STAK Energy Corporation – ADL 422741

Responses to Public Comments

Attachment to Final Finding and Decision, AS 38.05.070

The Division issued its Preliminary Decision (PD) on May 12, 2026, with an initial 30-day public comment period ending June 15, 2026. The Division received multiple requests for additional time to allow the public to review the PD and STAK's application materials and to submit comments. In response to those requests, the Division elected to extend the public comment period through July 17, 2026. Over the full comment period – May 12 through July 17, 2026 – the Division received 1,205 public comments.[1]

This Final Finding and Decision (FFD) determines whether issuance of the proposed lease serves the best interests of the State, based on the scope of review established under AS 38.05.035(e)(1)-(2), the applicable statutes and regulations, the material facts pertaining to the land and resources, and the reasonably foreseeable, significant effects of the uses proposed to be authorized. AS 38.05.035(e)(7)(B) requires this FFD to include a summary of the agency and public comments received and the Division's responses to those comments.[2] As such, the Division has reviewed every comment submitted during the full public comment period and, because the great majority raised overlapping concerns about the same underlying facts and effects, organized them by subject matter rather than responding to each comment individually.

For organizational clarity, what follows is divided into eight issues, each covering one or more discrete topics that recur across the comments received. For each issue, the Division summarizes the substance of the comments and provides a response based on the administrative record, applicable statutes and regulations, and the proposed lease terms. The Division also incorporates responses to comments submitted by STAK in its capacity as the project applicant. This structure is intended to provide thorough and understandable responses to the principal concerns raised during the public comment period while avoiding unnecessary repetition where multiple commenters addressed the same issue.

Comments that identify material facts, applicable legal requirements, or reasonably foreseeable, significant effects within the scope of this decision are addressed within the applicable issue below. Comments that concern matters outside the scope of this administrative review, or that depend on project-specific details and future authorizations which have not yet been sufficiently defined or achieved, are acknowledged and addressed to the extent they bear on the present land disposal determination. AS 38.05.035(h) does not require the Director to speculate about possible future effects subject to future permitting when those effects cannot reasonably be determined until the proposed project is more specifically defined.[3]

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[1] Between May 12 and June 15, 2026, the Division received 528 public comments. Between June 17 and July 17, 2026, the Division received 677 public comments.

[2] "The director shall include in … (B) the final written finding a summary of agency and public comments received and the department's responses to those comments."

[3] "In preparing a written finding under (e)(1) of this section, the director may not be required to speculate about possible future effects subject to future permitting that cannot be

Accordingly, this FFD does not resolve matters reserved for other state or federal permitting processes, nor does it substitute for any authorization required to construct or operate the proposed facility. As both the PD and this FFD explained, this lease decision is one component of a broader, multi-agency permitting process and future reviews may impose additional project-specific conditions. Comments directed exclusively at those future processes do not expand the scope of this decision or require the Division to reach conclusions that are premature or outside its jurisdiction. The Division's responses below address comments as they bear on the Division's authority under AS 38.05.070(d) to proceed with disposal of State surface estate.

Issue 1: Process and Procedure

Topic 1.1: Public Comment Period and Extension

Comments: Several commenters requested that the Division extend the initial 30-day public comment period beyond the June 15, 2026 deadline, citing the complexity and scale of the proposed project, the volume of materials comprising the administrative record, including the PD and STAK's application materials, and the project's potential significance to North Slope communities and existing uses of the area.

Applicant Response: STAK defers to the Division on the conduct of the public comment process. STAK notes that the Division subsequently provided an additional public comment period from June 17 to July 17, 2026, giving the public a further opportunity to review the Preliminary Decision and STAK's application materials and to submit comments.

Division Response: The proposed action is the issuance of a 50-year negotiated lease for commercial and industrial use of approximately 715.4 acres of State-owned surface estate under AS 38.05.070. AS 38.05.070(d) authorizes the Division, after providing notice pursuant to AS 38.05.945 to solicit interest via competitive auction, and to cancel the auction and negotiate a lease when only one potential bidder has expressed interest, subject to the terms and conditions the Director determines to be in the best interests of the State. The competitive-interest solicitation and the public comment period each serve distinct purposes. The former addressed whether other parties expressed interest in developing the site for similar purposes, and the Division conducted that solicitation from December 8, 2025, through January 8, 2026, and received no expressions of competitive interest. The Division then proceeded with consideration of a negotiated lease under AS 38.05.070(d). The subsequent public comment period provided the public with an opportunity to review and comment on the PD before issuance of the FFD.

Public notice and public participation are considered fundamental safeguards governing the disposal of State land. Article VIII, Section 10 of the Alaska Constitution provides that "[n]o disposal or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law." In accordance with this constitutional provision and AS 38.05.945, which establishes the applicable notice and comment requirements for disposals of State land under AS 38.05.070, the Division provided a public comment period on the PD. The PD was issued on May 12, 2026, and initially established a June

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reasonably determined until the project or proposed use for which a written best interest finding is required is more specifically defined…"

15, 2026 deadline for submitting comments. During this initial public comment period, the Division received multiple requests for additional time to review the PD, STAK's application materials, and to prepare and submit comments regarding the proposed lease. The Division considered those requests in light of the scale and complexity of the proposed development, the amount of information available for review, and the level of public interest in the proposed disposal. In response, and although the Division was not required to extend the public comment period beyond the statutory minimum, the Division exercised its discretion to extend the public comment period through July 17, 2026.

Information material to the project, including the PD and STAK's application materials, was publicly available throughout the full comment period, and the Division received 1,205 comments between May 12, 2026 and July 17, 2026, a volume that demonstrates significant public engagement with the available material. Many commenters submitted detailed, substantive comments, indicating that the comment period afforded meaningful opportunity for public participation.

The extension of the public comment period, the volume of comments received, and the issues raised through public participation informs the Division's review but does not alter the scope of the administrative determination before the Division. The Division's consideration remains limited to whether the proposed disposal is in the best interests of the State based on the reasonably foreseeable, significant effects of the uses proposed to be authorized. [4] The scope of the Division's administrative review is limited to the applicable statutes and regulations, the material facts pertaining to the land, resources, and property then known to the Division, and other issues material to this determination.[5] However, the Division may not speculate about possible future effects, including the exact location and size of the ultimate land use and related facilities, the economic feasibility of final development, or the effect of future laws that may apply at the time of future development.[6]

Consistent with AS 38.05.035(e)(7)(B), this FFD summarizes the public comments received and provides the Division's responses.

Topic 1.2: Scope of Review, Applicant Qualifications, and Transparency

Comments: Some commenters raised concerns about whether the Division could evaluate STAK's application objectively and whether the review process was sufficiently transparent. Commenters also questioned whether STAK's application was complete and requested disclosure of additional information regarding STAK's financing arrangements, corporate structure, ownership, and relationships with investors or affiliated entities.

Applicant Response: STAK submitted its application to DNR and supplied all additional information requested by DNR. STAK's application materials are part of the administrative record. The scope and conduct of the Division's review are matters for the Division under AS 38.05.035 and AS 38.05.070, and STAK defers to the Division on them. STAK has responded to

4 AS 38.05.035(e)(1)(A).
5 AS 38.05.035(e)(1)(B).
6 AS 38.05.035(h).

the Division's information requests and will provide additional information the Division requests. STAK considers detailed information about its financing arrangements and investors to be confidential and proprietary business information and has requested that the Division protect it to the extent permitted by Alaska law. Independent of how the project is financed, the lease's bonding, insurance, and reclamation requirements are intended to protect the State if STAK does not perform.

Division Response: The Division recognizes that public confidence in a State land disposal decision depends on a review process that is legally sound, transparent, and supported by a record that is available for public inspection. That expectation traces to Article VIII, Section 10 of the Alaska Constitution, which requires prior public notice and other safeguards of the public interest before State land or an interest in State land is disposed of – the same provision from which the Alaska Land Act's leasing procedures, including the notice and public comment requirements of AS 38.05.945, ultimately derive.[7] The Division's adjudication of ADL 422741 has proceeded under that framework, such that the PD and the nonconfidential elements of STAK's application were made available for public review through the State's public notice process, consistent with AS 38.05.945.

The Division's review, however, is not meant to be an open-ended inquiry into every aspect of STAK or its business dealings; rather, the Division's role is to evaluate whether the proposed 50-year lease serves the State's best interests within the scope established by AS 38.05.035(e). The Division's review of ADL 422741 has accordingly focused on the proposed use of State land, the proposed lease terms, the potential foreseeable effects associated with that use, and other matters material to the State's determination.

With respect to the completeness of STAK's application, the Division's surface estate leasing process requires an applicant to submit a lease application, development plan, environmental risk questionnaire, and an application fee; the Division then reviews the submission for completeness and reserves the right to request additional information as necessary to process the application. The Division determined that STAK's application contained the information necessary to proceed with adjudication under AS 38.05.035(e) and AS 38.05.070. A completeness determination of a lease application does not constitute an approval of a proposed project, nor does it establish that an applicant has satisfied every requirement that may apply to subsequent authorizations. Activities contemplated by the lease remain subject to any additional state, federal, or local permits and approvals that may be required.

The Division has also considered the concerns commenters raised regarding STAK's financing arrangements, corporate structure, ownership, and relationships with investors or affiliated entities, within the scope of what is material to this determination. Alaska law does not require an applicant for a lease under AS 38.05.070 to disclose its private financing arrangements, investor

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[7] *See Alyeska Ski Corporation v. Holdsworth,* 426 P.2d 1006, 1011 (Alaska 1967) (underscoring the importance of Article VIII, Section 10 of the Alaska Constitution and, noting that Sec. 10 "reflects the framers' recognition of the importance of our land resources and of the concomitant necessity for observance of legal safeguards in the disposal or leasing of state lands.").

relationships, or corporate ownership structure as a condition of a complete application, and the Division has not received that kind of comprehensive financial and corporate disclosure. This is not to indicate that such information could never become relevant to the Division's review: if information about STAK's ownership, corporate structure, financing, or affiliated entities were to raise a material question about STAK's eligibility to do business in Alaska, its ability to perform the lease, the enforceability of the State's interests, or its compliance with applicable law, the Division would consider that information to the extent it is available. The Division is not, however, obligated to conduct a general corporate or financial investigation beyond what bears on the decision of whether the proposed disposal is in the best interest of the State.

Topic 1.3: Lease Terms, Acreage, Future Expansion, Reclamation, and Long-Term Operational Viability

Comments: Commenters raised questions and concerns about the length of the proposed 50-year lease term, the size of the 715.4-acre leasehold, the potential for future expansion beyond the authorized footprint, the adequacy of reclamation provisions, and STAK's long-term financial and operational viability.

Applicant Response: The proposed lease term, acreage, reclamation obligations, and bonding are subject to DNR's review and will be established by DNR in the lease issued under AS 38.05.070. The 715.4-acre lease area reflects the project's anticipated facility layout, setbacks, and supporting infrastructure. Any use of State land outside the leased area would require a separate application, review, and authorization by DNR. STAK will be bound by the reclamation and bonding requirements the lease imposes, which are intended to protect the State if the facility ceases operation for any reason before the end of the lease term.

Division Response: AS 38.05.070(c)-(d) allows the Division to issue a negotiated lease for commercial and industrial use of State land for a term of up to 55 years where the Commissioner determines that term serves the State's best interests.[8] STAK requested a 50-year lease term, and the Division's determination that a term of that length serves the State's best interests reflects the capital intensity of the proposed development: a project requiring approximately $500 million in initial capital expenditures, a multi-year construction buildout, and an operational life extending well beyond that buildout entails a lease term long enough to allow STAK to recover its investment and operate the facility over its designed useful life. The Division finds that a 50-year term accomplishes that objective while remaining within the statutory ceiling. At the conclusion of the lease term, any renewal would remain subject to Division approval, STAK's compliance with the lease terms, and a separate determination that renewal is in the State's best interest.[9]

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[8] "A lease may be issued for a period up to 55 years, if the commissioner determines it to be in the best interests of the state."

[9] AS 38.05.070(e): "The director may renew a lease issued under this section … upon its expiration if the lease is in good standing and the lease renewal is determined to be in the best interests of the state…. A lease under this section … may be renewed only once for a term not longer than the initial term of the lease. The director shall provide notice of the lease renewal decision."

The 715.4-acre lease area encompasses the principal gravel pad, the 1.8-mile gravel access road, and associated maintenance buffers. The size of the leasehold reflects the physical requirements of the proposed development – most significantly, the substantial gravel fill needed to establish a thermally stable working surface on continuous permafrost terrain. The Division finds that the proposed lease is appropriately sized to accommodate the development described in STAK's application and is not excessive relative to the infrastructure and operational requirements proposed. The lease does not, however, constitute authorization for unlimited future development within or beyond that footprint. The lease terms establish that STAK's authorized use and development of the leasehold are limited to the activities and infrastructure identified in the Development Plan, and any proposed addition, removal, or other substantive change to the authorized activities or infrastructure must be submitted to and approved in writing by the Division before the change may occur.[10] The Division expressly reserves the authority to require additional agency review and public notice for changes that it determines to exceed the scope of this authorization. Activities requiring interest in State land outside the leasehold – including the natural gas pipeline STAK has proposed as an associated but separately authorized action – will require its own public process, review, and approval.

The Division recognizes that a project of this scale and duration raises legitimate questions about STAK's ability to perform its obligations over a 50-year term. Those concerns are addressed, in significant part, through the financial assurances agreement and other protections that are incorporated into the lease terms.[11] STAK will also be required to carry comprehensive general liability insurance naming the State as an additional insured party, covering the liability exposures associated with its operations on the leasehold.[12]

Reclamation is likewise an express obligation of the proposed lease and is not contingent upon STAK's financial viability at the end of the project. AS 38.05.090 requires the leasehold to be restored to "a good and marketable condition" within 120 days after the lease terminates. At the end of the project's operational life, the lease terms require removal of all structures, equipment, and associated infrastructure, and regrading and revegetation of disturbed areas consistent with DNR's reclamation standards.[13] STAK's surface restoration obligations will not be considered fulfilled until it demonstrates, to the Division's satisfaction, that the disturbed areas have been restored to a condition consistent with the surrounding undisturbed land. These requirements provide the State with both a substantive reclamation assurance and a financial mechanism to address the risk of nonperformance.

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[10] Lease Agreement, at 4-5 (Use of Leasehold): "Prior to execution of this lease and to commencing use or development of the leasehold, the lessee shall submit a development plan for the leasehold to the lessor and receive the lessor's approval of the plan. Any use or development of the leasehold must be consistent with the development plan approved by the lessor. Any proposed revisions to the development plan must be submitted to the lessor for approval before any change in use or development occurs."

[11] *See also,* Lease Agreement, at 10-11 (Bonding).

[12] *Id.*, at 10 (Insurance).

[13] *Id.*, at 13 (Surrender of Leasehold); PD, at 14 (Reclamation).

Topic 1.4: Alaska Native and Indigenous Engagement; Consistency with AS 38.05.035(e) Best Interest Standard

Comments: A significant number of commenters raised concerns about the adequacy of tribal and community consultation before issuance of the PD, the potential for the lease to affect subsistence practices and cultural resources, and whether the proposed lease is consistent with the best interest standard of AS 38.05.035(e) and the State's obligations to Alaska Native communities.

Applicant Response: STAK has engaged with the North Slope Borough (NSB), the Arctic Slope Regional Corporation, and the Inupiat Community of the Arctic Slope regarding the project, and intends to continue that engagement through permitting, construction, and operation. STAK will support any formal government-to-government consultation with tribes conducted by the responsible government agencies. The proposed lease area is located approximately 60 air miles from Nuiqsut, which is the nearest permanent community. STAK recognizes that subsistence users travel and harvest throughout the region, and STAK will seek input from local residents and subsistence users on project design and operating practices.

Cultural and historic resources are subject to independent review under the Alaska Historic Preservation Act (AS 41.35) and, where a federal permit such as a Clean Water Act Section 404 permit is required, under Section 106 of the National Historic Preservation Act. STAK's North Slope Borough permit applications will also reference the Borough's Traditional Land Use Inventory, along with the Alaska Heritage Resources Survey, to identify known cultural sites so that impacts can be avoided or minimized. As noted above, whether the proposed lease is consistent with the best interest standard of AS 38.05.035(e) is a determination for the Division to make in its Final Finding and Decision.

Division Response: The Division acknowledges and takes seriously the concerns raised by commenters about subsistence practices, cultural resources, and the adequacy of engagement leading up to the PD. The project site sits within the North Slope Borough and within the geographic area used for traditional Iñupiat subsistence activities. Consistent with AS 38.05.946, the Division's agency review process included distribution of the application package to the North Slope Borough (NSB), and the NSB was afforded the opportunity to hold its own public hearing on the proposed disposal.[14]

A best interest determination under AS 38.05.035(e) requires the Division to consider a broad range of public interests, including the importance of subsistence uses of fish and wildlife. Alaska's constitutional requirement that renewable resources be managed on a sustained-yield basis, subject to preferences among beneficial uses, provides a framework for considering those interests, which have particular significant for Alaska Native communities for whom subsistence

[14] "(a) A municipality or corporation entitled to receive notice under AS 38.05.945(c) may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the commissioner shall attend the hearing. The commissioner has discretion to hold a public hearing."

is an important component of traditional and cultural life.[15] Consistent with that framework, STAK has committed to various mitigation measures and monitoring and performance standards designed to minimize disruption to subsistence access and wildlife movement – among them, community consultation and collaboration to develop a community benefits agreement – and STAK will be required to continue engaging with the NSB and affected communities as the project proceeds through subsequent permitting and development.[16]

The Division is not aware of any specific factual basis in the administrative record to conclude that the proposed lease is inconsistent with the best interest standard of AS 38.05.035(e). The balance of benefits and risks evaluated in the PD – including State revenue, employment, productive use of otherwise stranded North Slope natural gas, and the project's co-location within an established industrial corridor, including existing oil and gas leaseholds – supports issuance of the lease. The lease's relatively limited footprint, situated within a substantially larger area of the North Slope that remains available for subsistence activities, also informs this assessment. This conclusion does not represent a determination that subsistence interests are outweighed in the abstract; indeed, it reflects that the Division has determined that the proposed lease, conditioned on appropriate stipulations in the lease and subject to further regulatory review, can proceed in a manner that is consistent with both the State's development obligations and its parallel obligations to subsistence resources.

Issue 2: Air and Water

Topic 2.1: Water Sourcing, Consumption, Cooling System Design, and Community Freshwater Access

Comments: Commenters raised concerns about the volume of water the facility will consume, the sources of water supply needed during construction and operations, potential impacts on freshwater availability for nearby communities, and the adequacy of the cooling system design in an Arctic environment.

Applicant Response: The facility's Arctic location offers a significant advantage because cold ambient temperatures reduce the water required for cooling. STAK's current design uses closed-loop, ambient-air (dry) cooling, which does not rely on evaporative water loss. STAK anticipates that operational water use will be limited primarily to domestic use by on-site personnel and system make-up water, with additional temporary water use during construction. The lease area is located well away from local communities, and the project will not draw on any community water system to support the facility's construction or operations.

Water withdrawals for the project will require authorization from DNR under the Alaska Water Use Act (AS 46.15) and 11 AAC 93, including temporary water use authorizations during construction, and, for any withdrawal from fish-bearing waters, a Fish Habitat Permit from the Alaska Department of Fish and Game (ADF&G) under AS 16.05.841 or AS 16.05.871, as

[15] AK Const., art. VIII, § 4 (Sustained Yield): "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses."

[16] STAK CIA at 29-30.

applicable. The source and quantity of each withdrawal will be identified in those applications and are subject to agency review.

Division Response: The facility as proposed is designed to utilize dry air cooling rather than evaporative or water-cooled systems, taking advantage of the North Slope's naturally cold ambient temperatures.[17] STAK's Cumulative Impact Analysis (CIA) estimates that this approach will reduce direct operational water consumption by 90 percent or more compared to evaporative cooling at lower-latitude data centers. Under the initial simple-cycle design, ongoing operational water demand is expected to run to tens of thousands of gallons per day, driven mainly by domestic use, fire suppression, and minor equipment washing, rather than millions of gallons for cooling alone.[18]

Construction water for dust suppression on the gravel pad and road and for compaction will come from permitted North Slope sources under DNR water use authorizations, and potable water for the construction workforce will be trucked in from commercial sources in Deadhorse.[19] STAK will need DNR, Division of Mining, Land, and Water (DMLW) approval for any water appropriation before construction activities requiring it may begin, and that approval process entails separate public notice and review processes that will evaluate the proposed water use against existing appropriations and the needs of other users.

The Division recognizes that access to fresh water is of vital importance to North Slope communities, and the applicable water permitting processes are specifically designed to ensure that new water appropriations do not come at the expense of existing water rights or community water supply. Those project-specific determinations are appropriately made through the applicable water permitting processes and do not fall within the immediate scope of this lease decision, which addresses the proposed disposal of State surface estate; as such, this lease does not authorize any specific water appropriations.

Topic 2.2: Air and Water Quality, Pollution Risks, Discharge, and Baseline Environmental Studies

Comments: Commenters raised concerns about air and water quality impacts from the facility's natural gas power generation system, the potential for contamination from fuel storage and handling, the absence of project-specific baseline environmental studies prior to issuance of the PD, and the adequacy of the PD's analysis of these factors.

Applicant Response: STAK will obtain and comply with all air and water permits required for the facility. Based on the current design, STAK anticipates these will include a Prevention of Significant Deterioration (PSD) construction permit and a Title V operating permit from the Alaska Department of Environmental Conservation (DEC) (the PSD permit requires a Best Available Control Technology analysis and air quality modeling), applicable federal and state spill prevention requirements for fuel storage, such as a Spill Prevention, Control, and Countermeasure Plan, and Alaska Pollutant Discharge Elimination System permit coverage for

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17 STAK CIA, at 14.

18 *Id.*, at 14-15, 17-18.

19 Development Plan, at 9; STAK CIA, at 17.

any wastewater discharge and for construction stormwater. Each of these permits includes its own agency review and, where required, public comment. Project-specific baseline information, such as hydrology data, wetlands delineation, and hydrologic and habitat surveys will be submitted as those permitting processes require.

Division Response: The Division's analysis in the PD draws heavily upon the comprehensive regional baseline established in the Division's 2018 North Slope Best Interest Finding (BIF) and the project-specific analysis contained in STAK's CIA. The North Slope BIF represents an extensive, multi-year, regional assessment of baseline environmental conditions, cumulative effects of existing industrial and commercial activities, and ecological values across approximately 5.1 million acres of State land on the North Slope, including the project vicinity near Milepost 390. The Division incorporates that baseline by reference and finds it provides an appropriate basis for evaluating this land disposal decision.

It is worth clarifying Division's role in this application process, as distinct from the agencies with direct jurisdiction over air and water quality monitoring, wastewater, and other environmental discharges. Here, the Division is acting principally in its capacity as the landowner of State surface estate, determining whether disposal of the State's interest in the land, subject to the terms and conditions of the lease, is in the best interest of the State. DNR is not the agency charged with administering ambient air quality and water quality standards, does not permit air emissions, or wastewater or other discharges, and does not conduct the technical monitoring necessary to enforce those standards. Those functions are overseen and regulated by the appropriate state and federal agencies, including the Alaska Department of Environmental Conservation (DEC), that are equipped with the requisite subject matter expertise, statutory and regulatory authority, and permitting mechanisms necessary to evaluate and control those impacts.

The Division therefore does not consider the absence of completed project-specific air, water, or discharge data at this land disposal stage as a defect in its own analysis; rather, the Division has considered the environmental information available and reasonably relevant to this decision while recognizing that the technical assessment and enforcement of project-specific environmental impacts will be properly addressed by the agencies charged with that oversight as the project advances. This allocation of responsibilities is important because requiring the Division, in its capacity as landowner, to independently conduct technical environmental reviews that fall within the jurisdiction of other agencies would largely duplicate existing regulatory processes without providing a commensurate increase in environmental protection. The more appropriate approach is for the Division to ensure that the present land disposal does not foreclose or circumvent these subsequent permitting requirements and allow the agencies obligated to defend air and water resources to apply their respective standards as the project is further developed and its site-specific impacts become available for full evaluation.

Project-specific baseline environmental studies – including site-specific air quality monitoring, wetland delineations, and water quality assessments – will be required by other agencies as part of subsequent permitting processes that follow this lease decision. Both the PD and STAK's Development Plan expressly identify some of the additional authorizations STAK must obtain before any ground disturbance can occur, and each of those permitting processes will require

their own project-specific data collection and analysis and may impose specific stipulations designed to protect air and water quality.[20]

With respect to fuel storage and hazardous materials specifically, the PD details the containment measures STAK proposed in its Development Plan, including double-walled, self-contained diesel storage tanks with leak detection probes, secondary containment for all fuel and hazardous materials transfers, drip pans under vehicles and equipment, and refueling setbacks from waterbodies.[21] These measures have also been carried into the lease as enforceable stipulations under the lease's environmental compliance provisions.[22]

Issue 3: Habitat, Wildlife, and Ecosystem

Topic 3.1: Wildlife and Habitat

Comments: Commenters raised concerns regarding potential impacts to wildlife and habitat in and around the proposed lease area, including impacts to caribou, migratory birds, muskox, Arctic fox, and other species. Several commenters questioned whether development of the proposed site would be compatible with sensitive wildlife habitat and whether potential impacts to wildlife have been adequately evaluated.

Applicant Response: STAK will comply with the applicable local, state, and federal permitting requirements governing wildlife and habitat impacts, including consultation under the Endangered Species Act and the requirements of the Migratory Bird Treaty Act, as applicable. The lease area is adjacent to the existing Dalton Highway and Trans Alaska Pipeline System corridor, which reduces the need for new roads into undeveloped habitat. STAK intends to incorporate mitigation measures commonly used on North Slope developments, such as minimizing gravel footprint, elevating any aboveground pipelines to allow caribou passage, managing lighting to reduce bird strikes, and following waste management and wildlife interaction practices that avoid attracting Arctic fox, bears, and other wildlife. Specific measures will be established through the applicable permits and lease stipulations.

Division Response: The Alaska Supreme Court has held that Article VIII imposes on DNR a continuing obligation to take a "hard look" at the reasonably foreseeable and cumulative effects of authorizing the use and development of State land and resources.[23] The Division has satisfied this "hard look" obligation by considering STAK's CIA and the 2018 North Slope BIF, which the PD and this FFD incorporates by reference. Those analyses provide the principal framework for evaluating the reasonably foreseeable and cumulative effects associated with the proposed lease and its potential development. This topic and Topic 3.2 below summarize the relevant impacts identified through that review and explain how the proposed lease responds to them.

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20 PD, at 11-12; Development Plan, at 10.

21 PD, at 5; Development Plan, at 9-10.

22 Lease Agreement, at 11-12 (Environmental Compliance).

23 *Sullivan v. Resisting Envtl. Destruction on Indigenous Lands (REDOIL),* 311 P.3d 625, 633 (Alaska 2013) (citing *Kachemak Bay Conservation Soc'y v. State, Dep't. of Nat. Res.,* 6 P.3d 270, 294 (Alaska 2000)).

The Division recognizes that the proposed lease area is situated within a landscape that supports a range of wildlife species and that industrial development of this kind may affect wildlife and habitat depending on the nature, scale, location, and timing of activities. The North Slope BIF's extensive treatment of commercial and industrial development on the North Slope, including its analysis of effects on numerous wildlife species and their habitats, is incorporated by reference into this FFD and remains relevant to the proposed surface estate lease, notwithstanding the North Slope BIF's origin in the oil and gas leasing context.

The project site is located within the Dalton Highway/TAPS industrial corridor, an area that has carried continuous industrial activity for the last 50 years. STAK's CIA, specific to caribou, places the site within the range of the Central Arctic Herd, used for post-calving movement and fall migration, but outside the core coastal calving zone. Behavioral avoidance of roads and pipelines during calving is a documented effect of North Slope development generally, and STAK proposes to incorporate mitigation aimed directly at this issue, including a minimum seven-foot clearance beneath the proposed pipeline to preserve caribou passage and construction timing restrictions during the May 20 to July 15 calving window.[24] For migratory birds, direct habitat loss within the 715-acre footprint is unavoidable, but STAK has committed to incorporating downward-directed, shielded exterior lighting to limit disturbance during continuous summer operations and preconstruction nesting surveys where construction coincides with the May – July breeding season.[25]

The Division recognizes that the proposed development will result in effects to wildlife and habitat and does not attempt to suggest otherwise. The relevant question for the purpose of this FFD is whether those effects have been adequately considered in determining whether the disposal is in the best interest of the State. In making that determination, the Division considered the regional environmental baseline established by the North Slope BIF, as well as the more project-specific analysis provided in STAK's CIA. Taken together, these sources provide a reasonable basis for understanding the foreseeable effects of the proposed development and the measures available to avoid or otherwise mitigate those effects. On that basis, the Division finds that the anticipated impacts to wildlife and habitat are not negligible, but have been sufficiently considered for the purpose of this land disposal decision and do not preclude issuance of the lease under the best interest standard of AS 38.05.035(e).

Topic 3.2: Physical and Industrial Footprint – Permafrost, Wetlands, Tundra, Gravel Use, Construction Traffic, Light, Noise, and Viewshed

Comments: Commenters expressed concerns about impacts to permafrost, wetlands, and tundra resulting from the gravel pad construction; the large volume of gravel fill required for the project; increased construction traffic on the Dalton Highway; noise and light pollution; and visual impacts on the North Slope landscape.

Applicant Response: Permafrost protection measures for the facility, including foundation design, gravel pad specifications, and thermal design and monitoring, will be developed consistently with applicable permitting requirements and geotechnical engineering standards for

24 STAK CIA, at 25, 30.
25 *Id.*

construction on permafrost. Gravel for pad construction will be obtained from a permitted material site, and placement of gravel fill in wetlands will require a Section 404 permit from the U.S. Army Corps of Engineers.

Tundra disturbance is governed by NSB and DNR land use requirements, including authorization for any off-road tundra travel under 11 AAC 96. STAK will be responsible for rehabilitating tundra disturbed by its activities as required by its authorizations, and for meeting the lease's reclamation obligations.

The proposed lease area is also approximately 60 air miles from the nearest permanent community, so noise and light from the facility are not expected to affect residential communities. STAK will consider noise and lighting controls, such as shielded and downward-directed lighting, to reduce effects on wildlife, subsistence users, and Dalton Highway travelers. The facility will be sited adjacent to the Dalton Highway and the Trans Alaska Pipeline System. Construction traffic on the Dalton Highway will be coordinated with the Alaska Department of Transportation and Public Facilities (DOT&PF), including any required oversize and overweight permits.

Division Response: The Division recognizes that the proposed development will result in direct and long-term alteration of approximately 715 acres of tundra and wetlands, and that the project will therefore create a measurable increment of disturbance within the North Slope landscape. The Division has considered that disturbance in the context of approximately 12,000 – 20,000 acres of tundra already converted through decades of North Slope development. That regional context is relevant to evaluating this project's contribution to cumulative disturbance, but it does not eliminate or diminish the project's site-specific effects. The extent of wetland impacts has not yet been established through a final site-specific wetland delineation, and both STAK and the Division consider this an identified data gap that must be resolved through the United States Army Corps of Engineers' (USACE) Section 404 permitting process prior to construction.[26] STAK will be required to obtain authorization from USACE under Section 404 of the Clean Water Act, which will provide additional site-specific review of jurisdictional wetlands and address various compensatory mitigation requirements.

The gravel volume required for this project is significant: approximately 7.1 million cubic yards, placed at an average depth of roughly eight feet and a minimum of five feet, sourced principally from the adjacent, State-permitted 65-9-099-2 Mine Site at Milepost 390.[27] The gravel pad and associated foundation design are intended to address the particular risks of constructing a large industrial facility on permafrost terrain. The pad's thickness provides thermal separation from the underlying permafrost, while major heat-emitting equipment will be supported on piled foundations with ventilated airspace beneath. STAK has also committed to thermosyphons in areas of concentrated heat loading and long-term monitoring through thermistor strings, annual thaw-depth surveys, and settlement monitoring during operations and for at least ten years following facility decommissioning.[28] These measures do not eliminate the possibility of

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26 *Id.,* at 25, 31; *see also,* STAK Development Plan, at 10.

27 *Id.*, at 17; *see also*, STAK Development Plan, at 6.

28 STAK CIA, at 26-27.

permafrost degradation, but they provide a sound framework for detecting and managing permafrost integrity over the full lifecycle of the project.

The Division similarly recognizes that facility construction and operation will introduce additional traffic, noise, lighting, and visual effects into the North Slope landscape. The facility will be visible from the Dalton Highway at roughly one mile and will operate a 1-3 gigawatt generation system, producing continuous turbine, cooling, and equipment noise that could carry across several miles of flat Arctic terrain.[29] STAK has committed to installing noise-attenuating enclosures on the gas turbines, constructing facilities with reduced height profiles, earth-tone finishes on facility exteriors, and post-construction noise monitoring.[30] These measures will not render the facility invisible or silent – as no mitigation measures would – but they are the tools available to bring a large, continuously operating industrial facility into a landscape that already carries the Dalton Highway corridor infrastructure.

Ultimately, the Division does not conclude that the proposed development will be completely impact-free. Rather, the Division has evaluated the project's incremental contribution to regional disturbance together with its site-specific design, proposed mitigation and monitoring measures, existing industrial context, and the additional State and federal permitting requirements that will apply before construction may commence.

Issue 4: Socioeconomic and Community Impacts

Topic 4.1: Subsistence Practices and Alaska Native Cultural Resources

Comments: Commenters raised concerns about impacts to subsistence hunting, fishing, and gathering activities in the project vicinity, including effects on caribou, fish, and other subsistence species, and about the potential impacts on cultural resources and traditional land uses.

Applicant Response: The proposed lease area is located approximately 60 air miles from Nuiqsut, which is the nearest permanent community. STAK recognizes that subsistence users travel and harvest throughout the region. The proposed lease area is adjacent to existing infrastructure, including the Dalton Highway and the Trans Alaska Pipeline System. The area is also within the Dalton Highway Corridor Management Area, where State law and regulation already limit certain hunting methods and off-road vehicle use (see AS 16.05.789 and 5 AAC 92.530). STAK anticipates that restrictions on public access will be limited to developed facility areas where necessary for safety, security, and operational control, and does not anticipate precluding lawful fishing and gathering outside those areas. Public access within the lease area will ultimately be governed by the terms of the lease.

Division Response: The North Slope has been home to the Iñupiat people for thousands of years, and numerous archaeological and cultural sites across the region attest to the long-standing presence of Alaska Native peoples and their enduring stewardship of the land. Historic and cultural resources are included in those identified in the Alaska Heritage Resources Survey

29 *Id.*, at 29.
30 *Id.*

(AHRS), the National Register of Historic Places, the NSB Traditional Land Use Inventory (TLUI) by the Commission on Iñupiat History, Language, and Culture, as well as sites identified through ethnographic studies and community knowledge. These records represent only a portion of the full cultural landscape, seasonal use patterns, and traditional practices that may not be formally recorded in existing scientific databases. Such knowledge reflects ongoing cultural traditions, including subsistence activities, travel routes, and other land-based uses. Accordingly, available data sources are not exhaustive and should be understood as dynamic, and continued engagement with local communities is essential to appropriately identify, understand, and respect historic and cultural resources and the traditional ways of life they support.

The project site lies within traditional use areas associated with Nuiqsut, Deadhorse, and Anaktuvuk Pass, and the Division does not discount the importance of maintaining meaningful access to subsistence resources for these communities or others who use the surrounding landscape. Because the project is located within the North Slope Borough, a traditional use finding is not required under AS 38.05.830; this means only that the specific procedural requirement for a traditional use finding does not apply in this instance, but the underlying subsistence interests and potential impacts to them remains relevant to the Division's consideration of the lease under AS 38.05.035(e).

The cumulative effects of industrial development on North Slope subsistence are well-documented and relevant to this analysis. Decades of development have affected caribou distribution and movement, altered access to hunting areas, noise, and the broader ability to carry out subsistence activities across a partially industrialized landscape. The proposed facility will contribute to those cumulative effects through its physical footprint, noise and emissions, and the additional Dalton Highway traffic that construction will bring. The Division does not interpret those effects as insignificant or costless; rather, it has weighed them against the lease terms, Entry Authorization stipulations, and STAK's commitment to continued engagement with the NSB and community benefits agreements addressing subsistence concerns as the project proceeds. These measures do not eliminate the project's effects on subsistence, but they do provide specific mechanisms for identifying and addressing impacts as project activities proceed.[31]

Cultural and archaeological resources warrant similar consideration, and STAK has identified completion of an AHRS database records search and a Phase I archaeological survey of the project footprint and pipeline corridor as outstanding data gaps that must be completed before ground disturbance occurs.[32] Moreover, the Alaska Historic Preservation Act prohibits disturbing a State-owned historic, prehistoric, archaeological, or paleontological site without the DNR Commissioner's prior written approval, and the lease requires STAK to halt work and notify the

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[31] Development Plan, at 9-10; CIA, at 30. Some protective measures here include pipeline clearance and seasonal timing restrictions to protect caribou movement, and shielded lighting that limits disturbance to birds and other wildlife.

[32] CIA, at 29, 31.

Division and the State Office of History and Archaeology (OHA) immediately if such a site is encountered.[33]

Cultural resources have significance not only as physical archaeological sites, but as part of the rich cultural heritage of Alaska Native communities and their continuing relationship with the land. Completion of the required surveys is therefore critical not only to identifying physical archaeological resources but also to ensuring that development decisions adequately account for lands and resources that may hold continuing cultural significance to Alaska Native communities. The required Phase I survey, together with this inadvertent-discovery process, provide important safeguards for identifying and appropriately protecting resources that may not yet be reflected in the existing record before ground-disturbing activities occur.

Topic 4.2: Employment, State Revenue, and Long-Term Economic Impacts

Comments: Commenters raised questions about the scope and distribution of employment benefits, the adequacy of State revenue provisions, and the project's long-term economic value to Alaska. Some commenters questioned whether the economic benefits claimed for the project would materialize, and whether the lease compensation adequately reflects fair market value.

Applicant Response: STAK intends to prioritize Alaska hire and Alaska-based contractors and suppliers where operationally feasible, and to work with the North Slope Borough and regional workforce organizations on training and recruitment. Gas produced from state leases and sold to the project would be subject to applicable State royalty and production tax. STAK is a C corporation registered to do business in Alaska and will pay applicable state and local taxes. Lease rent will be established by DNR under AS 38.05.070 and its implementing regulations, and STAK will pay the rent the lease requires.

Division Response: Article VIII, Section 1 of the Alaska Constitution states: "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." The Division recognizes that the economic benefits associated with a project of this scale are necessarily projections at this stage, and that the extent to which those benefits ultimately materialize will depend on STAK's ability to successfully finance, construct, and operate the proposed facility. The Division's determination is therefore not based on an assumption that every projected economic benefit will occur at the maximum level anticipated by either the Division or the STAK. The Division considered the reasonably foreseeable economic and fiscal benefits associated with the proposed use of State land, including employment generated during the construction period, projected permanent operational positions, annual lease payments to the State, and the broader economic activity expected to result from construction, operations, transportation, engineering, logistics, and other support services.

The Division also considered the longer-term economic significance of the proposed project. The facility would establish a new industrial use of State land and create a large-scale, onsite market

[33] AS 41.35.200(a): "A person may not appropriate, excavate, remove, injure, or destroy, without a permit from the commissioner, any historic, prehistoric, or archaeological resources of the state."

for otherwise stranded North Slope natural gas. The project therefore has the potential to generate economic value beyond the direct employment associated with operating the facility, including through construction expenditures, purchases from Alaskan businesses, transportation and logistics, and other services that will be required to support development and operations. The project would also contribute to the NSB's tax base through industrial development. The Division recognizes that the magnitude and distribution of these benefits cannot be known with complete certainty at this stage; however, the available information provides a reasonable basis to conclude that the proposed development has the potential to generate substantial economic activity and public revenue over the full life of the lease.

The Division also recognizes that this proposed development presents circumstances that are, in important respects, without direct precedent in the State's historical management of its lands and resources. The proposed use is a large scale, energy-intensive industrial facility that has the potential to generate economic activity and public revenue on a scale materially different from that associated with many of the State's historical land disposals. Existing approaches to lease compensation and other commercial terms necessarily reflect the types of projects and economic uses for which those projects were developed; and while established precedent remains an important consideration, the Division does not view it as necessarily dispositive where the State is confronted with a novel use of its land for which no directly analogous commercial precedent exists.

In such circumstances, the State has a legitimate interest in exercising appropriate commercial ingenuity to structure the transaction in a manner that is consistent with statutory authority, protects the public interest, and facilitates the realization of the project's broader economic potential. The Division's objective here is to establish commercial terms that appropriately capture the value attributable to the use of State land while preserving sufficient economic incentives for STAK to acquire the substantial financing necessary to bring the proposed development to fruition. To that end, a compensation structure that is appropriate for a conventional land use may not necessarily produce the optimal public return when applied without modification to a project of this nature and scale. The Division therefore considers some degree of flexibility and innovation in structuring the State's commercial interests to be warranted in this instance, given that such terms will be grounded in the State's statutory authority, will protect the value of the State's property interest, and will be reasonably calculated to advance the long-term economic interests of Alaska.

The Division thus finds that the lease compensation structure is designed to ensure that the State receives an appropriate share of the economic value generated through the use of its land. AS 38.05.075(f) authorizes the State to issue a lease at the approved, appraised market value of the land or under another form of lease compensation authorized by AS 38.05.073(m) and "designed to maximize the return on the lease to the state."[34] Consistent with this authority, the Division has structured compensation to include both a Base Rate established by the appraised fair market value (FMV) of the land and an additional Compute Power Sales Surcharge (Surcharge) calculated based on the amount of electricity produced on the leased parcel, metered, and

[34] A.S. 38.05.073(m) grants the Commissioner of the Department of Natural Resources with the discretion to determine the compensation to be paid by the lessee to the state.

delivered to data center or compute buildings. This compensation structure ensures that the Division receives, at a minimum, compensation reflecting the FMV of the land, while also providing a means to capture additional revenue commensurate with the scale of the project's operations. The Base Rate establishes a guaranteed minimum return tied to the appraised value of the land, while the Surcharge allows compensation to increase with the project's electricity production, thus providing additional revenue potential as the project develops and scales towards its anticipated capacity.

The proposed project would involve substantial private investment to transform the leasehold into a large-scale industrial facility capable of generating significant revenues through the productive use of State land and North Slope natural gas. A compensation structure consisting solely of a fixed rental amount would, indeed, provide the State with compensation for the underlying land, but would not allow the State to capture the additional value generated through the long-term operation of the facility. By integrating an FMV-based Base Rate with a Surcharge tied to metered electricity delivered to the data center, this compensation structure aligns the State's return with the scale of the project's operations and its associated revenue-generating capacity. The Base Rate secures a minimum guaranteed return for the use of State land, while the Surcharge provides a mechanism for additional compensation as compute activity increases, allowing the State, and by extension, the public, to share in the economic value generated by the project.

The Division therefore does not find that the economic value of the project depends upon any single projection or that DNR must establish with certainty the precise number of jobs, revenues, or indirect economic benefits that will ultimately materialize. The relevant consideration is whether the proposed disposal, including the economic activity it is reasonably expected to generate and the compensation negotiated for use of the State's land, advances the State's long-term economic interests. The Division's review of STAK's application reveals that the economic and fiscal considerations associated with the proposed lease weigh in favor of concluding that the lease is in the best interest of the State and consistent with the State's constitutional obligation to manage its resources for the maximum benefit of its people.

Topic 4.3: Public Subsidies, Cost of Living, Infrastructure Strain, and Investment Risk

Comments: Commenters expressed concerns that the proposed project would impose costs on Alaska taxpayers through public infrastructure investments, contribute to cost of living increases, strain transportation infrastructure, or expose the State to financial risk if the project fails to materialize.

Applicant Response: The campus will operate entirely off-grid, generating its own islanded power on-site, with no anticipated impact to Alaska's public electric grid or ratepayers. There is no planned interconnection to existing utilities. Construction traffic on the Dalton Highway will be coordinated with the Alaska Department of Transportation and Public Facilities. Gas will be sourced from North Slope operating fields, which are separate from Cook Inlet gas supplies.

STAK is not seeking State appropriations, State-backed financing, or public infrastructure investment for the project. Project construction and operating costs will be borne by STAK and its project partners. Consistent with typical North Slope practice, construction and operations

personnel are expected to be housed in on-site or nearby industrial camp facilities rather than in local communities, which limits effects on local housing and cost of living. The lease's bonding and reclamation requirements are intended to protect the State if the project does not proceed or ceases operation.

Division Response: The project as proposed is entirely privately financed and privately built. STAK, not the State, bears the roughly $500 million in construction costs, and the lease does not commit State appropriations to the facility's construction, power generation system, or operations. The access road, gravel pad, power generation system, and HPC infrastructure are all privately-funded improvements on the leasehold, not public capital projects. The one point of public infrastructure interaction identified in the record is Dalton Highway access, and that issue was previously addressed in the PD.[35] With regards to cost of living, the facility's behind-the-meter power configuration means it generates and consumes its own electricity without drawing on the Railbelt grid or any North Slope community's local system, discussed further in Topic 6.2 below. The Division is not aware of any mechanism by which this project would raise electricity rates for Alaska ratepayers, since it neither competes for existing generation capacity nor requires expansion of existing grids to serve it.

With regard to investment risk, the lease's performance guaranty, insurance requirements, and default provisions exist precisely to protect the State if STAK cannot complete or sustain the project. If STAK defaults on the lease, AS 38.05.035 and AS 38.05.860 provide the State with a performance guaranty appropriately sized to the cost of restoring the site, and the lease's default provisions allow the Division to terminate the lease, retake possession, and pursue accelerated compensation for the remaining term.[36] The State's financial exposure in the event of nonperformance is therefore bounded by lease terms designed specifically in anticipation of that circumstance.

Issue 5: Public Health and Safety

Topic 5.1: Chemical and Environmental Health Risks; Emergency Response Capacity

Comments: Commenters raised concerns about potential exposure to PFAS compounds, heavy metals, electromagnetic field (EMF) radiation, and other chemical or physical hazards associated with facility construction and operation. Several commenters also questioned whether adequate emergency response capacity exists to address incidents at such a remote Arctic location.

Applicant Response: A site-specific emergency response plan will be developed in accordance with applicable State of Alaska requirements and coordinated with the North Slope Borough. The facility's design, construction, operation, and end-of-life equipment disposal will comply with applicable local, state and federal health, safety, environmental, and waste management requirements.

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[35] *See,* PD, at 5-6. The Alaska Department of Transportation and Public Facilities (DOT) flagged concerns about overweight haul traffic and continued access to the Milepost 390 winter sand source, and the Division has directed STAK to obtain all required permits to coordinate construction traffic with DOT's Northern Region Section before work begins.

[36] Lease Agreement, at 8-9 (Default and Remedies).

The facility's fire protection systems will comply with Alaska's statutory restrictions on PFAS-containing firefighting foam, and STAK does not intend to use PFAS-containing foam at the facility. Electrical generation and distribution equipment will be designed and installed in accordance with applicable electrical codes and industry standards, and there are no residences in the vicinity of the lease area. Hazardous materials associated with electronic equipment, including heavy metals, will be stored, handled, and disposed of in accordance with applicable requirements. STAK will maintain on-site emergency response capabilities appropriate to the facility's remote location and will pursue mutual aid arrangements with North Slope operators.

Division Response: The Division's role in this proceeding is to determine whether disposal of State surface estate serves the State's best interests; it is not the agency ladened with the jurisdiction to set or enforce chemical exposure limits, radiofrequency or electromagnetic field safety standards, or workplace health protections. Those standards are established and enforced by the Alaska Department of Environmental Conservation (DEC), the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and other agencies with the relevant technical expertise. The applicable permitting and inspection regimes apply to this project by virtue of its physical and operational characteristics, independent of this lease determination.

Within the administrative record before the Division, STAK's application does not propose PFAS-containing firefighting foam; fire suppression at the facility is addressed through conventional systems integrated into the facility's design, and gas detection and emergency shutdown systems are likewise part of that design.[37] STAK has committed to a process hazard analysis before construction and operations begin, to process safety information covering chemical properties and safe operating limits, and to conduct personnel training on hazardous substances and emergency response.[38] Should PFAS, heavy metals, or other hazardous substances become relevant to the facility's operations – for example, through specific firefighting agents or industrial chemicals selected during the detailed engineering process – those substances would fall under the DEC and EPA's hazardous materials and contaminated sites programs, and the lease's environmental compliance provisions independently obligate STAK to comply with all applicable environmental laws and to indemnify the State for contamination arising from its operations.[39]

With regard to emergency response capacity, the project site is located within an established North Slope industrial corridor, approximately 26 road miles from Deadhorse, which already supports emergency response infrastructure for the Prudhoe Bay, Kuparuk, and Alpine oil fields. STAK's application commits to onsite fire suppression and gas detection systems, emergency shutdown capability, and spill response equipment staged near fuel and hazardous material storage, and to compliance audits under EPA, OSHA, and Pipeline and Hazardous Materials

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37 Development Plan, at 7 (Hazardous Substances), 9 (Fuel and Hazardous Substances).

38 *Id.*, at 7 (Hazardous Substances).

39 Lease Agreement, at 11-12 (Environmental Compliance): "(e) The lessee agrees that it will not discharge or dispose of or suffer the discharge or disposal of any petroleum products, gasoline, hazardous chemicals, or hazardous materials into the atmosphere, ground, wastewater disposal system, sewer system, or any body of water."

Safety Administration (PHMSA) requirements.[40] The adequacy of that response capacity for the facility's specific hazards will be tested through the DEC Prevention of Significant Deterioration (PSD) permit and other reviews that follow this lease determination, not established by this lease itself.

Issue 6: Energy Policy

Topic 6.1: Natural Gas Supply Adequacy; Cook Inlet Gas Shortage; Alaska LNG; Prioritization of Alaska Residents

Comments: Commenters raised concerns about whether committing North Slope natural gas to the proposed facility is in the State's best interests given Alaska's existing and anticipated natural gas supply constraints. In particular, commenters questioned whether the project could compete with or otherwise undermine the feasibility of the Alaska LNG (AKLNG) project. Commenters also expressed concerns about the declining availability of natural gas in Cook Inlet and questioned whether allocating North Slope gas to a large industrial facility is prudent at a time when the State is confronting gas supply shortages.

Applicant Response: The facility will be fueled by North Slope natural gas, which is not connected to the Cook Inlet gas supply that serves Southcentral Alaska utilities, homes, and businesses. The project therefore will not draw on Cook Inlet gas supplies. STAK does not believe the current volume of existing North Slope gas reserves would preclude development of the Alaska LNG project or other North Slope gas commercialization projects. Gas supply has been obtained through commercial agreements with North Slope producers, and any pipeline or related infrastructure needed to deliver gas to the lease area will be subject to separate review and authorization.

Division Response: The Division's best interest determination is grounded in the State's constitutional obligation to develop its natural resources for the maximum benefit of its people and to encourage maximum use of State land and resources consistent with the public interest. The proposed lease authorizes the use of State surface estate; it does not convey any interest in subsurface mineral resources, and it does not directly allocate, control, or restrict North Slope gas reserves. The natural gas to be used by the proposed facility will be sourced through private commercial agreements with North Slope operators and delivered via a separate pipeline right-of-way, which will require its own authorization and public process.

North Slope natural gas resources are substantial and have historically been reinjected for reservoir pressure maintenance or consumed as in-field fuel rather than monetized for export or statewide distribution, primarily due to the absence of a gas export pipeline.[41] The proposed facility would constitute a new, on-site consumer of North Slope stranded gas at a scale that represents a meaningful new market for resources that are not presently accessible for Railbelt consumers or the broader Alaska economy. This use does not compete with Cook Inlet gas

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40 Development Plan, at 9.

41 *See, e.g.,* DNR Presentation to Senate Resources Committee, Jan. 20, 2026, available at https://www.akleg.gov/basis/get_documents.asp?session=34&docid=9025.

supply, which serves a geographically distinct market through an entirely separate production and distribution system.

The Division acknowledges the importance of AKLNG as a long-term State energy and economic development priority and finds no inconsistency between support for AKLNG development and issuance of this lease. The authorization of this lease does not require the Division to undertake a comparative or compatibility analysis with AKLNG or other separate resource development projects, particularly where those projects are subject to their own independent planning, review, and authorization processes. Nor is this lease proceeding the appropriate forum to evaluate or resolve questions concerning AKLNG's project timeline, financing, or gas allocations, which involve decisions by entities and processes well beyond the scope of this surface estate lease. The Division finds no basis in the record, however, to conclude that issuance of this lease presents a material conflict with the State's interest in AKLNG or its pursuit of other energy development priorities. The two projects are not mutually exclusive, and the development of stranded but otherwise available North Slope natural gas bears no demonstrable connection to the availability of local gas supplies in Cook Inlet.

Topic 6.2: Energy Demand, Grid Effects, Electricity Costs, and Renewable Alternatives

Comments: Commenters raised concerns that the facility's substantial electricity demand could place additional strain on Alaska's electrical grid, increase electricity costs for residents, or otherwise divert energy resources away from existing users. Commenters also suggested that State resources should instead be directed toward renewable energy development and expressed concerns that the project could create effects similar to those associated with large data centers in other parts of the country.

Applicant Response: The campus will operate entirely off-grid, generating its own islanded power on-site, with no anticipated impact to Alaska's public electric grid or ratepayers. There is no planned interconnection to existing utilities. Because the facility will generate its own power and will not interconnect with a public utility, the project will not compete with renewable energy projects for transmission capacity, and it does not preclude State support for renewable energy development.

Division Response: The Division recognizes that the energy requirements associated with large-scale data center development can raise legitimate questions about grid capacity, electricity costs, and competing demands for energy resources. Those concerns, however, must be evaluated in the context of the specific project proposed here and the manner in which the facility will be powered. The proposed facility is fundamentally different from a conventional grid-connected data center because it is designed as a fully integrated, behind-the-meter configuration in which all electricity generated onsite by the natural gas power generation system is also consumed onsite by the HPC facility.[42]

This configuration has important implications for the potential effects identified by some commenters. The facility will not be interconnected with the Railbelt electrical grid and will not draw electricity from Railbelt utilities to meet its operating requirements. Consequently, the

[42] Development Plan, at 1, 4.

project will not add demand to the existing Railbelt system, compete with Railbelt customers for available generation or transmission capacity, or require expansion of utility infrastructure to accommodate its load. Because the electricity generated onsite is intended for consumption by the facility itself, the project does not introduce an additional demand for electricity that would otherwise have to be supplied through Alaska's existing utility systems. The same distinction is relevant to concerns regarding smaller North Slope communities that rely on localized or microgrid systems. The proposed facility does not contemplate diverting electricity from existing North Slope communities to satisfy the facility's demand. On that basis, the Division does not anticipate the proposed facility resulting in increased electricity rates for Railbelt customers or North Slope communities as a consequence of the facility's power requirements.

The source of the project's energy is also material to the Division's analysis. The proposed development would provide a commercial use for North Slope natural gas resources that are currently stranded and not being otherwise monetized. The project therefore does not require the diversion of an existing supply of power from current Alaska consumers to a new industrial customer; rather, it creates a proposed market for a resource that presently has limited commercial utility, with the resulting gas being converted to electricity onsite for use by the facility. This distinction is important when considering whether the project would compete with existing electricity users or place upward pressure on electricity rates. The Division is not currently aware of a mechanism by which the proposed behind-the-meter configuration would impose the type of incremental demand on the Railbelt system that commenters have identified. For similar reasons, comparisons to recent data center development in other parts of the United States are not necessarily analogous to the circumstances presented in this proposal. In other jurisdictions, concerns regarding data center development have frequently arisen in connection with facilities that obtain substantial amounts of electricity and water from existing public utilities, thereby creating new and significant demands on the allocation of those resources. Here, the project is specifically designed around onsite generation from a currently stranded gas resource, with generated electricity being consumed onsite. The Division therefore considers the project's physical configuration, energy source, and lack of grid interconnection when evaluating the applicability of those broader concerns to this proceeding.

With respect to renewable energy alternatives, the Division recognizes that development of renewable energy resources may someday be an important component of Alaska's long-term energy strategy. The existence of that potential, however, does not require the Division to substitute an alternative energy development concept for the specific proposal currently before it. In this proceeding, the Division's responsibility is to evaluate whether issuance of the proposed lease is in the best interest of the State under the applicable statutory and regulatory standards. The Division is not tasked with selecting the energy technology that would produce the greatest policy benefit in the abstract, nor would it be appropriate to deny a proposed use of State land solely because other forms of energy development may also advance legitimate State objectives.

The proposed use of natural gas-fired generation must instead be evaluated on its specific impacts. Here, the project proposes to utilize an otherwise stranded gas resource for commercial purposes, generate the associated electricity onsite, and consume that electricity onsite without interconnection to the Railbelt utility grid. The Division considers these characteristics significant in determining that the project's electricity requirements will not adversely affect

existing Railbelt customers, increase electricity prices through additional utility demand, or divert electricity away from smaller North Slope communities. Moreover, approval of this lease would not diminish the State's ability to pursue renewable energy development elsewhere on State land or through other policy initiatives. The Division therefore views these objectives as capable of proceeding concurrently rather than as mutually exclusive uses of State resources.

Issue 7: Climate and Environment

Topic 7.1: Greenhouse Gas Emissions, Climate Change, and Long-Term Environmental Considerations

Comments: Commenters raised concerns regarding greenhouse gas emissions associated with the proposed natural gas-fired power generation system and the potential relationship between those emissions and broader changes in Alaska's climate and Arctic environment. Commenters also expressed concerns about the long-term environmental implications of locating a large industrial facility in the Arctic, including the potential for environmental impacts or liabilities that may extend well beyond the operational life of the project.

Applicant Response: STAK will meet all applicable regulatory and permitting requirements governing greenhouse gas emissions, including those established through DEC's air permitting process and any applicable emissions reporting requirements. STAK intends to use modern, efficient natural gas-fired generation, which reduces fuel use and associated emissions per unit of electricity generated. Long-term obligations, including removal of facilities and reclamation of the site at the end of operations, will be governed by the lease's reclamation and bonding requirements.

Division Response: The Division recognizes that the proposed facility would involve substantial natural gas combustion and, as a result, would generate greenhouse gas emissions. The Division also recognizes that commenters have raised broader concerns regarding climate change and the potential implications of continued industrial development in the Arctic. Those concerns are appropriately considered within the context of the State's management of its land and resources. At the same time, the Division's role in this proceeding is limited to determining whether the proposed disposal of State land, under the applicable legal standards, is in the best interest of the State. The Division is not the agency responsible for establishing or enforcing greenhouse gas emission standards, conducting statewide climate monitoring, or making technical determinations regarding the causes, extent, or future trajectory of climate change. Those matters are addressed through separate regulatory, scientific, and permitting frameworks administered by the agencies and institutions with the requisite jurisdiction and subject matter expertise.

Within the framework of AS 38.05.035(e), the Division has considered the currently available environmental information reasonably relevant to the proposed land use, including the nature and scale of the proposed development and the environmental considerations associated with operating a large natural gas-powered industrial facility on the North Slope. The Division does not consider it appropriate, however, for this land disposal decision to independently undertake technical assessments that may fall under the jurisdiction of other state and federal agencies or to make broader scientific determinations that are not necessary to resolve whether the proposed disposal satisfies the statutory standards applicable to this decision.

The Division further recognizes that environmental conditions in the Arctic are subject to ongoing change and that those changes are relevant to the planning, design, construction, operation, and eventual reclamation of industrial facilities. These considerations reinforce the importance of the suite of permitting, environmental review, monitoring, mitigation, and reclamation requirements that will apply to the project as it develops. Those requirements are administered through separate state and federal regulatory programs and may be informed by evolving scientific information and site-specific conditions, and the Division's issuance of this lease does not authorize STAK to construct or operate the proposed facility without obtaining the other approvals required by law.

With respect to potential long-term environmental effects, the Division has also considered the fact that the proposed development would constitute a substantial and long-lived industrial use of State land. The State's interests are therefore not limited to the economic benefits anticipated during construction and operation but also ensuring that the use of State land remains subject to appropriate conditions concerning environmental protection and eventual reclamation. The Division considers these matters most appropriately addressed through the lease terms and the legal requirements applicable to the project, including any obligations imposed by other state or federal agencies with the regulatory oversight over specific activities, resources, or facilities.

Topic 7.2: Chemical Runoff; Soil and Water Contamination

Comments: Commenters raised concerns about the potential for chemical runoff, soil contamination, and water pollution from fuel storage, equipment maintenance, and other project activities, and questioned whether the proposed mitigation measures are adequate to protect the delicate Arctic environment of the North Slope.

Applicant Response: The facility's design, construction, operation, and end-of-life equipment disposal will comply with applicable local, state and federal health, safety, environmental, and waste management requirements. Fuel and chemical storage will incorporate secondary containment and will be managed under applicable spill prevention requirements, and stormwater will be managed under Alaska Pollutant Discharge Elimination System requirements, including a Stormwater Pollution Prevention Plan where required.

Division Response: The administrative record currently reflects no history of contamination at the project site: DEC's Contaminated Sites Database Program confirmed no documented contaminated sites within 1,500 feet of the project area in its agency review comments.[43] That baseline does not, however, diminish the need for controls on future activity. STAK's proposed containment measures are incorporated into the lease as enforceable stipulations.[44] DEC's spill

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43 PD, at 6.

44 Lease Agreement, at 11-12 (Environmental Compliance); *see also*, Development Plan, at 9. Containment measures outlined in the Development Plan include double-walled diesel storage with interstitial leak detection, secondary containment for fuel transfers, drip pans under parked vehicles and equipment, 100-foot setback from waterbodies during refueling activities and for containers larger than 55 gallons, and prompt removal of any debris contaminated with motor oil, solvents, or other hazardous substances.

notification requirements apply independently of the lease terms, such that any unauthorized discharge to water, any hazardous substance discharge, and any oil discharge exceeding the applicable thresholds must be reported to DEC on the timelines its regulations specify, and STAK must separately notify DNR of any such event.[45] DEC also flagged in its agency review comments that residual contamination can persist at previously remediated sites and that spills tracked through its Prevention, Preparedness, and Response Program (PPRP) are not captured in the Contaminated Sites Database. Accordingly, the Division has directed STAK to consult that program's reporting requirements and to notify DEC if contamination is encountered during construction or operations.[46]

Beyond these specific measures, the lease's environmental compliance provisions independently require STAK to comply with all applicable environmental laws at its own expense, to prepare and carry out any remedial action plan DEC requires, and to indemnify the State for contamination arising from its use of the leasehold – with a rebuttable presumption, in any enforcement action, that contamination found on the leasehold occurred during the lease term and resulted from STAK's own acts or omissions.[47] The Division finds that these requirements, together with water quality, wetland, and stormwater permitting STAK must still obtain from DEC and USACE, are adequate to address the runoff and contamination risks commenters have raised, while recognizing that the site-specific technical work those permits require has not yet been completed.

Issue 8: Public Policy

Topic 8.1: Consistency with Article VIII of the Alaska Constitution and the Public Interest Standard

Comments: A number of commenters argued that issuance of the lease is inconsistent with the public interest standard established in Article VIII of the Alaska Constitution, contending that State lands should be managed for the benefit of all Alaskans rather than for a single private commercial enterprise, and that the economic benefits of the project do not outweigh the environmental and social costs borne by North Slope communities.

Applicant Response: STAK believes this project will make significant contributions to Alaska's economy and long-term State revenue, including through lease rent, royalty and production tax on State gas sold to the project, local taxes, and employment. Article VIII, Section 1 of the Alaska Constitution states the State's policy to encourage the development of its resources by making them available for maximum use consistent with the public interest, and the Division applies that standard through the best interest finding required by AS 38.05.035(e). STAK defers to the Division on that determination. STAK will obtain and comply with all regulatory and permitting requirements applicable to the project.

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45 Development Plan, at 9.

46 PD, at 6: "The Applicant is advised that DEC notification is required in the event contamination is encountered during construction or operations and is directed to consult DEC's PPRP spill reporting resources for applicable requirements."

47 Lease Agreement, at 11-12 (Environmental Compliance).

Division Response: The Alaska Constitution calls for the maximum use of state resources, for the maximum benefit of its people, recognizing that at times this may result in decisions that fail to satisfy all interested parties. "It is the policy of the State to encourage settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."[48] Moreover, the Legislature is required to "provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people."[49]

These constitutional provisions confer upon the Division dual obligations – to encourage maximum productive use of State resources and to ensure that such use serves to benefit the people as a whole. The Division does not read these provisions as requiring that every proposed use of State land generate direct, immediate, and measurable benefits to every individual Alaskan, or that the State decline to lease land for private commercial uses that generate public revenue and economic activity. To the contrary, the constitutional mandate for maximum use consistent with the public interest is an affirmative obligation to both identify and enable productive development opportunities.

The constitutional public interest standard does not, however, require the Division to determine that every potential benefit of a proposed use outweighs every potential adverse effect in isolation. Rather, this standard requires the Division to consider the competing interests implicated by the proposed use and determine whether, on balance, the use of State land is consistent with the interests of the State and its people. In making that determination, the Division may consider the nature and location of the proposed activity, the anticipated economic and other public benefits, potential environmental and social impacts, applicable statutory and regulatory requirements, and the measures available to avoid or mitigate negative impacts. The fact that a proposed lease may primarily facilitate a private commercial enterprise does not, by itself, render the lease inconsistent with the public interest. State leasing necessarily contemplates private development of State resources, provided that development occurs subject to the terms, conditions, and requirements established by the State to protect the public interest.

Here, the Division's determination is based on the administrative record developed throughout the adjudication process and the applicable statutory, regulatory, and constitutional framework governing the proposed use. The Division is not required to conclude that the project is free from environmental or social impacts, nor does Article VIII require that the State forego resource development whenever potential impacts are identified. Rather, the Alaska Supreme Court has recently clarified that only natural resources belonging to the State are subject to the constitutional rule of maximum development consistent with the public interest.[50] As such, the relevant inquiry is whether the proposed disposal and use of State land, subject to the lease terms and conditions, is consistent with the constitutional mandate to make State resources available for maximum use consistent with the public interest. The Division has considered the potential benefits and impacts identified during its review and concludes that issuance of the lease, subject to the requirements governing its use, is consistent with that mandate. The commenters'

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48 AK Const., Art. VIII, § 1.

49 *Id.*, at § 2.

50 *Orutsararmiut Native Council v. Boyle*, 579 P.3d 434, 450 (Alaska 2025).

disagreement with the balance struck by the Division does not establish that the lease is statutorily impermissible or that the Division has failed to fulfill its obligations under Article VIII.

Topic 8.2: Regulatory Framework Adequacy and Need for Data Center-Specific Policy

Comments: Several commenters argued that Alaska lacks an adequate regulatory framework specifically designed to address large-scale data center development, and that the State should not proceed with lease issuance until such a framework is established. Other commenters argued that the proposed project should be compared to data center projects in other states and that the challenges and opportunities associated with those projects should inform the State's decision here.

Applicant Response: This project is subject to the same multi-layered borough, state and federal permitting framework that applies to other industrial development in Alaska. This includes, among other requirements, North Slope Borough land management and development permitting under Title 19; DNR's land lease review and water use authorization; ADF&G Title 16 fish habitat permitting where applicable; DEC air permitting under the Clean Air Act and wastewater permitting under the Alaska Pollutant Discharge Elimination System program; U.S. Army Corps of Engineers Section 404 permitting and associated National Environmental Policy Act review, which carries its own public and community engagement requirements; and consultation under the Endangered Species Act and the National Historic Preservation Act, as applicable. STAK believes this existing framework provides substantive, independent review of the project's air, water, wildlife, and cultural resource impacts.

The project's remote siting, approximately 60 air miles from the nearest permanent community, together with its off-grid power generation and ambient-air cooling design, is intended to minimize water use and avoid the electric grid constraints that have been associated with data center development elsewhere.

Division Response: When reviewing an application for a lease pursuant to AS 38.05.070, the Division must evaluate whether the proposed lease serves the public interest and achieves the balance of development and conservation.[51] The objective of the Division's review in this instance, therefore, is to establish whether the STAK's application adheres to the legal and constitutional framework for leases applied for under AS 38.05.070 and is thus appropriate. The Division recognizes that large-scale AI and HPC facilities represent a new category of industrial development on State land, and that regulatory experiences in other states are instructive in understanding the kinds of impacts these facilities generate and the mitigation approaches that have proven effective. However, the Division does not agree that the absence of Alaska-specific data center regulations requires deferral of this lease decision.

The proposed lease authorizes the use of State surface estate for a commercial and industrial purpose under AS 38.05.070. The applicable statutory and regulatory framework – including the land disposal and best interest finding requirements of AS 38.05.035 and AS 38.05.070; DEC's air and water quality and contaminated sites programs; ADF&G's habitat permitting; DMLW's

[51] AK Const., art. VIII, § 1.

water use authorization and material site permitting; USACE's Section 404 program; and other applicable federal environmental and safety regulations – provides a comprehensive set of regulatory tools that address the environmental and operational impacts that are reasonably expected to be associated with the proposed project. These programs apply to this project by virtue of its physical and operational characteristics, not by virtue of the type of commercial or industrial activity proposed.

The Division's statutory obligation in this instance is to determine whether issuance of this specific lease is in the best interest of the State under the applicable legal standards. That determination cannot be indefinitely deferred pending the development of new laws that may or may not be enacted by the Legislature in the future.

Topic 8.3: Alternative State Investments, Including Renewable Energy and Direct-Benefit Industries

Comments: Some commenters argued that the State should instead prioritize investment in renewable energy projects, fisheries, tourism, and other industries that they contend provide more direct benefits to Alaskans, rather than enabling fossil fuel-powered data center development on State lands.

Applicant Response: STAK is a privately funded company and is not seeking State investment for the project; the project therefore does not divert State funds from other priorities. STAK's proposed development does not preclude state prioritization of or investment in other energy or economic development opportunities.

Division Response: The Division's role in this proceeding is to evaluate the proposed lease application on its merits under the applicable legal standards, not to rank competing uses of State resources or to pontificate on how State economic development priorities should be ordered among multiple possible policy alternatives. The State's constitutional obligation to maximize productive use of its resources applies to this parcel of State surface estate, and the question before the Division is whether the proposed use is consistent with that obligation.

The Division does not interpret the best interest standard under AS 38.05.035(e) as requiring the Division to deny a qualifying application in order to preserve the possibility that a different, "preferred" applicant might submit a different application in the future. No expression of competitive interest was received during the solicitation period conducted pursuant to AS 38.05.070(d), and no alternative proposals for development of this specific parcel were submitted for the Division's consideration. The best interest standard applies to the current proposed use as put forth in STAK's application; it does not obligate the Division to speculate about hypothetical or future alternatives that have not been proposed.[52]

The Division further believes that issuance of this lease does not preclude, diminish, or constrain the State's ability to develop renewable energy resources, support other revenue-generating industries, or pursue any other economic development priority on State lands or through other policy mechanisms. These objectives are not mutually exclusive, and the proposed project's use

[52] AS 38.05.0.5(h).

of currently stranded North Slope natural gas for on-site power generation represents a form of resource efficiency that reduces environmental impact relative to gas that generates no independent economic value to the State, other than the continued production of oil, and which is disposed of without capture and commercialization.