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

Northern Regional Land Office Memorandum of Decision LAS 35481 Nalaquq, LLC

Application for Land Use Permit AS 38.05.850

Requested Action

The Division of Mining, Land, and Water (DMLW) has received a Land Use Permit (LUP) application from Nalaquq, LLC for the installation of 2 spotter buoys anchored seasonally to state submerged lands near Quinhagak. These buoys collect real-time wave data that serve community needs for decisions on scales from daily (e.g., safety for maritime operations and coastal hazards) to longer planning horizons (e.g., resilience for climate change and ecosystem function). The buoys and anchoring systems will be installed from June through October, and may move up to 10 times per season, within the relative area. The Spotter buoys would be deployed and retrieved over the side of a fishing boat. All buoys and equipment will be removed at the end of each season.

Proposed Action

The DMLW proposes to issue a 5-year permit for the requested activity. Nalaquq's project description delineates buoy locations for their entire project; however this permit would only authorize use within state submerged lands.

Scope of Decision

The scope of this decision is limited to determining if it is appropriate for DNR to issue an authorization for the proposed land use activities.

Statutory Authority

This permit is being adjudicated pursuant to AS 38.05.035 (powers and duties) and AS 38.05.850 (permits).

Administrative Record

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced herein, the 2024 Lower Kuskokwim Site Specific Plan (LKSSP) and the 2013 Bristol Bay Area Plan (BBAP) and other classification references described herein, and the casefile for the application serialized by DNR as LAS 35481.

Location Information

Geographic Location: The proposed sites are located on state submerged land near Quinhagak in Kuskokwim Bay.

Coordinate:

59.3431, -161.9989 (Quinhagak 1, Carter Spit) 59.9977, -162.3627 (Quinhagak 3, Mudpoint)

Legal Description: State Submerged Lands within:

Section 1 of Township 10 South, Range 76 West, Seward Meridan Section 16 of Township 2 South, Range 76 West, Seward Meridian

Other Land Information

Municipality: City of Quinhagak

Village Corporation: Qanirtuuq Incorporated

Title

Title to the submerged lands of the Kuskokwim Bay was received by the State on January 3, 1959, upon Presidential proclamation (Proclamation No. 3269, 24 F.R. 81, 73 Stat. c16) admitting Alaska to the Union pursuant to Section 8(c) of the Alaska Statehood Act (Pub. L. No. 85-508, 72 Stat. 339), according to the Equal Footing Doctrine of the United States Constitution and the Submerged Lands Act of 1953 (43 U.S.C. §1301 et. seq.).

Planning & Classification

The proposed project is located within the 2024 Lower Kuskokwim Site Specific Plan (LKSSP) under Unit L-01, and the 2013 Bristol Bay Area Plan (BBAP) under Unit R02T-05.

Unit L-01 is co-designated as habitat/public recreation and tourism-dispersed within LKSSP. In accordance with LKSSP, this unit shall be managed for the protection of fish and wildlife habitats, harvest opportunities, dispersed recreation, commercial fishing, and continued public access on the waterway. This unit also requires consult with ADF&G, USFWS, and NOAA prior to issuing an authorization to ensure sensitive habitats and threatened/endangered species are protected. Authorizations related to recreation, public safety, utilities, communication lines, and other projects providing a public benefit may be appropriate, subject to protections for habitat, harvest, and recreation values.

Per LKSSP, state tidelands designated as habitat will be managed to protect sensitive habitats and areas important for fish and shellfish habitat, marine mammal concentration sites, wildlife movement corridors, and subsistence areas. Tidelands adjacent to federal conservation system units are also co-designated with public recreation and tourism-dispersed. State tidelands designated as public recreation and tourism-dispersed apply to areas that are widely used for commercial or public recreation. Land designated as habitat and public recreation and tourism-dispersed shall be retained in state ownership.

Unit R02T-05 is designated as general use within BBAP. In accordance with BBAP, this unit shall be managed for the protection of pelagic birds, sea birds, and waterfowl, and maintaining commercial harvest. Within this region, land that contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use, and areas are unlikely to be developed during the planning period are designated as general use. Land designated as general use are to be managed for a variety of uses including protection of fish and wildlife habitats and

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harvest, dispersed public recreation, minerals, oil and gas exploration and development, and protection of heritage resources.

Per LKSSP, ADF&G, USFWS, and NOAA were consulted prior to authorizing issuance. Per consulting with USFWS, USFWS had no objections however, they recommend taking precautionary measures to protect endangered species and using their Short-tailed Albatross, Steller's eiders and Spectacled eiders' ID guide to identify the potential presence of protected species. Per consulting with ADF&G, ADF&G had no objections however, they recommend personnel taking NOAA's free online 1-hour Whale Entanglement – First Responder Training and reporting injured, entangled, or dead marine mammals promptly to NOAA's 24-hour Stranding Hotline (877-925-7773) or the Alaska SeaLife Center Hotline (1-888-774-7325, 24-hour). ADF&G also recommends consulting with National Marine Fishers Service about marine mammal presence in the area and how to mitigate potential disturbances, ensuring public access to state waters, and considering an outreach campaign to inform residents about the purpose of the buoys.

There are no restrictions to installing temporary spotter buoys under these designations, but consideration must be given to how the activity may affect wildlife, subsistence harvesting activities, recreation, and public access. The activity encompasses a very small area of land, with each anchoring system covering around 5sqft on the seafloor. The activity does not impede public uses of the area and is not a disposal of state interests in the area. Therefore, the proposed activity is consistent with the management intent of the area plans.

Public Notice & Agency Review

Due to the de minimis nature of the proposed activity, application notice will not be conducted prior to issuing the decision. Public Notice of this decision will be distributed via the Online Public Notice website, as well as distributed to pertinent agencies.

Environmental Considerations

This decision considers the environmental factors directly related to the authorization for use of state lands, specifically whether the approval of the authorization is in the State's interest. The purpose of this consideration is to identify any associated mitigation measures or other requirements necessary to protect the public interest, while informing the overall decision of whether or not to approve the authorization.

Environmental contamination risk associated with this proposed permit is minimal; risks are mitigated by the stipulations of the permit.

Ocean vessels run the risk of contaminating water with hazardous materials such as fuel, solvents, and waste. To minimize this risk, Nalaquq has a spill plan, and methods for prevention and response. Permit stipulations also include spill response requirements, and no fuel or other hazardous materials will be stored on site. There are no other known environmental considerations or constraints in this location. The applicant is ultimately responsible for determination of site suitability.

Discussion

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Nalaquq submitted a permit application for the installation of 2 spotter buoys to be anchored seasonally to state submerged lands near the coastal community of Quinhagak. These buoys collect real-time wave data that serve community needs for decisions on scales from daily (e.g., safety for maritime operations and coastal hazards) to longer planning horizons (e.g., resilience for climate change and ecosystem function). The buoys will be spherical in shape, measuring 16.4in x 12.2in, each consisting of a waterproof hull, solar panel array, and an electronics package. The buoys will either be anchored by up to three 50-lb kettlebells connected with a chain to a mooring line, or by a single 50-lb kettlebell attached by chain to a small boat anchor. The approximate area of impact for each buoy measures around 5sqft.

The buoys and anchoring systems will be installed from June through October. The buoys and anchoring systems will be removed at the end of each season, and may move up to 10 times per season, within the permitted area. Records must be maintained documenting the relocation of any of the buoys within the permitted area and must be provided in the form of an annual report to the DNR DMLW-NRO, at the end of each season. Any request to relocate the buoys outside the area within the authorized legal description, must be submitted in writing and be approved by DNR DMLW-NRO, prior to relocation.

The spotter buoys would be deployed and retrieved from the side of a fishing boat. The boats used for deployment will be typical open aluminum fishing boats with outboard motors (typically up to 250 HP), approximately 18-24 ft. in length. Up to 120 gallons of fuel will be stored on the fishing boat.

In adjudicating a LUP, DMLW 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 proposed activity will not adversely affect the State of Alaska's goals of conserving and enhancing natural resources for use by present and future Alaskans.

The DMLW will issue a 5-year LUP for the activity as proposed. No alternatives were considered as the activity is low impact with few risks posed to state resources.

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.

Pursuant to 11 AAC 96.060 (Performance Guaranty), 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 the Nalaquq 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

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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.

Pursuant to 11 AAC 96.065 (Insurance), the requirement for insurance can be waived after considering the potential risks to the State. Due to the low risk to the State, the requirement for insurance is waived.

Fees

Per 11 AAC 05.180 (d)(2)(J) and Director's Fee Order Number 3, the fee for a use that does not hinder other public use is \$240, annually.

Term

5-year term

Effective Date: May 29, 2025 Expiration Date: May 28, 2030

Recommendation

Based upon the information provided by the applicant, as well as review of relevant planning documents, statutes, and regulations related to this application, it is the recommendation that a land use permit for the activity described above be issued, on the condition that all stipulations are followed as described in the attached authorization.

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Natalie	Bremers

05/29/2025

Natalie Bremers, Natural Resource Specialist

Date

Manager's Decision

It is the decision of this office to take the action as recommended above. 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. 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.

Austin Michels

05/29/2025

Austin Michels, Natural Resource Manager

Date

Attachments

Land Use Permit Site Diagram

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Appeals

An eligible person affected by this decision may appeal to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department.

Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf.

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