



DRAFT FOR PUBLIC COMMENT

DRAFT Title 9 Conditional Use Permit No.: 112-08-24

Date of Public Notice:

Term of Public Review: 20 calendar days

DRAFT

**The Borough Planning Commission will conduct a public hearing on this
Conditional Use Permit on:**

in Kotzebue

**At the Borough Assembly Chambers from on or about September 23, 2024 at
1 pm to 4:30pm**

Written comments must be received by 4:30 pm, September 22, 2024,
Other written or oral comments may be submitted at the time of the commission meeting/public
hearing.

Submit public review comments to:

Northwest Arctic Borough, Planning Department
c/o Noah Naylor
PO Box 1110
Kotzebue, AK 99752
Tel 907.442.2500
Fax 907.442.3740
nnaylor2@nwabor.org

Permittee:

Kikiktagruk Inupiat Corporation
P.O. Box 1050
Kotzebue, AK 99752

Permittee Contact Information:

Kikiktagruk Inupiat Corporation
c/o Thomas Baker
373A Second Avenue
Kotzebue, Alaska 99752
907.442.3165
tbaker@kikiktagruk.com

PROJECT DESCRIPTION

The purpose of this project is to extract sand and gravel material for road construction, landfill reclamation, sewer cell improvements, and building pads in Kotzebue, Alaska. The proposed project includes the extraction of sand and gravel material from freshwater emergent wetlands with vegetation consisting of grasses and tundra.



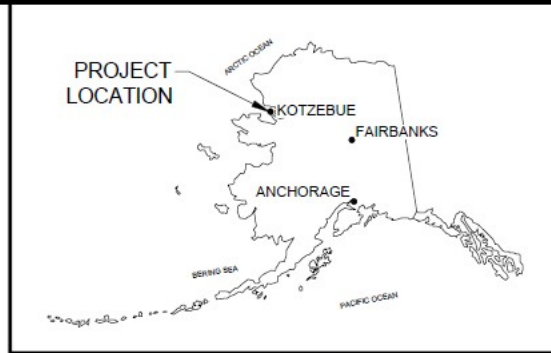
Project Location

The subject property project is a 27-acre site within Federal Conveyed ANCSA Kikiktagruk Inupiat Corporation's lands on the western shoreline of Hotham Inlet (Kobuk Lake) and on the eastern side of Baldwin Peninsula, approximately eighteen miles southeast from the City of Kotzebue, Alaska (Sheet 1) located within Section 25 & 30, Township 16 North, Range 15 & 16 West, Kateel River Meridian, Alaska; Northwest Arctic Borough; Kotzebue recording district; USGS Quad Map Kotzebue D-2 SE, AK. The property is approximately 1,055-feet (east-west) by 1,174-feet (north-south) and Latitude 66.762226°, Longitude -162.01474° (latitude longitude obtained from Google Earth; Sheet 2, Appendix A).

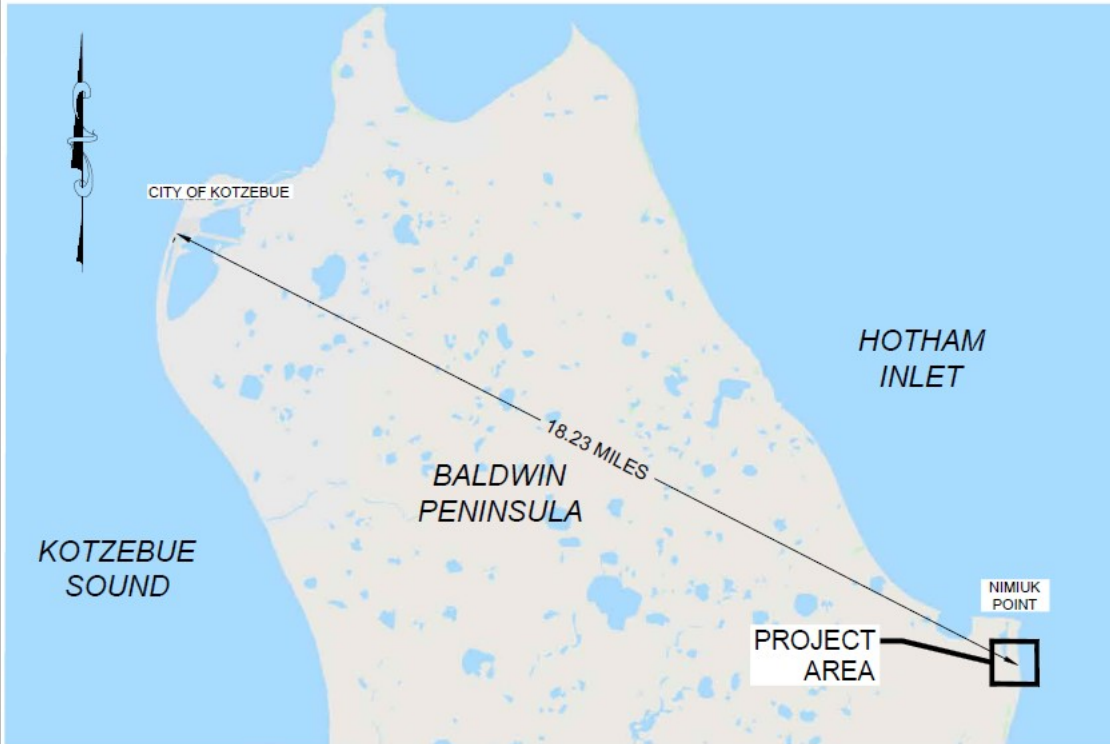
The project area is relatively shallow (6 feet in depth). A sand and gravel beach shoreline located approximately 100-feet east of the subject property. An approximately 70-foot-tall bluff, aligned approximately north-south, is present west of the beach. The property is open ocean estuarine and marine deep-water habitat.



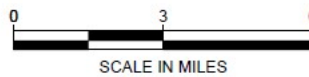
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LOCATION



VICINITY MAP



NIMIUK POINT SAND & GRAVEL
GRAVEL EXTRACTION KOTZEBUE, ALASKA
WATERBODY: HOTHAM INLET
SECS. 25&30; T16N; RS. 15&16W MERIDIAN: KATEEL RIVER USGS QUADRANGLE KOTZEBUE D-1 SE LAT: 66.76046' LONG: -162.01518'
LOCATION AND VICINITY MAP
7/26/2024 SHEET 1 OF 5



Description of Proposed Action

The project site is an undeveloped 27-acre piece of land with a narrow sand and gravel beach with adjacent tundra wetlands, behind which are approximately 70-foot bluffs and tundra beyond. The area of extraction is freshwater emergent wetlands with vegetation consisting of grasses and tundra.

Winter access to the project site is limited due to offshore ice. Topsoil and overburden removed from the extraction area will be stockpiled onsite for reuse. Overburden will be removed with crawler dozers. Extraction will be performed with a combination of hydraulic excavators and wheeled front-end loaders excavating the material. Some processing of the material will occur onsite with a screen plant, crusher, grizzly, and/or sand separator. The material will be transported across the site to a barge for transport to Kotzebue by either front-end loaders or articulated dump trucks.

Material extraction is not planned to take place within a 100-foot setback/buffer from adjacent properties and Hotham Inlet. The extraction area will be graded such that stormwater, and any other potential discharges cannot travel into wetlands onsite or offsite, and waters of the U.S. Reclamation will begin after the extraction period once all aggregates are exhausted in a cell area. The pit floor will be flooded with groundwater, no topsoil or overburden will be placed in the water. A reclamation plan (as required by ADNR pursuant to AS 27.19) will be filed with the state before extraction activities commence. Existing USGS topographical information of the property is shown on Sheet 3 of 4. The material extraction area is approximately 8.8 acres. Approximately 104,000 cubic yards of sand/gravel will be extracted from the material source. Work will take place 12 hours per day, 7 days per week. Equipment and supplies will be stored onsite in the project staging area. Material extraction is to take place within wetlands and in accordance with the U.S. Army Corps of Engineers permit requirements. Access to the site will be by beach landing craft and/or deck barge with landing ramp adjacent to the extraction site. Other vehicle traffic to the site will be employee four wheelers and/or snow machines along informal trails to/from Kotzebue.

Project Schedule

It is anticipated that material extraction will occur from 2024 to 2029. Material extraction is estimated to begin in May/June and end in October each year. When all extraction activities are completed, reclamation will begin.

Equipment

Below is a list of potential equipment to be used onsite.

Equipment Type Quantity

Excavator 1

Off-road dump truck 2

Dozer with ripper 1

Pickup 1

Loader 1

Backhoe 1

Tug and Barge 1

Sand and Gravel Processing Plant 1



Reclamation

The purpose of reclamation plan is to provide guidelines for implementing stabilization and reclamation procedures for the material source. Reclamation will take place at the end of the extraction period, once all aggregates are exhausted. Completed extraction results in a lake, approximately six feet average depth with a minimum 20-foot-wide underwater littoral zone. A reclamation plan has been developed for this project.

Current Approvals:

Permit Authorization and Documentation:

KIC submitted a Title 9 Land Use Permit application for the following Gravel extraction (Conditional Use in the Subsistence Conservation District).

The Title 9 application was received on August 12, 2024 the Borough Planning Department deemed the application was complete.

Permit fees due totaled to \$2,000

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

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)

Proposed Permit Terms and Conditions:

1. Kikiktagruk Inupiat Corporation (KIC) 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. KIC 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.



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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. Uses permitted shall cease upon the discovery of archaeological, prehistoric, historic or cultural resources during the mining activities, and KIC shall immediately contact both the Land Specialist at the NAB Planning Department and Alaska State Historic Preservation Office to determine the conditions to continue.
9. 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.
10. 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.
11. 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



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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.

12. 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.
13. KIC 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 (20-02-111), including but not limited to scraping of vegetation and spill of fuel or other chemicals.
14. KIC shall immediately notify the Borough (at least within 24 hours) of any change in the project plans and seek modification of the permit. KIC shall suspend uses until approval is given by the Planning Director/Title 9 Administrator. If the proposed action(s) constitutes an emergency, KIC 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.
15. KIC 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 9.08.040A to guarantee performance of all obligations under this permit.
16. KIC is subject to all penalties and civil actions pursuant to section 9.08.240 for violation of the permit conditions and stipulations prescribed herein.
17. 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.
18. During the fall and spring caribou migrations, KIC 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. KIC 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



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airborne surveys or movement of equipment, until such time as the migration or summer movements have cleared $\frac{3}{4}$ 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, KIC 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.

19. 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. KIC will ensure reasonable access to subsistence users to subsistence resources.
20. Native allotments and camp sites are common to the area, and KIC shall ensure that staff/personnel/contractors do not disturb or trespass on these areas.
21. 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 KIC 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.
22. 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.
23. 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 Nimiuk Point site,
 - (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) other matters as reasonably required by the Administrator/Planning Director.



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24. KIC shall, if requested by the Administrator, provide periodic activity reports to the following entities: the City of Kotzebue and the Native Village of Kotzebue.
25. 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.
26. This permit will expire December 31, 2029, unless revoked by the Title 9 Administrator and/or KIC.

DRAFT Permit for Public Comment

NORTHWEST ARCTIC BOROUGH

Noah Naylor,
Planning Director/Title 9 Administrator

September 3, 2024

Date

CC: Native Village of Kotzebue, City of Kotzebue, NANA Regional Corporation,
Maniilaq Association,