

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

**Anchorage Field Office
4700 BLM Road
Anchorage, AK 99507
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DECISION RECORD

**Whiting Harbor Contaminated Lantern Net Removal Project
Case File Number: AA-093083
DOI-BLM-AK-010-2011-0061-CX**

I. Decision:

It is my decision to authorize a Short-Term Contaminated Equipment Removal Land Use Permit (LUP) to Alaska Department of Fish and Game, Case File Number: AA-093083, for a period of 1 year. Mitigation measures, stipulations and conditions are attached.

II. Proposed Action:

The proposed action is to authorize a Short-Term Contaminated Equipment Removal LUP to Alaska Department of Fish and Game for removal of contaminated equipment from Whiting Harbor from September 2011 to September 30, 2012. The permit would be authorized under the authority of Title III of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1732). The proposed action is in conformance with the Ring of Fire Resource Management Plan, Approved: March, 2008.

III. Rationale for the Decision:

The rationale for the decision is based on the need of the applicant to remove the contaminated equipment for the protection of herring species vital to the subsistence users of the Whiting Harbor area and to traverse Bureau of Land Management administered lands as part of a project conducted by the Alaska Department of Fish and Game.

The proposed action is in conformance with the Ring of Fire Resource Management Plan, Approved: March, 2008. The area of the proposed activity is within a critical subsistence use area and no serious wildlife problems are anticipated.

IV. ANILCA Section 810 Compliance:

The proposed action will not significantly restrict subsistence uses. No reasonably foreseeable and significant decrease in the abundance of harvestable resources or in the distribution of harvestable resources, and nor reasonably foreseeable limitations on

harvester access will result from the proposed action.

V. Adverse Energy Impact Compliance:

This action has been analyzed as required by Washington Office Instruction Memorandum 2002-053 to determine if it will cause an adverse impact on energy development. The action will not have an adverse direct or indirect impact on energy development, production or distribution. The preparation of a Statement of Adverse Energy Impact is not required.

VI. Lands With Wilderness Characteristics:

The proposed action has been reviewed for the affect on Lands with Wilderness Characteristics. The lands do not contain the wilderness characteristics listed below:

- 1) Size-roadless areas of over 5000 acres of contiguous BLM lands.
- 2) Naturalness-affected primarily by the forces of nature, with the works of humans substantially unnoticeable to the average visitor.
- 3) Outstanding opportunities for solitude or a primitive and unconfined type of recreation.
- 4) Supplemental values-if size, naturalness, and solitude/outstanding opportunities are met, then consider if the area contains ecological, geological, or other features of scientific, educational, scenic, or historical value. Supplemental values are not required to be present in order to classify an area as Lands with Wilderness Characteristics.

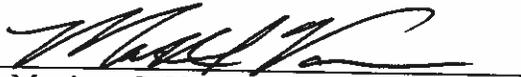
The lands do not contain the above Wilderness Characteristics so the proposed action is a transitory action and would have no permanent effect on lands with wilderness characteristics.

VII. Consultation and Coordination:

Public participation was accomplished through the development of the Ring of Fire Resource Management Plan which anticipated routine land authorizations in accordance with Title V of FLPMA. Adequate measures to protect public lands through stipulations and required operating procedures are in place. Internal scoping was conducted by AFO staff and included threatened and endangered species, cultural clearances and ANILCA 810 analysis.

VIII. Compliance and Monitoring Plan:

Compliance and monitoring of this authorization will be conducted by the BLM Anchorage Field Office. Inspection will be made prior to the applicant's use and after the applicant reclaims the land.

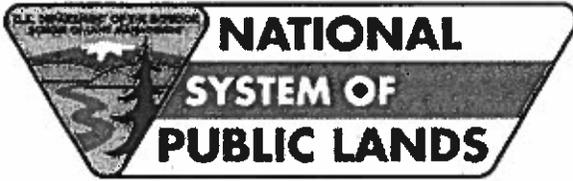


Matthew S. Varner
Anchorage Field Manager, Acting

3/29/11

Date

Attachments: Terms and Stipulations



**U.S. Department of the Interior
Bureau of Land Management**

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<http://www.blm.gov/ak/st/en/fo/ado.html>

**Categorical Exclusion
Short-Term Contaminated Equipment Removal Right-of-Way**

**Applicant: Alaska Department of Fish and Game
Case File Number: AA-93083
DOI-BLM-AK-010-2011-0061-CX**



Location:
USS 3926, T. 56 S., R. 63 E.,
Copper River Meridian, Alaska

Prepared By:

Anchorage Field Office

August 2011

CATEGORICAL EXCLUSION

A. Background

BLM Office: Anchorage Field Office Lease/Serial/Case File No: AA-093083

Environmental Document No: DOI-BLM-AK-A010-2011-0061-CX

Proposed Action Title/Types: Short-Term Permit

Location of Proposed Action:

USS 3926, T. 56 S., R. 63 E., Copper River Meridian, Sitka Bay Quadrangle A-5

Description of Proposed Action:

Alaska Department of Fish and Game would be authorized a short-term land use permit under Title III of The Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1732), as amended (FLPMA) to conduct the removal of contaminated equipment that contains an aquatic invasive species in the Whiting Harbor area. If approved the project would begin in September 2011 and the activity would conclude by September 30, 2012. The equipment removed would be lantern nets from the aquatic farm in Whiting Harbor using the most expedient manner, with the least risk of spreading an aquatic invasive species. The Whiting Harbor Causeway and float plane launch would be used to store 20 yard containers that would be positioned on the causeway to be filled with the contaminated lantern nets. A forklift is required for the maneuvering of bags that will be filled with the lantern nets from the landing craft and float plane access site to the containers. No equipment would be left on site after the operations are completed. There would be no ground disturbance during the removal of the contaminated lantern nets.

Applicant (if any): Alaska Department of Fish and Game

B. Land Use Plan Conformance 43 CFR 1610.5-3(a)

Land Use Plan Name: Ring of Fire Record of Decision and Approved Management Plan
Date Approved: March 2008

The proposed action is in conformance with plan because it is specifically provided for in the following planning decisions:

I-2-C: FLPMA Permits

Form Date: 6/2009

“The BLM may issue land use permits if it is determined that the use conforms to agency plans, policies and programs, local regulations, and other requirements, and will not cause appreciable damage or disturbance to the public lands, their resources or improvements.”

☐ The proposed action is in conformance with the plan even though it is not specifically provided for because it is clearly consistent with the following planning decisions (objectives, terms, and conditions):

C. NEPA Compliance

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with United States Department of the Interior 43 CFR §46.210 or United States Department of Interior Manual, Part 516, Chapter 11 which provides:

NEPA Handbook H-1790-1

E. Realty

- 19. Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

D. Extraordinary Circumstances

The following Departmental List of Extraordinary Circumstances applies to individual actions. Departmental instructions mandate that environmental documents must be prepared for actions which may:

		YES	NO
1.	Have significant adverse impacts on public health or safety.	_____	_____ X
2.	Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.	_____	_____ X
3.	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available	_____	_____ X

	resources [NEPA Section 102(2)(E)].		
4.	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	_____	X _____
5.	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	_____	X _____
6.	Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	_____	X _____
7.	Have significant impacts on properties listed, or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.	_____	X _____
8.	Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.	_____	X _____
9.	Violate Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.	_____	X _____
10.	Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).	_____	X _____
11.	Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).	_____	X _____
12.	Contribute to the introduction, continued existence, or spread of weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).	_____	X _____

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances in 43 CFR §46.215 are pertinent.

E. Lands with Wilderness Characteristics

The proposed action has been reviewed for affect on lands with the following Wilderness Characteristics. The lands do not contain the wilderness characteristics listed below:

- 1) Size-roadless areas of over 5000 acres of contiguous BLM lands.
- 2) Naturalness-affected primarily by the forces of nature, with the works of humans substantially unnoticeable to the average visitor.
- 3) Outstanding opportunities for solitude or a primitive and unconfined type of recreation.
- 4) Supplemental values-if size, naturalness, and solitude/outstanding opportunities are met, then consider if the area contains ecological, geological, or other features of scientific, educational, scenic, or historical value. Supplemental values are not required to be present in order to classify an area as Lands with Wilderness Characteristics.

The lands do not contain the above Wilderness Characteristics so the proposed action would have no permanent effect on lands with wilderness characteristics.

F. Signature

The proposed action is in conformance with a management framework plan or a resource management plan, 43 C.F.R. § 1610.8(a)(3) (2006). The Department of the Interior has determined and found that the proposed action is within a category of actions that do not individually or cumulatively have a significant effect on the human environment and that neither an environmental assessment nor an environmental impact statement is required, 40 C.F.R. §1508.4 (2006).

This action has been analyzed as required by Washington Office Instruction Memorandum 2002-053 to determine if it will cause an adverse impact on energy development. The action will not have an adverse direct or indirect impact on energy development, production or distribution. The preparation of a Statement of Adverse Energy Impact is not required.

It is therefore my decision to implement the action, as described, with appropriate mitigation measures or stipulations.

Mitigation Measures/Stipulations: (See Attached)

Authorized Official:  Date: 8/29/11

BLM SPECIAL STIPULATIONS FOR WHITING HARBOR PROJECT

1. Conduct of Operations

Permittee shall conduct operations in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, and other resources, and to other land uses or users. Permittee shall take reasonable measures deemed necessary by BLM to accomplish the intent of this section. To the extent consistent with lease rights granted, such measures may include, but are not limited to, modification to siting or design of facilities, timing of operations, and specification of interim and final reclamation measures. BLM reserves the right to continue existing uses and to authorize future uses upon or in the leased lands, including the approval of easements or ROWs. Such uses shall be conditioned so as to prevent unnecessary or unreasonable interference with rights of permittee.

Prior to disturbing the surface of the leased lands, permittee shall contact BLM to be apprised of procedures to be followed and modifications or reclamation measures that may be necessary. Areas to be disturbed may require inventories or special studies to determine the extent of impacts to other resources. Permittee may be required to complete minor inventories or short-term special studies under guidelines provided by BLM. If in the conduct of operations, threatened or endangered species, objects of historic or scientific interest or substantial unanticipated environmental effects are observed, permittee shall immediately contact BLM. Permittee shall cease any operations that would result in the destruction of such species or objects.

2. Soils

Stabilizing disturbed soil as soon as possible minimizes soil erosion. Where permitted operations result in surface disturbance, land is returned as closely as possible to its predisturbed condition.

3. General Terms

The permittee shall comply with all federal, state, and local laws; ordinances; regulations; orders; postings; or written requirements applicable to the area or operations covered by the site specific ROW. The permittee shall ensure that all persons operating under the authorization have obtained all required Federal, State, and local licenses or registrations. The permittee shall make every reasonable effort to ensure compliance with these requirements by all agents of the permittee and by all clients, customers, participants, or spectators under the permittee's supervision.

4. A site specific ROW authorizes special uses of BLM-managed public lands and related waters and, should circumstances warrant, the permit may be modified by the BLM at any time, including the amount of use. The AO may suspend a site specific ROW, if necessary to protect public resources, health, safety, or the environment, or as a result of noncompliance with permits stipulations.

5. Unless expressly stated, the site specific ROW does not create an exclusive right of use of an area by the permittee. The permittee shall not interfere with other valid uses of the federal land by other users. The United States reserves the right to use any part of the area for any purpose.
6. The AO, or a duly authorized representative of the BLM, may examine any of the records or other documents related to the permit, the permittee or permittee's operator, employee, or agent for up to 3 years after expiration of the permit.
7. The permittee cannot, unless specifically authorized, erect, construct, or place any permanent building, structure, or other fixture on public lands. Upon leaving, the lands must be restored as nearly as possible to pre-existing conditions.
8. The permit, or copies thereof, shall be kept with the authorized individual(s) and presented to any BLM representative upon request as proof of authorization.
9. The permittee or permittee's representative may not assign, contract, or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily. However, the AO may approve contracting of equipment or services in advance, if necessary to supplement a permittee's operations. Such contracting should not constitute more than half the required equipment or services for any one trip and the permittee must retain operational control of the permitted activity. If equipment or services are contracted, the permittee shall continue to be responsible for compliance with all stipulations and conditions of the permit. This permit may not be reassigned or transferred by the permittee.

ATTACHMENT 1

Pollution Prevention and Reporting Stipulations for management of Wastewater, Solid Waste, and Spill Prevention and Response

Wastewater must be managed in accordance with Title 18 Alaska Administrative Code, Chapter 72, (18 AAC 72) Wastewater Disposal. Wastewater is defined as Human Waste (sewage), and Gray Water (water which has been used for personal hygiene, washing clothing, tools, equipment, or sanitizing cooking and eating materials). If the standards for Pit Privies (Outhouse) found at 18 AAC 72.030 (extract at Attachment 2) cannot be met, all wastewater must be collected (in a portable toilet for example) and transported to a state approved disposal facility. Upon closure of a site the Pit Privy(s) must be limed and completely back-filled with the surface area covered and re-graded to approximate original appearance. Pit Privies must be authorized by the BLM in advance and identified within their submitted Operating Plan.

Non-Hazardous Solid Waste (trash/refuse) may be burned in pits. All unburned/unburnable trash/refuse will be back hauled from the area and disposed in an approved waste disposal site. All fire pits must be removed or destroyed after use. Trash/refuse will not be disposed of in a Pit Privy. Food waste and human waste should be disposed of daily to reduce conflicts with wildlife which may be attracted.

Hazardous Waste will be back hauled from the area and properly disposed by the generator at the end of each year a permit is in effect. Hazardous wastes are defined by the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Hazardous wastes include, but are not limited to; fuel, oils and grease, compressed gas cylinders (propane, butane, aerosol cans, etc.), batteries, insect repellants/pesticides, ammunition, and residues of spills of any of the above.

Fuel, oil, or hazardous substance storage containers will be stored a minimum of 150 feet away from the ordinary high water mark of any water body. Containers with a total combined capacity of 110 gallons must be stored within an impermeable diked area or portable impermeable structure capable of containing 110 percent capacity of the largest independent container. Accumulated rain/snow melt water must be properly removed periodically to ensure the containment structure's capacity remains adequate at all times. All containers must be clearly marked with the contents and owner's name.

Spills/releases to the environment of fuel, oil, or hazardous substances will be responded to and cleaned-up immediately. Adequate spill response/cleanup materials such as absorbent pads, shovels, and heavy gauge plastic bags or containers will be available and on-hand at each location where fuels/oil are stored or used. Persons who are expected to respond to spills of oil or hazardous substances must be properly trained in accordance with the standards prescribed in Code of Federal Regulations 29, Part 1910.120(q). No dumping of fuel in pits on public land is authorized or tolerated. Spills of fuel/oil or any hazardous substance will be reported to the BLM, and the Alaska Department of Environmental Conservation as required by Title 18 Alaska Administrative Code, Chapter 75; Oil & Hazardous Substances Pollution Control. Specific direction on reportable quantities and time allowances is found at 18 AAC 75.300, Discharge Release Notification; Release Reporting (extract at Attachment 2).

ATTACHMENT 2

TITLE 18 ALASKA ADMINISTRATIVE CODE

CHAPTER 72 -- WASTEWATER DISPOSAL (EXTRACT)

18 AAC 72.030. PIT PRIVIES. Pit privies must meet the separation distance requirements in 18 AAC 72.020. A person may not dispose of gray water in a pit privy. (Eff.4/1/99, Register 149)

18 AAC 72.020. SEPARATION DISTANCES

(b) The minimum separation distance between the mean annual high water level of a lake, river, stream, spring, or slough, or the mean higher high water level of coastal waters, and a lift station, holding tank, septic tank, soil absorption system, seepage pit, pit privy, or other wastewater collection, treatment, or disposal system is 100 feet, measured horizontally.

(i) A person may not install a pit privy in an area subject to flooding. The vertical separation between the lowest point of a pit privy and the water table, measured during the season of the year with maximum water table elevation, must be at least four feet.

TITLE 18 ALASKA ADMINISTRATIVE CODE

CHAPTER 75 -- OIL & HAZARDOUS SUBSTANCES POLLUTION CONTROL (EXTRACT)

18 AAC 75.300. DISCHARGE OR RELEASE NOTIFICATION; REPORTING REQUIREMENTS.

(a) Subject to (b) of this section, a person in charge of a facility or operation shall notify the department by telephone, and immediately afterwards send the department a written notice by facsimile, hand delivery, or first class mail, informing the department about a discharge or release of a hazardous substance at or from the facility or operation as follows:

(1) as soon as the person has knowledge of a

(A) discharge or release of a hazardous substance other than oil;

(B) discharge or release of oil to water; or

(C) discharge or release, including a cumulative discharge or release, of oil in excess of 55 gallons solely to land outside an impermeable secondary containment area or structure; and

(2) within 48 hours after the person has knowledge of a discharge or release, including a cumulative discharge, of oil solely to land

(A) in excess of 10 gallons, but 55 gallons or less; or

(B) in excess of 55 gallons, if the discharge or release is the result of the escape or release of oil from its original storage tank, pipeline, or other immediate container into an impermeable secondary containment area or structure.

- (b) A person in charge of a facility or operation shall maintain, and provide to the department monthly, a written record of each discharge or release, including a cumulative discharge or release, of one gallon to 10 gallons of oil solely to land.
- (c) If a person in charge of a facility or operation has entered into an agreement with the department, as provided under AS 46.03.755(b) or AS 46.09.010(b), for the periodic reporting of a discharge or release of a hazardous substance, the terms of the agreement replace the applicable requirements of this section for the hazardous substance.
- (d) After receiving notice of a discharge or release under (a) of this section, and until containment and cleanup are completed, the department will require interim reports as the department considers necessary to ascertain any threat to human health, safety, or welfare, or to the environment.
- (e) Unless the department determines that a written report is not needed for the department to ascertain any threat to human health, safety, or welfare, or to the environment, a written report must be submitted to the department within 15 days after containment and cleanup are completed or, if no cleanup occurs, within 15 days after the discharge or release. The report must be submitted to the department's Anchorage, Fairbanks, or Juneau office, whichever is nearest to the location of the discharge, unless the department specifies otherwise. The report must contain the information specified in (f) of this section.
- (f) A report, record, or notification required by this section must contain, as applicable,
- (1) the date and time of the discharge or release;
 - (2) the location of the discharge or release;
 - (3) the name of the facility or operation;
 - (4) the name, mailing address, and telephone number of
 - (A) each responsible person; and
 - (B) the owner and the operator of the facility or operation;
 - (5) the type and amount of each hazardous substance discharged or released;
 - (6) factors that caused or contributed to the discharge or release;
 - (7) a description of any environmental effects of the discharge or release, or the containment and cleanup, to the extent those effects can be identified;
 - (8) a description of the containment or cleanup action taken;
 - (9) the estimated amount of
 - (A) hazardous substance cleaned up; and
 - (B) hazardous waste generated;
 - (10) the date and method of disposal or treatment of the hazardous substance, contaminated equipment, contaminated materials, contaminated soil, and contaminated water;
 - (11) a description of actions being taken to prevent another discharge or release; and

(12) other information that the department requires to fully assess the cause and impact of the discharge or release, including any sampling reports and a description and estimate of any remaining contamination.

Note: Spills required to be reported to the State of Alaska must also be reported to BLM.