



STATE OF ALASKA
Department of Natural Resources
Division of Mining, Land and Water
Southcentral Regional Land Office

January 23, 2013

Dear Applicant:

The Department of Natural Resources, Division of Mining, Land and Water (DMLW) Southcentral Regional Land Office is responsible for managing state land and resources in Southcentral Alaska. The establishment of commercial mooring buoys on all state owned tide and submerged lands requires a permit from DMLW. The division has created a general permit ADL 231317, for the Kasilof River in order to streamline the permitting process for this area. As per the courtesy notice forward to users in September of last year, a **Kasilof River Mooring Buoy General Permit (KRMBP)** is required for any operator or business using state owned submerged lands to establish and utilize commercial mooring buoys within the Kasilof River. All KRMBP will be issued for 5 calendar years and requires an annual payment of \$250 due April 1st of every calendar year that the permit is authorized. Please visit our website at: <http://dnr.alaska.gov/mlw/krmbp/> for forms and other information.

Kasilof River Mooring Buoy Permits:

- authorize the temporary use of state land or resources;
- are issued for up to five years;
- do not convey any interest in state land;
- are revocable with or without cause;
- are not transferable;
- do not constitute waiver of any other state, federal, or local laws; and

A Complete Kasilof River Mooring Buoy Permit includes the following:

- a completed and signed KRMBP application form;
Available at: <http://dnr.alaska.gov/mlw/krmbp/> or request a hard copy (contact below)
- \$100.00 non-refundable filing fee [11 AAC 05.010(a)(5)(B)];
- \$250.00 annual fee [11 AAC 05.010(e)(5)]

The completed application form, filing fee and annual permit fee should be returned to the office listed below either by mail, fax or email. Checks or money orders should be made payable to the State of Alaska. Or alternatively you may call and make payment over the phone once your application has been received by this office. Please note that a KRMBP is not valid until signed by an authorized DMLW representative.

Public Information Center
550 W. 7th Ave, Suite 1200
Anchorage, AK 99501
(907) 269-8400
Fax: (907) 269-8901
E-mail: dnr.pic@alaska.gov

ONLY COMPLETE APPLICATIONS WILL BE ACCEPTED

**STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
SOUTHCENTRAL REGIONAL LAND OFFICE
550 West 7th Ave., Ste 900
Anchorage, AK 99501-3577
(907) 269-8400**

KASILOF RIVER MOORING BUOY-GENERAL PERMIT

AS 38.05.020, AS 38.05.035, AS 38.05.850 & 11AAC 96

LAS: _____
(Receipt Code 2T)

This permit, in accordance with provisions outlined in General Permit ADL 231317, is issued for the purpose of authorizing the installation and seasonal use of a commercial buoy within the lower Kasilof River. This permit is for activity located within the Kasilof River Special Use Area. See the Site Map, Attachment A of this permit depicting Sections 1, 2, 11, 12, Township 3 North, Range 12 West, and Section 35, 36, Township 4 North, Range 12 West of the Seward Meridian.

SECTION #1: PERMITTEE INFORMATION

Name of Applicant: _____
Business Name: _____
Address: _____ City/State/Zip: _____
Mailing Address: _____ City/State/Zip: _____
Telephone Numbers: _____ Fax Number: _____
Email Address: _____

SECTION #2: PERMITTED ACTIVITY, BUOY SITE, AND PERMIT TERM:

Do you have a US Army Corps of Engineers Permit? (Circle One) Yes No *. NOTE: USACE permit is required.

What is the US Army Corps of Engineers Permit Number/s? _____

What is the permitted US Army Corps of Engineers Buoy Number/s? _____

Buoy GPS Location: _____

Type of Anchor System: _____

This permit is effective beginning **April 1, 2013** and ending **March 31, 2018** unless sooner terminated at the state's discretion. This permit authorizes the seasonal installation and use of a commercial mooring buoy and associated anchor system on the lower Kasilof River between **April 1st and November 1st** annually. This permit conveys no interest in state land and is revocable with or without cause. No preference right for use or conveyance of state land is granted or implied by the issuance of this permit. This permit is not transferable and cannot be assigned, subleased, or rented. This permit is subject to annual land use fees in the amount of **\$250.00 due on or before each April 1st** of each year authorized under this permit. This authorization is subject to stipulations listed on pages 2-4 of this permit.

Permit Stipulations:

- 1) **Authorized Officer:** The Authorized Officer for the DNR is the Regional Manager, Southcentral Region, Land Office Ph: (907) 269 8552. The Authorized Officer may designate a representative for administration for specific portions of this authorization.
- 2) **Permit Fee:** In accordance with 11 AAC 05.010(e)(5), this permit is subject to an annual use fee of **\$250.00.** The annual fee is due on or before **April 1st of each year.**
 - (a) **Penalty Charges:** The permittee shall pay a fee for any late payment or returned check issued by the permittee as follows:
 - (b) **Late Payment Penalty:** The greater of either the fee specified in 11 AAC 05.010 or interest at the rate set by AS 45.45.010 will be assessed on a past due account until payment is received by the State of Alaska.
 - (c) **Returned Check Penalty:** A returned check fee as provided in 11 AAC 05.010 will be assessed for any check on which the bank refuses payment.
 - (d) **Failure to Pay:** Failure to pay annual fees when due is a default of the terms and conditions of this permit. Failure to cure such a default within the 60 day period following the receipt of a "Notice of Default" will result in permit termination.
Advisory: To avoid being responsible for additional land use fees, any permittee planning to terminate a permit must do so prior to the date on which the annual land use fee is due.
- 3) **Terms:** This general permit is valid until March 31, 2018.
- 4) **Revocability:** This permit is revocable at will. Any violation of the terms and conditions of this permit is cause for termination.
- 5) **Compliance with Governmental Requirements; Recovery of Costs.** The Permittee shall, at their expense, comply with all applicable laws, regulations, rules and orders, and the requirements and stipulations included in this authorization. The Permittee shall also observe all federal, state and local laws and regulations applicable to the permitted area, including regulations for the protection of fish and wildlife. The Permittee is responsible for the accurate installation and use of the authorized buoy under the terms of this permit.
- 6) **Public Trust Doctrine:** This permit is subject to the principles of the public trust doctrine, specifically the right of the public to use navigable waterways and the land beneath them for navigation, commerce, fishing, hunting, protection of areas for ecological study, and other purposes, must be protected. The Regional Manager reserves the right to grant other interests to the subject area consistent with the public trust doctrine.
- 7) **Public Access:** The permittee shall not hinder public access. The ability of all users to use or access state land or public water must not be restricted in any manner.
- 8) **Standard Conditions:**
 - (a) Each buoy shall be marked in accordance with the US Army Corp of Engineers (Corps) General Permit (GP) 1987 – 3 – M5 requirements.
 - (b) Mooring buoys may not be set in the Kasilof River prior to April 1 of each year and shall be removed no later than November 1 annually.
 - (c) This permit is not transferable and cannot be assigned or sub-leased or rented, in whole or in part, to another party. It is issued to authorize specific activities requested by the permittee that are not included in the category of "Generally Allowed Uses" (*11AAC 96.010 - .020*).
 - (d) The mooring buoy shall be placed so that it will not hinder safe access to or use of, existing ports, docks, piers, harbors, boat launch ramps, dolphins, floats, piles, commercial fishing sites or any other existing structure or mooring buoy within navigable waters. Shoreline access on all sides of the buoy shall not be impeded.
 - (e) Maintenance of the mooring buoy is to be performed on a regular basis to prevent trash and other debris from becoming attached.
 - (f) The buoy and running lines shall be sited so as to avoid interference with navigation for the purpose of public use and enjoyment, existing fisheries, or other authorized uses.
 - (g) This permit does not eliminate the need to obtain other necessary authorizations from federal, state and local agencies.
 - (h) The Permittee must notify the Southcentral Region Land Office in writing of any change of address of the Permittee.
- 9) **Hazardous Substances:** Pursuant to 11 AAC 112.300, Habitat, and 11 AAC 112.310, air, land, and water quality, site disturbance and pollution should be minimized according to the following measures.
 - a) The permittee shall take all reasonable precautions to prevent water pollution, erosion, or sediment on or in the vicinity of the permitted area.

- b) To minimize petroleum products spill into the Kasilof River, cleanup materials shall be available on site, in sufficient quantities, to contain and cleanup a petroleum product spilled as a result operations. The permittee shall give immediate notice of any fuel spill or other pollutants to the DEC.
- c) All waste generated during operation, maintenance and termination activities under this permit shall be removed or otherwise disposed of as required by state and federal law. Waste in this sub-paragraph means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and discarded equipment.

- 10) Spill Notification:** The Permittee is responsible for cleaning up any oil spills or other pollutants on the tidelands or submerged lands that result from activities under this permit. **Any fuel, oil, or other pollutant discharge or spill shall be reported immediately to the nearest DEC Area Response Team during working hours: Anchorage (907) 269-7500, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-2237. The DEC oil spill report number outside normal business hours is (800) 478-9300.** Any fuel, oil, or other pollutant discharge or spill shall also be reported immediately to Division of Mining, Land and Water Hazardous Materials Coordinator, at (907) 269-8565.

The permittee shall immediately notify DEC by telephone, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail, informing DEC of: any unauthorized discharges of oil to water, any discharge of hazardous substances other than oil; and any discharge or cumulative discharge of oil greater than 55 gallons solely to land and outside an impermeable containment area. If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the permittee shall report the discharge within 48 hours, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail. Any discharge of oil, including a cumulative discharge, solely to land greater than one gallon up to 10 gallons must be reported in writing on a monthly basis. The posting of information requirements of 18 AAC 75.305 shall be met. Scope and Duration of Initial Response Actions (18 AAC 75.310) and reporting requirements of 18 AAC 75, Article 3 also apply. The permittee also shall supply DEC with all follow-up incident reports.

- 11) Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Recreation at (907) 269-8721.
- 12) Valid Existing Rights:** This Permit, and the rights and privileges granted thereby, is subject to all valid existing rights in and to the land which is the subject of this permit and the State of Alaska makes no representations or warranties whatsoever, either express or implied, as to the existence, number or nature of any valid existing rights.
- 13) Reservation of Rights:** The division reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of state land, their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of authorized users.
- 14) Inspections:** Representatives and personnel of the DNR and other interested state agencies may inspect the permitted area at any time. **Non-compliance determinations will subject the site to re-inspection for which the Permittee may be assessed, at the Director's discretion, either a fee of \$100 or a fee equal to the actual expenses incurred by the Department of Mining, Land and Water (11 AAC 05.010).**
- 15) Unauthorized Use:** This authorization is revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes and regulations (local, state and federal). This permit is issued for a specific use identified above. Use of the permitted area for purposes other than those specified constitutes a breach of this permit and may result in revocation.
- 16) Performance Bond and Insurance:** The Southcentral Region Land Office reserves the right to require a performance guaranty or insurance at any time if determined to be in the best interest of the state.
- 17) Permit Renewal:** Before expiration this permit may be considered for renewal upon the Permittee's remittance of:
- a) the required filing fee and as prescribed by 11 AAC 05.010.; **and**
 - b) annual rent in the amount of \$250 (in advance); **and**
 - c) a completed Kasilof River Mooring Buoy application.

The Permittee is advised to allow sufficient time for processing the renewal application under then-applicable regulations.

- 18) Permit Expiration/Termination:** On or before permit expiration or termination of this authorization, all improvements and other chattels shall be removed from the site in accordance with the standards determined by the authorized officer and the site shall be restored to a clean safe condition. Upon termination the Permittee must vacate the site and the Permittee's use and occupancy of the previously permitted site must cease.

- 19) **Indemnification:** The Permittee assumes all responsibility, risk and liability for all activities of Permittee, its employees, agents, invitees, contractors, subcontractors, or licensees directly or indirectly conducted in connection with this permit, including environmental and hazardous substance risks and liabilities, whether accruing during or after the term of this permit. Permittee shall defend, indemnify, and hold harmless the State of Alaska, its employees, and agents from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by Permittee, its employees, agents, invitees, contractors, subcontractors, or licensees, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the State or anyone acting on the State's behalf. Within 15 days Permittee shall accept any such cause or action or proceeding upon tender by the State. This indemnification shall survive the termination of the permit.
- 20) **Compliance:** Failure to comply or meet the terms and conditions of this permit could impede the ability to obtain subsequent authorizations from the Division of Mining, Land & Water.

Advisory Regarding Violations of the Permit Guidelines:

(a) Pursuant to 11 AAC 96.145, a person who violates a provision of a permit issued under this chapter (11 AAC 96) is subject to any action available to the department for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The department may seek damages available under a civil action, including restoration damages, compensatory damages, and treble damages under AS 09.45.730 or 09.45.735 for violations involving injuring or removing trees or shrubs, gathering geotechnical data, or taking mineral resources.

(b) If a person responsible for an unremedied violation of 11 AAC 96 or a provision of a permit issued under this chapter (11 AAC 96) applies for a new authorization from the department under AS 38.05.035 or 38.05.850, the department may require the applicant to remedy the violation as a condition of the new authorization, or to begin remediation and provide security under 11 AAC 96.060 to complete the remediation before receiving the new authorization. If a person who applies for a new authorization under AS 38.05.035 or 38.05.850 has previously been responsible for a violation of this chapter or a provision of a permit issued under this chapter, whether remedied or unremedied, that resulted in substantial damage to the environment or to the public, the department will consider that violation in determining the amount of the security to be furnished under 11 AAC 96.060 and may require the applicant to furnish three times the security that would otherwise be required.

The Regional Manager reserves the right to modify the stipulations listed above or attach additional stipulations if necessary. The permittee will be advised before any such modifications or additions are finalized. **Any correspondence on this permit may be directed to: Department of Natural Resources, Division of Mining, Land and Water, Southcentral Region Land Office, 550 W. 7th Ave, Suite 900, Anchorage, AK 99501-3577. Telephone Number: (907) 269-8552; FAX: (907) 269-8913**

I have read the foregoing Mooring Buoy Permit and I agree to comply with all the conditions included within this authorization. False statements made in an application for a benefit are punishable under AS 11.56.210.

Signature of Permittee

Date

Signature of Authorized State Representative

Date of Issuance

(Internal State Use Only)

_____ \$250 annual fee 11 AAC 05.010(e)(5) _____ \$100 filing fee 11 AAC 05.010(a)(5)(B) _____ Current US Army Corp of Engineer Permit

This form must be filled out completely and submitted with the applicable fees. Failure to do so will result in a delay in processing your application. AS 38.05.035(a) authorizes the director to decide what information is needed to process a request for the sale or use of state land and resources. This information is made part of the public land records and becomes public information under AS 09.23.110 and 09.25.120 (unless the information qualifies for confidentiality under AS 38.05.035(a)(8) and confidentiality is requested, or AS 45.48). Public information is open to inspection by you or any member of the public. A person who is the subject of the information may challenge its accuracy and completeness under AS 44.99.310 by giving a written description of the challenged information, the changes that need to be corrected, and a name and address where the person can be contacted. False statements made in a request for a benefit are punishable under AS 11.56.210.