

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER  
SOUTHCENTRAL REGION LAND OFFICE

SEAN PARNELL, GOVERNOR

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ANCHORAGE, ALASKA 99501-3577  
PHONE: (907) 269-8503  
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September 30, 2010

Kasilof Regional Historical Association  
Attn: Brent Johnson  
20773 Porcupine Lane  
Clam Gulch, AK 99568

Re: Kasilof Regional Historical Association Decision  
LAS 27627

Dear Mr. Johnson,

Enclosed is a copy of the signed Memorandum of Decision for the construction of a fence from the terminus of Cohoe Beach Road to the mouth of the Kasilof River. Once permit documents are complete with stipulations they will be sent to you for review and signature.

Information and the draft decision on the Kasilof River Special Use Area (KARSUA) ADL 230992 can be found at the following website <http://dnr.alaska.gov/mlw/kasilof/>. Please contact Adam Smith at 269-8557 or Ray Keough at 269-8566 if you have any questions about the KARSUA.

Please let me know if you have any questions or concerns on the Kasilof fence Memorandum of Decision I can be reached at 334-2683 or via email at [christianna.colles@alaska.gov](mailto:christianna.colles@alaska.gov).

Sincerely,



Christy Colles  
Natural Resource Specialist

Enclosure: LAS 27627 Memorandum of Decision  
Distribution List

*"Develop, Conserve and Enhance Natural Resources for Present and Future Alaskans"*

**Distribution List**  
**Memorandum of Decision LAS 27627**

Via email:

Adam Smith, DNR  
Al Burton, DOT  
Amy Seitz, LAA  
Bill Stoltze, LAA  
Carl High, DOT  
Charles Swanton, DFG  
Clark Cox, DNR  
Clifford Larson, DNR  
Cora Campbell, EXE  
Dane Gilmore, AST  
Virginia Litchfield, ADFG  
Ellen Simpson, ADFG  
Paul McConnell, AST  
Frances Roche, DEC  
Nancy Sonafrank, DEC  
Sean Palmer, DEC  
William Ashton, DEC  
Marla Carter, ADFG  
Robert Begich, ADFG  
Jack Sinclair, DNR  
James King, DNR  
Kellie Westphal, DNR  
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Raymond Keough, DNR  
Richard Mylius, DNR  
Richard Thompson, DNR  
Wyn Menefee, DNR  
Shauna McMahon, DNR  
Samantha Carroll, DNR  
Commissioner  
Tracie Krauthoefer, DNR  
Harvey Smith, DOT  
Lance Wilber, DOT  
Linda Markham, DOT  
Ruth Carter, DOT  
Scott Thomas, DOT  
Matthew LaCroix, EPA  
Phil North, EPA  
Erin Williams, FWS  
Lynnda Kahn, FWS  
Frances Mann, FWS  
Konrad Jackson, LAA  
Kurt Olson, Representative  
Mark Newman,  
Representative  
Mike Chenault,  
Representative  
Tom Wagoner, Senator  
Tom Wright, LAA  
Frankie Barker, Matsu-  
Borough  
John Olson, NOAA  
Glen Yankus, NPS  
Paul Hunter, NPS  
Marcia Menefee, TLO  
Victor Appolloni, TLO  
Spangler, UFS  
Michael Dombkowski, USCG  
Joe Meade, USFS

Mark Huber, Alaska Fly Fishers  
Alaska Inter-Tribal Council  
Bald Mountain Air  
Bob Frates, City of Kenai  
Mayor Peter Micciche, City of  
Soldotna  
Dan Nelson, Kenai Borough  
Gary Williams, Kenai Borough  
Jane Gabler, Kenai Borough  
Sue Wilcox, Kenai Borough  
Dwight Kramer, Kenai Fisherman  
Coalition  
David Carey, Kenai Borough  
Shanon Hamrick, Kenai Peninsula  
Tourism Marketing  
Ricky Gease, Kenai River  
Sportfishing  
Robert Ruffner, Kenai Watershed  
Forum  
Bruce Knowles, Mayor's Blue  
Ribbon Sportsmen's Committee  
Anthony Lopez  
Bob Shavelson  
Bud & Sammy Crawford  
Catherine Cassidy  
Cynthia Smith  
Dave & Mary Goggia  
David Johnson  
Dawn Fry  
Donna Rea  
Erik Huebsch  
Frank Mullen  
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Geraldynn Ransom  
Glenn Godfrey  
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Kathy Clark  
Kellie Kelso  
Ken Federico  
Kenneth Tarbox  
Leslie Boyd  
Linda McLane  
Loren Flagg  
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Mark Chryson  
Melinda Hampton  
Merlyn Paine  
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Paul Turner  
Phil Cutler  
Phil Morin  
Ralph Vadusseldrop  
Richard Kelso  
Rob Levenhagen  
Robert McCard  
Roland Maw  
Sandra & Jerrold  
Matthews  
Stephen Darilek  
Steve Rasmussen  
Sue Pagenkopf  
Susan Chuhuly  
Tom Mortensen

Via mail:

Anadromous Resources  
LLC  
Cook Inlet Region Inc.  
Hermansen Enterprises  
Inc.  
Ocean Beauty Seafoods  
LLC  
University of Alaska  
David Athons  
James Rhode  
Kathleen Fisher  
Kristy McCullough  
Mike Crawford  
Randy Vasko  
David Syre

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND AND WATER

**Memorandum of Decision**  
**Land Use Permit**  
**Kasilof Regional Historical Association**  
**LAS 27627**

**Proposed Action**

The Kasilof Regional Historical Association (KRHA) has proposed to erect a permanent fence on State lands 25 feet landward from the mean high water (MHW) line beginning at the end of the guard rail at the terminus of Cohoe Beach Road to the mouth of the Kasilof River approximate length of 5,500 feet. The intent of the fence is to restrict vehicular access landward of the fence to promote beach grass growth, reduce vehicular impacts to wetlands, and protect nesting habitat for birds.

**Authority**

This land use permit is being adjudicated pursuant to AS 38.05.850 (Permits), 11 AAC 96 (Miscellaneous Land Use), applicable regulations, and is consistent with the management intent of the Kenai Area Plan.

**Administrative Record**

The administrative record for this action consists of LAS 27627.

**Location**

**Geographic:** Located on the Kenai Peninsula on the south beach of the Kasilof River.

**USGS Map Coverage:** Kenai (B-4)

**Legal Description:** An area approximately 5,500 feet in length located within Section 2, Township 3 North, Range 12 West and Section 35, Township 4 North, Range 12 West of the Seward Meridian.

**Borough/Municipality:** The subject lands are located within the Kenai Peninsula Borough.

**Classification:** Kenai Area Plan (KAP), January 7, 2000; Region 6 (Kasilof River Drainage). The area plan designates this area as habitat, recreation and tourism. Please see the "Background" section for more information on the site specific plan.

**Alaska Coastal District:** This project is located within the Kenai Peninsula Coastal Management Zone.

**Regional/Village Corporation:** Cook Inlet Region Native Corporation

## **Title**

The State received patent (#1232767) for Section 35, Township 4 North, Range 12 West of the Seward Meridian under general grant GS 9. The patent was issued on July 31, 1963.

The State received patent (#50-65-0425) for Section 2, Township 3 North, Range 12 West of the Seward Meridian MH 138. The patent was issued February 1, 1965.

## **Background**

Accessible from both Cohoe and Kalifornsky Beach Roads, this area offers a wide variety of outdoor recreational opportunities including fishing, camping, picnicking, and beach combing. The Kasilof River is the second largest salmon producer in the borough. Salmon stocks utilize the Kasilof River during their run to Tustumena Lake and upstream spawning and rearing areas. The dunes and wetlands intended to be protected by the proposed action are important in maintaining water quality, nutrient enrichment and natural retention of flood waters and are prime habitat for waterfowl and moose. Personal use set gillnet and dip net fisheries occur annually on both sides of the Kasilof River mouth for approximately eight weeks each summer. The adjacent uplands have ample well-drained areas for the development of campgrounds with excellent beach resources for recreation.

The State of Alaska Department of Fish and Game, Habitat and Restoration Division produced a map of the Cook Inlet area depicting the habitat areas with waterfowl concentrations. The majority of the Kasilof River has high concentration of waterfowl inhabiting the area in spring (mid April – mid May) and fall (August – November). Waterfowl include dabbling ducks, Canada goose, white-fronted goose, snow goose, tundra swan, and trumpeter swan. The Kasilof is specifically mentioned as an important area during the spring migration.

Dip netting tips found in the 2010 Alaska Department of Fish and Game Sport Regulations Summary, pg.16 requests users of the South Central Alaska personal use finfish fisheries to stay off the dunes and to drive below the mean high water mark. Specifically it states, "Do not camp, walk, drive cars or 4-wheelers, or otherwise disturb the fragile dunes. Foot access is only through established footpaths, and walkways. The vegetation anchors the dunes, which in turn anchor the river beds. The dunes help prevent flooding and erosion and provide habitat for birds and animals." The Alaska Department of Fish and Game (ADF&G) has, for several years, posted the site with signs asking users to keep motorized vehicles off the dunes. ADF&G recognizes the dunes and associated wetlands as an important feature of the area's fish and game habitat regime, and have long sought voluntary cooperation from users to limit adverse impacts to those habitat resources. ADF&G, nor the ADNR, has appropriate authority to enforce those rules; consequently those suggestions have been largely ignored by the recreating public thereby producing unwanted and unacceptable impacts to the dune grasses and wetland communities.

In years past, members of the local community have requested the Department of Natural Resources to work towards a plan to protect the beaches and habitat in this highly popular area. Due to the road accessible location of the fisheries many visitors access the mouth of the river by driving a variety of motorized vehicles either on the

beach or along upland routes. A community meeting was hosted by the Kasilof Historical Association last April to discuss possible dune fencing options. Community members voted to support the Kasilof Historical Association's land use permit proposal to erect a fence from the end of Cohoe Beach Road to the mouth of the Kasilof River to direct all traffic onto and along the beach.

The land use permit application submitted by the Kasilof Historical Association proposed a fence consisting of either cement, wooden, or steel posts buried to a depth of about 4 ½ feet. The posts would be supported with two runs of <sup>3</sup>/<sub>8</sub> inch galvanized chain. The lower chain would be about 24 inches high and the upper chain about 40 inches high. The proposed fence would begin at the terminus of the Cohoe Beach Road, connecting with the existing guardrail. A gate was proposed near the entrance of the upland routes for authorized vehicle access only. The fence would be located 25 feet landward from the mean high tide mark and continue towards the mouth of the Kasilof River, terminating at a prominent tidal slough. Large rocks with an average diameter of between 3 to 6 feet were also proposed to be placed along the fence line and temporary fencing was proposed to keep vehicle traffic along designated routes during construction of the long term fence. Upon completion of the long term fence construction, the temporary fence would be removed and public access would be via the beach below the vegetative line.

The project is located within the Alaska Coastal Zone and required a single agency review for the Alaska Coastal Management Program (ACMP). A concurrent courtesy public and agency review was conducted by the Division of Mining, Land and Water (DMLW). The reviews began on May 28, 2010 and comments for ACMP concurrence were due June 13, 2010. No comments of inconsistency were received for the ACMP review and the project was found consistent on June 28, 2010. Comments for the DMLW review were due by 5:00 pm June 28, 2010. A total of nine comments were received by the public and agency representatives. Some members of the public requested the fence be placed further upland along an existing trails used by many users of the area. Comments noted the fence would still help to protect the majority of the dunes and all of the wetlands while still allowing safe passage of vehicles to the mouth of the river. After reviewing the comments submitted and further discussion with the applicant and interested members of the public, the DMLW decided to extend the agency and public comment period for an additional 14 days. The extended public comment began July 23, 2010 and ended 5:00 pm August 5, 2010. An additional forty-seven comments were received during the extended review period.

### **Agency Review and Public Notice**

A courtesy review notice was sent by email on May 27, 2010 and July 23, 2010 to the following agencies Alaska Department of Fish and Game, Department of Environmental Conservation, Kenai Peninsula Coastal District Coordinator, Department of Natural Resources, Division of Parks and Outdoor Recreation, Office of History and Archeology, Department of Transportation, Kenai River Center, United States Coast Guard, Mental Health Land Trust Office, as well as local government, non-profit associations, and all noted interested individuals. Public Notices were posted at the Kasilof, Kenai, and Soldotna Post Offices. The public notice was also published in The Anchorage Daily News and The Peninsula Clarion.

A total of 56 comments were received with the combined public notices from members of the public and agency representatives. All comments were reviewed and considered. They are summarized, with responses, as follows:

***A Fence will Protect Habitat:*** A majority of those commenting support the goal of protecting the dunes and wetlands area, and believe that positive results in that regard will be achieved through placement of a fence along the beach. However, a few of those supporting the fence based that support on the state retaining at least one upland route, on an existing trail, from the end of Cohoe Beach Road to the mouth of the river. Reliability and personal safety were cited as reasons for this condition.

***Response:*** The state lands of most immediate concern to the applicant are managed under Generally Allowed Uses as provided in 11 AAC 96.020. Generally Allowed Uses authorize the use of certain vehicles on state land. Specifically this regulation authorizes the following, "Using a highway vehicle with a curb weight of up to 10,000 pounds, including a four-wheel-drive vehicle and a pickup truck, or using a recreation-type vehicle off-road or all-terrain vehicle with a curb weight of up to 1,500 pounds, including a snowmobile (or other tracked vehicle), motorcycle or ATV, on or off an established road easement, if use off the road easement does not cause or contribute to water quality degradation, alteration of drainage systems, significant rutting, ground disturbance, or thermal erosion."

What this means is that these state owned lands are open to the free use and enjoyment of the public, according to the rules prescribed by regulation 11 AAC 96.020.

An authorization of the fence would represent a "first step" effort to reduce the impacts of repeated vehicular traffic on the dunes and associated wetland areas, but would not change or alter the present rules applying to the area under 11AAC 96.020. In other words, placement of a fence along the beach, effectively isolating the dunes area from the beach area, will impede and discourage vehicular traffic on the dunes, but vehicular traffic on the dunes will still be allowed under provisions of 11AAC 96.020.

The Generally Allowed Use management structure provides that if allowed activities cause damage or other negative resource impacts (such as those listed in the above quote from the regulation) then that particular activity in the affected area would require a Land Use Permit in order to continue. The purpose of this step is to allow regional land managers the opportunity to address the resource impact concerns through stipulations attached to any permit issued which would, hopefully, reverse the negative impacts. However, implementing a permit system to achieve resource management goals in the vicinity of the mouth of the Kasilof River would create an administrative burden the regional land office in Anchorage is not prepared to meet.

So, placement of a fence as proposed will help protect the dunes and associated wetlands by discouraging vehicular traffic to and from the dunes area to the beach. However, to achieve a higher level of resource protection for the dunes, the DMLW will need to consider modifying, through a separate public process, the current generally allowed use regulations. The DMLW is in fact presently undertaking such an exercise by considering creation of a Special Use Area (SUA). This effort is being conducted independent of, but concurrent with this fencing permit decision. Achievement of the resource protection goals sought by the applicant in this permit application, and voiced by many individuals and groups among the general public, may be realized interactively through both of these decision processes. The SUA decision will be available for public

review in the near future, and public meetings will be scheduled to discuss management options.

The request to retain and provide at least one upland access route from the end of Cohoe Beach Road to the mouth of the Kasilof River seems reasonable. Such a trail is already in existence and would not lead to further negative impacts to the dunes. If an upland access trail is in fact retained, DMLW would be able to locate and service portable toilets and trash receptacles at the mouth of the river, where they are sorely needed. Having at least one alternative access route available would increase the margin of safety for the public, by providing emergency vehicle access, and without increasing the negative impacts to the dunes.

***Beach and Upland Access Concerns:*** While there is widespread support for protecting the integrity and productivity of the dunes and associated wetlands, some commenter's registered concerns over the loss of their ability to safely access the mouth of the river across traditional access routes and the ability to camp on the dune grasses closest to the beach. Others argued that placing the fence on the upland side of the existing trail closest to the beach would fracture the habitat and diminish the effect of a fence with respect to achieving an acceptable level of protection.

***Response:*** The matter of fence placement was given a lot of consideration in this adjudication process. There is pretty much overwhelming support for taking some sort of management action to protect the dunes and associated wetlands. DMLW is in agreement with the prevailing sentiment. However, there are many options for creating administrative protection levels that will produce acceptable results. Placing a physical barrier somewhere on or adjacent to the dunes is a good first step, but it is likely that a combination of actions will produce the best results. Since this land is managed under the principles of multiple-use, our challenge is to consider and select the appropriate mix of management actions that will best serve the interests of the recreating public as well as adequately address our resource management needs.

DMLW obtained aerial photos of the area starting in 1963. Those photos confirm the existence of an "upland" trail, located approximately in the same place as the current access from the end of Cohoe Beach Road to the river's mouth, some 30' to 50' inland from the dune grass – beach interface. This trail is considered to be a traditional source of physical access from the road to the river, running essentially parallel to the beach.

DMLW also solicited the opinion of a Department of Transportation Coastal Engineer who, in a brief prima facie analysis, has opined that the beach area near the mouth of the river, particularly the south side, is in pretty good shape. Sediment deposition from the northward moving currents of Cook Inlet and the Kasilof River itself are keeping the beach in an apparent state of equilibrium. Essentially the beach is healthy and the threat of erosion on the leading edge of the dunes is typical for a beach with this profile. There appears to be no obvious problem related to erosional forces along the dune/beach interface.

Stony Wright, manager of the Division of Agriculture's Plant Material Center in Palmer offered insight as to the possibility of regenerating beach Rye Grass in areas where it has been impacted or removed from intense human use. Essentially with volunteer labor to plant the grass, within 3 to 5 years the area can experience a significant re-growth of grass.

Placement of a physical barrier (the proposed fence, represented as a yellow and black checked line on the attached map) along the inland, or upland side of the existing trail (represented as a green line on the attached map) will discourage or impede all types of traffic on and across the dunes and associated wetlands. This physical barrier will create a higher level of protection for the habitat behind it, which totals approximately 200 acres. Presently that acreage does not benefit from special protection.

Placement of the fence, along with adequate signage and maintenance, is a positive first step in bringing order to the intense use of this area during its peak annual period and begins to provide protection to the dunes, dune grasses, and associated wetlands. This action will increase beach grass rehabilitation efforts as we reclaim areas that have been denuded of grasses due to repeated, intense use.

Other management actions currently being considered in the Kasilof River Special Use Area decision process are designed to complement and enhance the effects of erecting a fence under this decision. Taken together, placement of a fence on the dunes and creation of enforceable rules of public behavior are expected to create a management plan that will enable all visitors to the area to enjoy their experience while providing a very high level of protection for the enrichment of the dunes/wetlands habitat.

***Human Waste and Trash Concerns:*** Many members of the public are concerned with the human waste and trash polluting the beaches.

***Response:*** A fence can not address the waste or trash problems in the area. A fence will only partially address the negative impacts to the dune grasses caused by repeated traffic from motorized vehicles. Human waste and onsite trash conditions, although they are very serious, are beyond the scope of this permitting decision. As mentioned above, a Special Use Area is presently being considered and it is within the scope of that decision that human waste and trash issues will be addressed. A Special Use Area designation with the proper funding would allow DMLW to properly manage the ongoing waste problems that occur during the personal use fisheries season.

***Camping Concerns:*** Camping on the grassy dunes contributes to the destruction of the grasses and plants, therefore camping should only be allowed on the beach or at on off-site facility.

***Response:*** As mentioned above, state owned lands are managed under Generally Allowed uses as provided in 11 AAC 96.020, which states, "Setting up and using a camp for personal, non-commercial recreational purposes, or for any non-recreation purpose (such as a support camp during mineral exploration), for no more than 14 days at one site, using a tent platform or other temporary structure that can be dismantled and removed,..." is allowable without a permit. Camping is a generally allowed use if consistent with the above requirements

Depending upon the location of the proposed fence, traditional camping areas may be impeded or discouraged, but could still occur. Whether or not the existing regulation on camping is to be modified to help achieve the resource management goal for the dunes is within the scope of the Special Use Area discussion, and not within the scope of this decision.

**Funding Concerns:** The money spent on the fence should be put to better use by solving the real problems, which are the need for permanent sanitary facilities and trash receptacles.

**Response:** Funds were requested by the local community and appropriated from the legislature specifically to erect a fence in an attempt to protect the beach dunes and wetlands from vehicular use. With regard to sanitary facilities and trash receptacles, funding is necessary on an annual basis to cover costs of providing temporary facilities during the height of the personal use fishery at the mouth of the Kasilof. At the present time the cost to provide adequate facilities for the level of use experienced there is approximately \$40,000 per year. This year, that money was provided by the Alaska legislature, in addition to that which was appropriated for the fence project.

**Enforcement Concerns:** Enforcement is a huge problem. The laws that would be enforced are exactly what?

**Response:** The SCRO manages state land affected by this decision and handles violations of existing regulations, e.g., 11 AAC 96.020, using civil procedures. While it is possible to bring violators to justice, the civil procedures can take a long time, are relatively expensive, and are not efficient at addressing routine violations in real time. To be effective and achieve acceptable compliance levels with regulations, a bailable citation program must be established. Like a simple traffic violation, a bailable citation designed to back up SUA regulations allows for an immediate response to a violator and allows payment of a bail amount established and approved by the Alaska Supreme Court. Bailable citations are non-criminal and may be challenged in a court of competent jurisdiction.

Enforcement authority specific to the SUA would need to be granted to the Department of Natural Resources via the Alaska State Legislature, following this regulations and a bail schedule would be created. Addressing the enforcement problem is beyond the scope of this decision.

**Land Ownership:** The Trust Land Office (TLO) has a concern that the proposed fence location which according to the map, may be on Trust parcel SM-0479.

**Response:** On July 14, 2010 the Trust Land Office had a survey conducted for parcel SM-0479. The survey concluded the area in question was indeed TLO lands therefore the proposed fence would cross lands not managed by DMLW. The TLO manages lands to generate income, which is used to improve the lives and circumstance of Trust beneficiaries. When a parcel is found to not be of financial benefit to the TLO and its beneficiaries they can request a land swap for other desired parcels with higher income potential. On July 28, 2010 TLO requested a land swap of Parcel SM-0479 which was approved. The parcel is now managed as general state land by DMLW and can be included in the decision for the fence project.

### **Environmental Risk**

Environmental impacts are expected to me minimal; however the use of heavy equipment will be addressed through the permit. Permit stipulations will require that spill prevention techniques approved by the State Department of Environmental Conservation be employed to prevent hazardous fuel spills.

## **Discussion**

Many issues associated with social, environmental, and human health impacts have been identified in the area affected by this decision. The scope of this decision will be limited to the placement of a fence on state land in the area of the mouth of the Kasilof River. The stated intent of placing a fence on state land, as proposed, is to discourage the continued, uncontrolled, general use of the dunes by motorized vehicles so as to encourage the growth and rehabilitation of Beach Rye Grass in areas denuded by repeated vehicular traffic. It is important to note that as proposed, a fence, temporary or permanent, placed on state lands will in fact discourage vehicular traffic from entering the dunes from the beach, or entering the beach from the dunes. However, this decision will not attempt to change any land classification or use patterns in the area, nor will it deal with any of the many other issues that have been identified.

Creation and adoption of rules governing behavior of the general public on state lands can only be accomplished through two separate, independent public processes: creation of a Special Use Area whereby the issues are identified, possible solutions are presented, other agency review and comment is solicited, public review and comment is solicited, a final written decision is accomplished (this decision is administratively appealable), and the chosen solutions are implemented; rules created through the Special Use Area process must then be adopted as regulations under the Administrative Procedures Act process, which is also a public process with opportunity for public review and comment.

In a direct response to overwhelming public and agency concern over the current situation, i.e., impacts resulting from intense use of state land during the personal use fisheries seasons surrounding the mouth of the Kasilof River, the South Central Regional Land Office is processing a request to create a Special Use Area at the mouth of the Kasilof River at this time. The scope of the Special Use Area decision making process will be sufficiently broad to cover all the issues currently identified by users of the area and concerned agency personnel. This decision regarding placement of a fence on state land, and the Special Use Area decision are separate decisions that must be considered complementary in that they must work together to accomplish the same resource management goals.

## **Recommendation**

After careful consideration of traditional access and public safety issues, I recommend the fence to be placed upland of the existing trail, approximately 30' to 50' from the beach/dune grass interface. An estimated 4500' of fence may be constructed from a point generally beginning at the termination of the Cohoe Beach Road (at the beach), and ending in the vicinity of the outlet at the mouth of the Kasilof River as depicted on the attached Approved Fence Location Map. There will be two (or three) designated beach access trails along the course of this trail. I find this recommendation provides a significant increase in the level of protection for sensitive resources while providing the general public with two methods, including the beach, of reaching the mouth of the river, thereby elevating the general level of safety associated with traveling and recreating in the area.

The applicant proposed multiple options for the type of material to be used for the construction of the fence, i.e., rocks placed along the fence line, post material and

method of the fence placement. Once the KRHA has decided on specific material and the construction process DMLW will require the KRHA to submit a project description outlining the details concerning type of materials to be used, method of construction, type of equipment to be used, size and location of rocks to be placed along the fence line, and timeframe of construction for final approval. The project description will need to be updated and approved any time additional work is to take place on site.

There has been interest, as expressed by third parties through the applicant, in erecting a temporary fence prior to construction of the permanent fence. I believe the idea of a temporary fence or other fencing materials (including boulders) may be appropriate in certain locations along or adjacent to the approved fence location during the term of this authorization. Protection of beach grass seaward of the access roads may be accomplished in the future with additional fencing. The use of heavy equipment to transport and/or install fencing materials according to the approved project description is also approved by this decision.

**Permit Term**

Effective use date: May 1, 2011 through April 30, 2016

**Permit Fee**

Annual Use Fee: \$100 [11 AAC 05.010(e)(9)]

**Performance Guaranty**

Per 11 AAC 96.060 (Performance Guaranty) the applicant shall furnish security acceptable to the department which will be conditioned upon compliance with all terms of the permit. Using the performance guarantee matrix, the recommended performance guaranty is \$5000.

**Insurance**

Per 11 AAC 96.065 (Insurance) the permittee shall secure, and maintain in force during the term of the permit, insurance in the amount and type that the insurance broker determines necessary to protect the permittee and the state.

***Signature Page Follows***

In adjudicating a LUP permit, the SCRO seeks to facilitate development, conservation, and enhancement of state lands for present and future Alaskans, while minimizing disturbance to vegetative, hydraulic, and topographic characteristics of the area that may impair water quality and soil stability. This use will not adversely affect the State of Alaska's goals of conserving and enhancing natural resources for use by present and future Alaskans.

*Cheryl Collier*

File Adjudicator

*9/30/2010*

Date

I concur   
 I do not concur   
 I concur with modifications

**Decision:**

Based upon the information provided by the applicant, as well as public and agency comments, relevant planning documents, statutes, and regulations related to this application, it is the decision of the Alaska Department of Natural Resources, Division of Mining, Land and Water to authorize placement of a fence on state land, commonly known as the Kasilof River Dunes, to establish an increased level of protection for the sensitive habitat areas containing the dune grasses and wetlands to the south and east of the fence location.

*Richard B. Thompson*

Richard B. Thompson   
 Regional Manager   
 Southcentral Region   
 Division of Mining, Land & Water

*9/30/2010*

Date

**Appeals**

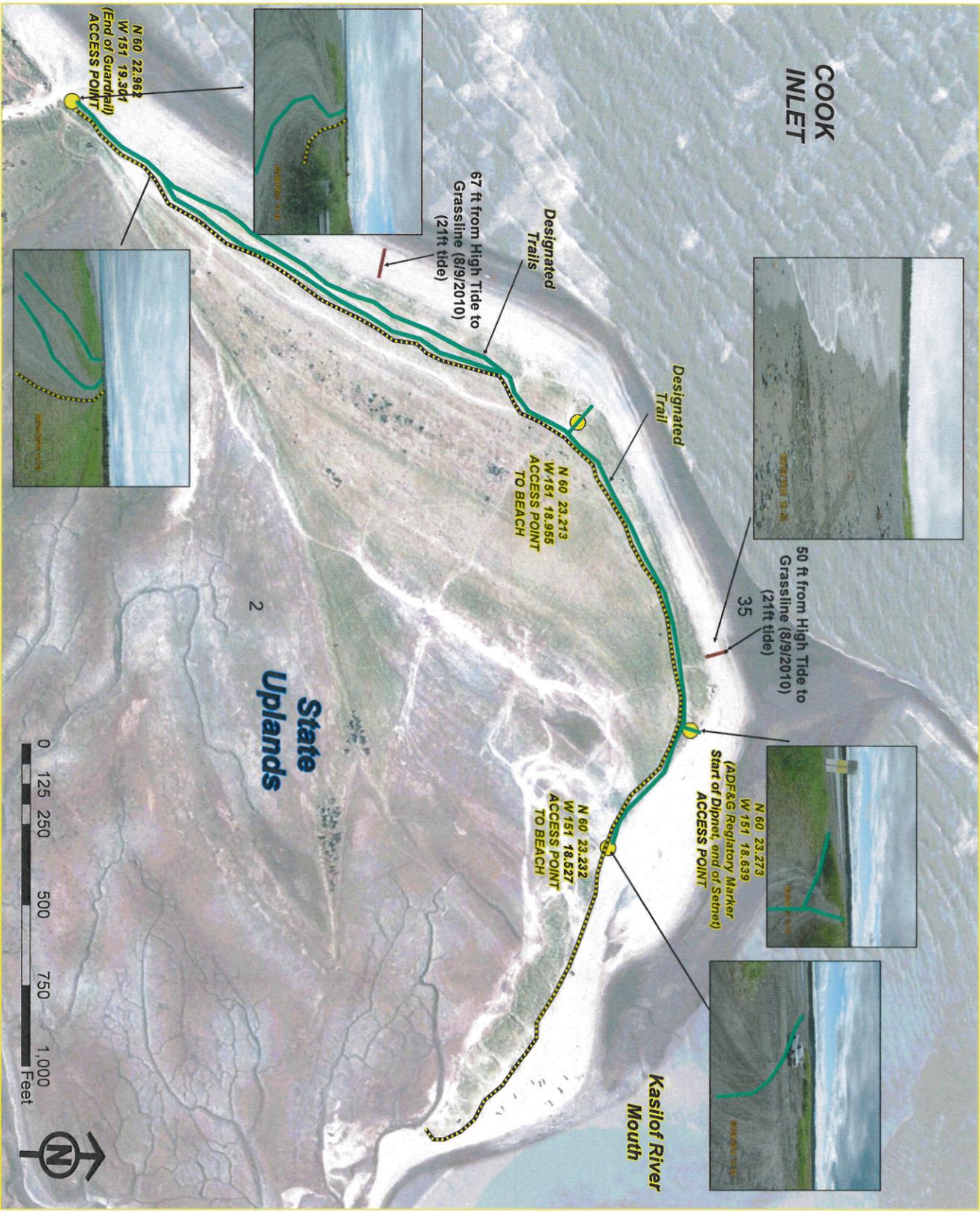
A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Tom Irwin, Commissioner, Department of Natural Resources, 550 W. 7<sup>th</sup> Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). If no appeal is filed by that date, this decision goes into effect as a final order and decision on the 31<sup>st</sup> day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.



**Land Use Permit  
Decision  
LAS 27627**

**Approved Fence  
Location**

-  Approved Fence (LAS 27627)
-  Designated Trails
-  Egress and Access Points



Produced:  
September 2010  
DNR DMLW SCRO

