

SUBJECT: INFORMING THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY OF AN ALASKA DEPARTMENT OF NATURAL RESOURCES, DIVISION OF MINING, LAND & WATER, SOUTHCENTRAL REGIONAL LAND OFFICE, LAND USE PERMIT No. LAS 33183 FOR THE PURPOSE OF THE INSTALLATION AND MAINTENANCE OF A MSB FLOATING DOCK AT THE LAKE LOUISE MSB RECREATION SITE PROJECT AREA.

AGENDA OF: April 21, 2020

ASSEMBLY ACTION:

MANAGER RECOMMENDATION: For information only.

APPROVED BY *John Moosey* **JOHN MOOSEY, BOROUGH MANAGER:** *John Moosey*

Route To:	Department/Individual	Initials	Remarks
	Originator, Bob Walden	BW	
	Capital Projects Director	JPB	
	Finance Director	CF	
	Borough Attorney	NS	
	Borough Clerk		

ATTACHMENT(S): Alaska Department of Natural Resources, Division of Mining, Land & Water, Land Use Permit #LAS 33183 (8 pp including cover letter)

SUMMARY STATEMENT: Attached is a permit application to the Alaska Department of Natural Resources for Assembly information and review, as directed by Borough administration and the Assembly. The purpose of the permit is for authorization to install and maintain a 40' long by 38' wide F-shaped dock as part of the Lake Louise Recreational Site Upgrades project for the time period of June 1, 2020 to May 31, 2025.



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

DIVISION OF MINING, LAND & WATER
Southcentral Regional Land Office

550 W. 7th Ave., Suite 900C
Anchorage, Alaska 99501-3577
Main: (907) 269-8503
TTY: 711 or 880.770.8973
Fax: (907) 269-8913

March 26, 2020

MATANUSKA SUSITNA BOROUGH
350 E DAHLIA AVE
PALMER, AK 99645

Re: Land Use Permit LAS 33183

Dear MATANUSKA SUSITNA BOROUGH,

The Department of Natural Resources, Division of Mining, Land & Water, Southcentral Regional Land Office has approved your request to use state land. Please find enclosed the Memorandum of Decision and Land Use Permit for:

Installation and maintenance of a 40' long by 38' wide F-shaped dock.

Please note that the decision document contains an appeal provision including an appeal deadline. If you disagree with this decision, then you must appeal this decision by the appeal deadline.

If you agree with this decision, please review the enclosed documents and sign the Grantee section located in the back of the permit forms and return the entire permit to the address above.

Your permit will be executed upon receipt of the following items:

- Permit signed by Grantee.

Please respond within 30 days, or your case file may be closed. Once the permit has been executed, a copy will be sent to you.

If you have any questions or require assistance, please contact me at the above address, at (907)269-5032 or by e-mail at candice.snow@alaska.gov.

Sincerely,

Candice Snow
Natural Resource Specialist III



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

DIVISION OF MINING, LAND & WATER
Southcentral Regional Land Office

550 W. 7th Ave., Suite 900C
Anchorage, Alaska 99501-3577
Main: (907) 269-8503
TTY: 711 or 880.770.8973
Fax: (907) 269-8913

**LAND USE PERMIT
AS 38.05.850**

PERMIT # LAS 33183

MATANUSKA SUSITNA BOROUGH herein known as the Grantee, is issued this permit from the Department of Natural Resources, herein known as the Grantor, authorizing the use of state land within:

Legal Description:

Section 18, Township 6 North, Range 7 West, Copper River Meridian.

This permit is issued for the purpose of authorizing the following:

Installation and maintenance of a 40' long by 38' wide F-shaped dock.

This permit is for the term beginning **June 1, 2020** and ending **May 31, 2025** unless sooner terminated at the state's discretion, effective the date of signature by the Authorized State Representative. This permit does not convey an interest in state land and as such is revocable, with or without cause. The Grantor will give 30 days' notice before revoking a permit at will. A revocation for cause is effective immediately. No preference right for use or conveyance of the land is granted or implied by this authorization.

All activities shall be conducted in accordance with the following stipulations:

- 1. Authorized Officer:** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.
- 2. Change of Contact Information:** The Grantee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.
- 3. Valid Existing Rights:** This authorization is subject to all valid existing rights and reservations in and to the authorized area. The State makes no representations or warranties, whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
- 4. Preference Right:** No preference right for subsequent authorizations is granted or implied by this authorization.

5. **Inspections:** The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the Grantee is found to be in noncompliance the authorized area may be subject to reinspection. The Grantee may be charged for actual expenses of any inspection.
6. **Public Access:** The construction, operation, use, and maintenance of the authorized area shall not interfere with public use of roads, trails, waters, landing areas, and public access easements. The ability to use or access state land or public waters may not be restricted in any manner. However, if a specific activity poses a safety concern, the AO may allow the restriction of public access for a specific period of time. The Grantee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.
7. **Public Trust Doctrine:** The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This authorization is subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The AO reserves the right to grant other interests consistent with the Public Trust Doctrine.
8. **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act, AS 41.35.200, prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric, archaeological or paleontological site without written approval from the DNR Commissioner. Should any sites be discovered, the Grantee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in the Division of Parks and Recreation.
9. **Compliance with Government Requirements:** The Grantee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Grantee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
10. **Incurred Expenses:** The Grantor shall in no way be held liable for expenses incurred by the Grantee connected with the activities directly or indirectly related to this authorization.
11. **Waiver of Forbearance:** Any failure on the part of the AO to enforce the terms of this authorization, or the waiver of any right under this authorization by the Grantee, unless in writing, shall not discharge or invalidate the authorization of such terms. No forbearance or written waiver affects the right of the AO to enforce any terms in the event of any subsequent violations of terms of this authorization.
12. **Severability Clause:** If any clause or provision of this authorization is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the Grantor and the Grantee agree that the remainder of this authorization will not be affected, and in lieu of each clause or provision of this authorization that is illegal, invalid, or unenforceable, there will be added as a part of this authorization a clause or provision as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

- 13. Permit Extensions/Reissuance:** Any request for permit extension or reissuance should be submitted at least 90 days prior to the end of the authorized term. A written statement requesting a one-year extension confirming there will be no changes to the development/operations plan, including photographs clearly depicting the current condition of the site and any improvements, must be submitted to the AO with any required filing fee. A new Land Use Permit application and any required filing fee is required when requesting reissuance of up to five years or for modifications to the approved development/operations plan on file with DMLW.
- 14. Assignment:** This permit may not be transferred or assigned.
- 15. Reservation of Rights:**
- The AO reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land under this authorization.
 - Authorized concurrent users of state land, their agents, employees, contractors, subcontractors, and licensees, shall not interfere with the operation or maintenance activities of each user.
 - The AO may require authorized concurrent users of state land to enter into an equitable operation or maintenance agreement.
- 16. Violations:** A violation of this authorization is subject to any action available to the State for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The State may seek damages available under a civil action, including restoration damages, compensatory damages, and treble damages under AS 09.45.730 or AS 09.45.735 for violations involving injuring or removing trees or shrubs, gathering geotechnical data, or taking mineral resources.
- 17. Directives:** Directives may be issued for corrective actions that are required to correct a deviation from design criteria, project specifications, stipulations, State statutes or regulations. Work at the area subject to the Directive may continue while implementing the corrective action. Corrective action may include halting or avoiding specific conduct, implementing alternative measures, repairing any damage to state resources that may have resulted from the conduct, or other action as determined by DNR.
- 18. Stop Work Orders:** Stop Work Orders may be issued if there is a deviation from design criteria, project specifications, stipulations, State statutes or regulations and that deviation is causing or is likely to cause significant damage to state resources. Under a Stop Work Order, work at the area subject to the Stop Work Order may not resume until the deviation is cured and corrective action is taken. Corrective action may include halting or avoiding specific conduct, implementing alternative measures, repairing any damage to state resources that may have resulted from the conduct, or other action as determined by DNR.
- 19. Notification of Discharge:** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported immediately.

If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary

containment area, the Grantee shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge during normal business hours must be made to the nearest DEC Area Response Team: Anchorage (907) 269-7500, fax (907) 269-7687; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-5245. For discharges in state off shore waters call (907) 269-0667. The DEC oil spill report number outside normal business hours is (800) 478-9300.

Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8503; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email sero@alaska.gov, (907) 465-3400. The Grantee shall supply the AO with all incident reports submitted to DEC.

- 20. Returned Check Penalty:** A returned check penalty of \$50.00 will be charged for any check on which the bank refuses payment. Late payment penalties shall continue to accrue.
- 21. Late Payment Penalty Charges:** The Grantee shall pay a fee for any late payment. The amount is the greater of either \$50.00 or interest accrued daily at the rate of 10.5% per annum and will be assessed on each past-due payment until paid in full.
- 22. Use Fees:** In accordance with 11 AAC 05.020, this permit is not subject to an annual fee.
- 23. Request for Information:** The AO, at any time, may require the Grantee to provide any information directly or indirectly related to this authorization, in a manner prescribed by the AO.
- 24. Completion Report:** A completion report and completed "Relinquishment Form and Environmental Hazard Evaluation Affidavit" shall be submitted prior to relinquishment, or within 30 days after expiration or termination of the authorization. Failure to submit a satisfactory report subjects the site to a field inspection requirement for which the Grantee may be assessed an inspection fee, as outlined herein. The report shall contain the following information:
 - a. a statement of restoration activities and methods of debris disposal;
 - b. a statement that the Grantee has removed all improvements and personal property from the authorized area;
 - c. a report covering any known incidents of damage to the vegetative mat and underlying substrate, and follow-up corrective actions that may have taken place while operating under this authorization;
 - d. and, photographs of the permitted site taken before, during and after the proposed activity to document permit compliance. Photographs must consist of a series of aerial view or ground-level view photographs that clearly depict compliance with site cleanup and restoration guidelines;

25. **Site Disturbance:** Site disturbance shall be kept to a minimum to protect local habitats. All activities at the site shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems.
 - a. Brush clearing is allowed but should be kept to the minimum necessary. Removal or destruction of the vegetative mat is not authorized under this permit.
 - b. Establishment of, or improvements to, landing areas (i.e. leveling the ground or removing or modifying a substantial amount of vegetation) is prohibited.
 - c. Attention must be paid to prevent pollution and siltation of streams, lakes, ponds, wetlands, and disturbances to fish and wildlife habitat.
 - d. Any ground disturbances which may have occurred shall be contoured to blend with the natural topography to protect human and wildlife health and safety.
26. **Site Restoration:** On or before permit expiration (if a reissuance application has not been submitted) or termination of this authorization by the Grantee, the Grantee shall remove all improvements, personal property, and other chattels, and return the permitted area to a clean and safe condition. In the event the Grantee fails to comply with this requirement, the Grantee shall be held liable for any and all costs incurred by the State to return the permitted area to a clean and safe condition.
27. **Indemnification:** The Grantee assumes all responsibility, risk and liability for its activities and those of its employees, agents, contractors, subcontractors, licensees, or invitees, directly or indirectly related to this permit, including environmental and hazardous substance risk and liability, whether accruing during or after the term of this permit. The Grantee shall defend, indemnify, and hold harmless the State, its agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by the Grantee, its employees, agents, contractors, subcontractors, licensees, or invitees, unless the proximate cause of the injury or damage is the sole negligence or willful misconduct of the State or a person acting on the State's behalf. Within 15 days, the Grantee shall accept any such cause, action or proceeding upon tender by the State. This indemnification shall survive the termination of the permit.
28. **Performance Guaranty and Insurance:** As the Grantee is a Federal/State/Municipal agency that is self-insured and bonded, and as the Federal/State/Municipal Agency guarantees compliance through statutes and regulations, no performance guarantee or insurance will be required. In the event the Grantee becomes aware of a claim against any of its liability coverage, the Grantee shall notify, and provide documentation and full disclosure of the claim to the AO within 30 days.
29. **Fuel and Hazardous Substances:** No fuel or hazardous substances may be stored on state land.
30. **Waste Disposal:** On-site refuse disposal is prohibited, unless specifically authorized. All waste generated during operation, maintenance, and termination activities under this authorization shall be removed and disposed of at an off-site DEC approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and discarded equipment.

- 31. Dock Construction:** Dock construction and installation shall conform to the following:
 - a. All work below the mean high-water or ordinary high-water shall occur only when the site is naturally dewatered or at low tide. If, due to high water conditions, the site must be mechanically dewatered, the applicant must first provide this office with a detailed set of plans for approval.
 - b. Attention must be paid to the prevention of pollution, siltation, and disturbances to wildlife habitats. Existing bank or shore vegetation shall not be removed or altered to facilitate dock installation and removal. Any inadvertent bank cuts, slopes, or other earthwork shall be immediately stabilized, returned to pre-project contours, and re-vegetated with native vegetation.
 - c. During the storage, handling and transportation of gravel and soils, precautions must be taken to minimize dust.
 - d. No wheeled or tracked vehicles shall operate in any open water in conjunction with dock construction, use, and maintenance.
 - e. Use of pentachlorophenol or creosote as a wood preservative is prohibited. All wood preservatives shall be applied using pressure treatment.
 - f. Placement of fill or removal of sand, gravel or other materials from state-owned tidelands, shorelands, and submerged lands is prohibited without prior written approval from the AO.
- 32. Navigation and Public Access:** Anchoring methods, shoreties, buoys and running lines shall not preclude reasonable public access nor interfere with the ability to safely navigate within and adjacent to the permitted area.
- 33. Destruction of Markers:** The Grantee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against damage, destruction, or obliteration. The Grantee shall notify the AO of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the Grantee's expense in accordance with accepted survey practices of the DMLW.
- 34. Site Maintenance:** The authorized area shall be maintained in a neat, clean, and safe condition, free of any solid waste, debris, or litter, except as specifically authorized herein. Nothing may be stored that would be an attractive nuisance to wildlife or create a potentially hazardous situation.
- 35. Maintenance of Improvements:** The Grantor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Grantor is to be construed as assumption of responsibility.
- 36. Amendment or Modification:** The Grantee may request an amendment or modification of this authorization; the Grantee's request must be in writing. Any amendment or modification must be approved by the AO in advance and may require additional fees and changes to the terms of this authorization.
- 37. Development Plan:** Development shall be limited to the authorized area and improvements specified in the approved development plan or subsequent modifications approved by the AO. The Grantee is responsible for accurately siting development and operations within the authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.

- 38. Proper Location:** This authorization is for activities on state lands or interests managed by DMLW. It does not authorize any activities on private, federal, native, and municipal lands, or lands which are owned or solely managed by other offices and agencies of the State. The Grantee is responsible for proper location within the authorized area.
- 39. Floatation and Stability Standard:** The overall buoyancy and stability of the floating structure shall be designed and maintained to accommodate local wind conditions and water turbulence, moving and launching, wave action, tides, loads imposed by vessels and walkways moored to the structure, live and dead loads and the possibility of water flooding associated with firefighting. The floatation device shall be durable and protected from deterioration by water, mechanical damage due to floating debris, electrolytic action, water-borne solvents, organic infestation and/or physical abuse. DMLW may, in its discretion, require the Grantee to contract with a qualified third party to conduct a marine survey or similar engineering report to evaluate known or suspected conditions that may compromise the floating facilities' floatation and/or stability. The Grantee shall be responsible for all costs associated with any such evaluations that may be required.
- 40. Fire Prevention, Protection and Liability:** The Grantee shall take all reasonable precautions to prevent and suppress forest, structure, brush and grass fires, and shall assume full liability for any damage to state land and structures resulting from the negligent use of fire. The State is not liable for damage to the Grantee's personal property and is not responsible for forest fire protection of the Grantee's activity. To report a wildfire, call 911 or 1-800-237-3633.

The Authorized Officer reserves the right to modify these stipulations or use additional stipulations as deemed necessary. The Grantee will be advised before any such modifications or additions are finalized. DNR has the authority to implement and enforce these conditions under AS 38.05.850. Any correspondence on this authorization may be directed to the Department of Natural Resources, Division of Mining, Land and Water, Southcentral Regional Land Office, 550 W. 7th Ave., Suite 900C, Anchorage, AK 99501-3577, (907) 269-8503.

I have read and understand all of the foregoing and attached stipulations. By signing this authorization, I agree to conduct the authorized activity in accordance with the terms and conditions of this authorization.

Signature of Grantee or Authorized Representative	Title	Date
---	-------	------

Grantee's Address	City	State	Zip
-------------------	------	-------	-----

Contact Person	Home Phone	Work Phone
----------------	------------	------------

Signature of Authorized State Representative	Title	Date
--	-------	------