

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

**Memorandum of Decision**  
**Ron Clauson, dba Backcountry Safaris**  
**LAS 27172**  
**May 12, 2009**

**Proposed Action**

Ron Clauson, dba Backcountry Safaris has applied for a land use permit authorizing a seasonal kayak camp on state land near the mouth of Bear Lake consisting of (8) 12'x 16' wood tent platforms, (1) 12'x 30' wood tent platform, and (1) 12'x 20' wood tent platform to support commercial guided kayak trips and ecotourism in Bear Glacier Lake.

**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 (KAP).

**Administrative Record**

The administrative record for this action consists of LAS 27172.

**Location**

**Geographic:** Located on an island within Bear Glacier in South Resurrection Bay, bordered by Kenai Fjords National Park on the west. The camp is located N/W of Callisto Head. The region is characterized by steep, rugged mountains and glacier / river-formed valleys.

**USGS Map Coverage:** Blying Sound (D-7)

**Legal Description:** An area not to exceed 1 acre located within the SW ¼ NE ¼ of Section 6, Township 3 South, Range 1 West of the Seward Meridian.

**Coordinates:** 59° 56.799' N, 149° 31.159' W

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

**Classification:** Kenai Area Plan (KAP), August 1998; Region 3– The southwestern edge of this region adjoins The Kenai National Fjords Park; Map # 3B South Resurrection

Bay-land between Bear Mountain and Callisto Head. Primary surface use designations include public recreation and tourism.

Alaska Coastal District: This project is located within the Kenai Peninsula Borough Coastal District. Division of Coastal and Ocean Management (DCOM) found the project to be consistent under GCD 23, 23-A, & 23-E.

Regional/Village Corporation: Chugach Alaska Corporation.

### **Title**

The project site is located on State land. GS 1110, Patent 50-93-0093 issued on January 26, 1993.

### **Background**

Mr. Clauson is proposing to establish a seasonal camp to support commercial kayak operations in Bear Glacier Lake. Three other kayak operators have permitted sites in this location to conduct kayak tours to the public. This proposed camp would be the largest camp to be authorized in the area. The application requests the use of a jon boat to shuttle clients from the water taxi to the camp. Mr. Clauson has also requested an off-season cache of camp gear and wood tent platforms.

### **Agency Review**

An agency review commenced on March 3, 2009 with comments due by April 2, 2009. The Public Notice was extended until April 15, 2009 to ensure the public was given sufficient information on the proposed activity. Agencies included in the review were the Department of Environmental Conservation, DNR Office of Habitat Management and Permitting, DNR Office of History and Archaeology, Alaska Department of Fish & Game, Environmental Protection Agency, Chugach Alaska Corp., National Park Service, Department of Coastal and Ocean Management, National Marine Fisheries Service, and Kenai Peninsula Borough. In addition, notices were posted at the Seward and Moose Pass Post Office as well as posted to the DNR website for public review.

The public review period for this application generated 25 responses. Out of the 25 comments 19 were in opposition and four in support of the camp. No agencies opposed the project but two agencies had letters of concern which were Department of Fish and Game and Kenai Fjords National Park Service. Objections and concerns varied widely but could be broken down into several broad categories, including:

1. Environmental concerns such as bears, wildlife, and seals etc. (15)
2. Concerns that the large camp will restrict access to private users (8)
3. Safety issues (14)
4. Duration and size of the camp (11)
5. Camp will decrease the scenic and wilderness qualities in the area (15)

6. Enforcement and monitoring concerns (3)
7. Past flooding of the area (4)
8. Inconsistent with the management plan (5)
9. Concerns with garbage, human waste, fuel, and invasive species (15)

### **Agency and Public Comments**

***Agency (ADF&G & NPS) & Public Comment:*** The area is heavily populated with bears and the potential for human encounters could be increased due to food preparation, fuel storage, toilet and gray water systems.

***DNR / MLW Response:*** Bear resistant food containers, proper fuel storage, and proper handling of solid and liquid waste are stipulations in the authorization.

***Agency (NPS) & Public Comment:*** Concerned with the safety of the visitors that will travel through the hard to access area and the lack of knowledge of the guides. The large glaciers can be dangerous to navigate and the applicant does not specifically address training of staff and guests, deterrents, incident reporting and equipment needed to manage the risk in the application.

***DNR / MLW Response:*** DNR has jurisdiction specific to land management of state owned land. Adjudication of applications are based on AS 38.05.850 (Permits), 11 AAC 96 (Miscellaneous Land Use). Mr. Clauson is responsible for any safety issues as a business operator and does not weigh on the decision for land authorization.

***Agency (NPS) & Public Comment:*** The size of the camp and number of users will cause excessive impacts to natural resources and experience of other visitors in the Bear Glacier area.

***DNR / MLW Response:*** Bear Glacier is becoming increasingly popular for the general public to access and recreate. Currently there are two other authorized commercial camps within the Bear Glacier area that are located at the entrance to the channel that enters into the lake. The Bear Glacier area is classified for public recreation and tourism. To ensure the public can continue to access and utilize the area Backcountry Safari's may be required to reduce the size of the camp to ensure the state lands are made available to all visiting public.

***Public Comment:*** The presence of the camp will provide a *de facto* closure of some landing beaches, camping areas, and overland access routes by the public.

***DNR / MLW Response:*** Mr. Clauson did not state he wanted to close off public access to the area. In his application he states, "*We would welcome the general public to the camp.*" Public access is a general stipulation in all permits issued by DNR and clearly states the permittee shall not close landing areas or trails. The ability of all users to use or access state land or public water must not be restricted in any matter.

***Public Comment:*** In August of 2006, the DNR denied a permit (LAS 25745) for a similar recreation camp proposal to be located in Thumb Cove in Resurrection Bay. Part of the reasoning of the DNR decision was that the presence of a tent camp would tend to ward off others seeking a quality camping experience. "Even if the applicant agreed to

non-exclusivity, it is the decision of DNR that issuance of a permit here would effectively result in a de-facto closure of landing areas, camping areas and overland access. For this reason alone this application should be denied.”(Memorandum of Decision, Chance Miller, dba Miller’s Landing LAS 25745).

**DNR / MLW Response:** The application was denied for Chance Miller dba Miller’s Landing LAS 25745 in August 2006. The tidelands in Resurrection Bay are specifically addressed in the Kenai Area Plan and Thumb Cove is described as having the best anchorage in Resurrection Bay. Another reason LAS 25746 was denied was because it did not adhere to the standard alternative measure #2 of GCD-23 which requires that “Temporary Camps will not be sited within one-half mile of important high use public camping sites.” Bear Glacier is not recognized in the KAP as having high public camping unlike Thumb Cove. Also Chance Miller specifically asked to close a portion of the beach to public access which is not the case for this application.

**Public Comment:** Insufficient state staffing to adequately enforce permit conditions.

**DNR / MLW Response:** Currently two other permitted sites are located in Bear Glacier and in 2008 a site inspection of those permits was conducted with the National Park Service. Although DNR does have a small staff every effort is made to ensure permittee’s abide by all permit stipulations. Annual photos will be required of the site before, during, and after the operating season to ensure stipulations are being met.

**Public Comment:** Inconsistent with the intent of existing land management plan since the plan recommends that all lands between the existing recreation area and the Kenai Fjords National Park be added to the State Park system. The Kenai Area Plan (KAP) states the following: “The tidelands in Resurrection Bay offer a spectacular wilderness setting including the opportunity to view an abundance of fish and wildlife in an area surrounded by mountain, cliff, and glaciers” Further, “DNR will not authorize activities that intrude visually on the scenic values of the area, that monopolize anchorage, or that have significant negative impacts on the fish and wildlife resources”

**DNR / MLW Response:** Management plans for the area do recommend the area to be managed by the State Park. Currently management still remains with DNR therefore the area remains under general state land and is not considered part of the State Park. The KAP also states “The DNR will attempt to ensure that adequate opportunities are available for the full spectrum of developed and underdeveloped recreation opportunities appropriate for the area.” Ecotourism is appropriate for the area and other permits for the same activity have been granted. The location of the camp may impose a threat to the scenic value of the area and DNR has requested the permittee to site the camp 100 feet from any water body and a location that will have the least impact on the scenic value of the area.

**Public Comment:** The dynamic environment of Bear Glacier makes it unsuitable for semi-permanent camps that would be at risk of flooding due to glacial calving or tidal fluctuations. Other camps have been flooded in the past in this same area.

**DNR / MLW Response:** Although flooding events can occur DNR does not have control over environmental fluctuations. If authorized it would be the responsibility of the permittee to ensure the camp stay above any possible flood lines.

**Public Comment:** Concerns regarding proper food and waste storage, fuel storage and spills, invasive species, and soil contamination.

**DNR / MLW Response:** The applicant addressed all food and waste storage concerns in the submitted application. The application was complete and sufficient in content. Fuel will be required to be stored in bear resistant containers and will be addressed in stipulations for the authorization of the permit. Invasive species are an ongoing concern for the State of Alaska and Mr. Clauson will be made aware of how he can help control the spread of invasive species by properly cleaning his boats and gear. Any restoration of the vegetative mat is addressed in the permit under special stipulation 13, which requires the permittee to follow standards in accordance with the Department of Natural Resources Plant Materials Center.

**DNR received four letters in support of the camp from the public for the following reasons:**

1. Improved access to an under used area (4)
2. Safety and communication would be enhanced (3)
3. More competition for operators (1)
4. Possible lower costs to the public (1)
5. Company has a good record (2)
6. Not critical habitat (3)
7. Reduced impact of the area since the camp will concentrated in one area (2)

### **Environmental Risk**

Permit stipulations will require that spill prevention techniques approved by the State Department of Environmental Conservation be employed to prevent hazardous fuel spills.

### **Permit Term**

Effective use date: May 15, 2009 through April 30, 2014

Seasonal use date: May through September

### **Permit Fee**

Annual Use Fee: \$750 [11 AAC 05.010(e)(3)(C)(5)]

### **Performance Guaranty and Insurance**

Bond: \$2500

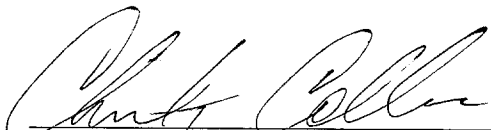
Insurance: Amount the insurance company requires.


**Decision**

Based on the information provided by the applicant, examination of documents and agency and public comment, it is the decision of the Southcentral Region Land Office to issue the land use permit at a reduced size and a location that will be less intrusive visually on the area to Ron Clauson dba Backcountry Safaris. The permit will encourage the development of the state's resources, provide direct and indirect economic benefits to the state, and is not prohibited by the Kenai Area Plan. The land use permit will have standard and special stipulations, as well as an approved operations plan.

**Authorized Action**

Ron Clauson, dba Backcountry Safaris will be authorized a land use permit for a seasonal kayak camp consisting of (4) 12'x16' wood tent platforms, (1) 12'x30' wood tent platform, and up to (4) 8x8 nylon tents to support commercial guided kayak trips in Bear Glacier Lake.

  
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Christy Colles, Natural Resource Technician

  
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Date

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@dnr.state.ak.us](mailto:dnr_appeals@dnr.state.ak.us). 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.



Steep Banks  
To steep to get in  
and out of kayaks

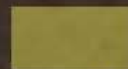
Would prefer to stay off this side  
Gets some people in this area  
Bear Hunting.

Jet Boat For Shuttle

Camp 2nd Choice



Trails



First Choice

Kayak Storage