agreement and Option to Purchase ("Agreement") with U.S. Borax & Chemical Corp. ("Borax") on June 28, 1977. The terms of the Agreement provided for escalating annual exploration investments during an option period of five years and a purchase option with a cash consideration of \$2.0 million and a royalty on production of 2.5% on net smelter returns. Borax had begun drilling on the property before the agreement was signed in order to capitalize fully on the 1977 field season.

The Property, with a 1700-foot long airstrip, afforded ready access to hunters of Dall Sheep that inhabit the property, but in 1978, the use of the airstrip increased dramatically. The drilling activities of Borax became known attracting the attention of high profile environmentalists such as Johnny Denver; National Park Service personnel; and Congressional delegations, including

Senator Mike Gravel, who flew in to inspect the drilling activities. The reason for the great curiosity became apparent when, on November 16, 1978, the Secretary of Interior exercised his authority under Section 204(e) of FLPMA to withdraw 105 million acres of federal lands in Alaska placing the Orange Hill Property and other mining claim holdings of the Venture off limits to further exploration or mining.

The land withdrawal had a major impact on the Orange Hill exploration program. Unable to continue exploration within the term of the Agreement, Borax called to amend the Agreement under the force majeure clause. On May 21, 1979, by mutual agreement, the term of the Agreement was extended five years and minimum expenditure commitments were reduced in recognition of the limitation to conduct work only the patented claims during the period of the land withdrawal. Thereafter, Borax continued to conduct drilling confined to the patented claims.

On December 2, 1980, Congress passed ANILCA establishing the Wrangell-St. Elias National Park and Preserve ("WRST"). Passage of the Bill brought to a halt all exploration on the Property. Faced with the prohibition of exploration on the Property imposed by the NPS for an unknown term, the Venture and Borax agreed once again to amend the Agreement. The assumption underlying the second amendment was that property rights would be restored and resumption of exploration would be allowed at some time in the future. Thus, the Agreement was amended a second time on September 21, 1981 providing for the extension of the term of the Agreement to a total of 15 years from May 4, 1979 to May 4, 1994; an escalating schedule of the purchase cash consideration over the 15-year period; and an indexing the cash consideration to the "Product Price and Price Indexes for the Non-ferrous Metals Commodity Code 102, U.S. Department of Labor Statistics". See attached copy of the Agreement.

By the close of the 1980 field season, an estimated minimum of \$2 million had been expended on exploration of the Property. At the time of secession of exploration the proven reserves, as calculated by Borax at a cut-off grade of 0.2% copper equivalent grade (including molybdenum credits, but not including silver or gold) were 115.7 million tons averaging 0.308% Cu equivalent. At current metal prices, as of March 24, 2006, the gross metal value of the proven reserves, including copper, molybdenum and silver, is \$2.7 billion.

Neither the Venture nor Borax was prepared to believe at the outset that the intent of Congress was to take the property without compensation at a fair and just value. When in 1985, however, the National Park Service was enjoined from approving any mining plans of operation, the parties read the writing on the wall as did other property owners in the area. With no end of the moratorium sight, the parties concluded that neither the resumption of the right to explore nor the right to conduct mining within the Park was a realistic expectation. The Exploration Agreement and Option to Purchase was terminated by mutual agreement. In keeping with the decision, the Venture thereafter elected not to file assessment notices on the unpatented claims. At the same time, Kennecott Copper Co., in like manner, terminated its holding on the Bond Creek copper-molybdenum deposit located approximately four miles to the east of Orange Hill. The Venture lapsed into limbo awaiting the outcome of FEIS and the resolution of environmentalist lawsuits against the NPS.

By Record of Decision dated August 21, 1990, WRST announced that the decision had been made to implement Alternative D of the proposed action in the FEIS: Acquire All Claims. The publication cited an estimate of the then current gross value of the mining claims in the WRST to be between \$13.5 million and \$19.0 million. In a summary of the significant lode deposits in the Wrangell-St. Elias National Park and Preserve entitled, "Lode Values - WRST", the NPS noted that the Orange Hill Property. See attached copy of 'Lode Values - WRST.'

On Nov. 5, 1990 the Venture wrote to the Regional Director of the NPS requesting, under the Freedom of Information Act, copies of all the information used by the NPS to arrive at the value of the patented claims at Orange Hill. A reply dated December 5, 1990 enclosed comparable sales sheets, none of which were based on mineral estate values. The information provided, included nothing specific to the Property but did include a page entitled "Lode Values – WRST" (see attached copy of "Lode Values – WRST.") which briefly described the significant mineral property holdings within the Park. The information disclosed that the Orange Hill Property was the largest holding of unpatented mining claims (35% of the total unpatented claims) and the second largest behind Kennecott (21% of the total unpatented and patented claims) and noted that the Development Potential for Orange Hill was "High future." The cover letter noted that, "when the 1987 mineral estate value estimates were made, copper had traded at 60 to 80 cents per pound. This represents an increase of about 70 percent more than the increase in the cost of production".

A further request was made for documents relating to transactions within the WRST. In the reply, the only transactions disclosed were those of donations to WRST.

In early April 1992, a telephone call was received from Russell Lesko of the Superintendent's office of WRST, inquiring about the interest of NWE to sell its inholdings. On April 6, 1992, the Venture wrote to the Superintendent Karen Wade to confirm the Venture's interest to be compensated by the NPS for the Property. On April 30, 1992, a telephone call was made to Charles Gilbert, Chief, Land Resources Division, Alaska Region, to discuss what could be done to move the process of acquisitions ahead. Lacking a reply or acknowledgment of the letter to Superintendent Wade, a follow-up letter was written to her on May 5, 1992. On May 10, 1992, Mr. Norman Lee, Chief Appraiser of the Alaska Office of NPS was contacted following which the Venture wrote a letter to the NPS Regional Director on May 11, 1992 requesting that the NPS carry out mineral and surface appraisals of the Property and offered to cooperate and facilitate the appraisals.

Copies of the letter were sent to Senators Stevens, Gorton, and Murkowski and to Congressmen Young, Foley, and Morrison. Senators Stevens' and Gorton's offices were particularly helpful. In one exchange of correspondence, Senator Gorton wrote to Senator Stevens requesting an answer to the question as to why funds were being appropriated only for acquisitions in the Kantishna area of the Denali National Park and Preserve. In his reply to Senator Gorton, Senator Stevens pointed out that the NPS would not approve plans of operation to mine in the Denali National Park. He failed to understand that the same circumstances were true of WRST inholders who were also being denied the right to explore, much less the right to mine.

The Regional Director responded to the letter of request dated May 11 by letter dated June 19, 1992. He pointing out that, "Until money is appropriated for claim acquisition in WRST, we cannot proceed with the appraisal of your property". Ms. Wade replied on June 18, saying that she could add nothing to the comments of Mr. Gilbert.

On June 30, 1992 the Venture inquired of Ms. Wade to clarify the terms of RS 2477 to which she replied on July 29, 1992 that, "The NPS is not currently processing RS 2477 Assertions pending completion of internal procedures". On August 17, 1992 the Venture Management Committee met to review the status of the property for the purpose of developing a strategy to compel the NPS to acquire the property as set forth in the Record of Decision.

In a telephone conversation with Charles Gilbert on December 8, 1992, he assured that the right of access across the NPS lands is guaranteed with or without the assertion of RS 2477. Nevertheless, on December 12, 1992, the Venture submitted an application to nominate the trail into Orange Hill an RS2477 right of way for certification. The grant of the RS2477 right-of-way for the Orange Hill trail was accepted by the Alaska State Department of Natural Resources and designated Case file RST #400 on March 10, 1994.

As a follow through of the strategy agreed to by the Management Committee in August 1992, the Venture planned a concerted effort to arrange a land exchange in 1993. The effort was begun with a letter dated February 5, 1993 to Senator Stevens's office seeking his help. In his reply dated February 23, 1993, Senator Stevens expressed appreciation for being kept informed on the Venture's situation but said that he could not get involved in negotiations regarding an exchange. A member of the Senator's staff reported by telephone on February 25, 1993 that the NPS "resists the idea of exchanges". The stonewall was impenetrable.

On November 6, 1993, Senator Murkowski of the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources held a hearing in Anchorage to which the Venture presented a statement. The results of the hearing led to the introduction of a bill, S2542 on September 12, 1994, which ultimately resulted in the passage of the "Denali Mining Claims Act" in the following session of Congress. One of the means to gain compensation provided to the owners of mineral rights by the Act was the declaration of taking.

With the degree of interest being shown by Senator Murkowski and other Congressmen in the plight of the mineral inholders in the Denali National Park, letters were sent to Senator Murkowski by Tom Henriksen, Project Manager at Orange Hill for Borax from 1979 through 1980 and by Jackie E. Stephens, Northwest District Geologist for Borax during the same period. They expressed their strong views about the importance of the Property and their concerns about the issue of takings. Copies of the letters are attached.

In 1996, the Venture became aware of legislation proposed by Senator Murkowski designed to enable the University of Alaska ("University") to complete the University's selection of lands under the law that created the land grant colleges. Knowing that the University had acquired a block of unpatented claims contiguous with the Property, the Venture reasoned that a relationship with the University might facilitate bringing the NPS to the table to consider acquisition or trade out the joint University/Venture properties.

A proposal was made to the University offering to convey the ownership of the Property to the University, subject to a retained interest by the Venture in the net proceeds from the sale or exchange of the Property. In a meeting July 30, 1996 between representatives of the Venture and the University, the concept was agreed to in principle. A Phase 1 Environmental Site Assessment to be conducted by the firm of Dames & Moore was contracted for in order to quantify any environmental liability. In a report dated September 17, 1996, Dames & Moore concluded that there was no apparent significant environmental impairment. Shortly thereafter, the President of the University resigned and the Trustee with whom negotiations were being conducted was named head of the Selection Committee bringing negotiations to a temporary halt.

Then, in a letter to the Venture dated February 19, 1998, WRST geologist, Danny Rosenkrans wrote, "In 1992 you contacted the NPS and expressed an interest in selling your patented mining claims. At the time no acquisition funds were available. If you are still interested, please

contact this office.” The Venture replied in a letter dated March 10, 1998, “Northwest Explorations is committed to proceed with a contractual relationship that precludes consideration of a sale of the Property to the National Park Service”.

In the mean time, negotiations with the University had been marked by a long gap in response to the proposal of the Venture. Upon responding, the University raised the question of whether the University would have the right to sell mineral rights once acquired. In an effort to keep the negotiation on track, the Venture offered to change its proposed relationship. In lieu of a contribution of the Property, the Venture offered to name the University as its agent with the same sharing of net revenues as incentive to gain the agreement of the NPS to proceed with a plan to acquire the Property. In a conversation with the Director of the University Office of Land Management in June 1998, it was revealed that there was concern about what the political tendencies of a new Board of Regency might be, given that a change in the Board would take place within six months. It was also disclosed in the discussion that there was a possibility that the University might not want to push for a sale of the Property due to higher priorities or may not want to use the University’s political pressure to benefit the Venture. The revelation of the uncertain compatibility of the University’s objectives and those of the Venture regarding disposition of the Property necessitated reconsideration of the Venture’s plan action. In a Venture Management Committee Meeting held on July 10, 1998, it was unanimously agreed to withdraw both the offer to contribute the Property to the University and the proposal to create an agency relationship with the University.

In August the Venture learned that the NPS had closed on the purchase of the surface estate of a 1,000-acre parcel of the Kennecott property in the vicinity of McCarthy at a purchase price of \$3.6 million. The news seemed to confirm the initiation of a new policy dealing with inholders. It was later revealed, however, by the landowner’s attorney that the negotiations had been in progress eight years and that during the period that the NPS had claimed not to have the funds available for appraisals in the WRST, it had funded a number of appraisal related to the Kennecott acquisition.

A letter was sent to the WRST Superintendent requesting a clarification of the intentions of the NPS regarding the Orange Hill Property. Correspondence and telephone conversations ensued following which the Venture was directed to deal with Charles Gilbert, Chief, Land Resources Program Center. In a letter of reply to the Venture on November 5, 1998, Chief Gilbert stated, “We remain interested in acquiring the Orange Hill Property and will be glad to arrange to have an appraisal done next field season”. An authorization form, Owner’s Permission To Inspect and Appraise, was enclosed with a request to review and sign. The letter referred to Chief Appraiser, Mr. Stuart Snyder for questions about the mining claim acquisition program.

Mr. Snyder was immediately called. The purpose of the inquiry was to gain information about the appraisal process with the hope of coming to an understanding regarding the parameters of the appraisal and to mutually agree upon the selection of the appraiser. In the telephone discussion, Mr. Snyder seemed amenable to such a working relationship and offered to inquire with other government agencies about mineral appraisers acceptable to the NPS. Mr. Snyder complied with the request within about ten days, offering the name of a mineral appraiser considered sanctioned by the NPS. After conducting an independent research into the qualifications of several mineral appraisers, in addition to conducting a due diligence investigation of the recommended appraiser, a meeting was held with Mr. Snyder at his office on December 18, 1998. The Venture reported its approval of the NPS recommended appraiser. Mr. Snyder’s cooperative demeanor immediately changed. His new position was that WRST has a contractual relationship in place for all appraisals making it impossible to hire a specific

appraiser for each appraisal. He made the point that the process of hiring an appraiser entails advertising and the hiring of the appraiser from those responding to the advertisement. He said that the decision regarding the selection resides, in any case, with Mr. Gilbert.

Mr. Gilbert was contacted by telephone a few days after the meeting with Snyder. Upon questioning, Mr. Gilbert confirmed the statement of Mr. Snyder that all appraisals are currently under contract. He allowed as how it might be possible to subcontract the appraisal with the current contractor and said that he would give the idea consideration but he was absolutely insistent that the current contractor be the appraiser.

Remaining concerned about the inability to arrive at an understanding regarding the parameters of the appraisal, but believing that all that could be done had been done to prepare for a meaningful appraisal of the Property, the Venture authorized the appraisal to proceed by application dated February 18, 1999. Yet, in a telephone call on May 24, 1999 with Mr. Gilbert's assistant, Diane Wohlwend, made for the purpose of arranging to accompany the appraiser to the Property, it was learned that an appraiser to conduct the Orange Hill appraisals had not been hired. This fact was later confirmed in a telephone discussion with the appraisal team of Jim and Ellen Hodos of Onstream Resources Managers, Inc., who commented during a telephone conversation in mid June that they had yet to sign a contract for the appraisals they were about to perform.

Shortly after learning that the appraisal had not been contracted for, the Venture brought the appraisal contract opportunity to the attention of certified mineral appraiser; Mr. Trevor Ellis whom investigation had indicated was experienced and competent. Mr. Ellis acted upon the information and wrote to Mr. Snyder offering his services to the NPS and requested that he be considered should there be appraisal contracts advertised. Significantly, Mr. Ellis did not receive a timely acknowledgment of the receipt of his letter nor was he informed of the appraisals in the WRST for which contracts were being considered but not yet assigned.

Finally, by letter dated June 10, 1999 it was reported by Mr. Gilbert, "that we now have a mineral appraisal contract in place and an approved scope of work for the 1999 summer season appraisal field work. Your property has been included on the list for appraisal this summer." It was later confirmed through contact with the Hodos' that they had contracted for a field examination of the Property to be carried out on July 10 and 11, 1999. Arrangements were made to have the Hodos' accompanied on the property examination by Wallace and Darlene McGregor as representatives of the Venture.

The parties met on the morning of July 10 at the Devils Mountain Lodge, the closest point by road to Orange Hill. McGregor gave a briefing on the geology of the Property to the Hodos'. Noting the comprehensiveness of the geologic data and the magnitude of the reserve estimates, the Hodos' commented that they doubted that NPS would proceed with the appraisal. Asked why, the Hodos' were non-committal while reiterating their doubts about the NPS's willingness to proceed with the appraisal. Following the geologic discussion at the lodge, the parties flew by helicopter to the Property and carried out a daylong examination. On July 11 a meeting was again held at the Devils Mountain Lodge in order to further discuss the geology and mineral reserves, after which, a helicopter fly over the Property was made as a final orientation for the appraisers. Following the examination a copy of the complete database pertaining to the property was sent to the appraisers. In September, the appraiser informed the owners that he did not have a contract to proceed with the appraisal. A letter from the Alaskan Branch Chief of the Land Resources confirmed the decision of the NPS not to conduct the appraisal was received shortly thereafter.

Faced with the pending loss of the right to appeal under the Statute of Limitations due to expire on December 31, 1999, the owners were left with no recourse but file suit. They informed the Park Service of their need to protect their right to pursue an inverse condemnation action by year-end unless the Park Service proceeded with its commitment to timely complete the appraisal as agreed. The Alaska Regional Resource Officer responded, claiming not to know about a deadline for filing a takings action and steadfastly refused to proceed with the mineral appraisal.

On December 22, 1999 the owners filed a complaint charging the National Park Service with, "committing a compensable taking of its eighteen patented and ninety-nine unpatented mining claims when mining operations having environmental impact were prohibited in the Wrangell-St. Elias National Park." The filing was made with the offer to withdraw the suit upon the agreement of the National Park Service to conduct the appraisal. Former Secretary of the Interior, Cecil Andrus, on whose watch ANILCA had been passed, took note of the injustice and in a letter to National Park Service Director Phillip Stanton, urged him to proceed with the appraisal. Director Stanton replied to Andrus indicating his determination to proceed with an appeal of the taking action while refusing to proceed with the appraisal. It was a calculated decision purposely taken to mute the charge of taking thereby effectively validating the government's action while not being compelled to compensate for the taking.

The motivation for the Director Stanton's decision became clear when it was learned that the judge selected to hear the case, Judge Sedwick, was known to have a bias on takings. Judge Sedwick's decisions in previous cases had turned on the premise that, if a Plan of Operation had not been submitted and denied, a taking had not occurred. Thus, the Government moved to dismiss the case maintaining that the owners must have submitted a plan of operation that, short of arbitrary inconsistency, the Park Service could not approve. According to the Government, in the absence of this formalistic process, the Court has no jurisdiction to address the owners' cause of action. The Government prevailed in its argument. The Case was dismissed on the grounds that it was not ripe for adjudication. In retrospect it could be seen that the owner's naivety in accepting in good faith the government's statement of "Acquire All Claims" and its unwillingness to take the disingenuous step of submitting a Plan of Operation in obvious contradiction of the intent of the law, proved to be its undoing.

Notwithstanding the lose on its inverse condemnation suit, the owners continued to press for an appraisal but at the same time turned their efforts to gain Congressional support for appraisal and acquisition funding for the WRST. With the help of Washington, D.C. based counsel, the Venture gained a provision in the FY 2001 Appropriations Bill, which specifically instructed the NPS to take action to acquire the Orange Hill Property at a purchase price that is objectively fair and equitable. At the same time Cecil Andrus, once again, urged Director Stanton to follow through on the appraisal of the Orange Hill property and made note that the owners were pursuing support for an appropriation of \$3.8 million for acquisitions of inholdings within the Wrangell-St. Elias National Park. Director Stanton's reply to Andrus in a letter dated October 26, 2000 gave assurance that the appraisal would be completed and that an offer would be made to the Owners.

Director Stanton's intent can be assumed to have been honorable but the implementation of his intent under circumstances of a change of administration was left to the behest of the bureaucracy, which made clear its intent to the contrary. Extensive negotiations with Alaska Regional Resource Officer Gilbert were carried out during the later half of 2000 with no firm agreement on either a mutually approved appraiser or the appraisal parameters. As a means to

overcome the impasse, it was arranged to meet with NPS Chief Appraiser Gerald Stoebig and Chief Realty Officer Eugene Repoff and staff in Washington, D.C. on March 5, 2001. In opening the meeting, counsel for the owners referred to the language of the FY 2001 appropriations bill that instructed the National Park Service to set a "purchase price that is objectively fair and equitable." He asked for their view of the term "fairness." The gist of the response of the National Park participants was that the basis for judging fairness was an unknown. The comment was made, "never heard of basis for fairness." The discussion set the tenor of the meeting. Typical of the unyielding stance was the position expressed by Appraiser Stoebig's to the effect that the mineral rights had not been diminished by enclosure within the Park. It was impossible to achieve mutual agreement on any parameter. As the negotiations came to a close without agreement, Realty Officer Repoff observed that without a mutual agreement on the proposed parameters, the need for an appraisal was mute. The statement was made with an air of 'mission accomplished.'

The silence that followed was broken by the Alaska Regional Resource Officer's interjection that a fair market appraisal had been completed. The Park Service would argue that the real estate appraisal had been conducted with the approval of the owners, but the fact is, no such approval had been given. When earlier reported to the owners, they refused disclosure and responded with a reaffirmation of their decision to refuse acceptance of a real estate appraisal without the mineral appraisal. The meeting closed on the note of irreconcilable differences.

After the meeting, at the recommendation of counsel, the owners relented on their decision not to accept the release of the real estate appraisal. It was learned that the Park Service had commissioned the appraisal on November 29, 2000 without notice to the owners. In the appraisal report dated December 29, 2000 with an opinion date of December 5, 2000, the appraiser reported that "the fair market value of the fee simple estate, less the mineral estate, in the subject property, is: ONE HUNDRED FORTY-SIX THOUSAND DOLLARS (\$146,000.)" The per acre value of \$401.87 was the lowest per acre value of all WRST appraisals with one known exception, a property described as "rocky talus slopes."

Discouraged but determined to gain compensation, the owners turned the focus of their efforts away from negotiating a mutually approved appraiser to seeking Congressional help to resolve the impasse in dealing with the Park Service. The owners selected the guidance of new Washington, D.C. based counsel close to Alaskan politics. It was thought that with a newly elected Republican administration, dealing with the bureaucracy would be easier. However, the intransigence on the part of the Park Service management continued with no discernable change. After two more years of stonewalling by the Park Service it became apparent that the burden of addressing the issue of compensation for the Orange Hill property taking lay with the Congress.

Lobbying Congress for help to bring the Orange Hill Taking to closure achieved securing appropriations for the NPS to fund WRST property acquisitions in three annual budgets, in which the appropriations bills included instructions to the NPS specifically to acquire the Orange Hill Property for a fair and just compensation, but never to the extent of gaining earmarks dedicated to compensation for the Orange Hill property.

When, in the closing sessions of Congress in December 2004, the FY 2005 Appropriations Bill passed as an omnibus bill, again with no earmark of funds for the acquisition of Orange Hill, the conclusion had to be drawn that, as with the NPS, Congress is deaf to Fifth Amendment Property Rights.

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It is important to understand that the history of the Orange Hill Taking stands not as an isolated abrogation of a Constitutional Right but, rather, as an illustration of but one of a myriad of takings. In actual fact, the financial loss to the Alaskan property holders involved is immaterial compared to the loss to be borne by society as a whole, that of the loss of trust in government. Such lost trust will accrue only to the detriment of a society that was built on the strength of a security from the taking of property without just compensation.

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On December 2, 1980, Congress passed ANILCA establishing the Wrangell-St. Elias National Park and Preserve ("WRST"). Passage of the Bill brought to a halt all exploration on the Property. Faced with the prohibition of exploration on the Property imposed by the NPS for an unknown term, the Venture and Borax agreed once again to amend the Agreement. The assumption underlying the second amendment was that property rights would be restored and resumption of exploration would be allowed at some time in the future. Thus, the Agreement was amended a second time on September 21, 1981 providing for the extension of the term of the Agreement to a total of 15 years from May 4, 1979 to May 4, 1994; an escalating schedule of the purchase cash consideration over the 15-year period; and an indexing the cash consideration to the "Product Price and Price Indexes for the Non-ferrous Metals Commodity Code 102, U.S. Department of Labor Statistics". See attached copy of the Agreement.

By the close of the 1980 field season, an estimated minimum of \$2 million had been expended on exploration of the Property. At the time of secession of exploration the proven reserves, as calculated by Borax at a cut-off grade of 0.2% copper equivalent grade (including molybdenum credits, but not including silver or gold) were 115.7 million tons averaging 0.308% Cu equivalent. At current metal prices, as of March 24, 2006, the gross metal value of the proven reserves, including copper, molybdenum and silver, is \$2.7 billion.

Neither the Venture nor Borax was prepared to believe at the outset that the intent of Congress was to take the property without compensation at a fair and just value. When in 1985, however, the National Park Service was enjoined from approving any mining plans of operation, the parties read the writing on the wall as did other property owners in the area. With no end of the moratorium sight, the parties concluded that neither the resumption of the right to explore nor the right to conduct mining within the Park was a realistic expectation. The Exploration Agreement and Option to Purchase was terminated by mutual agreement. In keeping with the decision, the Venture thereafter elected not to file assessment notices on the unpatented claims. At the same time, Kennecott Copper Co., in like manner, terminated its holding on the Bond Creek copper-molybdenum deposit located approximately four miles to the east of Orange Hill. The Venture lapsed into limbo awaiting the outcome of FEIS and the resolution of environmentalist lawsuits against the NPS.

By Record of Decision dated August 21, 1990, WRST announced that the decision had been made to implement Alternative D of the proposed action in the FEIS: Acquire All Claims. The publication cited an estimate of the then current gross value of the mining claims in the WRST to be between \$13.5 million and \$19.0 million. In a summary of the significant lode deposits in the Wrangell-St. Elias National Park and Preserve entitled, "Lode Values - WRST", the NPS noted that the Orange Hill Property. See attached copy of 'Lode Values - WRST.'

On Nov. 5, 1990 the Venture wrote to the Regional Director of the NPS requesting, under the Freedom of Information Act, copies of all the information used by the NPS to arrive at the value of the patented claims at Orange Hill. A reply dated December 5, 1990 enclosed comparable sales sheets, none of which were based on mineral estate values. The information provided, included nothing specific to the Property but did include a page entitled "Lode Values – WRST" (see attached copy of "Lode Values – WRST.") which briefly described the significant mineral property holdings within the Park. The information disclosed that the Orange Hill Property was the largest holding of unpatented mining claims (35% of the total unpatented claims) and the second largest behind Kennecott (21% of the total unpatented and patented claims) and noted that the Development Potential for Orange Hill was "High future." The cover letter noted that, "when the 1987 mineral estate value estimates were made, copper had traded at 60 to 80 cents per pound. This represents an increase of about 70 percent more than the increase in the cost of production".

A further request was made for documents relating to transactions within the WRST. In the reply, the only transactions disclosed were those of donations to WRST.

In early April 1992, a telephone call was received from Russell Lesko of the Superintendent's office of WRST, inquiring about the interest of NWE to sell its inholdings. On April 6, 1992, the Venture wrote to the Superintendent Karen Wade to confirm the Venture's interest to be compensated by the NPS for the Property. On April 30, 1992, a telephone call was made to Charles Gilbert, Chief, Land Resources Division, Alaska Region, to discuss what could be done to move the process of acquisitions ahead. Lacking a reply or acknowledgment of the letter to Superintendent Wade, a follow-up letter was written to her on May 5, 1992. On May 10, 1992, Mr. Norman Lee, Chief Appraiser of the Alaska Office of NPS was contacted following which the Venture wrote a letter to the NPS Regional Director on May 11, 1992 requesting that the NPS carry out mineral and surface appraisals of the Property and offered to cooperate and facilitate the appraisals.

Copies of the letter were sent to Senators Stevens, Gorton, and Murkowski and to Congressmen Young, Foley, and Morrison. Senators Stevens' and Gorton's offices were particularly helpful. In one exchange of correspondence, Senator Gorton wrote to Senator Stevens requesting an answer to the question as to why funds were being appropriated only for acquisitions in the Kantishna area of the Denali National Park and Preserve. In his reply to Senator Gorton, Senator Stevens pointed out that the NPS would not approve plans of operation to mine in the Denali National Park. He failed to understand that the same circumstances were true of WRST inholders who were also being denied the right to explore, much less the right to mine.

The Regional Director responded to the letter of request dated May 11 by letter dated June 19, 1992. He pointing out that, "Until money is appropriated for claim acquisition in WRST, we cannot proceed with the appraisal of your property". Ms. Wade replied on June 18, saying that she could add nothing to the comments of Mr. Gilbert.

On June 30, 1992 the Venture inquired of Ms. Wade to clarify the terms of RS 2477 to which she replied on July 29, 1992 that, "The NPS is not currently processing RS 2477 Assertions pending completion of internal procedures". On August 17, 1992 the Venture Management Committee met to review the status of the property for the purpose of developing a strategy to compel the NPS to acquire the property as set forth in the Record of Decision.

In a telephone conversation with Charles Gilbert on December 8, 1992, he assured that the right of access across the NPS lands is guaranteed with or without the assertion of RS 2477. Nevertheless, on December 12, 1992, the Venture submitted an application to nominate the trail into Orange Hill an RS2477 right of way for certification. The grant of the RS2477 right-of-way for the Orange Hill trail was accepted by the Alaska State Department of Natural Resources and designated Case file RST #400 on March 10, 1994.

As a follow through of the strategy agreed to by the Management Committee in August 1992, the Venture planned a concerted effort to arrange a land exchange in 1993. The effort was begun with a letter dated February 5, 1993 to Senator Stevens's office seeking his help. In his reply dated February 23, 1993, Senator Stevens expressed appreciation for being kept informed on the Venture's situation but said that he could not get involved in negotiations regarding an exchange. A member of the Senator's staff reported by telephone on February 25, 1993 that the NPS "resists the idea of exchanges". The stonewall was impenetrable.

On November 6, 1993, Senator Murkowski of the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources held a hearing in Anchorage to which the Venture presented a statement. The results of the hearing led to the introduction of a bill, S2542 on September 12, 1994, which ultimately resulted in the passage of the "Denali Mining Claims Act" in the following session of Congress. One of the means to gain compensation provided to the owners of mineral rights by the Act was the declaration of taking.

With the degree of interest being shown by Senator Murkowski and other Congressmen in the plight of the mineral inholders in the Denali National Park, letters were sent to Senator Murkowski by Tom Henriksen, Project Manager at Orange Hill for Borax from 1979 through 1980 and by Jackie E. Stephens, Northwest District Geologist for Borax during the same period. They expressed their strong views about the importance of the Property and their concerns about the issue of takings. Copies of the letters are attached.

In 1996, the Venture became aware of legislation proposed by Senator Murkowski designed to enable the University of Alaska ("University") to complete the University's selection of lands under the law that created the land grant colleges. Knowing that the University had acquired a block of unpatented claims contiguous with the Property, the Venture reasoned that a relationship with the University might facilitate bringing the NPS to the table to consider acquisition or trade out the joint University/Venture properties.

A proposal was made to the University offering to convey the ownership of the Property to the University, subject to a retained interest by the Venture in the net proceeds from the sale or exchange of the Property. In a meeting July 30, 1996 between representatives of the Venture and the University, the concept was agreed to in principle. A Phase 1 Environmental Site Assessment to be conducted by the firm of Dames & Moore was contracted for in order to quantify any environmental liability. In a report dated September 17, 1996, Dames & Moore concluded that there was no apparent significant environmental impairment. Shortly thereafter, the President of the University resigned and the Trustee with whom negotiations were being conducted was named head of the Selection Committee bring negotiations to a temporary halt.

Then, in a letter to the Venture dated February 19, 1998, WRST geologist, Danny Rosenkrans wrote, "In 1992 you contacted the NPS and expressed an interest in selling your patented mining claims. At the time no acquisition funds were available. If you are still interested, please

contact this office.” The Venture replied in a letter dated March 10, 1998, “Northwest Explorations is committed to proceed with a contractual relationship that precludes consideration of a sale of the Property to the National Park Service”.

In the mean time, negotiations with the University had been marked by a long gap in response to the proposal of the Venture. Upon responding, the University raised the question of whether the University would have the right to sell mineral rights once acquired. In an effort to keep the negotiation on track, the Venture offered to change its proposed relationship. In lieu of a contribution of the Property, the Venture offered to name the University as its agent with the same sharing of net revenues as incentive to gain the agreement of the NPS to proceed with a plan to acquire the Property. In a conversation with the Director of the University Office of Land Management in June 1998, it was revealed that there was concern about what the political tendencies of a new Board of Regency might be, given that a change in the Board would take place within six months. It was also disclosed in the discussion that there was a possibility that the University might not want to push for a sale of the Property due to higher priorities or may not want to use the University’s political pressure to benefit the Venture. The revelation of the uncertain compatibility of the University’s objectives and those of the Venture regarding disposition of the Property necessitated reconsideration of the Venture’s plan action. In a Venture Management Committee Meeting held on July 10, 1998, it was unanimously agreed to withdraw both the offer to contribute the Property to the University and the proposal to create an agency relationship with the University.

In August the Venture learned that the NPS had closed on the purchase of the surface estate of a 1,000-acre parcel of the Kennecott property in the vicinity of McCarthy at a purchase price of \$3.6 million. The news seemed to confirm the initiation of a new policy dealing with inholders. It was later revealed, however, by the landowner’s attorney that the negotiations had been in progress eight years and that during the period that the NPS had claimed not to have the funds available for appraisals in the WRST, it had funded a number of appraisal related to the Kennecott acquisition.

A letter was sent to the WRST Superintendent requesting a clarification of the intentions of the NPS regarding the Orange Hill Property. Correspondence and telephone conversations ensued following which the Venture was directed to deal with Charles Gilbert, Chief, Land Resources Program Center. In a letter of reply to the Venture on November 5, 1998, Chief Gilbert stated, “We remain interested in acquiring the Orange Hill Property and will be glad to arrange to have an appraisal done next field season”. An authorization form, Owner’s Permission To Inspect and Appraise, was enclosed with a request to review and sign. The letter referred to Chief Appraiser, Mr. Stuart Snyder for questions about the mining claim acquisition program.

Mr. Snyder was immediately called. The purpose of the inquiry was to gain information about the appraisal process with the hope of coming to an understanding regarding the parameters of the appraisal and to mutually agree upon the selection of the appraiser. In the telephone discussion, Mr. Snyder seemed amenable to such a working relationship and offered to inquire with other government agencies about mineral appraisers acceptable to the NPS. Mr. Snyder complied with the request within about ten days, offering the name of a mineral appraiser considered sanctioned by the NPS. After conducting an independent research into the qualifications of several mineral appraisers, in addition to conducting a due diligence investigation of the recommended appraiser, a meeting was held with Mr. Snyder at his office on December 18, 1998. The Venture reported its approval of the NPS recommended appraiser. Mr. Snyder’s cooperative demeanor immediately changed. His new position was that WRST has a contractual relationship in place for all appraisals making it impossible to hire a specific

appraiser for each appraisal. He made the point that the process of hiring an appraiser entails advertising and the hiring of the appraiser from those responding to the advertisement. He said that the decision regarding the selection resides, in any case, with Mr. Gilbert.

Mr. Gilbert was contacted by telephone a few days after the meeting with Snyder. Upon questioning, Mr. Gilbert confirmed the statement of Mr. Snyder that all appraisals are currently under contract. He allowed as how it might be possible to subcontract the appraisal with the current contractor and said that he would give the idea consideration but he was absolutely insistent that the current contractor be the appraiser.

Remaining concerned about the inability to arrive at an understanding regarding the parameters of the appraisal, but believing that all that could be done had been done to prepare for a meaningful appraisal of the Property, the Venture authorized the appraisal to proceed by application dated February 18, 1999. Yet, in a telephone call on May 24, 1999 with Mr. Gilbert's assistant, Diane Wohlwend, made for the purpose of arranging to accompany the appraiser to the Property, it was learned that an appraiser to conduct the Orange Hill appraisals had not been hired. This fact was later confirmed in a telephone discussion with the appraisal team of Jim and Ellen Hodos of Onstream Resources Managers, Inc., who commented during a telephone conversation in mid June that they had yet to sign a contract for the appraisals they were about to perform.

Shortly after learning that the appraisal had not been contracted for, the Venture brought the appraisal contract opportunity to the attention of certified mineral appraiser; Mr. Trevor Ellis whom investigation had indicated was experienced and competent. Mr. Ellis acted upon the information and wrote to Mr. Snyder offering his services to the NPS and requested that he be considered should there be appraisal contracts advertised. Significantly, Mr. Ellis did not receive a timely acknowledgment of the receipt of his letter nor was he informed of the appraisals in the WRST for which contracts were being considered but not yet assigned.

Finally, by letter dated June 10, 1999 it was reported by Mr. Gilbert, "that we now have a mineral appraisal contract in place and an approved scope of work for the 1999 summer season appraisal field work. Your property has been included on the list for appraisal this summer." It was later confirmed through contact with the Hodos' that they had contracted for a field examination of the Property to be carried out on July 10 and 11, 1999. Arrangements were made to have the Hodos' accompanied on the property examination by Wallace and Darlene McGregor as representatives of the Venture.

The parties met on the morning of July 10 at the Devils Mountain Lodge, the closest point by road to Orange Hill. McGregor gave a briefing on the geology of the Property to the Hodos'. Noting the comprehensiveness of the geologic data and the magnitude of the reserve estimates, the Hodos' commented that they doubted that NPS would proceed with the appraisal. Asked why, the Hodos' were non-committal while reiterating their doubts about the NPS's willingness to proceed with the appraisal. Following the geologic discussion at the lodge, the parties flew by helicopter to the Property and carried out a daylong examination. On July 11 a meeting was again held at the Devils Mountain Lodge in order to further discuss the geology and mineral reserves, after which, a helicopter fly over the Property was made as a final orientation for the appraisers. Following the examination a copy of the complete database pertaining to the property was sent to the appraisers. In September, the appraiser informed the owners that he did not have a contract to proceed with the appraisal. A letter from the Alaskan Branch Chief of the Land Resources confirmed the decision of the NPS not to conduct the appraisal was received shortly thereafter.

Faced with the pending loss of the right to appeal under the Statute of Limitations due to expire on December 31, 1999, the owners were left with no recourse but file suit. They informed the Park Service of their need to protect their right to pursue an inverse condemnation action by year-end unless the Park Service proceeded with its commitment to timely complete the appraisal as agreed. The Alaska Regional Resource Officer responded, claiming not to know about a deadline for filing a takings action and steadfastly refused to proceed with the mineral appraisal.

On December 22, 1999 the owners filed a complaint charging the National Park Service with, "committing a compensable taking of its eighteen patented and ninety-nine unpatented mining claims when mining operations having environmental impact were prohibited in the Wrangell-St. Elias National Park." The filing was made with the offer to withdraw the suit upon the agreement of the National Park Service to conduct the appraisal. Former Secretary of the Interior, Cecil Andrus, on whose watch ANILCA had been passed, took note of the injustice and in a letter to National Park Service Director Phillip Stanton, urged him to proceed with the appraisal. Director Stanton replied to Andrus indicating his determination to proceed with an appeal of the taking action while refusing to proceed with the appraisal. It was a calculated decision purposely taken to mute the charge of taking thereby effectively validating the government's action while not being compelled to compensate for the taking.

The motivation for the Director Stanton's decision became clear when it was learned that the judge selected to hear the case, Judge Sedwick, was known to have a bias on takings. Judge Sedwick's decisions in previous cases had turned on the premise that, if a Plan of Operation had not been submitted and denied, a taking had not occurred. Thus, the Government moved to dismiss the case maintaining that the owners must have submitted a plan of operation that, short of arbitrary inconsistency, the Park Service could not approve. According to the Government, in the absence of this formalistic process, the Court has no jurisdiction to address the owners' cause of action. The Government prevailed in its argument. The Case was dismissed on the grounds that it was not ripe for adjudication. In retrospect it could be seen that the owner's naivety in accepting in good faith the government's statement of "Acquire All Claims" and its unwillingness to take the disingenuous step of submitting a Plan of Operation in obvious contradiction of the intent of the law, proved to be its undoing.

Notwithstanding the lose on its inverse condemnation suit, the owners continued to press for an appraisal but at the same time turned their efforts to gain Congressional support for appraisal and acquisition funding for the WRST. With the help of Washington, D.C. based counsel, the Venture gained a provision in the FY 2001 Appropriations Bill, which specifically instructed the NPS to take action to acquire the Orange Hill Property at a purchase price that is objectively fair and equitable. At the same time Cecil Andrus, once again, urged Director Stanton to follow through on the appraisal of the Orange Hill property and made note that the owners were pursuing support for an appropriation of \$3.8 million for acquisitions of inholdings within the Wrangell-St. Elias National Park. Director Stanton's reply to Andrus in a letter dated October 26, 2000 gave assurance that the appraisal would be completed and that an offer would be made to the Owners.

Director Stanton's intent can be assumed to have been honorable but the implementation of his intent under circumstances of a change of administration was left to the behest of the bureaucracy, which made clear its intent to the contrary. Extensive negotiations with Alaska Regional Resource Officer Gilbert were carried out during the later half of 2000 with no firm agreement on either a mutually approved appraiser or the appraisal parameters. As a means to

overcome the impasse, it was arranged to meet with NPS Chief Appraiser Gerald Stoebig and Chief Realty Officer Eugene Repoff and staff in Washington, D.C. on March 5, 2001. In opening the meeting, counsel for the owners referred to the language of the FY 2001 appropriations bill that instructed the National Park Service to set a "purchase price that is objectively fair and equitable." He asked for their view of the term "fairness." The gist of the response of the National Park participants was that the basis for judging fairness was an unknown. The comment was made, "never heard of basis for fairness." The discussion set the tenor of the meeting. Typical of the unyielding stance was the position expressed by Appraiser Stoebig's to the effect that the mineral rights had not been diminished by enclosure within the Park. It was impossible to achieve mutual agreement on any parameter. As the negotiations came to a close without agreement, Realty Officer Repoff observed that without a mutual agreement on the proposed parameters, the need for an appraisal was mute. The statement was made with an air of 'mission accomplished.'

The silence that followed was broken by the Alaska Regional Resource Officer's interjection that a fair market appraisal had been completed. The Park Service would argue that the real estate appraisal had been conducted with the approval of the owners, but the fact is, no such approval had been given. When earlier reported to the owners, they refused disclosure and responded with a reaffirmation of their decision to refuse acceptance of a real estate appraisal without the mineral appraisal. The meeting closed on the note of irreconcilable differences.

After the meeting, at the recommendation of counsel, the owners relented on their decision not to accept the release of the real estate appraisal. It was learned that the Park Service had commissioned the appraisal on November 29, 2000 without notice to the owners. In the appraisal report dated December 29, 2000 with an opinion date of December 5, 2000, the appraiser reported that "the fair market value of the fee simple estate, less the mineral estate, in the subject property, is: ONE HUNDRED FORTY-SIX THOUSAND DOLLARS (\$146,000.)" The per acre value of \$401.87 was the lowest per acre value of all WRST appraisals with one known exception, a property described as "rocky talus slopes."

Discouraged but determined to gain compensation, the owners turned the focus of their efforts away from negotiating a mutually approved appraiser to seeking Congressional help to resolve the impasse in dealing with the Park Service. The owners selected the guidance of new Washington, D.C. based counsel close to Alaskan politics. It was thought that with a newly elected Republican administration, dealing with the bureaucracy would be easier. However, the intransigence on the part of the Park Service management continued with no discernable change. After two more years of stonewalling by the Park Service it became apparent that the burden of addressing the issue of compensation for the Orange Hill property taking lay with the Congress.

Lobbying Congress for help to bring the Orange Hill Taking to closure achieved securing appropriations for the NPS to fund WRST property acquisitions in three annual budgets, in which the appropriations bills included instructions to the NPS specifically to acquire the Orange Hill Property for a fair and just compensation, but never to the extent of gaining earmarks dedicated to compensation for the Orange Hill property.

When, in the closing sessions of Congress in December 2004, the FY 2005 Appropriations Bill passed as an omnibus bill, again with no earmark of funds for the acquisition of Orange Hill, the conclusion had to be drawn that, as with the NPS, Congress is deaf to Fifth Amendment Property Rights.

## Orange Hill - 9

It is important to understand that the history of the Orange Hill Taking stands not as an isolated abrogation of a Constitutional Right but, rather, as an illustration of but one of a myriad of takings. In actual fact, the financial loss to the Alaskan property holders involved is immaterial compared to the loss to be borne by society as a whole, that of the loss of trust in government. Such lost trust will accrue only to the detriment of a society that was built on the strength of a security from the taking of property without just compensation.

PLAN OF OPERATION  
ORANGE HILL, ALASKA

By

NORTHWEST EXPLORATIONS JOINT VENTURE

MAY 11, 2006

PLAN OF OPERATION  
ORANGE HILL, ALASKA

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## EXHIBITS

- A. SITE VICINITY MAP
- B. GEOLOGICAL SURVEY ACCESS TO ORANGE HILL
- C. REGIONAL DIR. ARNBERGER LETTER DATED DEC. 18, 2002
- D. AREA OF OPERATON MAP
- E. ORANGE HILL FIRST PHASE
- F. CROSS SECTION –CAMPBIRD (NORTH LINE)
- G. CROSS SECTION – CAMPBIRD (SOUTH LINE)
- H. CROSS SECTION – CALIFORNIA (SOUTH LINE)
- I. CROSS SECTION – LEMON (SOUTH LINE)
- J. CROSS SECTION- ORANGE HILL (SOUTH LINE)
- K. ISOPACH OF ORE RESERVES
- L. ESTIMATED GROSS METAL (Copper, Molybdenum, Silver) VALUE  
OF ORANGE HILL DRILL PROVEN RESERVES
- M. LIST OF ORANGE HILL DATA

PLAN OF OPERATION  
ORANGE HILL, ALASKA

PART I. INTRODUCTORY INFORMATION

A. National Park System Unit

Wrangell St. Elias National Park and Preserve

B. Mining Claim Information

The Orange Hill Property ("Property") is a parcel of private land consisting of eighteen contiguous Patented Mining Claims and 1 Patented Mill Site.

The claims are more specifically described as follows:

<u>Claims</u>	<u>Mineral Survey Number</u>	<u>Patent Number</u>
Glacier	1414 A	914107
Nabesna	1414 A	914107
Orange Hill	1414 A	914107
Orange Hill No. 1	1414 A	914107
Orange Hill No. 2	1414 A	914107
Lemon	1414 A	914107
Lemon No. 1	1414 A	914107
Lemon No. 2	1414 A	914107
Lemon No. 3	1414 A	914107
Camp Bird	1414 A	914107
Camp Bird No. 2	1414 A	914107
Copper King	1414 A	914107
Copper King North Extension No. 1	1414 A	914107
North Star	1414 A	914107
North Star East Extension No. 1	1414 A	914107
California	1414 A	914107
California No. 1	1414 A	914107
California No. 2	1414 A	914107
Five acre Millsite Claim	1414 B	914107

### C. Mining Claim Location

1. The location of the patented claim group is as shown on Exhibit A. SITE VICINITY MAP.
2. The claims are more specifically located in Sections 16,17, 20, 21, 22, 27 and 28, Township 5 North, Range 14 East, Copper River Meridian.
3. The Orange Hill patented claims are located in the White River Mining District, at the head of the Nabesna River, State of Alaska.

## PART II. ACCESS

### A. Access Map

The historic access to the Property from the Alaska State Highway System has been via an approximately 14 mile long trail from the end of the Nabesna Road in the vicinity of the Nabesna Mine. The route is as shown on the Nabesna Quadrangle Map in Exhibit B. Geological Survey Access to Orange Hill

### B. Proposed Method of Access

Current access to the Property is by fixed wing aircraft (Piper Cub) to the Orange Hill airstrip. Such access is inadequate for the requirements of the work planned to be conducted on the property.

### C. Proposed Dates of Access

An application for a right-of-way for the construction of a road and utility corridor was submitted by letter dated April 2, 2002. The access issue has been discussed with Regional Director Arnberger. By letter dated December 18, 2002, Director Arnberger confirmed the fact that Section 1110(b) of the Alaska National Interest Lands Conservation Act is applicable, stating that "This provision requires the National Park Service to provide such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the Orange Hill property." See attached Exhibit C. REGIONAL DIRECTOR ARNBERGER LETTER DATED DECEMBER 18, 2002.

In a letter written to Director Arnberger dated August 19, 2005, it was requested that we be informed of the status of the application and provided information on the steps to be taken to proceed with the application. To date, there has been no reply to the request.

Under the circumstances, Northwest Explorations is proceeding with plans under the assumption that approval of the Right-of-Way is imminent. Access is planned to begin during the 2006 field season. The access road will be constructed based upon specifications providing for safe truck haulage.

### PART III. USE OF WATER

#### A. Water Sources and Quantity

1. Water for drilling will be from surface water sources on the property.
2. N/A
3. 2 gal/min
4. 1000 gal/day from surface water on property.

#### B. Permits

1. N/A

During the initial phase, which will entail diamond drilling to define the limits of the reserves and bulk sampling for mill testing, the source of drill water and camp water will be surface run off water on the property.

The source of water during the exploitation phase is yet to be determined because several alternative means of mineral processing are under consideration. Determining factors to be considered in the decision may be the quantity of ground water flow to be dealt with during the course of mining and the quality of the mine water discharge. In one scenario, the mine water discharge will have to be discharged outside the boundary of the Park in which case the discharge water may be used to transport a slurry of ground ore. Another economic scenario being considered is pumping water to the property from outside the Park with the return flow to be used to transport the ground ore or tailings to a location outside the Park.

### PART IV. PLAN OF OPERATION

#### OWNER

#### A. Names and Addresses

1. Northwest Explorations Joint Venture

##### Joint Venturers:

Kellogg Brown and Root  
16200 Park Row  
Houston TX 77084

The George R. Brown Partnership, LLC  
4700 First City Tower  
1001 Fannin Street  
Houston, TX 77002

Geo-Enterprises, Inc.  
10018 N. Huntington Road  
Spokane, WA 99218

2. 10018 N. Huntington Road  
Spokane, WA 99218  
Telephone Number 509 328 5685

Legal Recordation:

Chitna Recording District  
Fairbanks Recording District

Management Committee Chairman:  
Wallace McGregor  
Business telephone number: 509 328 5685.

3. N/A (Not Applicable)
4. N/A
5. N/A
6. N/A

B. Proposes Area of Operations Map

1. See Exhibit D. AREA OF OPERATIONS MAP

C. Equipment to be used

FIRST PHASE ACTIVITIES

The objective of the first phase of the Operating Plan will be to better define the limits of the ore body with which to definitively plan the mining operation. The equipment required to accomplish the required diamond drilling and dozer excavations will include a D-8 Caterpillar Bulldozer and a truck mounted diamond drill. Diamond drilling will be conducted to better define the limits of the ore zone. In addition bulk sampling will be carried out with which to conduct milling tests. See Exhibit E. ORANGE HILL FIRST PHASE. See also, Cross Sections of Proposed Drill Holes in Exhibits F, G, H, I, J and K.

Roads and an airstrip will be constructed with the bulldozer. A camp will be established adjacent to an airstrip to be constructed to the east of Orange Hill and central to the area of investigation. The camp will be within walking distance to the drill locations.

- 1.a 4x4 ¾ ton pick-up truck
- 1.b Regular gasoline, 5,000 mile oil change

- 2. First Phase Operations
- 2.a D-8 Caterpillar Bulldozer  
Truck mounted Diamond Drill
- 2.b Diesel fuel, oil changes
- 2.c 55 gallon diesel barrel with barrel pump

#### MINING OPERATION EQUIPMENT

It is premature to state the specific equipment required to conduct the mining. In general terms, the equipment needs will be on par with those of an open pit mine operating at a daily tonnage rate of approximately 20,000 tons per day. The haulage truck requirements are projected to be smaller in size and fewer in number than a comparable tonnage operation because of the favorability of the topography and the configuration of the ore body, as described below.

#### D. Description of Proposed Operations

- 1.b Lode (Surface)
- 2.b New Mining Operation
- 3.a Timing and Production: Subject to the approval of permits
- 3.b A daily production rate of 20,000 tons is projected. Since it is anticipated that inferred ore will double or triple the currently estimated minable reserves, it is estimated that the life of the mine will exceed 20 years.
- 4 Mine Workings: The mine plan is based upon reserves estimated by U. S. Borax and Chemical Corp. at the close of exploration in 1980. See Exhibit K. ISOPACH OF ORE RESERVES. The value of the defined reserves and a conservative estimate of the inferred reserves at Orange Hill are as shown in Exhibit L, ESTIMATED GROSS METAL (copper, Molybdenum, silver) VALUE OF THE ORANGE HILL DRILL PROVEN RESERVES. It is estimated that sixty-five percent of the Orange Hill mineral deposit will be accessible to mining from the Orange Hill patented mining claims.

As the map of the reserves show, the ore body is semicircular with a competent silicified core. This fact is a matter of economic importance because the configuration of the ore body makes possible the cost

efficient placement of the mill facilities central to mining operation with the option of underground processing being considered. Such an underground processing plan would be modeled after plant design at the Codelco mine located in the Andes, Chile, South America. In such case, ore haulage will be confined to the pit where the ore will be short hauled or dozed to a grizzly over an ore chute constructed within the pit. The sized ore will be dropped to an underground primary crusher and from there the ore will pass to secondary crushers and then conveyed to the mill for grinding and selective floatation concentration.

An additional fact of great economic significance is that a portion of the ore body is exposed as a hill with little or no overburden. In fact, the depth of overburden for the overall ore body is estimated to average less than 25 feet with the thickest overburden depth of 70 to 90 feet covering the ore on the south east extreme of the ore body. The southeast portion of the ore body is planned to be the last to be mined. The initial mining will take place on the west-facing flank of Orange Hill and the north-facing nose. Once mining is completed in the initial areas, mining will progressively advance around the arc to the east and then to the south. The mining plan provides for a partial refilling of the initially mined area with the over burden and waste to be generated in the later stages of mining.

The mining plan will be finalized upon the completion of the Phase 1 Studies.

5. Energy Requirements: To be provided upon completion of Phase One.
6. Explosives and Blasting Equipment: To be provided upon completion of Phase One.
7. Use of Chemicals: To be provided upon completion of Phase One.
8. Fuel Requirements: To be provided upon completion of Phase One.
9. Structures: To be provided upon completion of Phase One.
10. Additional Information Required for Underground Mining: To be provided upon completion of Phase One.

E. Nature and Extent of Known Deposit:

EXHIBIT M - LIST OF ORANGE HILL DATA which follows, provides in depth information on the Orange Hill Deposit.

EXHIBIT M  
LIST OF ORANGE HILL DATA

ORANGE HILL FILE 1 (OH 1)

File OH 1-1: *Alaska Nabesna Corporation Drill Logs – 1928 Drill Holes No. 1 through No. 10 (Drill Logs & Assay Records)*

File OH 1-2: *American Metal Climax Maps – 1960  
Map Showing: Surface Geology. (Scale 1" = 200')  
Geochemical Survey  
Surface Sampling  
Magnetometer Survey (Scale 1" = 200')*

File OH 1-3: *Bear Creek Mining Company Drill Logs – 1964  
Drill Holes OH #1 and OH #2 (Drill Logs & Assay Records)*

*File OH 1-4: McPhar Geophysics Report – 1967  
REPORT ON THE INDUCED POARIZATION AND  
RESITIVITY SURVEY IN THE ORANGE HILL AREA,  
ALASKA FOR DUVAL CORPORATION*

File OH 1-5: *Duval Corporation Drill Logs – 1968 (See Duval Map for  
Drill Hole  
Locations)*

- A) *DUVAL No. 1 (Assay-Geology Composite Drill Log, Assay Log, and Drill Log.)*
- B) *DUVAL No. 3 (Assay Log and Log of Drill Hole)*
- C) *Duval Corp. – ORANGE HILL PROJECT, ALASKA, I.P. LINES –  
SAMPLE LOCATIONS, DRILL LOCATIONS (scale 1' = 500')*
- D) *NWE – PLAT OF IP SURVEY LINES, ORANGE HILL,  
ALASKA (1" = 500')*

File OH 1-6: *AMEX Drill Logs and Assays – 1970  
Rotary Drill Hole No. 3, 6, 8, 9, 10, 11, 11A, 13, 14, 15, 16,  
17, 18, 19, 20, 26, 27, 28, 29, 30A, 31 (Geologic and Assay  
Logs)  
Total Holes 32. Assays not returned on other Holes. Total  
footage: 4,135 ft.*

File OH 1-7 *PLACER AMEX Drill Logs and Assays – 1971*

- A) *Table 1, ASSAY & GEOLOGICAL DATA – ROTARY  
DRILL HOLES*
- B) *Explanation of Core Log Designed for Computerization*

- C) *Summary of Diamond Drill Hole Data, Hole 102 through Hole 111 by Eugene Ford – 1971 Field Season (Diamond Drill Hole Descriptive and Computerized Geologic Logs)*
- D) *Assay Logs for Hole 101 through 111 (Revised with new coordinates in 1974)*

*File OH 1-8: AMEX – Progress Report – 1971  
Progress Report – 1971, Orange Hill, Alaska, Venture 96  
(Cu, Mo) by L. Bryner*

ORANGE HILL FILE 2 (OH 2)

*File OH 2-9: NWE McGregor Project Report – 1973  
ORANGE HILL PROJECT REPORT – 1973 by Wally  
McGregor*

*File OH 2-10: NWE Drill Logs – 1973, 1974*

- A) *Explanation of Core Log Designed for Computerization*
- B) *Diamond drill Hole Data, Hole 112 through Hole 114 by W. McGregor – 1973 Field Season (Diamond Drill Hole Descriptive and Computerized Geologic Logs)*
- C) *Assay Logs for Hole 112 through Hole 114 (Revised with new coordinates in 1974)*
- D) *Assay Logs for Hole 115 through 118 (Revised with new coordinates in 1974)*
- E) *Assay Logs for Hole 119 (revised with new coordinates in 1974) Includes attached graph of %Cu vs. %MoS<sub>2</sub> and graphic depiction of rock type, assay data and alteration mineralogy.*
- F) *Diamond Drill Hole Data, Hole 122 through 123 (holes 120 and 121 missing) by W. McGregor – 1974 Field Season (Diamond Drill Hole Descriptive and Computerized Geologic Logs)*
- G) *Assay Logs for Hole 120 through 123 (Revised with new coordinates in 1974)*

*File OH 2-11: Control Survey Report – 1974  
Northwest Explorations Orange Hill, Alaska Primary  
Control by William Smith, Surveying Consultant (See  
Control Map)*

*File OH 2-12: C. Trautwein Report – 1974  
SUMMARY REPORT OF 1974 EXPLORATION  
ACTIVITIES, ORANGE HILL by Charles Trautwein*

*File OH 2-13: H.P.I.P. Survey Data 1974*

- A) *Plat of I P Survey Lines (With Interpretation) (Scale 1" = 500')*
- B) *Cross Sections – Lines A through R (Scale 1" = 300')*

*File OH 2-14: U.S. Borax Drill Log 1977-1980*

- A) Diamond Drill Holes US-1A, US-1B, US-2, US-3 (1977 Drilling Procedure and Hole Summaries of geology and assay intervals)*
- B) Rotary Drill Holes US-R1, US-R2, and US-R3 (1978 Geologic Logs and Geologic Summary)*
- C) Diamond Drill Holes DDH 80-1 and DDH 80-2 (1980 Geologic and Assay Logs)*
- D) Technical Service Report No. TS 8009-14 (U.S. Borax Assay Report covering the Orange Hill Core and Rock Samples in 1980.*

*File OH 2-15: Specimen Index 1974*

*Cross Reference of specimens from skeletonized drill cores and other samples and specimens with assay numbers and petrographic thin sections.*

*MAPS AND CROSS SECTIONS:*

- A) NWE – ORANGE HILL PROJECT REPORT – 1973 (Related Maps)*
  - A) Map No. 1, Geologic Map (Scale 1" = 500')*
  - B) Maps (Scale 1" = 500')*
    - No. 1 Drill Hole Locations, Roads Drainage, etc.*
    - No. 1 Drill Hole Locations, Roads Drainage, etc. (Magnetic Interpretation Map)*
    - No. 2 Claim Map*
    - No. 3 Percentage Vein Quartz*
    - No. 4 Faults and Non-mineralized Joints*
    - No. 5 Mineralized Structures*
    - No. 6 Mineralized Structures Projected*
    - No. 7 Copper Equivalent Grade Potential*
- B) NWE – SUMMARY REPORT OF 1974 EXPLORATION ACTIVITIES, ORANGE HILL, ALASKA (Related Maps)*
  - 1) Maps (Scale 1" = 500')*
    - Plate 1 Topographic Base Map and Drainage Map*
    - Plate 2 Outcrop Distribution Overlay*
    - Plate 4 Geologic Base Map*
    - Plate 5 Geologic Cross Sections*
- C) Control Map – (Scale 1" = 500')*

- D) *U.S. Borax Orange Hill Ore Reserve Estimates (Scale 1" = 200')*
- 1) *Figure 2 Drill Hole Location Plan*
  - 2) *Figure 3 Overburden and Waste Above 0.2% Cu Equivalent Grade*
  - 3) *Figure 4-a 0.2% Cu Equivalent Cutoff Isopachs*
  - 4) *Figure 4-b 0.3% Cu Equivalent Cutoff Isopachs*
  - 5) *Figure 4-c 0.4% Cu Equivalent Cutoff Isopachs*
  - 6) *Figure 5 Plan of Block of Proven Tonnage Using Block Method of Calculation*
  - 7) *Figure 6-a Section A – A' Looking NE*
  - 8) *Figure 6-b Section B – B' Looking NW*
  - 9) *Figure 6-c Section 92,600 N Looking N*
  - 10) *Figure 6-d Section 93,030 N Looking N*
  - 11) *Figure 6-e Section 81,650 E Looking E*
  - 12) *Figure 6-f Section 82,630 E Looking E*

#### F. Reclamation Plan

- 1a Upon the completion of the initial phase of work, the drill truck will be removed but the camp and all related equipment including the bulldozer will remain on the property which will be maintained in order.
- 1b The reclamation plan for the mining operation will be presented when the mining plan is presented.

#### G. Compliance with Other Laws and Regulations

Laws relating to the conduct of mining in Alaska and within National Parks are under study in order to determine the permits required and the steps to be taken in order to assure compliance with all laws and regulations.

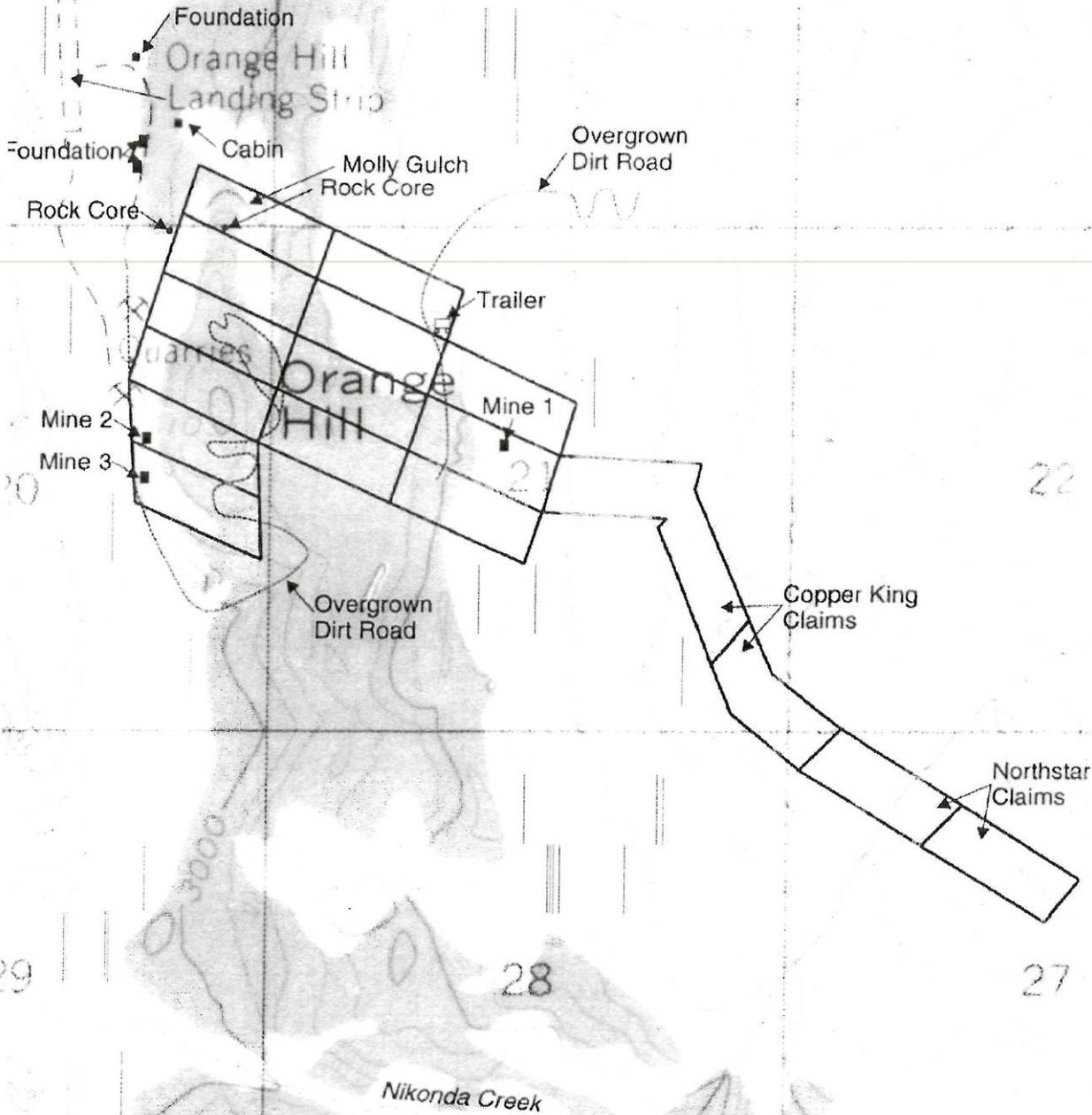
#### H. Environmental Report

A Phase I Environmental Site Assessment has been conducted on the property by Dames & Moore. By report dated September 17, 1996, Dames & Moore drew the conclusion that "there does not appear to be significant environmental impairment of the site."

#### I. Relationship to NPS Planning

**To be discussed**

EXHIBIT A



Source:  
USGS 1:63,360  
Topographic Map Series  
Nabesna A-4, 1959

0 880 1760 3520

APPROXIMATE SCALE IN FEET (1"=1760')

GMC Data Report 371



UNIVERSITY OF ALASKA  
ORANGE HILL PATENTED MINING CLAIMS

SITE VICINITY MAP

NABESNA, ALASKA

DAMES & MOORE



PROJECT NO. 06397-013-160	DRAWN	LAY
DATE 17 SEPTEMBER 1996	FILE	FIG. 01 34 of 44

FIGURE 1

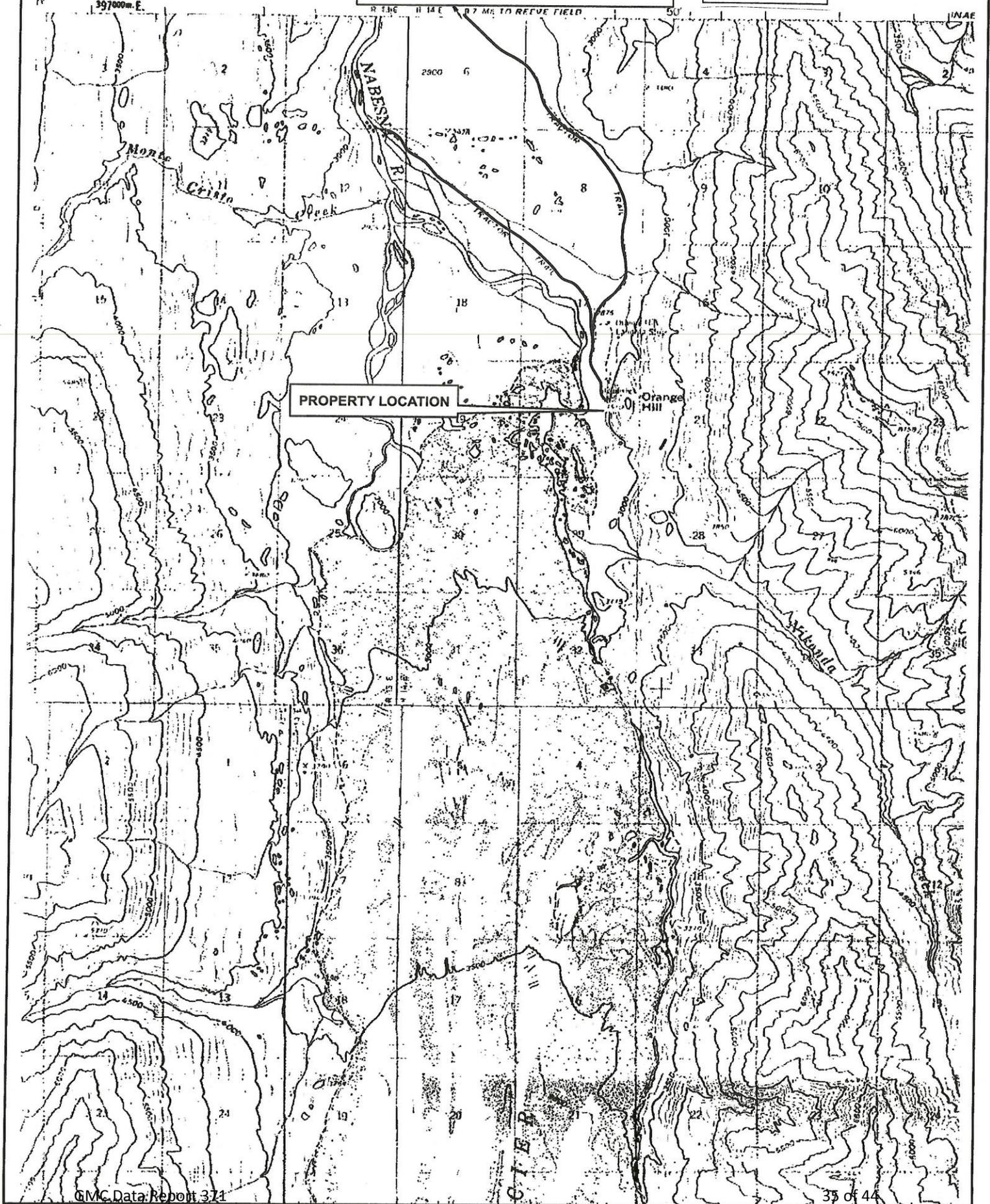




EXHIBIT C

United States Department of the Interior

NATIONAL PARK SERVICE  
2525 Gambell Street, Room 107  
Anchorage, Alaska 99503-2892

IN REPLY REFER TO:

L14

December 18, 2002

Mr. William P. Horn  
Birch, Horton, Bittner & Cherot  
1155 Connecticut Ave., NW, Ste. 1200  
Washington, DC 20036

Re: Northwest Explorations, Inc. – Access Rights to Orange Hill Property

Dear Mr. Horn:

Drue Pearce has asked me to respond to your letter requesting that we confirm the access rights of Northwest Explorations, Inc. to its Orange Hill property, which is located within Wrangell-St. Elias National Park and Preserve in Alaska.

While the Park Service remains interested in acquiring this property in the event that an approved appraisal is acceptable to the owners, we appreciate their desire to move forward with development plans. With respect to your specific question, we agree that Section 1110(b) of the Alaska National Interest Lands Conservation Act is applicable. This provision requires the Secretary, and thus in this instance the National Park Service, to provide "such rights as may be necessary to assure adequate and feasible access for economic and other purposes to" the Orange Hill property. Departmental regulations implementing Section 1110(b) are found at 43 C.F.R. § 36.10.

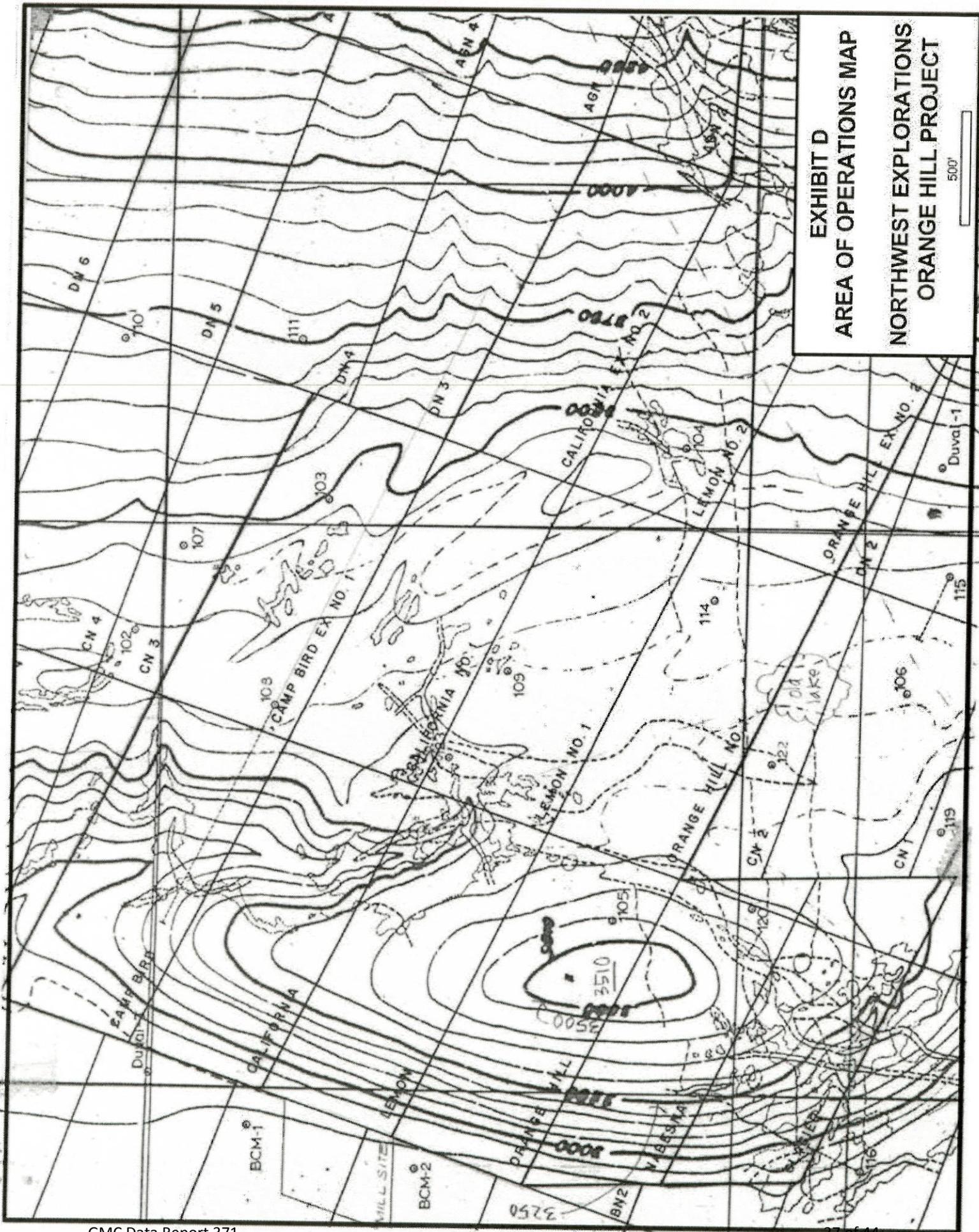
We appreciate the update on the status of Northwest's plans for developing the property. The National Park Service remains ready to process under these regulations either an application for the 14-mile road described, or such alternative plans as Northwest may propose. To the extent that the fly-in options by helicopter and airplane as discussed in your letter entail only the use of the Orange Hill property, no permit for their construction is required from the Park Service under either Section 1110(b) or the implementing regulations.

We look forward to working further with you and your clients on this matter.

Sincerely,

Robert L. Amberger  
Regional Director

cc: Drue Pearce, Senior Advisor to the Secretary for Alaska Affairs





CROSS SECTION

ORANGE HILL PROJECT

NORTHWEST EXPLORATIONS

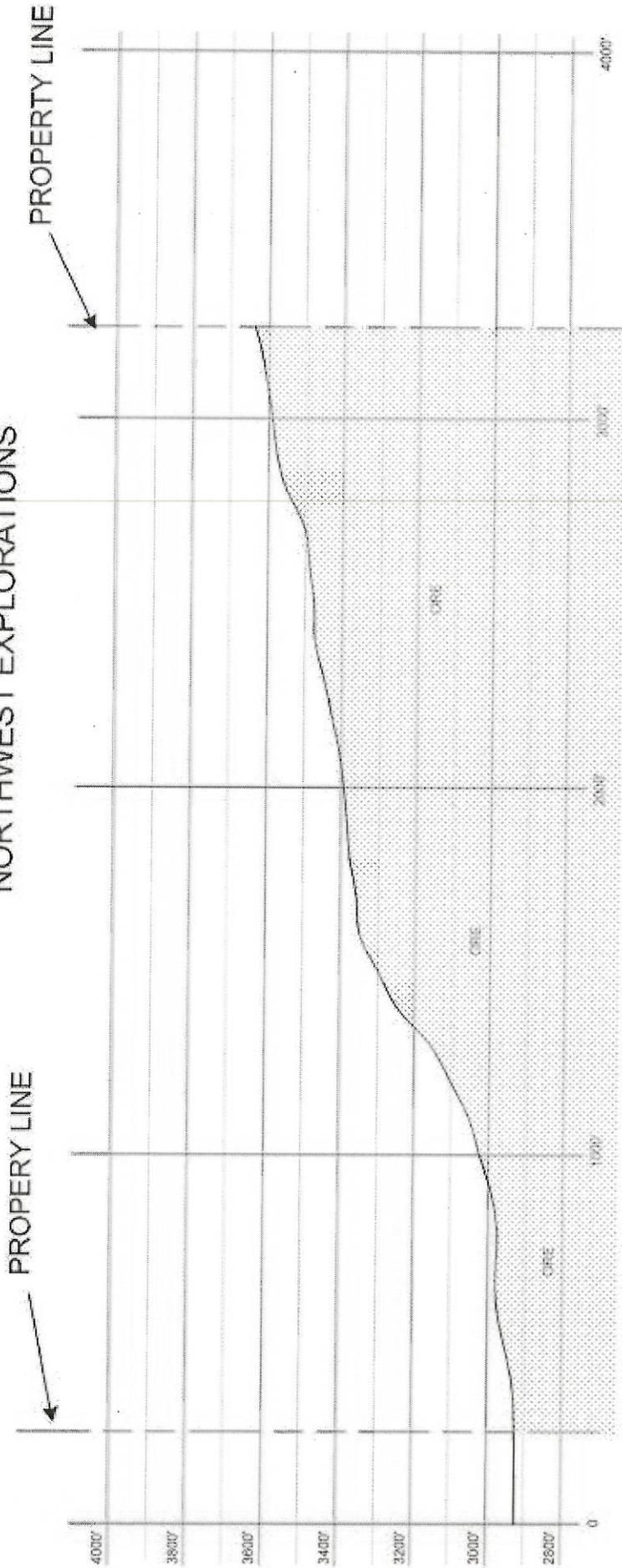
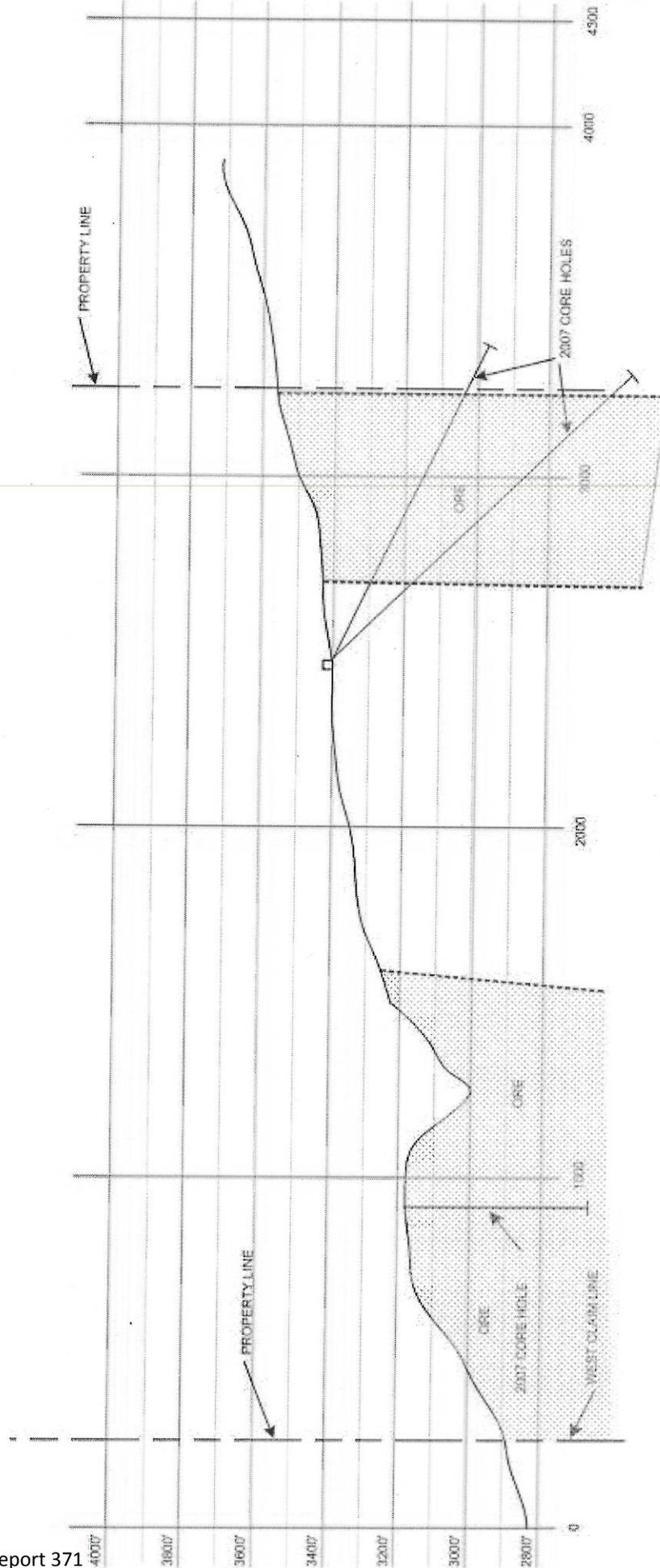


EXHIBIT F

CAMPBIRD (NORTH LINE)  
TOTAL SECTION IN ORE

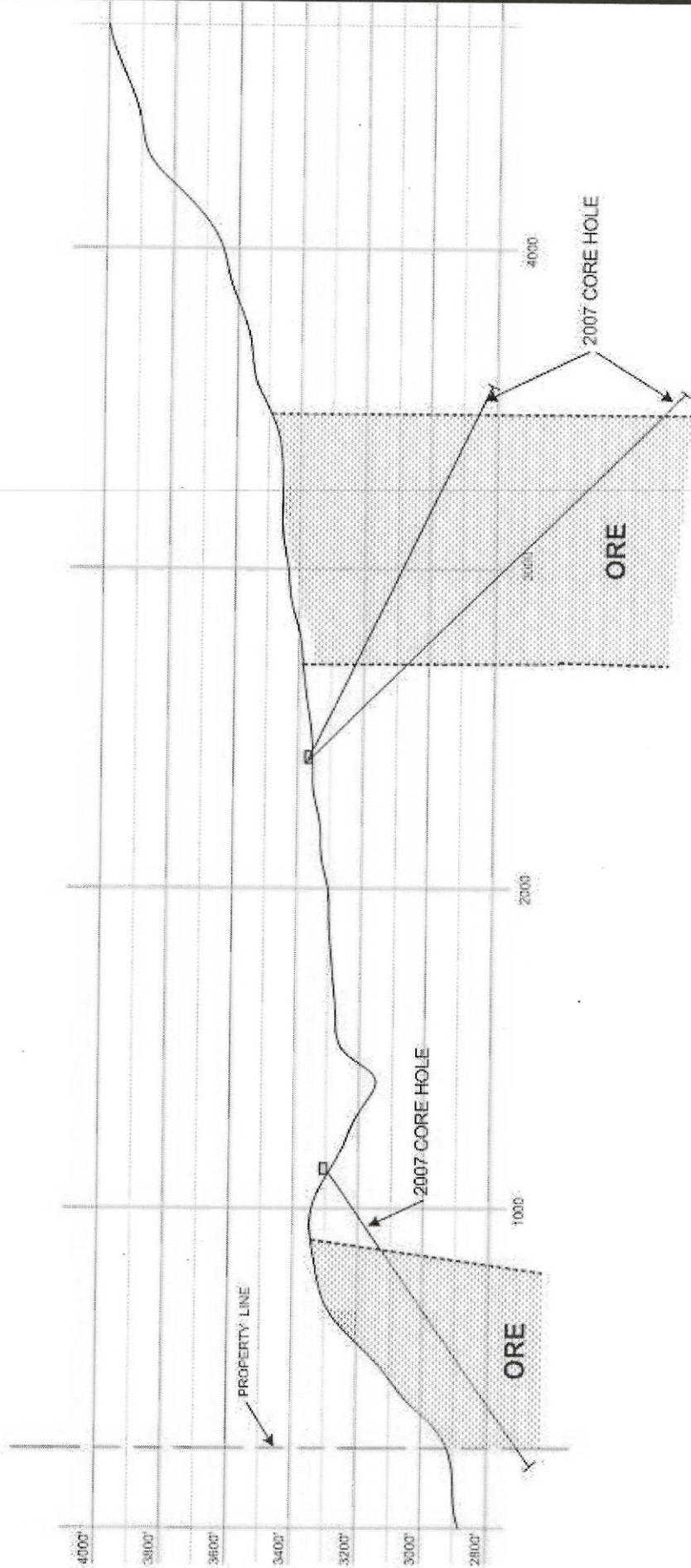
1" = 500'

CROSS SECTION  
 ORANGE HILL PROJECT  
 NORTHWEST EXPLORATIONS



**EXHIBIT G**  
 CAMPBIRD (SOUTH LINE)  
 2007 CORE HOLE LOCATIONS  
 1" = 500'

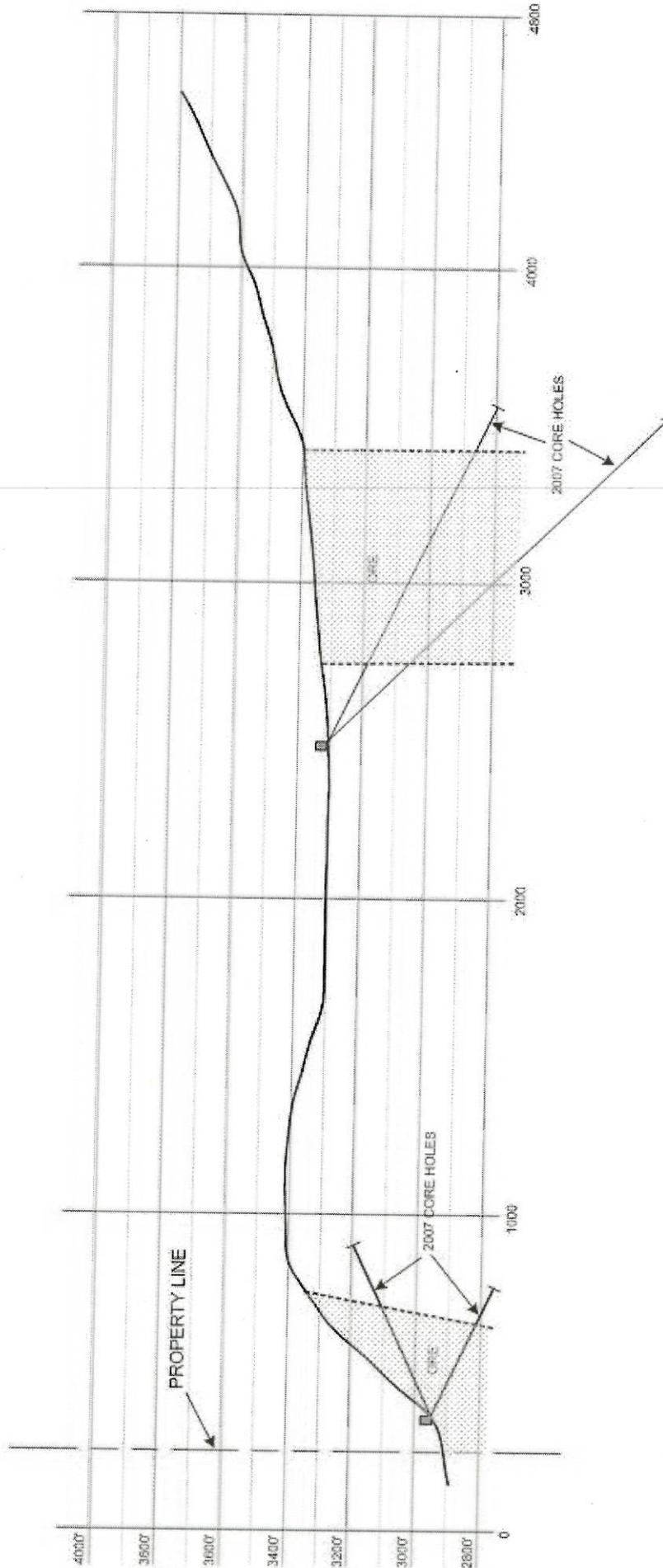
**CROSS SECTION  
ORANGE HILL PROJECT  
NORTHWEST EXPLORATIONS**



**EXHIBIT H**  
CALIFORNIA SOUTH LINE  
2007 CORE HOLE LOCATIONS

1" = 500'

CROSS SECTION  
 ORANGE HILL PROJECT  
 NORTHWEST EXPLORATIONS

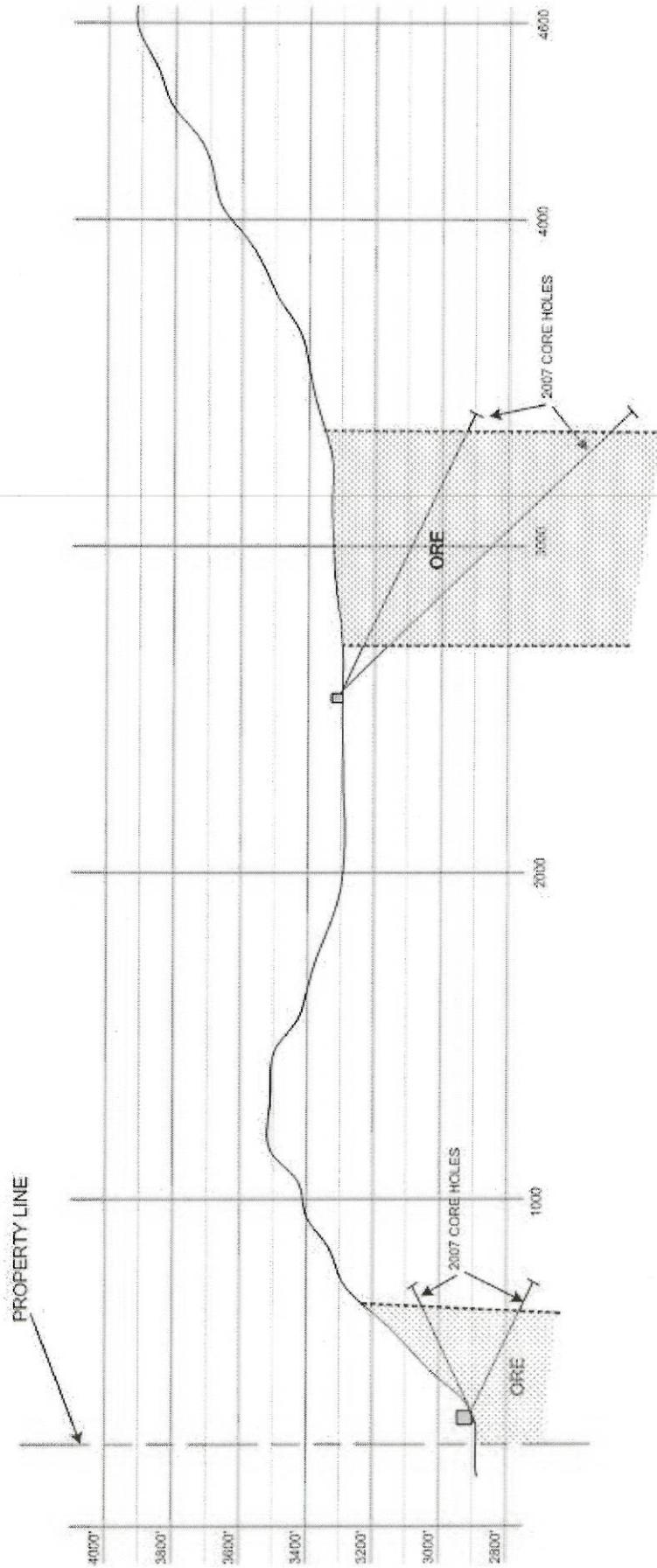


**EXHIBIT I**

LEMON SOUTH CLAIM LINE  
 PROPOSED CORE HOLE LOCATIONS

1" = 500'

**CROSS SECTION  
ORANGE HILL PROJECT  
NORTHWEST EXPLORATIONS**



**EXHIBIT J**  
ORANGE HILL SOUTH LINE  
2007 CORE HOLE LOCATIONS  
1" = 500'

