

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

Anchorage Field Office
4700 BLM Road
Anchorage, Alaska 99507
(907) 267-1246

Land Use Permit Authorization

Applicant: Charles Reader
Case File Number: AA-093182
DOI-BLM-AK-A010-2012-0014-CX

DECISION RECORD

1. Decision

It is my decision to authorize a three-year permit to Charles Reader to operate the Safety Sound Roadhouse. Applicable permit stipulations are attached.

2. Proposed Action

The proposed action is to authorize a permit to operate the Safety Sound Roadhouse for a three-year period. The application was filed under the authority of Title III of the Federal Land Policy Management Act of October 21, 1976, as amended (90 Stat. 2762; 43 U.S.C. 1732).

3. Rationale for the Decision

The rationale for the decision is based on the limited environmental impacts associated with the permit resolving an unauthorized use on federal public lands. The permit also allows for public services in a remote area.

The proposed action is in conformance with Kobuk-Seward Peninsula Resource Management Plan, September 2008. The proposed action will not significantly restrict Federal subsistence uses, decrease the abundance of Federal subsistence resources, alter the distribution of Federal subsistence resources, or limit Federal subsistence user access from currently existing conditions. No further analysis is necessary at this time.

4. 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, nor reasonably foreseeable limitations on harvester access will result from the proposed action.

5. 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.

6. Lands with Wilderness Characteristics

The project area has been reviewed for the following Wilderness Characteristics and found to not contain one or more of the characteristics:

- 1) Size-roadless areas of over 5,000 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.

7. Consultation and Coordination

Internal scoping was conducted by AFO staff and included threatened and endangered species and cultural clearances and an Alaska National Interest Lands Conservation Act (ANILCA) Section 810 analysis. The CX was posted on the Anchorage Field Office NEPA website for public review for one week prior to the issuance of this Decision Record.

8. Compliance and Monitoring Plan

Compliance and monitoring of this authorization will be conducted by the BLM Anchorage Field Office.

9. Appeal Procedures

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR § 4. To appeal you must file a notice of appeal at the BLM Anchorage Field Office, 4700 BLM Road, Anchorage, Alaska 99507, within 30 days from receipt of this decision. The appeal must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the Anchorage Field Office as noted above. *The BLM does not*

accept appeals by facsimile or email. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR § 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards: (a) The relative harm to the parties if the stay is granted or denied, (b) The likelihood of the appellant's success on the merits, (c) The likelihood of immediate and irreparable harm if the stay is not granted, and (d) Whether the public interest favors granting the stay.

Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Office of the Solicitor (see 43 CFR § 4.413); Office of the Regional Solicitor, Alaska Region, U.S. Department of the Interior, 4230 University Drive, Suite 300, Anchorage, Alaska 99508; at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

/s/ James M. Fincher
James M. Fincher
Anchorage Field Manager

06/29/2012
Date

Attachments: Categorical Exclusion Documentation with Permit Stipulations

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CATEGORICAL EXCLUSION

A. Background

BLM Office: Anchorage Field Office

Case File No: AA-093182

Environmental Document No.: DOI-BLM-AK-A010-2012-0014-CX

Applicant: Charles Reader

Proposed Action: The Bureau of Land Management (BLM) would authorize a short-term permit for three (3) years to resolve an unauthorized occupancy on BLM managed lands within N/W 1/4 Section 7, T. 12 S., R. 30 W., Kateel River Meridian, Alaska. The application was filed under the authority of Title III of the Federal Land Policy Management Act of October 21, 1976, as amended (90 Stat. 2762; 43 U.S.C. 1732). The applicant (Charles Reader) is the owner of the Safety Sound Roadhouse, the last check point on the Iditarod National Historic Trail. Mr. Reader believed that the Safety Sound Roadhouse was located on a Native Allotment. Field research conducted by BLM indicates that the Safety Sound Roadhouse is actually on BLM managed lands (State Selected) and is currently unauthorized.

Location: The Safety Sound Roadhouse is located on the shore line of Safety Sound, approximately 21 miles east of Nome, Alaska. The Nome Council Highway provides access to the property; the Safety Sound Roadhouse is located on the south side of the Nome Council Highway. The Safety Sound Roadhouse is located on the following public lands:

N/W 1/4 Section 7, T. 12 S., R. 30 W., Kateel River Meridian, Alaska

Additional Information: The applicant's brother, Donald John Reader purchased the Safety Sound Roadhouse in the late 1950s. Upon the death of Donald Reader, Charles Reader became the sole heir to his estate.

The Safety Sound Roadhouse has been operating as a Roadhouse and bar by Charles Reader for decades. The original structure burned in the mid-1980s and was replaced by the current structure. Operations (tavern) are generally limited to the summer months (June –October) and for brief periods during the Iditarod Dog Sled Race. Mr. Charles Reader believed that the Safety Sound Roadhouse was located on a Native Allotment located just east of the Safety Sound Roadhouse (U.S. Survey 480 Certificate of Allotment 11/20/1964). In 2005, the Native Allotment heirs disputed Mr. Reader’s claim of use of the Native Allotment and a survey performed by Kawerak Incorporated, on behalf of the heirs of the Native Allotment owner, showed some discrepancy in the Safety Sound Roadhouse location. BLM performed additional surveys to reestablish U.S. Survey 480 and it was shown that the Safety Sound Roadhouse was on BLM lands.

The applicant filed for a Color-of-Title Claim which was denied by the State Director of BLM on December 14, 2011. The applicant was informed of BLM’s desire to seek a direct sale of the land encompassed by the Safety Sound Roadhouse and to enter a short-term land authorization until procedural steps could be accomplished to sell the property. These procedural steps include State of Alaska land selection relinquishment, survey, appraisal, payment, and publication of a Notice of Realty Action.

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

Applicable Land Use Plan: Kobuk-Seward Peninsula Resource Management Plan, September 2008

The proposed action is in conformance per section H-2-a 5 which addresses unauthorized occupancy:

- When trespass structures are involved, the structures may become property of the U.S. Government and be managed as administrative sites, as emergency shelters, or as public use cabins. Possible management actions on trespass structures include:
- a. Removal of structure
 - b. Relinquishment to the United States for management purposes
 - c. Authorization by lease or permit for legitimate uses if consistent with identified area goals and objectives.

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, and the BLM NEPA Handbook H-1790-1, Appendix 4 p. 151 which provides:

Realty E-20. One-time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and 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 apply to individual actions. Departmental instructions mandate that environmental documents must be prepared for actions which may:

1. Have significant adverse impacts on public health or safety.
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.
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
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.
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.
9. Violate Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
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).
12. Contribute to the introduction, continued existence, or spread of weeds or non-native invasive species known to occur in the area or 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).

This categorical exclusion is appropriate because there are no extraordinary circumstances 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. 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.

Appropriate mitigation measures and stipulations are attached.

Authorized Official: /s/ James M. Fincher Date: 06/29/2012
James M. Fincher
Anchorage Field Manager

Stipulations for Land Use Permit AA-093182, Charles Reader

- A. The permit holder will comply with all regulations in 43 CFR §2920;
- B. Non-Hazardous Solid Waste (trash/refuse) will be back hauled from the area and disposed in an approved waste disposal site;
- C. Fuel Handling and Storage: Fuel shall be stored at least 150 feet from surface waters. Fuel and other petroleum products and hazardous materials shall be stored in containers designed to hold that product, identified with the owner's name, the contents and date of purchase (e.g. Charles Reader, Gasoline, 2012). All fuel spills will be cleaned up immediately, taking precedence over all other matters, except the health and safety of personnel. Spills will be cleaned up utilizing absorbent pads or other Alaska State DEC approved methods. Fuel storage in excess of 55 gallons and/or fuel storage containers that are situated where a spill may reach a water body or watercourse requires secondary containment. Secondary containment is defined as a diked, impermeable impoundment capable of containing 110 percent of the volume of the largest independent container. As soon as possible, but not later than 24 hours, notice of any such discharge as defined in Alaska Statute Title 18, Chapter 75, Article 2, will be given to: The Authorized Officer at 1-800-478-1263. Such other Federal and State officials as are required by law to be given such notice including Alaska Department of Environmental Conservation at (907) 478-9300;
- D. All operations shall be conducted in such a manner as to avoid damage or disturbance to any prehistoric or historic sites or modern camp sites. The Archaeological Resource Protection Act prohibits the excavation, removal, damage, or disturbance of any archaeological resource located on public lands. Violation of this law could result in the imposition of both civil and criminal penalties of the violator. Should any historic or prehistoric site be located during the course of operations under this Right of Way Grant, the applicant shall immediately cease activities and notify the BLM authorized officer. If in connection with operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the permit holder shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. The permit holder shall continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.
- E. No hazardous materials will be used or stored at the site;
- F. The permit holder assumes all risk of loss to the authorized improvements;
- G. The permit holder must comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Control, and Liability

Act, 42 U.S. C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation, and maintenance of any facility, improvement, or equipment on the property;

- H. The permit holder must indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the permit holder's use or occupancy of the property. The permit holder's indemnification of the United States must include any loss by personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of the permit. Indemnification must include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs. This paragraph survives the termination or revocation of the permit, regardless of cause;
- I. The United States has no duty, either before or during the lease term, to inspect the property or to warn of hazards and, if the United States inspects the property, it will incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This paragraph survives the termination or revocation of the permit, regardless of cause. The permit holder has an affirmative duty to protect from damage the land, property, and interests of the United States;
- J. Non-Native Invasive Plant Prevention and Mitigation
- All vehicles, transport equipment used in access, construction, maintenance and operations of project must be thoroughly cleaned prior to moving equipment across or onto BLM managed lands. Washing and/or brushing equipment to remove material that can contain weed seeds or other propagates helps to insure equipment that is being transported across or onto BLM managed lands are weed and weed seed free. High pressure washing is recommended to treat the insides of bumpers, wheel wells, undercarriages, inside belly plates, excavating blades, buckets, tracks, rollers, drills, buckets, shovels, any digging tools, etc., to remove potential weeds, seeds, and soil carrying weed propagules, and vegetative material.
 - Early detection, rapid response mitigates ecological damage from invasive species. Should a development or occupancy and use have invasive plant infestations prior to development or use, proponents must confer with the land administrator to develop an invasive plant treatment plan to eliminate and/or prevent the propagation of the species.
 - Site reclamation must be implemented as soon as possible after construction using the original duff layer. This original duff layer is to be removed and set aside upon initial site disturbance, and replaced on disturbed areas in lieu of revegetation with non-local materials.
 - Certified weed-free mulch, hay or straw is required in areas needing mulch. Sources for weed free mulch can be found by calling the Plant materials Center: 907-745-4469. Revegetation Guidance can be found at: http://www.dnr.state.ak/ag/pmcweb/PMC_reveg

- For questions concerning invasive species prevention and mitigation, please contact: Laurie Thorpe, Anchorage Field Office, Natural Resource Specialist, 907-267-1208, lthorpe@blm.gov.

- The following websites may be useful to consult:

Homer Soil and Water Conservation District

<http://www.homerswcd.org/invasives/invasivepg.htm>

US Department of Agriculture & Alaska Natural Heritage Program

<http://akweeds.uaa.alaska.edu/>

USDA Natural Resources Conservation Service

<http://plants.usda.gov/java/noxiousDriver>

US Fish and Wildlife Service

<http://www.fws.gov/invasives/>

Alaska committee for Noxious and Invasive Plants Management

<http://www.uaf.edu/ces/cnipm/>