

**STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

Northern Regional Land Office

Memorandum of Decision

LAS 32272

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

Application for Land Use Permit

AS 38.05.850

Requested Action

On April 13, 2018, the Alaska Department of Transportation and Public Facilities submitted a Land Use Permit application to the Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW) proposing to utilize a tracked excavator to conduct sub-surface soil investigations to quantify potential gravel resources. The excavator will dig temporary trenches to examine the soil/gravel composition, and immediately refill the trenches.

Proposed Action

DNR proposes authorizing the applicants requested activities with no changes.

Scope of Decision

The scope of this decision is to determine if it is appropriate to issue a permit for the use and benefit of the Department of Transportation and Public Facilities for cross country travel and geotechnical exploration. The administrative review for this authorization is limited to 1) reasonably foreseeable, significant effects of the uses to be authorized; 2) applicable statutes and regulations; 3) facts pertaining to the land or resources; and 4) issues that are material to the determination that issuing the authorization will best serve the interest of the State of Alaska.

Statutory Authority

AS 38.05.850

Administrative Record

The administrative record consists of this casefile, and incorporated by reference, ADL 420038 and the Eastern Tanana Basin Area Plan.

Location Information

Geographic Location: The proposed project is located approximately MP 10.5 on the north side of the Elliot Highway, directly adjacent to, and within, ADL 420038

Latitude: 65.0854 N **Longitude:** 147.7094 W **Datum:** NAD83

Legal Description: The proposed project is located within Sections 14 and 15, Township 3 North, Range 1 West, Fairbanks Meridian, as show on Attachment A

Other Land Information

Municipality: Fairbanks North Star Borough

Regional Corporation: Doyon, although no corporation lands are affected.

Title

The State obtained title for both Sections 14 and 15 under GS 566, federal patent number 50-91-0150, issued on February 7, 1991, with reservations for rights-of-way for ditches or canals, and railroads, telegraph, and telephone lines constructed by the authority of the United States.

Third Party Interests

This proposed action is adjacent to, but not impacting, mining claim ADL 334960. It is adjacent to, and partially within, ADL 420038.

Planning & Classification

The proposed project is located within ETAP unit F-11 (although directly adjacent to Unit F-139 designated for materials), and is land classified as Habitat and Public Recreation-Dispersed. Unit F-11 runs along the Chatanika River corridor. (ETAP, 3 – 31). Habitat land “applies to areas of varied size for fish and wildlife species during a sensitive life-history stage where alteration of the habitat or human disturbance could result in a loss of a population or sustained yield of a species or that contain a unique or rare assemblage of a single or multiple species of regional or statewide significance.” (ETAP, 3 – 31). Public Recreation-Dispersed land “have a high potential for dispersed recreation or tourism and where desirable recreation conditions are scattered or widespread rather than localized. Developed facilities are generally not necessary other than trails, trail signs, primitive campsites, and other minor improvements.” (ETAP, 3 – 9).

Public Recreation-Dispersed land uses and authorizations are not “considered appropriate unless necessary for public health, safety or recreation.” However, uses for “[u]tilities, roads, and other uses may be appropriate with appropriate design if recreation functions can be maintained, the uses can be made to be compatible with the management intent for the areas designated [Public Recreation-Dispersed], and it is determined that the authorization of the use would be in the best interest of the state.” (ETAP 3 – 9).

“Land designated Habitat is intended to remain in state ownership, and is intended to be maintained in an undisturbed, natural state except for improvements related to public health, safety, habitat restoration or rehabilitation, and public recreation.” (ETAP, 3 – 8). “Utilities, roads, and other types of uses may be authorized if habitat functions can be maintained, the use can be made to be compatible with the management intent for areas designated Habitat, and it is determined that the authorization of the use would be in the best interest of the state.” (ETAP, 3 – 8). “Authorizations within areas designated Habitat are to be considered inappropriate unless consistent with these stipulations and with the management intent for the management unit.” (ETAP, 3 – 8).

Under the ETAP, when material sales are requested from a specific location there is a preference given to existing material sources. (ETAP, 2 - 31). While ETAP recognizes specific land classifications for use, it also recognizes that, “the state may determine that the development of material resources is appropriate, with appropriate stipulations. It is also recognized that the

development of specific material resources may take precedence over surface uses. Material sites are necessary to and are a type of use that is often associated with the construction and maintenance of roads, and therefore an essential component of the road construction process.” (ETAP, 2 - 31). The sale of materials for use in construction “are required for the development, maintenance, and expansion of critical infrastructure including roads, pipelines, airports, businesses, residences, utilities, communication facilities, and similar types of projects.” (ETAP, 2 - 31). Expansion of the material site is consistent with ETAP.

Public Notice & Agency Review

Agency Review Summary

Because of the limited potential impacts and short timeframes, agency review was not conducted.

Public Notice Summary

Because of the limited potential impacts and short timeframes, public notice will be posted upon decision issuance.

Environmental Considerations

The environmental risks associated with this project are primarily from fuels, lubricants, and other fluids that may drip from vehicles that are associated with the project. These volumes should be low, and the site will be inspected to ensure that any spills or contaminants are cleaned up. DOT proposes to have approximately 25 gallons of diesel fuel and up to 10 gallons of other oils/lubricants which are part of the rig and drill. No fuel storage will be required. The belly pan on the rig is self-contained so that any leaking fluids are caught in the belly pan. Generally, DOT does not place spill control devices under the rig unless it is a highly sensitive area. Spill kits and clean up supplies will be located on the drill rig for any potential spills.

Additionally, the Chatanika River is an anadromous waterbody. Although relatively low risk, the application will be required to utilize only existing trails within 200' of the river, and will be prohibited from drilling within that same setback; the applicant intends to avoid this area to the maximum extent practicable.

The risks associated with this activity can be mitigated through adhering to the stipulations.

Discussion

In adjudicating a LUP permit, the NRO seeks to facilitate development, conservation, and enhancement of state lands for present and future Alaskans, while minimizing disturbance to vegetative, hydrologic, and topographic characteristics of the area that may impair water quality and soil stability. The said land use permit will not adversely affect the State of Alaska's goals of conserving and enhancing natural resources for use by present and future Alaskans. The activities of this proposed LUP are easily reversible development of state land or resources.

Because of the importance of understanding the gravel resources in the area, and the low risk and minimal impacts associated with the proposed project, no alternatives were considered.

Performance Guaranty

Performance guarantees are means to assure performance and to provide ways to pay for corrective action if the permittee fails to comply with the requirements set forth in the permit document. They are also used to protect state land from damage and to make certain that improvements are removed and that the land is returned in a usable condition upon termination of the permit.

Per 11 AAC 96.060, the requirements for a performance guaranty can be waived after considering the applicant's history of compliance and potential risks to the State. Compliance with all stipulations by a Federal, State, or Municipal agency is a reasonable expectation; therefore, the performance guaranty is waived.

Insurance

Insurance is a means to protect the state from liabilities incurred through the use of state property, or from damage to state property as a result of accidental or catastrophic events. This type of protection is necessary in the event of an accident or negligence that was consequentially connected to activities conducted on state land, and/or if the state is named in a lawsuit as a result of an accident or negligence.

Per 11 AAC 96.065, the requirements for insurance can be waived. The State of Alaska is self insured, and requirements for additional insurance are hereby waived.

Fees

Per 11 AAC 05.010(c), no annual use fee is required for federal, state, or municipal agency, if the waiver is determined to be in the interest of the State. It is determined that it is in the State's interest to waive any fees associated with this proposal.

Fee: \$0.00

Relevant Fee Regulation(s): 11 AAC 05.010(c)

Term

The term of this permit shall be set by the date of execution, and shall terminate on August 31, 2018.

Effective Date: April 13, 2018

Expiration Date: August 31, 2018

Manager's Decision

It is the decision of this office to take the action as recommended above. This decision may be rescinded by written notification if, after 60 days from the effective date of this decision, the applicant has not completed all requirements outlined in this decision for issuance of the permit. Additional time may be allotted to complete these requirements at the applicant's request and concurrence of the Authorized Officer, however this will not extend the total term of the authorizations issued under this decision.



Alexander Wait

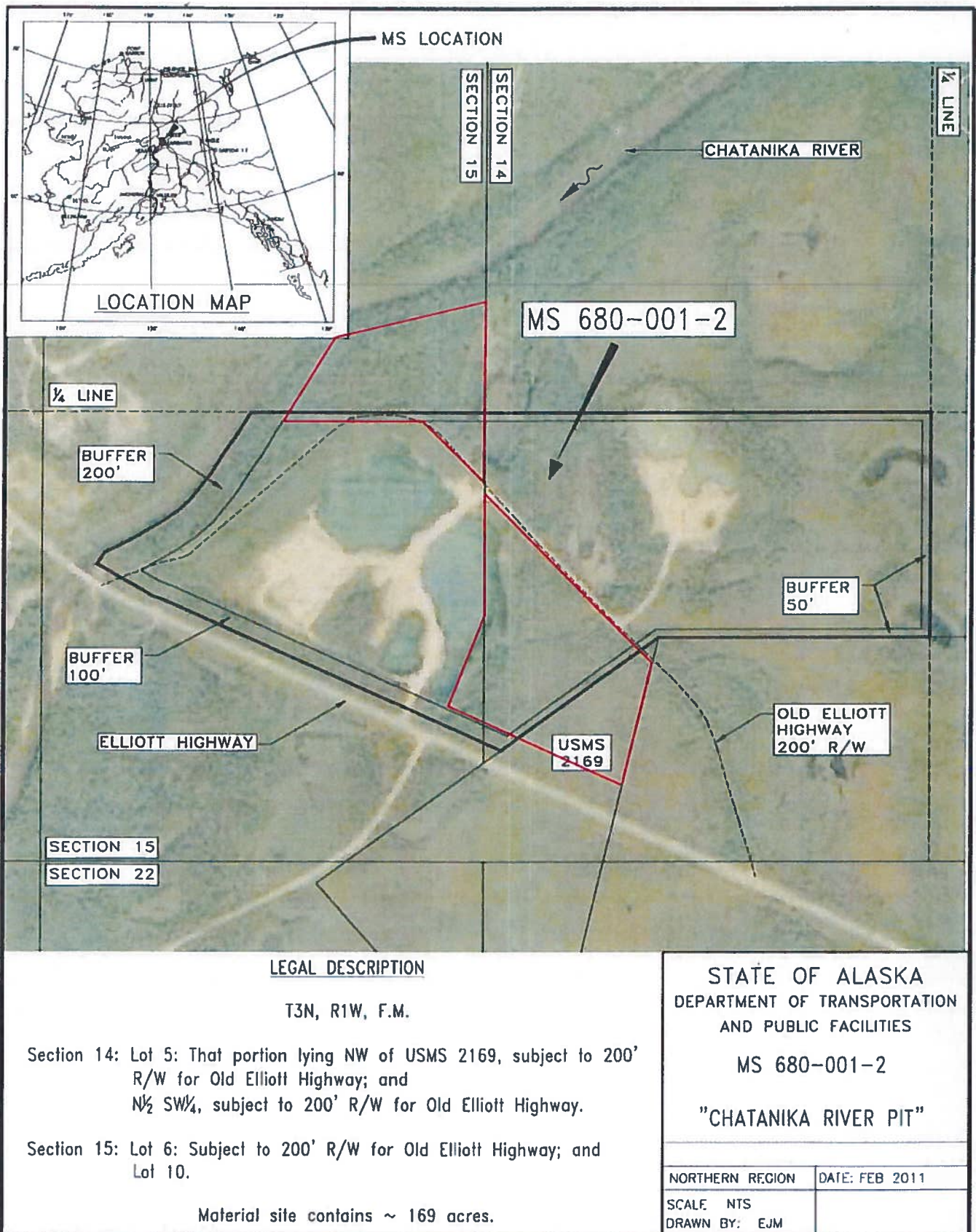
Natural Resource Manager I

4/13/18

Date

A person affected by this decision may appeal it in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to (907) 269-8918, or sent by e-mail to dnr.appeals@alaska.gov. This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31st calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

Attachment A



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