



Title 9 Conditional Use Permit No.: 115-03-22
Alaska DOT Cape Blossom Road Terminus Pad
Date of Public Notice: May 5, 2022
Date of Issue: June 2, 2022
Permit Expires: December 31, 2024

Permit Issued By:

Northwest Arctic Borough
Planning Department
c/o John Chase
PO Box 1110
Kotzebue, AK 99752
Tel 907.442.8212 / 800.478.1110 extension 112
Fax 907.442.3740
jchase@nwabor.org



Permittee:

State of Alaska, Department of Transportation & Public Facilities
2301 Peger Road
Fairbanks, AK 99709
Tel 907.451.5479 Fax 907.451.5126
jonathan.hutchinson@alaska.gov
<http://dot.alaska.gov/nreg/capeblossomroad/>

Permittee Contact Information:

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Project Description:

The State of Alaska Department of Transportation & Public Facilities (AKDOT) submitted a Title 9 application to construct a permanent staging pad at Cape Blossom.

As part of the Cape Blossom Road Stage I Project, a temporary pad was constructed by the Contractor in Fall 2021 to support staging and stockpiling of equipment and materials. This pad was intended to be temporary, to be removed after Stage I was completed. It was subsequently decided to establish a permanent terminus pad to support the future Stage II road project, which has still not received funding. Due to uncertainty in schedule for construction of



Terminus Pad Construction & Demobilization:

It is anticipated that the temporary pad at the Cape Blossom terminus will be utilized by the Contractor to stage equipment and materials during seasonal shutdown in Summer 2022. Work on the pad will pick back up in late Fall 2022 as the ground freezes hard enough to operate on. Material that is currently stockpiled on the pad will be hauled to the Stage I project through Winter 2022/23, then allowing final work on the terminus pad to be completed through Summer 2023.

Final construction of the terminus pad will involve removing stockpiled materials to place within the Stage I roadway, reconstructing the pad embankment sideslopes to 2:1, stabilizing the sideslopes by track-walking and seeding, and regrading and compacting the surface. The final terminus pad dimensions will be 250'x 1100' top width.

The permanent pad will be used to support current and subsequent stages of construction of the Cape Blossom Road. The permanent pad would be within AKDOT easement and owned and maintained by AKDOT and its Contractors until the completed road to Cape Blossom is completed. Once complete, the pad and completed road would be made available to the public. Responsibility of maintenance of the pad would transfer to the Northwest Arctic Borough.

Bulk Fuel Storage and Refueling:

Fuel will be provided by the Contractor, and handled in accordance with the Contractor's approved Spill Prevention Control and Countermeasures Plan (SPCC). Fuel will likely be obtained partially from commercial sources within Kotzebue and transported to the project area by fuel truck(s) ranging in capacity from 1,500 to 5,000 gallons. Transport of fuel overland would occur via ice road under a separate Contractor furnished Title 9 approval. Fuel will also be barged to the project site and staged at a temporary and centrally located bulk fuel tank farm at the constructed pad at Cape Blossom. Fuel tanks area anticipated to range in size from 5000 gallons up to 25,000 gallons. Refueling/oiling of equipment within the project area will be performed by fuel trucks as identified above. No fueling will be allowed within 100 feet of any surface waters.

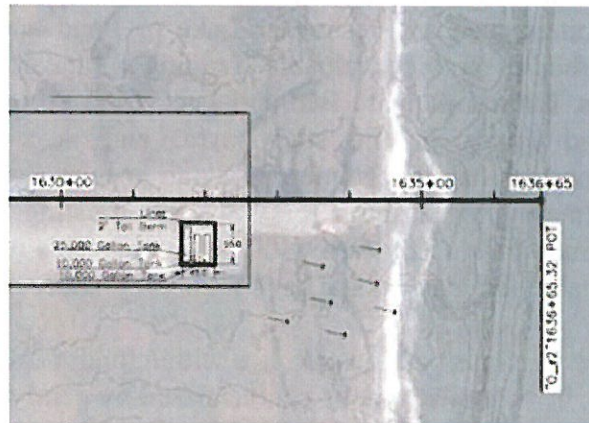


Figure 2. Bulk fuel storage on Terminus Pad



Water Use:

Water use will be minimal for construction of the permanent terminus pad due to little to no hauling activity. However, some water will be required to mitigate dust from stockpiled material and finishing the pad surface. Water will also be required in the summer to achieve adequate compaction of the embankment. It is estimated that up to approximately 10,000 gallons per day would be required for construction activities, with a total water construction requirement of up to 300,000 gallons. **Temporary Water Use Permits for construction will be Contractor furnished, and would likely be sourced from several small lakes within the project vicinity.** As it is not anticipated that the Contractor would establish a separate construction camp, water use for construction personnel's personal use and meal preparation would likely be supplied from municipal sources serving local residential facilities (hotels, B&Bs, Tech Center housing, etc.)

Water use permits will be acquired by the contractor prior to the start of physical construction. Ice roads are not anticipated to be needed, but if required, would be approved under separate Title 9 approval by the Contractor.

Habitat:

This area of the Baldwin Peninsula provides valuable wildlife habitat for numerous species of birds and mammals. Both aquatic and terrestrial habitats in the study area are important to many birds, especially waterfowl and shorebirds, for breeding and foraging. Twelve Wildlife Habitat Types were identified in the overall study area. Habitat associations were developed for a list of common species (41 birds and 8 mammals) found in the region including polar bears and Yellow-billed Loons. Moist and Wet Sedge-Shrub Meadow were the 2 most common habitats observed. At least 30 species of birds and 6 species of mammals are expected to be found in these habitats. These tundra habitats are important for foraging, nesting, denning, or calving; predator protection or escape terrain; or for other important behavioral or life-history functions. Herbivores and insectivores such as shorebirds, water birds, moose, and caribou are common in these habitats.

Freshwater habitats such as Freshwater Lake or Pond and Rivers and Streams were observed. These waterbodies provide valuable foraging habitat for waterfowl and loons, and moose and river otters. Littoral Aquatic Bed and Lacustrine Fringe is closely associated with Freshwater Lakes and Ponds in the study area, and is a relatively uncommon but disproportionately important habitat. Numerous avian species use Littoral Aquatic Bed and Lacustrine Fringe, primarily for nesting, foraging, and roosting. Coastal Beach and Waters occur at the southern end of the study area within a lagoon. This inland estuary is important to wildlife, providing suitable foraging habitat for a number of water bird species.

Specifically, the terminus pad location lies within tundra classified as Saturated Emergent Sedge-Shrub Meadow. This habitat type is characterized by gently sloping tundra with tussocks and/or polygonal features. While this type of habitat can support any of the multiple bird and mammal species that inhabit the overall Baldwin region, it is not characterized as high value



habitat for any of these species. Construction of the terminus pad is not anticipated to pose any significant impacts to wetlands and wildlife.

Current Approvals:

- Endangered Species Act (Section 7 Informal Consultation) and Marine Mammal Protection Act (MMPA)
- National Historic Preservation Act (NHPA; Section 106)
- Alaska DNR, Office of History & Archaeology and State Historic Preservation Officer (SHPO)
- Department of Transportation Act (Section 4(f))
- Section 404/10 Clean Water Act (CWA) Wetlands Dredge or Fill Permit
- Migratory Bird Treaty Act compliance; USFWS
- Magnuson-Stevens Fishery Conservation and Management Act
- Section 401 Certification - Certificate of Reasonable Assurance; ADEC Division of Water Quality
- ROW (State-owned non-marine waters and submerged lands); ADNR, Division of Mining Land and Water
- APDES Construction General Permit for Stormwater Discharges Associated with Large and Small Construction Activities; ADEC, Division of Water
- Title 16 Fish Habitat Permit; ADF&G (pending)
- Temporary Water Use Permit (TWUP); ADNR DMLW (**Contractor to acquire**)

Permit Authorization and Documentation:

AKDOT submitted a Title 9 Land Use Permit application (22-02-115) for the following Uses:

Subsistence Conservation District:

- 'Bulk fuel storage'—Conditional Use
- 'Placement of fill in a wetland, greater than one acre'—Conditional Use
- 'Temporary construction facilities'—Major Use

The Title 9 application was received on April 2. On April 30, the Borough Planning Department deemed the application was complete. The 20-day public comment period for this permit started May 4 and ended on May 31, 2022. There were no public comments.

Permit fees due totaled \$550.

Pursuant to Northwest Arctic Borough Code (NABC) 9.12.030, the **Planning Director** has the authority to permit:

- 'Temporary construction facilities' (Major Use in the Subsistence Conservation District)

Pursuant to Northwest Arctic Borough Code (NABC) 09.12.030, the **Planning Commission** has the authority to permit:

- Bulk fuel storage (Conditional Use in the Subsistence Conservation District)



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- Placement of fill in a wetland, greater than one acre (Conditional Use in the Subsistence Conservation District)

Proposed Permit Terms and Conditions:

1. The State of Alaska Department of Transportation & Public Facilities (AKDOT) shall comply with the terms of the permission, permits and/or agreements granted by the federal government, State of Alaska, NANA Regional Corporation, Northwest Arctic Borough and other applicable agencies.
2. AKDOT shall comply with any and all applicable local, Borough, state and federal laws. The Borough reserves the right to conduct periodic inspections of the permitted operations as well as work with the permittee to observe operations and/or trips for permit compliance.
3. Terminus Pad construction activities are required to be sited, designed, constructed and operated in a manner that does not substantially interfere with the use of a site that is important for significant cultural uses or essential for transportation to subsistence use areas.
4. All project activities shall utilize measures to avoid or minimize disrupting wildlife and bird migration, or subsistence activities including fishing, trapping, waterfowl hunting, egg gathering, berry picking and caribou hunting. The applicant will ensure reasonable access to subsistence users to subsistence resources.
5. All vehicles shall be operated in a manner such that the vegetative mat of the tundra is not disturbed. Vehicles shall not be abandoned. Vehicles must avoid areas where species that are sensitive to noise or movement are concentrated.
6. All trash and human waste generated at the sites must be properly disposed in accordance with Northwest Arctic Borough Code Section 9.25.020 M., establishing standards of disposal of refuse, human body waste, and chemicals. All remedial activities shall comply with any and all other applicable state and federal laws, including all applicable hazardous waste and disposal requirements, all waste disposal and landfill requirements, and all open burning and air quality standards.
7. The applicant must conduct activities in a manner to maintain natural drainage pattern, watershed protection, and permafrost stability; to prevent runoff and erosion into water supplies; to minimize alteration of vegetation; and to conserve natural features and the general environment of the area.
8. The Borough recognizes that this area within the Baldwin Peninsula is periodically subject to flooding that may result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of Kotzebue residents. The Borough has adopted the necessary



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regulations of the Federal Emergency Management Agency (FEMA) to enable its communities and residents to participate in the National Flood Insurance Program (NFIP). See NABC 9.25.020.

To promote the public health, safety and general welfare by minimizing flood damage and loss and promoting access to disaster relief, the following conditions must be met:

- a. Encourage protection of land uses vulnerable to floods, including public facilities and utilities that serve such uses, against flood damage at the time of initial construction or substantial improvement.
Ensure that those persons who occupy areas of special flood hazards assume responsibility for occupying such flood hazard areas.
- b. All new construction and substantial improvements shall meet the following general standards, as applicable:
 1. Anchoring. All new construction and substantial improvements shall be designed, modified, constructed and adequately anchored to prevent flotation, collapse or lateral movement of the structure; all manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement.
 2. Construction Materials and Methods. All new construction and substantial improvements shall be constructed with materials and utilize equipment resistant to flood damage and use methods and practices that minimize flood damage, including waterproofing, watertight construction, use of substantially impermeable materials and other construction techniques.
9. Uses permitted shall cease upon the discovery of archaeological, prehistoric, historic or cultural resources during the project activities, and AKDOT shall immediately contact the Planning Director at the NAB to determine the conditions to continue.
10. All fuel/oil/hazardous substance storage, including waste oil, must meet all applicable state and federal containment laws. Any project fuel storage at the terminus pad sites shall meet all applicable state and federal containment laws to prevent fuel spills and protect against fire danger. If a spill occurs, it must be reported immediately to the Alaska Department of Environmental Conservation and the NAB Planning Department (at least within 24 hours). Appropriate spill kits and absorbent pads must be stored at the road construction sites. Fuel/oil drums or other storage containers shall not be abandoned.
11. Project equipment servicing and fueling operations are prohibited within 100 feet of any surface water body, including any rivers, drainage channels, sloughs and lakes. Equipment must be monitored daily for hydraulic leaks. Project equipment shall not be abandoned.
12. AKDOT shall immediately notify the Borough (at least within 24 hours) of any change in the plans and seek modification of the permit.



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13. AKDOT is subject to all penalties and civil actions pursuant to section 9.08.240 for violation of the permit conditions and stipulations prescribed herein.
14. Annually by December 31st, the permittee shall file a written report with the NAB Planning Department describing the following:
 - a. A complete report of any fuel or other hazardous substances discharges and clean-up activities completed,
 - b. Other matters as reasonably required by the Administrator/NAB Planning Director.
15. At the conclusion of each season the Borough Planning Department shall evaluate the effectiveness of the permit conditions. The Title 9 Administrator shall be authorized to adopt corrective measures for ineffective or inadequate permit conditions.
16. AKDOT and/or land owners shall allow the NAB and/or their representatives access to the permitted sites and properties, during the term of this permit or within 5 years after permit expiration, to conduct scheduled or unscheduled inspections to determine compliance with this permit or respond to emergency situations.
17. Application was received in April 2, 2022 and deemed complete in April 20, 2022. This permit will expire December 31, 2024, unless revoked by the Title 9 Administrator and/or AKDOT.

Permit Approval

NORTHWEST ARCTIC BOROUGH



Clay Nordlum,
Planning Director/Title 9 Administrator

June 2, 2022

Date

CC: City of Kotzebue, Kotzebue IRA Council, NANA Regional Corporation,
Maniilaq Association, State of Alaska Department of Transportation & PF—
Kotzebue Office

Posted at: NAB Bulletin Board, Kotzebue's Post Office, Kotzebue's AC, Kotzebue's
Rotman's Store, www.nwabor.org

**NORTHWEST ARCTIC BOROUGH PLANNING COMMISSION
RESOLUTION 22-03**

**A RESOLUTION OF THE NORTHWEST ARCTIC BOROUGH PLANNING
COMMISSION TO APPROVE THE ALASKA DOT
DRAFT CONDITIONAL USE PERMIT #115-03-22
CAPE BLOSSOM TERMINUS PAD AND FOR RELATED PURPOSES**

WHEREAS: The Northwest Arctic Borough Planning Department received a Title 9 Permit Application (22-02-115) on April 2, 2022 from AK DOT for the following use in;
Subsistence Conservation District: Placement of fill in a wetland, greater than 1 acre, Bulk Fuel Storage –Conditional Use, Temporary construction facilities –Major Use

WHEREAS: On April 30, 2022, the Borough Planning Department deemed the application complete with all necessary information; and

WHEREAS: The Borough Planning Department has published a public notice for this permit on May 5, 2022, as required in borough code 9.20.030; and

WHEREAS: The Northwest Arctic Borough Planning Commission has the authority to approve: Placement of fill in wetlands greater than 1 acre, bulk fuel storage and temporary construction facilities in the Subsistence Conservation District by Conditional Use Permit according to borough code 9.12.030, and following a public hearing as required under borough code 9.20.030E.

NOW THEREFORE BE IT RESOLVED, The Northwest Arctic Borough Planning Commission hereby authorizes the Planning Director/Title 9 Administrator to approve the Conditional Use Permit #15-03-22 dated May 5, 2022, as discussed during the commission meeting;

PASSED AND ADOPTED ON THIS 2nd DAY OF JUNE 2022



Harold Lambert, Planning Commission Chair

SIGNED AND ATTESTED ON THIS 2nd DAY OF JUNE 2022



Helena Hildreth, Borough Clerk