



MEMORANDUM

Department of Natural Resources

STATE OF ALASKA

Division of Mining, Land and Water
Southcentral Region Land Office

DATE: 12/4/2015

TO: LAS 30216 - Drew Haag
FROM: Jeffrey Green

RE: Adjudication Summary

I. Requested Action

Installation of a seasonal dock (May-October) below the ordinary high water (OHW) line in Fish Lake (Talkeetna) consisting of three floating 12ft. x 12ft. platforms each separated by a 2ft. wide and 30ft. long boardwalk. Applicant requests to gate off access to the dock and plumb fuel lines to the dock in order to refuel planes.

DMLW is proposing the following activity:

Installation of a seasonal dock (May-October) below the OHW line in Fish Lake (Talkeetna) consisting of three floating 12ft. x 12ft. platforms each separated by a 2ft. wide and 30ft. long boardwalk. Docks will be secured by (6) chains/cables anchored to cement blocks and removed from the water each year by November 1st. The purpose of the gate on the dock will be to prevent trespassing; however, it will be placed outside the Section Line Easement (SLE) and will not restrict public access to the lake within the SLE. A temporary fuel line on the dock to refuel aircraft will be stored on private property and retracted back onto private property after each refueling. Contingent upon underlying land owner permission the seasonal installation of a fuel line in the SLE may be affixed to the dock.

II. Statutory Authority

AS 38.05.850

III. Decision Scope

The scope of this decision is limited to the seasonal dock structure below the OHW line on Fish Lake (Talkeetna) that is described in the DMLW proposed activity section above. This decision does not address or authorize the use of the SLE for access to the OHW line on Fish Lake (Talkeetna). The use of the SLE for access will be authorized by the SLE Development Letter, documented as file ADL 232351.

IV. Location Information

Geographic Location: Approximately 1/2 mile east from the West end, along the South shore, of Fish Lake (Talkeetna).

Legal Description: SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 17 T 25N R 4W PM Seward 1911

Latitude: 62.24960 **Longitude:** 150.0706 **Datum:** WGS84

V. Land Status Information

Title:

The acquisition authority for tide, submerged, and shore lands is found under the Submerged Lands Act of 1953 and the Equal Footing Doctrine.

Planning and Classification:

Susitna Matanuska Area Plan, South Parks Highway Region, Chapter 3: Navigable Rivers and Lakes: Table 3-2: Fish Lake (Talkeetna), Primary Designation is Habitat.

Other Land Information

Municipality: Talkeetna

Regional Corporation: Cook Inlet Region, Inc.

Game Management Units: 14B

VI. Background

On April 23, 2015 Drew Haag submitted a land use permit application for a commercial dock in Fish Lake (Talkeetna).

VII. Project Review and Agency Notice/Public Notice

Agency Review Summary

An agency notice period was conducted June 9, 2015 – July 7, 2015 and sent to the USFWS, ADOT, ADF&G, EPA, ADEC, OHA, ADFG, SWCD, USACE, SCRO Easements Unit, DMLW Surveys Unit, Matanuska-Susitna Borough (MSB), and the FAA. A total of four agency comments were received and are addressed in the following section.

Agency Review Comment and Issue Response

Agency Comment (1): The ADOT Central Region Aviation Leasing stated they do not have an interest in the application as Fish Lake (Talkeetna) is not a Seaplane Base or lake being used as an airport or designated airport property.

DNR/DMLW Response: N/A

Agency Comment (2): The ADF&G stated they do not object to the issuance of this permit provided the fuel pipe is routinely inspected for leaks and public access along the lake and within the SLE is not blocked. ADF&G also stated the applicant would need to obtain a dock permit from their Habitat Office prior to installing the dock.

DNR/DMLW Response: Permit stipulations will require applicant to comply with all ADEC regulations regarding fuel line use on or near a body of water and will hold applicant responsible in the event of a fuel leak/spill. Permit stipulations will prohibit applicant from blocking reasonable public access and use to the lake. Public access within the SLE will be addressed in the SLE Development Letter from the SCRO Easements Unit. Permit stipulations will state that a permit from ADNR/DMLW does not eliminate the need for the applicant to obtain all other necessary federal, state, and local permits for the proposed activity. Applicant was notified of the requirement to obtain a dock permit from the ADF&G Habitat Office and applicant has since acquired a fish habitat permit.

Agency Comment (3): The MSB stated that the applicant would need to obtain an Encroachment Permit in order to cross the SLE. The MSB also stated the fuel tank will need to set a minimum of 75ft from the lake, per the requirements of MSB 17.55 -- Setbacks. MSB also stated that the

boardwalk crosses over adjacent private property and permission should be granted from these private property owners for crossing their property.

DNR/DMLW Response: Permit stipulations will state that a permit from ADNR/DMLW does not eliminate the need for the applicant to obtain all other necessary federal, state, and local permits for the proposed activity. Applicant was notified of the requirement to obtain an Encroachment permit from the borough; it is unknown whether or not the applicant obtained an Encroachment permit. ADNR/DMLW does not require all other necessary permits from federal, state, and local agencies are issued to the applicant before issuing land use permits; it is the applicant's responsibility to obtain all necessary authorizations prior to the commencement of the proposed activity. Use of the SLE over private property will be addressed in the SLE Development Letter from the SCRO Easements Unit. The MSB did not cite any Borough Code requiring underlying land owner permission when developing a SLE, and under state law this is allowable. This decision is limited to the proposed activity below the OHW line of Fish Lake (Talkeetna).

Agency Comment (4): The FAA requested the applicant file FAA Form 7480 and requested that permitting only be allowed if the FAA issues a favorable determination.

DNR/DMLW Response: Permit stipulations will state that a permit from ADNR/DMLW does not eliminate the need for the applicant to obtain all other necessary federal, state, and local permits for the proposed activity. ADNR/DMLW does not require all other necessary permits from federal, state, and local agencies are issued to the applicant before issuing land use permits; it is the applicant's responsibility to obtain all necessary authorizations for the proposed activity. The applicant was notified of the request from the FAA and the applicant responded that he was working with the FAA.

Public Notice Summary

On June 9, 2015 a 21 day public notice was sent to the adjacent land owners, Talkeetna Community Council Inc. (TCCI), Talkeetna US Post Office, ADNR Public Notice Website, and the applicant. The notice period was extended to July 7, 2015 at the request of Whitney Wolff, Chair of the Talkeetna Community Council Inc. (TCCI), who asked for the extension so the TCCI could include the land use permit application on their agenda at their regular meeting on July 6, 2015

Eighteen public comments in opposition of the proposed activity were received and grouped by substantive issues. The substantive issues are addressed in the following section.

A letter in support for the proposed activity with twenty-four signatures was received.

A copy of a letter, dated March 6, 2015, from the Alaska Airmen Association in general support of a float plane and seaplane base in Talkeetna was submitted by the applicant.

Public Notice Comment and Issue Response

Public Comment Issue (1): There is already a large amount of aircraft traffic on the lake and this dock would allow for more, therefore, potentially increasing the amount of aircraft incidents/accidents in the area.

DNR/DMLW Response: Under 11 AAC 96.020(1)(F) landing an aircraft is a generally allowed use of state-owned land. It is not a responsibility, or within the jurisdiction, of the ADNR/DMLW to regulate aircraft activity or traffic, and this decision is limited to addressing the proposed dock

structure below the OHW line in Fish Lake (Talkeetna). The FAA was notified of this potential increase in activity and the FAA's comment was addressed in the Agency Review Section of this document.

Public Comment Issue (2): The applicant does not own upland property or have permission from the property owners to build a dock or plumb a fuel line to the dock.

DNR/DMLW Response: The applicant does not own or lease direct upland property from Fish Lake (Talkeetna), however, there are no statutes or regulations requiring the permission of the upland owner for commercial docks in state-owned shore land. The applicant is using a SLE managed by the ADNR/DMLW to legally access the OHW line where the dock will enter the lake.

Public Comment Issue (3): The applicant has had fuel spills in the past; this proposed activity would increase the likely hood of a fuel leak/spill into Fish Lake (Talkeetna), and the ADNR should be held responsible in the event of a leak/spill.

DNR/DMLW Response: ADNR/DMLW conducted a responsible party search in the ADEC/SPAR PERP Spills Database using the applicant's name/business name and the system yielded zero results. The applicant has not had a fuel spill that has been reported to ADEC/SPAR. Permit stipulations will require the applicant to comply with all ADEC regulations regarding fuel line use on or near a body of water to protect the fish habitat from spills and will hold the applicant responsible in the event of a fuel leak/spill. Permit stipulations will indemnify the ADNR/DMLW from all liability and risk, and require the applicant to provide a performance guarantee and general liability insurance.

Public Comment Issue (4): ADNR has no rights whatsoever to issue said permit because the state does not own the property.

DNR/DMLW Response: The title information asserting the State of Alaska's ownership of the shore land of Fish Lake (Talkeetna) may be found under the Submerged Lands Act of 1953 and the Equal Footing Doctrine. The ADNR/DMLW's authority to issue permits may be found under AS 38.05.850. ADNR/DMLW has been delegated authority by the legislature to responsibly manage state resources -- including state-owned shore land.

Public Comment Issue (5): The applicant has been evicted from two other floatplane leases.

DNR/DMLW Response: The applicant's prior history with other private citizens or the MSB weighs minimally into this decision. This land use permit application is being adjudicated pursuant to AS 38.05.850 (Permits), 11 AAC 96 (Miscellaneous Land Use), and the Susitna Matanuska Area Plan. Permit stipulations will allow for the immediate revocation of the authorization, with or without cause, if the ADNR/DMLW determines it is in the best interest of the State of Alaska. If ADNR/DMLW determines the applicant to be at a higher risk due to his prior history, then ADNR/DMLW may require the applicant to post an increased performance guarantee.

Public Comment Issue (6): The map, diagram, and survey used in the application incorrectly depict the exact location of the activity.

DNR/DMLW Response: ADNR/DMLW has reviewed the Record of Survey for Government Lot 2 within Section 20, T 25 N, R 4 W, Seward Meridian, Alaska completed by Murray C. Nash and

recorded in the Talkeetna Recording district in 2002 , herein referred to as the “2002 survey”, submitted by the applicant. ADNR/DMLW has also reviewed the AS-Built Survey for Fish Lake located at Sections 17-18, T 25 N, R 4 W, Seward Meridian, Alaska completed by Paul P. Pilch in 2015, herein referred to as the “2015 survey”, submitted during the public comment period. The authorization that is issued will accurately describe the exact location and what activity is permissible in said location.

Public Comment Issue (7): The proposed float plane use is in direct conflict with other current public uses in the area including: canoeing, swimming, fishing, sunbathing, and cross-country skiing during the winter months. Float plane use would restrict the public’s ability to safely participate in these recreational uses.

DNR/DMLW Response: Recreational use conflicts are common occurrences in Alaska and a part of public land use. As all of the above mentioned uses, including float plane activity, are generally allowed uses on general state land under 11 AAC 96.020. It is the responsibility of all users to exercise good judgment and risk management when recreating in a heavily used public area. The dock below the OHW line will only be authorized seasonally and therefore should not interfere with winter activities in the area. Permit stipulations will prohibit the blocking of public access in the SLE in any way.

Public Comment Issue (8): Sockeye and Coho Salmon use the lake for spawning and rearing; this activity could negatively impact the salmon habitat.

DNR/DMLW Response: ADNR/DMLW notified ADF&G during the agency notice period and did not receive any comments from them stating that the proposed activity would impact the existing salmon habitat. ADF&G has already issued a dock permit from their Division of Habitat authorizing the building and placement of the dock.

Public Comment Issue (9): SLEs are to allow access to the general public. Their purpose is not to put roads in and place commercial businesses on public property.

DNR/DMLW Response: Under A.S. 19.10.010 SLEs are dedicated for use as public highways and are considered undeveloped public highways by the ADNR/DMLW. The ADNR/DMLW encourages the development of SLEs and their use for access to otherwise inaccessible areas. In this case the applicant is using a SLE managed by the ADNR/DMLW to legally access the OHW line where the dock will enter the lake, which is consistent with the purpose of a SLE. Permit stipulations will require that public access in the SLE shall not be restricted in any way. The SLE development letter from the SCRO Easements Unit will address the use of the SLE and what is permissible within the SLE. This decision is limited to addressing the proposed dock structure below the OHW line.

Public Comment Issue (10): This proposed activity would restrict the upland owner’s ability to build a dock for float plane use in the same area in the future.

DNR/DMLW Response: Under A.S. 38.05.850 the upland land owner can apply for a land use permit to install a commercial dock at any time in the future for the same or nearby location, and under 11 AAC 96.020 (1)(B) which states, “anchoring a mooring buoy in a lake, river, or marine waters, or placing a float, dock, boat haulout, floating breakwater, or boathouse in a lake, river or marine waters, for the personal, noncommercial use of the upland owner, if the use does not interfere with public access or another public use, and if the improvement is placed within the projected

sidelines of the contiguous upland owners parcel or otherwise has the consent of the affected upland owner", thereby allowing the upland owner to build a private dock on state owned shore land as a generally allowed use. The generally allowed use does not guarantee the exact location of a generally allowed dock. In the event that the upland owner seeks to develop a dock and there is a conflict with this dock as permitted, ADN/DMLW would adjudicate the conflict and determine where each dock would be permitted.

Public Comment Issue (11): This proposed use goes against the MSB Assembly's adoption of Resolution 07-04: The Fish and Numbered Lakes Management Plan, which designated Fish Lake as public recreation/watershed lands.

DNR/DMLW Response: Resolution 07-04: The Fish and Numbered Lakes Management Plan was created by the MSB and is not enforced by the ADN/DMLW. ADN/DMLW's decision is guided by Alaska Statute, Administrative Code, and the Susitna Matanuska Area Plan.

VIII. Environmental Risk

Permit stipulations will require that spill prevention techniques approved by the State Department of Environmental Conservation be employed to prevent hazardous fuel spills.

IX. Performance Guaranty

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

Performance Guaranty Narrative: Pursuant to 11 AAC 96.060, a performance guaranty in the amount of \$7500, typically in the form of a bond or other security, will be required. The amount is based on the ADN/DMLW's bonding matrix and applicant's past practices.

X. Insurance

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

Commercial General Liability:

Minimum: \$300,000

Insurance Narrative: Amount required by insurance company.

XI. Fees

Fee: \$250

Relevant Fee Regulation(s): [11 AAC 05.010(e)(5)]

Fee Narrative: Annual fee for commercial dock structure occupying 1 acre or less of general state land; in this case state-owned shore land.

XII. Discussion

After examining Mr. Haag's initial application it was determined that clarification was needed on how the applicant would legally access the dock and whether or not upland owner permission was obtained. On May 5, 2015 a request for additional information was sent to Mr. Haag asking him to provide proof of upland owner permission.

On May 26, 2015 Mr. Haag submitted a response letter to our office with two attachments. Attachment (1) was an updated development diagram and attachment (2) was a copy of the 2002 survey of the proposed area that he claimed showed he was the upland owner to the lot (Township 25N Range 4W Section 19 Lot A1) that he currently leases is an upland lot on Fish Lake (Talkeetna). Mr. Haag's response letter claimed he is not required by statute or regulation to provide direct upland owner permission, since the body of water is state-owned "shore land" and not state-owned "tide or submerged land". Mr. Haag's response letter also stated that he intends to access the dock entirely within the SLE and his updated development diagram showed the dock would exit out of the NE corner of the intersection of the SLEs onto state-owned shore land.

The actual location of the OHW line of Fish Lake (Talkeetna) in relation to the property lines in the area was a matter of contention with the public throughout the notice and adjudication process. This matter was important to settle since ADN/DMLW was asking for direct upland owner permission in our request for additional information. During the public comment period the 2015 survey of the area was completed at the request of the adjacent land owners and based on the adjacent land owners' interpretation of the 2015 survey they maintained the parcel Mr. Haag leases was not a direct upland owner. After an internal meeting regarding both surveys on September 2, 2015, it was reiterated by email from our surveys unit that "Both of the surveys, by Pilch in 2015 and Murray Nash in 2002, depict an area between the section corner of sections 17, 18, 19 & 20 and the edge of water in Fish Lake as swamp land or "muskeg". The site photos provided by the MSB Code Compliance officer show this area to be thick with short, woody-stemmed brush. For the purposes of determining the bed of the lake, or the location of OHW, woody-stemmed plants are considered terrestrial, as opposed to aquatic, and thus the land they are growing on is not part of the bed (See Simpson, River & Lake Boundaries, p. 300-301)." This statement allowed ADN/DMLW to recognize that the parcel that Mr. Haag leases is not a direct upland owner on Fish Lake (Talkeetna).

Mr. Haag's application for a commercial dock using a SLE for legal access is an atypical application for ADN/DMLW. There are no statutes or regulations prohibiting any of the requested activities within this application. However, it should be noted that Mr. Haag does not have the permission of the direct upland owner to construct a dock below the OHW line, and in an email sent on June 29, 2015 Mr. Sousa (co-owner of Government Lot 2 within Section 20, T 25 N, R 4 W, Seward Meridian, Alaska) stated, "I strongly object to the issuance of any permit private or commercial for the placement of docks, boardwalks or anything else that will block or restrict access to my private property by land or by water." Although inconsistent with the wishes of the direct upland owner, Mr. Haag is not required by statute or regulation to obtain their permission. The dock Mr. Haag wishes to build below the OHW line would be on state-owned shore land adjacent to private property. Generally, ADN/DMLW encourages applicants to obtain direct upland owner permission when applying for commercial docks or mooring buoys, but has the authority to issue permits despite the upland owner's permission.

The primary concern, when the direct upland owner has not given their permission for the requested activity, is legal access. In Mr. Haag's response to our office's request for additional information he revised his development plan for his proposed activity and stated "we intend to access our docks wholly within the public section line access routes". Mr. Haag is proposing to use a SLE for legal access from his leased property to the OHW line, which under A.S. 19.10.010 is reserved for developing access related improvements. Proposed development of the SLE is not addressed in this adjudication summary, but will be discussed in a letter from the SCRO Basements Unit as a means for legal access to the requested activity. In addition, the proposed dock does not prevent adequate legal access to the water by Mr. Sousa from Government Lot 2.

Mr. Haag's requested activity is not prohibited by state statute or regulation and does not directly conflict with the division's area plan. In accordance with AS 38.05.850(a), ADN/DMLW considered three criteria to determine if this project provides the greatest economic benefit to the state and the development of its natural resources. The criteria include: 1) a direct benefit to the state; 2) an indirect

economic benefit to the state; and 3) encouragement of the development of the state's resources to provide capital.

There is a direct benefit to the state through the revenue acquired from this proposed project, as well as an indirect economic benefit to the state through the commerce that this authorization will encourage in the local economy and surrounding area. Finally, this proposed project will increase the public's opportunity to utilize other state land and resources beyond the permit site, thereby encouraging the development of the state's resources and providing additional revenue to the state.

Because there are no known competing projects for the use of these same lands, ADNR/DMLW finds granting of this permit provides for the greatest economic benefit to the state.

XIII. Adjudicator Recommendation

Issue Permit.

Based upon the information provided by the applicant, as well as review of relevant planning documents, statutes, and regulations related to this application, it is my recommendation to issue this Land Use Permit on condition that all permit stipulations are followed as described in the attached permit. The term of this permit would be from 05/01/2016 through 04/30/2021. During the period of the permit an inspection may be conducted at the discretion of the DNR to ensure permit compliance.



Jeffrey Green

12-4-2015
Date



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Natural Resources

Division of Mining Land & Water
Southcentral Region Land Office

550 West 7th Ave
Anchorage, Alaska 99501
Main: (907) 269-8503
Fax: (907) 269-8913

December 4, 2015

Re: Land Use Permit LAS 30216

Dear Interested Party,

Thank you for your comments regarding LAS 30216. Please find enclosed the relevant documents for this authorization.

Please note that the decision document contains appeal provisions including an appeal deadline.

If you have any questions, please contact me at the above address, by phone (907) 269-8568 or by e-mail at jeffrey.green@alaska.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Green".

Jeffrey Green
Natural Resource Spec I

Enclosures:
Adjudication Summary
Decision Document



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Natural Resources

Division of Mining Land & Water
Southcentral Region Land Office

550 West 7th Ave
Anchorage, Alaska 99501
Main: (907) 269-8503
Fax: (907) 269-8913

December 4, 2015

RE: LAS 30216 - Drew Haag

To Interested Parties:

I have completed my review of the Adjudication Summary dated December 4, 2015 for LAS 30216.

It is the decision of this office to take the action as described therein.

A handwritten signature in black ink, appearing to read "Juddi McDonald".

Juddi McDonald
Natural Resource Manager

Attachments:

- Adjudication Summary
- Land Use Permit

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



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Natural Resources

DIVISION OF MINING, LAND & WATER
Southcentral Regional Office

550 West 7th Avenue, Suite 900C
Anchorage, Alaska 99501-3577
Main: 907.269.8503
TDD: 907.269.8411
Fax: 907.269.8913

December 4, 2015

Drew Haag
P.O. Box 821
Talkeetna, Alaska 99676

Re: ADL 232351 - Section Line Easement Development

Located On the Section Line common to the N $\frac{1}{2}$ of the N $\frac{1}{2}$ of the N $\frac{1}{2}$ of Sections 19 and 20, the section line common to the W $\frac{1}{2}$ of the W $\frac{1}{2}$ of the W $\frac{1}{2}$ of Section 17 and 20, and the section line along the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of Section 17, all of Township 25 North, Range 4 West, Seward Meridian.

Mr. Haag:

The Department of Natural Resources, Division of Mining, Land and Water (DNR-DMLW) has received your request dated 5/26/2015 for approval to construct a trail and boardwalk approximately 2 feet in width within a State-managed section line easement. The right to develop access-related improvements within a section line easement is provided for under Alaska Statute 19.10.010. However, proving the continued existence of the section line easement and determining its size can be difficult. The burden of proving the existence and width of the section line easement lies with the developer. The Department of Natural Resources agrees with your conclusion that a section line easement is attached:

- 50 feet wide on both sides of the Section Line common to the N $\frac{1}{2}$ of the N $\frac{1}{2}$ of the N $\frac{1}{2}$ of Sections 19 and 20,
- 50 feet wide on the South side and 33 feet wide on the North side of the section line common to the W $\frac{1}{2}$ of the W $\frac{1}{2}$ of the W $\frac{1}{2}$ of Section 17 and 20,
- 33 feet wide to the East side of the section line along the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of Section 17, all of Township 25 North, Range 4 West, Seward Meridian, Alaska.

Before you proceed:

- You must contact persons owning land located within the section line easement.
- Accurately locate the boundaries of the section line easement **with a surveyor**.
- Locate your development as close to the centerline of the easement as is practical.
- Secure all required local, state and/or federal authorizations.
- Prepare the site only to the extent needed for the scope of your project.

Locating and developing the trail and boardwalk within the section line easement must be done in a reasonable manner. In other words, site preparation work (clearing, etc.) must be commensurate with the scope of your project. Any materials removed (such as trees) are the property of the underlying land owner and should be handled according to the land owner's instruction.

Always locate the trail and boardwalk as close to the centerline of the easement as is practical. This practice promotes maximum utilization of the remaining easement and equally distributes use of the easement between adjacent land owners. Landowner permission must be secured prior to deviating beyond the boundaries of the section line easement.

Development of a section line easement must be for transportation purposes only. No utilities or permanent structures may be placed within a section line easement unless permitted by a separate Division of Mining, Land and Water (DMLW) authorization. The State of Alaska authorizes easements for the installation of utilities only on State-owned land. The DMLW does not object to the placement of temporary seasonal fuel line across the section line easement, but you must have the permission of the underlying land owner to install a temporary seasonal fuel line. Otherwise, you must store the fuel line on private property outside the section line easement and the fuel line may only be in the section line easement while actively refueling.

Public access along the section line easement may not be blocked through physical obstruction, signage, or other means. The ability of all users to access or use public access easements and rights-of-way shall not be restricted in any manner without the prior written approval of the DMLW.

It is the developer's responsibility to protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, National Register of Historic Places plaques, interpretive panels, and unsurveyed lease corner posts against damage, destruction, or obliteration. You are required to notify this office of any damaged, destroyed, or obliterated markers and will be responsible for reestablishing the markers at your own expense in accordance with accepted survey practices of the DMLW.

The administrative record for this authorization consists of the case file for ADL 232351. Please reference this number in all correspondence involving the development of these section lines.

This authorization shall be affective for a period of 2 years from the date of signature below.

Development involving wetlands, crossing streams, or affecting other protected areas must be authorized by the appropriate agencies.

Questions concerning these section line easements may be directed to eric.moore@alaska.gov (phone: 907-269-8548).

Sincerely,



Eric Moore, NRM II, Easements Unit
DNR Division of Mining, Land and Water

12/4/2015
Date

Appeal Process

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