

Review and Determination
ALASKA DEPARTMENT OF NATURAL RESOURCES
Water Resources Section

TO: Henry Brooks
FROM: Jonathan Tucker

DATE: January 3, 2024
FILE: LAS 27409

I have reviewed the subject water right case file for accuracy and conformance with statutes and regulations. This is an accounting of my review and determination.

Summary: On September 14, 2007, Alaska Native Tribal Health Consortium, on behalf of the City of Stebbins, Alaska, applied to appropriate water. DNR accepted the application and assigned casefile number LAS 27409. The application proposes the use of 80,000 gallons per day (gpd) for public use from June 1st through October 31st as a public water supply, with a total annual limit of 29 million total gallons.

The proposed source is a point of withdrawal from West Clear Lake, located within a utility right-of-way, further located within the SW1/4 NW1/4 of Section 18, Township 23 South, Range 18 West, Kateel River Meridian, Nome Recording District, Fourth Judicial District, State of Alaska.

The proposed place of use is the City of Stebbins, located within S3/4 of Section 2 and the N1/4 of Section 11, Township 23 South, Range 19 West, Kateel River Meridian, Nome Recording District, Fourth Judicial District, State of Alaska.

Check for duplicate water use: DNR records show that water right ADL 76059 is also appurtenant to the proposed place of use. However, ADL 76059 is withdrawing from Puyuk Lake, approximately ¾-mile from the proposed withdrawal location from West Clear Lake for the subject application. This application is for additional water for the city's public water supply.

Public and agency notice: The quantity of water requested is over 5,000 gpd. Per 11 AAC 93.100, this water right is subject to public notice.

A 15-day public notice was published on August 29, 2023, on the Alaska Online Public Notice System and mailed to the local U.S. Postmaster for public display. No public responses were received.

Seven State and Local agencies were also notified with requests for review. The Department of Environmental Conservation Drinking Water Program (ADEC-DW) responded on August 30, 2023, stating that this source was designated as a Public Water System Protection Area, PWSID: 340492 STEBBINS CITY WATER SUPPLY, and that the applicant comply with 18 AAC 80 and maintain direct contact with their point-of-contact for the region. The Department of Fish & Game (ADF&G) responded on August 31, 2023, that the City of Stebbins will need to receive, maintain, and adhere to an active Fish Habitat Permit for the water source, as it contains resident aquatic life.

Conditions will be included in any authorization of use for this water right requiring adherence to these agency responses.

Prior appropriators (AS 46.15.080(a)(1)): I conducted a search of DNR's geospatial database, ADNR Mapper, for surface water right applications, permits, and certificates on the proposed water source. I also reviewed DNR's LAS database to confirm the mapped location of water rights within ADNR mapper. All mapping appears to be correct. This search found no other appropriators of record on the source.

Based on Water Section policy, DNR limits use on surface sources to no more than 20% of the average source volume. No specific data is available for the proposed source. However,

approximate volumetric data was calculated for West Clear Lake for TWUA A2018-07 in March 2018, with a total estimated volume of 1,656,066,794 gallons. The allowable 20% of this volume is 331,213,358 gallons. If the maximum daily total of the requested withdrawal was removed from this source (80,000 gpd x 153 days/year = 12,240,000 total gallons used), it would equal 0.74% of total lake volume, well below the 20% threshold.

Proposed means of construction (AS 46.15.080(a)(2)): Water would be diverted through a 6-inch x 15-inch arctic surface water line and pumped approximately 6 miles to the water treatment plant, and two water storage tanks, within city limits. Water would then be dispersed throughout the city through their water supply system.

Proposed use of water (AS 46.15.080(a)(3)): The proposed use is public use, which meets the definition of a beneficial use. The applicant supplied reasonable calculations justifying the requested quantity, 80,000 gpd.

In the public interest (AS 46.15.080(a)(4))

Benefit to applicant (AS 46.15.080(b)(1)): As described above, the proposed use is beneficial and would provide the applicant with additional public water.

Effect of on economic activity (AS 46.15.080(b)(2)): DNR does not expect the proposed use would have a major effect on economic activity.

Effect on fish and game (AS 46.15.080(b)(3)): The proposed water source is West Clear Lake. ADF&G issued Fish Habitat Permit FH23-III-0247 on December 28, 2023. Per this permit's conditions of use, and AS 16.05.841, the applicant must screen their water intake at the point of withdrawal with screen openings no larger than ¼-inch, and water velocity must be no more than 0.5 feet/second when pumping. This will be included as a condition of use in any authorization of use for this water right.

Effect on public health (AS 46.15.080(b)(4)): The proposed source has been designated as a Public Water System Protection Area, PWSID: AK 340492 STEBBINS CITY WATER SUPPLY. A condition will be included in any authorization of use for this water right that requires the water right holder to adhere to 18 AAC 80, comply with ADEC-DW *Recommendations for general project activities associated with, or near, a public water system source*, and maintain direct contact with the point-of-contact for the region, Johnny Mendez, at johnny.mendez@alaska.gov, when applicable. Construction on this project is complete and is not anticipated to impact water quality within this PWS protection area.

The proposed source is not within 1,500 feet of any known ADEC-designated active contaminated site.

Effect of loss of alternate use of water (AS 46.15.080(b)(5)): There is no known higher value alternative use of water.

Harm to other persons (AS 46.15.080(b)(6)): There is no indication that harm would result from approval of this application.

Intent and ability of applicant to complete appropriation (AS 46.15.080(b)(7)): DNR believes the applicant has the intent and ability to complete the appropriation. The proposed diversion and conveyance system appears reasonable and is already in use. DNR believes the applicant would be able to perfect the proposed quantities.

Effect upon access to navigable or public water (AS 46.15.080(b)(8)): The proposed source is a navigable lake. DNR does not expect impacts to access of navigable or public water. However, a condition will be included in any authorization of use requiring the water right holder not negatively affect public access.

Annual service fee: Per 11 AAC 05.260(e), this certificate is subject to the annual administrative service fee.

Development Schedule: Per 11 AAC 93.120(b)(3)(i), this permit should have a five-year development schedule because it is a public water supply of less than 250,000 gpd. The applicant will be required to monitor water use and submit monthly water use reports quarterly until notified otherwise.

Determination:

DNR finds that (1) rights of prior appropriators will not be unduly affected; (2) the proposed means of diversion or construction are adequate; (3) the proposed use of water is beneficial; and (4) the proposed appropriation is in the public interest. I recommend that a permit be issued as follows:

Source: West Clear Lake
Quantity: 80,000 Gallons / Day
Period : June 1st through October 31st
Use: Public Water Supply
Priority Date: September 14, 2007

The location of this water source:

A point of withdrawal on West Clear Lake, located within a utility right-of-way, further located within the SW1/4 NW1/4 of Section 18, Township 23 South, Range 18 West, Kateel River Meridian, Nome Recording District, Fourth Judicial District, State of Alaska.

The location to which this appropriation is appurtenant:

The City of Stebbins, located within S3/4 of Section 2 and the N1/4 of Section 11, Township 23 South, Range 19 West, Kateel River Meridian, Nome Recording District, Fourth Judicial District, State of Alaska.

This permit should include all standard conditions regarding following acceptable engineering standards, liability, obtaining and complying with all application laws and regulations associated with surface water use, change of address, responsiveness. Additionally, this permit should have conditions requiring a screened intake, pump rate restrictions, and use within a public water system protection area.

A Certificate of Appropriation will be issued to the permit holder following the submittal of a Statement of Beneficial Use and compliance with the permit conditions, per 11 AAC 93.130.

This decision is effective upon the date of the concurring signature.


Jonathan Tucker, Natural Resource Specialist 2

1/3/2024
Date

☒ I Concur

☐ I Do Not Concur


Henry Brooks, Natural Resource Manager 2

1/3/2024
Date

An eligible person affected by this decision may appeal the decision 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 State Courts establish 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 . A .pdf or print copy of 11 AAC 02 may be obtained on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>