Title 9 Conditional Use Permit No.: 105-03-20
Date of Issue: June 4, 2020
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
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Permittee: Drake Construction, Inc.
P.O. Box 338
Kotzebue, AK 99752
Tel 907.360.2673 Fax 907.442.2604
permits@dakeconstruction.net

Permittee Contact Information:
Toby Drake
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Project Description:

Drake Construction, Inc. (DCI) proposes to extract material at a previously permitted location at Nimiuk Point and haul this aggregate by way of tug and barge between the project location and Kotzebue and surrounding villages. The material sources at Nimiuk Point are called the North Pit and South Pit.

DCI proposes to commence project activities annually from June 1 through October 15. The proposed activity is within a borough-designated Subsistence Conservation Zone and within the Kobuk-Selawik Lakes Subsistence sub-district.

This Title 9 Conditional Use Permit #105-03-20 is a renewal permit for DCI’s Title 9 Permit #105-03-15 that expired on December 31, 2019 and Permit #105-03-17 which will expire on December 31, 2020. Project activities will remain the same. Specific details of the project are contained in the permit application (20-02-105) and documents submitted by DCI to the Borough Planning Department. These documents are incorporated into the Borough’s administrative record. Project Activities are summarized below.
Project Location:

Nimiuk Point’s North and South Pits are located at Township 16 North, Range 16 West, Section 24, Kateel River Meridian. CTM Capital, LLC is the private landowner, which is owned by Toby and Amber Drake. Gravel extraction activities will be done by DCI.

The project location is in the Borough’s Subsistence Conservation District and Kobuk-Selawik Lakes Subsistence sub-district.

Gravel Extraction:

DCI is proposing to extract no more than 250,000 cubic yards for the North Pit and no more than 40,000 cubic yards for the South Pit. The site and reclamation plans for the North and South Pits are detailed below.

Initially overburden will be scraped off the top layers and stockpiled near the excavation areas. The extraction will be done with dozers and excavators and stockpiled with articulate dump trucks and eventually loaded onto a barge and hauled to different sites around the region. The area to be mined annually will be no more than 5 acres with the overburden stockpiled and as a cell is excavated and exhausted spread along the slopes to assist in vegetative growth and stabilization. A 100 foot buffer will be established from all property boundaries and water bodies.

DCI plans to use two haul trucks (Volvo A-25 or 35 articulates or equal), one loader (Cat 966 or equal), two excavators (Hitachi EX400 or equal), and one grader and compactor.

Operations will take place between June 1st and October 31st Annually. Mining will be a 12-hour operation with barging being 24-hours each summer work season.

North Pit—Site Plan

Production varies throughout any given year and from year-to-year, and such fluctuations result from market conditions, weather, and naturally occurring events. DCI is proposing to extract no more than 50,000 cubic yards annually or 250,000 cubic yards for the life of this 5-year permit.

Mining will begin on the north side of the pit beginning at the active mining area Year 1 working through the resource in a south direction to active mining area year 5 over the 5-year period life of the permit. The aggregate resource and base materials will be extracted by standard mining methods. The mining cycle will include the following basic actions:

- Initially overburden will be scraped off the top layers and stockpiled near the active mining area.
- The mining activities will be done by a loader and excavator in the active mining area.
- Stockpiled with articulate dump trucks and Transported to a Sorting/Loading area.
- Transported from the Stockpile loaded onto a barge and hauled to different sites around the region.
DCI plans to use two haul trucks (Volvo A-35 or 40 articulates or equal), one loader (Cat 980 or equal), two excavators (Hitachi EX400 or equal), and one grader and compactor.

Mining equipment will remain within the active mining area until all materials at those areas have been extracted or returned to the equipment staging area.

A 100 ft. buffer will be established from all property boundaries and water bodies. When a mined area has reached its extraction life cycle, the excavation perimeter will be finished off at a 2:1 slope. The North Pit is near sea level and water will fill the excavated area and make a natural habitat for wildlife.

Figure 1. Site plan of the North Pit

North Pit—Reclamation Plan

<table>
<thead>
<tr>
<th>Date</th>
<th>Year 1 Activity - North</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Week of June</td>
<td>Topsoil and organic overburden will be removed from an area less than 5 acres and stockpiled for future use.</td>
</tr>
<tr>
<td>June-September</td>
<td>All slopes of the worked section will be stabilized and maintained at a 2:1 slope or steeper during excavation.</td>
</tr>
<tr>
<td>4th Week of September</td>
<td>The mined area will re-contoured and/or terraced for reclamation.</td>
</tr>
</tbody>
</table>
Site Plan—South Pit

Production varies throughout any given year and from year-to-year, and such fluctuations result from market conditions, weather, and naturally occurring events. DCI is proposing to extract no more than 40,000 cubic yards for the life of the permit.

There is one section to be an active mining area over the 5-year period life of the permit. The aggregate resource and base materials will be extracted by standard surface mining methods. The mining cycle will include the following basic actions:

- Initially overburden will be scraped off the top layers and stockpiled within the active mining area.
- The mining actives will be done by a loader and excavator in the active mining area.
- Stockpiled with articulate dump trucks and Transported to a Sorting/Loading area.
- Transported from the Stockpile loaded onto a barge and hauled to different sites around the region.

DCI plans to use two haul trucks (Volvo A-35 or 40 articulates or equal), one loader (Cat 980 or equal), two excavators (Hitachi EX400 or equal), and one grader and compactor.

Mining equipment will remain within the active mining area until all materials at those areas have been extracted.

A 100 ft. buffer will be established from all property boundaries and water bodies. When a mined area has reached its extraction life cycle, the excavation perimeter will be finished off at a 2:1 slope. The South Pit is near sea level and water will fill the excavated area and make a natural habitat for wildlife.
Reclamation Plan—South Pit

<table>
<thead>
<tr>
<th>Date</th>
<th>Year 1-5 Activity - South</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Week of June</td>
<td>Topsoil and organic overburden will be removed from an area less than 4 acres and stockpiled for future use.</td>
</tr>
<tr>
<td>June-September</td>
<td>All slopes of the worked section will be stabilized and maintained at a 2:1 slope or steeper during excavation.</td>
</tr>
<tr>
<td>4th Week of September</td>
<td>The mined area will re-contoured and/or terraced for reclamation.</td>
</tr>
<tr>
<td></td>
<td>If a mined area has reached its extraction life cycle, the excavation perimeter will be finished off at a 2:1 slope. Nimiuks Point is near sea level and water will fill the excavated area and make a natural habitat for wildlife.</td>
</tr>
</tbody>
</table>

Reclamation Plan—North and South Pits

Topsoil and overburden will be placed on the slopes with an excavator and bulldozer. This process will ensure even coverage and facilitate vegetation growth. Once the pit has been exhausted of the borrow material, the slopes will be graded and natural vegetation will be introduced.
Reclamation will take place at the end of the extraction period, once all aggregates are exhausted. Completed extraction and excavation results in a lake, approximately six feet average depth.

The slopes of the pit will be maintained at a 2 horizontal to 1 vertical (2:1) slope at all times. Terracing may be used in order to accomplish the necessary sloping.

The gravel access roads to the barge loading areas will not be reclaimed and will remain in place.

In addition, no waste materials will be left on site including waste oils, garbage, and other foreign matter. All waste will be taken to Kotzebue and disposed of at an approved location (i.e.: City of Kotzebue land fill).

**Bulk Fuel Storage:**

DCI proposes to haul and store 2,500 gallons of fuel for the project. Diesel fuel will be stored in 1,250-gallon fuel tanks, which are a double-walled square tank with a built-in dispensing system. The tanks, called 'pods,' are stackable, forkable, and UL listed. The pods will be loaded and unloaded onto the barge using a forklift. The pods, once emptied, will be taken back to Kotzebue for re-fueling and taken back to the pits when needed. Additional lubricants, and oils will be stored at the mining site as well. These products will be delivered via barge and will be stored in manufactures buckets, barrels, and tubes. These items will be stored in a twenty-foot (20') connex container along with all required spill response containment measures. Once the products have been utilized the empty containers will be shipped back to Kotzebue for proper disposal. All equipment fueling and fuel storage pods will be done/stored a minimum of 100 feet from Hoatham Inlet.

Federal laws require a Spill Prevention, Control and Countermeasure Plan (SPCCP) be developed for any above ground fuel storage capacity greater than 1,320 gallons. The Borough having more stringent standards requires a SPCCP be prepared for bulk fuel storage greater than 660 gallons, as defined in Title 9.04.070 Definitions "Bulk fuel storage." The applicant has submitted a SPCCP, revised July 2019, and has been filed for the administrative record.

**Permit Authorization and Documentation:**

DCI submitted a Title 9 Land Use Permit application (20-02-105) for the following "Uses": Gravel extraction and Bulk fuel storage (Conditional Uses in the Subsistence Conservation District).

The Title 9 application was received on December 23, 2019. On February 25, 2020 the Borough Planning Department deemed the application was complete. The 20-day public comment period started April 24, 2020. There were no public comments.

Permit fees due totaled to $500.00. ‘Gravel extraction’ is $250 and ‘bulk fuel storage’ is $250.
Pursuant to Northwest Arctic Borough Code (NABC) 09.12.030, the Planning Commission has the authority to permit:

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

**Permit Terms and Conditions:**

1. Drake Construction, Inc. (DCI) shall comply with the terms of the permission, permits and/or agreements granted by the federal government, State of Alaska, Northwest Arctic Borough and other applicable agencies.

2. DCI shall comply with any and all applicable local, borough, state and federal laws. Failure to abide by any part of this permit, or violations of any pertinent borough ordinances or state or federal law or regulation, will be considered grounds for revocation of the permit or denial of future permit requests and may result in issuance of fines or other penalties. This provision applies to all persons working under the authority of this permit.

3. The Permittee is responsible for ensuring that all employees, contractors, sub-contractors, and any other persons working for the permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of this permit.

4. All trash and human waste generated at the property must be properly disposed of in accordance with Northwest Arctic Borough Ordinance 9.25.020(M), establishing standards 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.

5. During and after mining activities, the permittee must conduct activities in a manner to maintain natural drainage patterns; water shed protection, and permafrost stability, to prevent runoff and erosion into water supplies and to minimize alteration of vegetation.

6. Loading and unloading activities shall be planned and conducted in a manner to minimize or eliminate siltation, surface runoff, and pollution to Hotham Inlet.

7. All project activities shall utilize measures to minimize noise and nuisance affecting surrounding residential and camp properties including excessive noise, fumes, odors, glare, smoke, vibration, dust, litter, interference in any telephone, radio or television receivers, and/or significant line voltage fluctuation.

8. DCI shall post public notices (at the Borough offices and US Post Office at a minimum) and provide public service announcements on KOTZ radio informing the community regarding the date and times of barge hauling operations between Kotzebue and Nimiuk Point to promote boater safety.
9. When traveling at night or adverse weather, DCI shall ensure the operators of the tug and barge operate all navigation lights and ensure the lights are functional. During adverse weather the operational speeds shall be reduced for added safety. In addition, barge/tug Lights, radar equipment, VHF Radios and Horns shall be maintained in good working order for added safety.

10. Uses permitted shall cease upon the discovery of archaeological, prehistoric, historic or cultural resources during the mining activities, and DCI shall immediately contact both the Land Specialist at the NAB Planning Department and Alaska State Historic Preservation Office to determine the conditions to continue.

11. The siting, design, construction and monitoring of the project activities are required to minimize alteration of shorelines, water courses, wetlands, and minimize significant disturbance to important habitats, and avoid critical fish, and other species’ migration periods.

12. Any development by the project in floodplains and shoreline areas are to be constructed to minimize loss of life or property due to seasonal flooding, ice movement, and shoreline erosion.

13. Bulk fuel and petroleum storage (onshore and offshore) are required to have an oil spill control and clean-up plan. The plan must contain a risk analysis indicating where oil spills are likely to flow under various sets of local meteorological, oceanographic, hydrologic or soil conditions. Impact areas must be identified and strategies fully developed to protect environmentally sensitive areas; the spill control and clean-up equipment which is available to the operator and the response time required to deploy this equipment under the various scenarios must be contained in the risk analysis. Depending on the nature of the activity, adequate spill response equipment may be required to be kept on-site. Duplicative borough oil spill and clean-up plans will not be required where a state or federally approved plan meeting these criteria is in effect.

14. Project equipment/vehicle servicing and fueling operations are prohibited within 100 feet of any surface water body, including any rivers, drainage channels, sloughs and lakes. Equipment and vehicles are to be maintained to eliminate or minimize any fuel spills and fluid leaks. Equipment and vehicles must be monitored prior to use for hydraulic leaks. If equipment is in continuous use, it shall be inspected daily for hydraulic leaks.

Project equipment shall not be abandoned.

15. DCI shall immediately notify the borough (at least within 24 hours) of any damage to the tundra and shoreline due to project activities in excess of those identified in or different from those notes in the permit application (20-02-105), including but not limited to scraping of vegetation and spill of fuel or other chemicals.
16. DCI shall immediately notify the Borough (at least within 24 hours) of any change in the project plans and seek modification of the permit. DCI shall suspend uses until approval is given by the Planning Director/Title 9 Administrator. If the proposed action(s) constitutes an emergency, DCI shall comply with NABC 9.16.040 for emergency actions and shall make reasonable efforts to conduct modified uses in a manner that avoids or minimizes significant harm to the environment, consistent with the need to protect property and human life.

17. DCI shall be required in consultation with the Administrator to post a cash bond or other suitable surety in an amount and form consistent with the requirements of NABC 9.08.040(A) to guarantee performance of all obligations under this permit.

18. DCI is subject to all penalties and civil actions pursuant to section 9.08.240 for violation of the permit conditions and stipulations prescribed herein.

19. The Nimiuk Point area, where project activities are set to occur, fall within a priority subsistence use area designated by the Borough Code (9.25.045—Kobuk/Selawik Lakes Subsistence Conservation Sub-District). In summary, Borough subsistence policy states that uses and activities in this area shall not significantly interfere with or have an adverse impact on subsistence activities such as fishing, trapping, waterfowl hunting, berry picking, egg gathering and caribou hunting. Moreover, commercial or industrial uses in the Nimiuk Point area during caribou migration are prohibited. All project activities shall utilize reasonably economically viable measures to avoid or minimize disrupting subsistence use.

20. During the fall caribou migration, DCI or any project contractors shall not, during the migration of caribou, locate any operation and/or equipment so as to block or cause diversion of the migration of caribou. DCI and/or any project contractors shall cease any activity that may interfere with the seasonal fall caribou migrations and/or caribou summer movements, such as marine, ground and airborne transports, ground and airborne surveys or movement of equipment, until such time as the migration or summer movements have cleared 3/4 of a mile from the location of the project activity. Concern for human safety will be given special consideration when applying this policy.

As a general guideline, caribou migration means an area where 500 or more caribou are travelling or congregating. However, during the seasonal fall period of mid-August through mid-November, DCI shall take extra precautions to avoid deflecting even small numbers (e.g. group sizes of 5-10) of the first caribou moving through the area as these groups/bands set trails as “lead caribou” that subsequent caribou later follow during the migration. The intent of these guidelines are to ensure free passage of caribou through the area to avoid impacting caribou and the communities that historically and currently depend upon it as well as preserving existing and important adjacent land uses. These guidelines may be revised based upon updated information and research (including local traditional knowledge) which is approved by the Borough Planning Commission.

21. 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, wild greens, muskrats, seals, moose and caribou hunting. DCI will ensure reasonable access to subsistence users to subsistence resources.

22. Native allotments and camp sites are common to the area, and DCI shall ensure that staff/personnel/contractors do not disturb or trespass on these areas.

23. The propulsion engines / transmission shall be either turned off or disengaged so that the propellers do not rotate while being loaded at the landing site except in an emergency or severe weather conditions.

24. DCI shall avoid subsistence set nets along the transit route between their Kotzebue facilities and the Nimiuq Point site. All incident reports or conflict shall be immediately reported to the borough (at least within 24 hours) for corrective action.

25. Vehicles, vessels and aircraft that are likely to cause significant disturbance must avoid areas where species that are sensitive to noise or movement are concentrated. Concentrations may be seasonal or year-round and may be due to behavior (e.g., flocks or herds) or limited habitat (e.g., polar bear denning, seal haul-outs). Horizontal and vertical buffers will be required where appropriate. Concern for human safety will be given special consideration when applying this policy.

When adverse effects are likely and cannot be avoided, the borough planning director/title 9 administrator may require DCI to prepare and submit a mitigation plan to minimize impacts. The effects addressed in this standard may result from a single project or from a series of projects. The mitigation plan, if required, shall be approved by the borough planning director and/or borough planning commission.

26. 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.

27. At the completion of each season, the permittee shall file a written report with the Borough Planning Department describing the following:
(a) aggregate number of trips between Kotzebue and the Nimiuq Point site supported with maritime transit logs,
(b) complete report of any fuel or other hazardous substances discharges and clean-up activities completed,
(c) report the incidents of caribou migration and dates/times of ceased operations for allowing migration of caribou,
(d) report the incidents of commercial fishing periods and dates/times of ceased operations for allowing fisheries to be conducted,
(e) report of incidents involving subsistence fishing set nets within the transit route describing corrective measures taken,
(f) other matters as reasonably required by the Administrator/Planning Director.
28. DCI shall, if requested by the Administrator, provide periodic activity reports to the following entities: the City of Kotzebue, the Native Village of Kotzebue, and the Kotzebue Fishermen’s Association.

29. Access by Borough personnel and their agents. Authorized personnel and/or their agents of the Northwest Arctic Borough when on official business and displaying proper identification shall be allowed access to the sites without interference. Borough personnel and/or agents may conduct scheduled or unscheduled inspections or tests to determine compliance with this permit or respond to emergency situations.

30. DCI will not commence ANY project activities (to include barging and hauling of aggregates) before June 1st and shall cease ALL operations (to include barging and hauling of aggregates) by 11:30 p.m. October 15th of each season.

31. This permit will expire December 31, 2024, unless revoked by the Title 9 Administrator and/or DCI.

Permit Approval

NORTHWEST ARCTIC BOROUGH

[Signature]

Conditional Use Permit Approved by the Northwest Arctic Borough Planning Commission through Resolution PC 20-02

Authorized signatory: Martha Siikauraq Whiting, Planning Director/Title 9 Administrator

June 4, 2020

Date

CC: Native Village of Kotzebue, City of Kotzebue, NANA Regional Corporation, Maniilaq Association, Kikiktagruk Inupiat Corporation, Alaska Department of Transportation & Public Facilities

Posted at: www.nwabor.org
NORTHWEST ARCTIC BOROUGH PLANNING COMMISSION
RESOLUTION PC-20-02
A RESOLUTION OF THE NORTHWEST ARCTIC
BOROUGH PLANNING COMMISSION APPROVING
DRAKE CONSTRUCTION, INC.'S
DRAFT CONDITIONAL USE PERMIT #105-03-20,
AND FOR RELATED PURPOSES

WHEREAS: The Northwest Arctic Borough Planning Department received a
Title 9 Permit Application (20-02-105) on December 23, 2019 from Drake Construction,
Inc. for the following Uses in the Subsistence Conservation District:
- Gravel extraction,
- Bulk fuel storage; and

WHEREAS: On February 25, 2020, 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 April 24, 2020, as required in borough code 9.20.030; and

WHEREAS: The Northwest Arctic Borough Planning Commission has the
authority to approve: Bulk fuel storage and Gravel extraction in the Subsistence
Conservation District by conditional use permit according to borough code 9.12.030,
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 DRAFT Conditional Use Permit #105-03-20 dated April 24, 2020, as discussed during
the commission meeting;


[Signature]
Harold Lambert, Planning Commission Chair

SIGNED AND ATTESTED TO THIS 3rd DAY OF JUNE, 2020.

[Signature]
Stella Atoruk, Borough Clerk