



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

Northern Regional Land Office

Memorandum of Decision

LAS 35827

Cruz Construction, Inc

Application for Land Use Permit

AS 38.05.850

Requested Action

The Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW) has received a Land Use Permit (LUP) application from Cruz Construction requesting authorization for the winter cross country travel of two Piston Bullies, one Terragator, five Steiger Quad Tracs, one D5 Dozer, and one 320 excavator as well as two support snowmachines. The equipment will be hauling diesel fuel via two 5,000 gallon and two 2,500 gallon fuel sleighs. A total of 20 trips per year are proposed. The purpose of the travel is to provide fuel supply and emergency repairs for the village of Noatak following Typhoon Halong. The application also includes a potential mobile camp, if required.

Proposed Action

DMLW proposes to issue a permit for the requested action. Public notice will be conducted after permit issuance to allow for expedited response to the emergency. This permit only authorizes activities occurring on uplands and submerged lands managed by the State.

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 2008 Northwest Area Plan (NWAP) and other classification references described herein, and the casefile for the application serialized by DNR as LAS 35827.

Location Information

Geographic Location:

Two routes, starting from either the Red Dog Mine Road or from Hotham Inlet, to Noatak totaling approximately 70 miles.

Legal Description:

Uplands

K022N019W 30

K022N020W 5, 8, 9, 15, 16, 22, 23, 25, 26

K024N020W 16, 17, 20, 29

K028N019W 6, 7, 8, 17, 20, 29, 32

K28N020W 1, 2, 3

K029N020W 21, 26, 27, 28, 35, 36

State Submerged Lands

K017N018W 2, 3

K018N017W 6, 7, 18, 19, 30

K018N018W 25, 35, 36

K019N017W 4, 8, 9, 17, 20, 29, 30, 31

K020N017W 7, 8, 9, 10, 15, 18, 22, 27, 33, 34

K020N018W 3, 4, 9, 10, 13, 14, 15

K021N017W 16, 17, 18, 19, 20, 21, 30

K021N018W 1, 2, 12, 25, 35, 36

K021N019W 1, 2, 3

K022N017W 7

K022N018W 31, 32, 33, 34, 35

K022N019W 29, 32, 33, 34, 36

Other Land Information

Regional Corporation: N.A.N.A Regional Corp

Additional Information: A disaster declaration was issued by the Governor's Office on October 9th, 2025.

Title***Uplands***

<i>MTRS</i>	<i>Title</i>
K022N019W 30	Tentatively Approved (TA'ed) under TA 2010-0053 on Jan 26, 2010. Standard title reservations apply.
K022N020W 5, 8, 9, 15, 16, 22, 23, 25, 26	TA'ed under TA 2010-0053 on Jan 26, 2010. Standard title reservations apply.
K024N020W 16, 17, 20, 29	Patented under PA 50-2019-0090 on May 7, 2019. Standard title reservations apply.
K028N019W 6, 7, 8, 17, 20, 29, 32	TA'ed under TA 1989-002 on October 5, 1988. Standard title reservations apply.
K28N020W 1, 2, 3	TA'ed under TA 1983-0233 on September 1, 1983. Standard title reservations apply.
K029N020W 21, 26, 27, 28, 35, 36	TA'ed under 1983-0217 on July 29, 1983. Standard title reservations apply.

Submerged Lands

Title to the submerged lands of the Noatak River 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 access routes cross over lands within the K-01, K-04, and K-05 units of the NWAP. Lands within the K-01 unit are designated as general use lands and are to be managed for multiple uses. Authorizations within this unit which are long-term or permanent are to consider impacts to the Western Arctic Caribou Herd (WACH) and DNR is to consult the Alaska Department of Fish and Game (ADF&G). Lands designated as general use are considered appropriate for two or more uses. The proposed activity is not anticipated to be long term and is in response to an emergency situation. There are no known activities currently in the area, however, the winter cross country travel of equipment and fuel would not preclude other uses should they be occurring. Therefore, it is consistent with the management intent of the plan.

Lands within the K-04 unit are designated as habitat and are to be managed to protect sensitive species and habitats. Authorizations within this unit which are long-term or permanent are to consider impacts to the WACH and DNR is to consult ADF&G. Although ADF&G was not consulted prior to authorization, the short-term nature of the project is unlikely to have significant impacts to WACH migration. The goals of habitat lands are to maintain access to public lands and waters, mitigate habitat loss, and contribute to economic diversity through mitigating impacts. The proposed activity is being conducted in the winter when the ground is frozen to minimize impacts to habitat. Although some brush clearing will be required, the applicant reports that there are no large timber stands along the proposed route. The cleared brush will likely recover quite quickly after the project is completed, particularly if there is no damage to the vegetative mat. The project

is for a short-term activity in response to an emergency situation and will likely not significantly impact caribou migration in the area. Therefore, the activity is consistent with the management intent of the plan. Public notice will be sent after the permit is issuance.

Lands within the K-05 unit are designated as a potential transportation corridor. DNR is to consult with the Department of Transportation and Public Facilities (DOT&PF) to determine if a use is compatible with the transportation corridor. DNR is also to consult with ADF&G regarding impacts to the WACH and moose rutting areas. DOT&PF has contracted with Cruz Construction for the fuel hauling and portions of the proposed route are coincident with an ice road DOT&PF may construct to aid in the airport project. Although ADF&G was not consulted prior to authorization, the short-term nature of the project is unlikely to have significant impacts to WACH migration. The transportation would only occur in winter, outside of moose rutting season. Therefore, the activity is consistent with the management intent of the plan.

All anadromous navigable waterbodies, such as the Noatak River, are designated as habitat under the plan. The proposed winter cross country travel will be done when the river is frozen with ice bridges and ramps constructed where necessary according to North Slope Travel requirements. The fuel haul is distributed amongst multiple trailers which are unlikely to simultaneously fail and the applicant has a Hazardous Materials Control Plan in place. Although transport over a waterbody is not ideal, terrain and weather conditions may necessitate following the river corridor. There is no feasible alternative to bringing supplies to Noatak while the airport is damaged. All environmental risks have been mitigated where possible, therefore, the activity is consistent with the management intent of the plan.

Third Party Interests

Portions of the southern route coincide with RST 122 Kotzebue-Noatak Trail.

The proposed route from the north crosses over a number of mining claims including ADLs 730623, 730622, 730627, 730626, 730630, 730635, and 730634, all of which are issued to Teck American Inc.

Background

The remnants of Typhoon Halong slammed into the western Alaska coast on October 12, 2025. The storm caused significant flooding in many communities and intensified erosion in others such as Noatak. The Noatak River has slowly been eroding towards the Noatak Airport for decades, however, the storm resulted in the airport needing immediate replacement. As Noatak has no overland access and relies heavily on their airport, the work proposed in the subject application requires expedited authorization.

Public Notice & Agency Review

Public notice will be conducted after the issuance of the permit.

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.

There are some environmental risks associated with the overland transportation of significant amounts of fuel. The routes will likely necessitate some clearing of vegetation up to 30 feet wide and, depending on the route used, may require significant travel over the frozen Noatak River. However, the applicant has a Hazardous Materials Control Plan in place for the project and states that all their vehicles have been retrofitted with built-in secondary containment and arctic grade hoses. Although the total amount of fuel to be transported per trip amounts to 15,000 gallons, it is distributed amongst multiple trailers with a maximum of 5,000 gallons. It is unlikely that all trailers would be involved in an incident resulting in a spill, therefore, the potential risks are reduced. No fuel or other hazardous materials will be stored on state lands. Additionally, the applicant states that there is a possibility that a temporary camp may be used. This would be due to unforeseen circumstances and would not be used long-term resulting in negligible environmental impacts. There are no other known environmental considerations or constraints. The applicant is ultimately responsible for determination of site suitability.

Discussion

When adjudicating a Land Use Permit, 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 which may impair water quality and soil stability. The subject area has no other competing interests. Risks associated with the activity are mitigatable through permit stipulations while the activity is necessary to protect access to a remote community, therefore, no alternatives to permit issuance 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.

The DNR bonding matrix recommends a \$63,000 bond for this activity. The applicant traveling as a convoy with heavy equipment would likely result in a damaged or disabled vehicle being immediately recovered. The greatest risk associated with the activity is if there is a leak in one of the fuel transportation tanks, particularly if using the Noatak River route. Therefore, a reasonable bond to cover potential spill mitigation and assure compliance is **\$25,000**.

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.

Consistent with 11 AAC 96.065 the Grantee shall secure or purchase at its own expense, and maintain in force at all times during the term of this permit, liability coverage and limits consistent with what is professionally recommended as adequate to protect the Grantee (the insured) and Grantor (the State, its officers, agents and employees) from the liability exposures of ALL the insured's operations on state land. Certificates of Insurance must be furnished to the AO prior to the issuance of this permit and must provide for a notice of cancellation, nonrenewal, or material change of conditions in accordance with policy provisions. The Grantee must provide for a 60-day prior notice to the State before they cancel, not renew or make material changes to conditions to the policy. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of this permit and shall be grounds, at the option of the State, for termination of the permit. All insurance policies shall comply with, and be issued by, insurers licensed to transact the business of insurance under Alaska Statute, Title 21. The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the Division of Risk Management, Department of Administration. The State must be named as an additional named insured on the policy with respect to the operations of the Grantee on or in conjunction with the permitted premises, referred to as LAS 35827.

Fees

The following fees are applicable to this request. These fees may be adjusted if regulation(s) or the Department Order pertaining to the fee(s) change during the term of the authorization. The fee for an activity which does not hinder other public uses, such as moving heavy equipment, is \$240 annually.

Fee: \$240 annually

Relevant Fee Regulation(s): 11 AAC 05.180(d)(2)(J)

Term

Five years

Effective Date: 2/6/2026

Expiration Date: 2/5/2031

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.



2/6/2026

Jaclyn Cheek, 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. 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

Austin (AJ) Michels

02/06/2026

Date

Attachments

Land Use Permit
Route Map

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>.