

APPENDIX G

SECTION 4(F) *DE MINIMIS* FINDING

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U.S. Department
of Transportation
**Federal Aviation
Administration**

June 16, 2022

Mr. Steve Tryon, Director
Office of Environmental Policy and Compliance
U.S. Department of the Interior
1849 C Street, N.W. (MS 2462)
Washington, DC 20240

Director Tryon,

The Alaska Department of Transportation and Public Facilities (DOT&PF), in cooperation with the FAA (Federal Aviation Administration), proposes to relocate the Noatak Airport approximately 2 miles west of Noatak, AK. The proposed project would create a safe, reliable, and cost-effective facility that provides the community with adequate access, supports the community's long-term development goals, and is consistent with current FAA safety regulations. The existing airport is threatened by Noatak River erosion, which would necessitate permanent runway closure. Additionally, there is insufficient airport land to address other existing airport deficiencies. Time critical airport relocation would ensure continued safe and reliable air transportation for Noatak.

The existing airport and community are located 48 miles northwest of Kotzebue, and 71 miles north of the Arctic Circle. The proposed project is located at 67.5608° North Latitude and -162.9802° West Longitude; Sections 16-21 & 28-32, Township 25 North, Range 19 West; Kateel River Meridian; United States Geological Survey Quadrangle Noatak C-2 and C-3, Alaska (Figure 1).

The Noatak Airport Relocation project includes the following elements (Figures 2-3 attached to email):

Airport Relocation

- Construct runway, taxiway, apron, lighting, a Snow Removal Equipment Building (SREB), and FAA Navigational Aids.
 - The runway and taxiway would be built to FAA standards for a category B-II airport capable of handling passenger and cargo aircraft and accommodate ground maneuvering larger aircraft such as DC-6 and C-130 that serve the airport unscheduled.
 - The apron area would be constructed for temporary loading of passengers and/or cargo as well as itinerant parking and access to lease lots.
 - Construct a building and pad capable of housing snow removal equipment and lighting/navigational controls.
 - Construct pads and install new and relocated navigational aids, and other airport related equipment and shelter Aids (s).
- Decommission existing airport including unneeded FAA equipment.

Access Road

- Construct a road from Noatak to the relocated airport, with a bridge crossing Kuchoruk Creek.
 - The road would be approximately 2 miles long and 24-foot (ft.) wide, with side slopes that include other safety features (e.g., signage) where required, and culverts would be installed to maintain drainage patterns.
 - A two-lane bridge would cross Kuchoruk Creek and be designed to accommodate high water and auffs. Abutments would be placed on either side of the creek within the floodplain. Work may be required below ordinary high water of the creek, however no in-water work is anticipated.

Material Sources

- Develop local material sources and access.
 - Local gravels within the Noatak River drainage would be used for construction; excavation may occur below the water table.
 - A pioneer material access road would accommodate safe summertime access and prevent damage to underlying soil hydrology.

Mobilization

- Transport material and equipment utilizing a combination of air, water, and overland access.
- Construct gravel pads for staging areas.

Utilities

- Extend above ground utility lines to the relocated airport.

Right of Way

- Acquire land for the relocated airport and access road through various temporary and permanent interests from federal, state, and private entities.
- Dispose of existing airport property in accordance with Federal and State regulations.

Connected Action

- A new community provided fuel transfer system would be required.
- Contaminant remediation on existing airport lease lots would be required by responsible lessees.

Airport Layout Plan

- FAA conditional approval of the Noatak Airport Layout Plan.

Construction would start in 2022 and take approximately three seasons to complete.

A component of the EA is a draft 4(f) analysis required via Section 4(f) of the U.S. DOT Act of 1966 (49 U.S.C. § 303) (Act). As you are aware the Act requires the analysis of potential physical and constructive use impacts of significant 4(f) resources such as the Yukon-Delta National Wildlife Refuge.

FAA has reached a draft conclusion of no physical or constructive use of the Yukon Delta National Wildlife Refuge from the proposed project. Please see the attached draft 4f analysis for the proposed project.

Please respond within 45-days of the date you receive this letter with USFWS response to FAA's draft 4f conclusion for this proposed project.

Sincerely,

6/18/2022

X Keith Gordon

Keith Gordon

Signed by: 530791

Keith Gordon
Environmental Protection Specialist

DRAFT Section 4(f) Determinations

Noatak Airport Relocation Noatak, Alaska Federal/State Project Number(s): Pending/Z614780000

I. Proposed Project Description

The Alaska Department of Transportation and Public Facilities (DOT&PF), in cooperation with the FAA (Federal Aviation Administration), proposes to relocate the Noatak Airport approximately 2 miles west of Noatak, AK. The proposed project would create a safe, reliable, and cost-effective facility that provides the community with adequate access, supports the community's long-term development goals, and is consistent with current FAA safety regulations. The existing airport is threatened by Noatak River erosion, which would necessitate permanent runway closure. Additionally, there is insufficient airport land to address other existing airport deficiencies. Time critical airport relocation would ensure continued safe and reliable air transportation for Noatak.

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 - A pioneer material access road would accommodate safe summertime access and prevent damage to underlying soil hydrology.

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- Transport material and equipment utilizing a combination of air, water, and overland access.
- Construct gravel pads for staging areas.

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- Extend above ground utility lines to the relocated airport.

Right of Way

- Acquire land for the relocated airport and access road through various temporary and permanent interests from federal, state, and private entities.
- Dispose of existing airport property in accordance with Federal and State regulations.

Connected Action

- A new community provided fuel transfer system would be required.
- Contaminant remediation on existing airport lease lots would be required by responsible lessees.

Airport Layout Plan

- FAA conditional approval of the Noatak Airport Layout Plan.

Construction would start in 2022 and take approximately three seasons to complete.

II. Description of Proposed Project Area Section 4(f) Resources and Potential Impacts

a. Publicly owned Parks and Recreation Areas of National, State or Local Significance Open to the Public

- Cape Krusenstern National Monument

As part of the Alaska National Interest Lands Conservation Act (ANILCA), Congress established Cape Krusenstern National Monument, Noatak National Preserve, and Kobuk Valley National Park. The three areas contain unaltered landscapes, vast populations of animals and plants in intact ecosystems, and archaeological sites dating back to the first habitation of North America. Congress set aside these areas for their preservation and enjoyment short of the point of impairment; however, ANILCA permits some uses that would not be permitted in most other National Park Service (NPS) areas, particularly sport hunting in Noatak National Preserve and subsistence uses by local residents in all three areas. The three units are distinct in character but united in their interrelated natural, geological, historical, archeological, recreational, educational, cultural, scenic, and scientific resources and values. The three areas are managed by the NPS collectively as the Western Arctic National Parklands, and provide residents with the opportunity to maintain a subsistence way of life as an integral part of a dynamic ecosystem while also

providing all people with the chance to enjoy a variety of recreational activities - boating, sport fishing, hiking, winter travel - in true wilderness.¹ **As a significant, and publicly owned and publicly available park component, the Cape Krusenstern National Monument, a component of the Western Arctic National Parklands system, qualifies as a Section 4(f) property.**

b. Historic Resources

- Cape Krusenstern Archaeological District National Historic Landmark

The Alaska Heritage Resources Survey (AHRS) indicates that the Cape Krusenstern Archaeological District National Historic Landmark (CKNHL) was designated on November 7, 1973. The Cape Krusenstern National Monument is entirely within the CKNHL. There is evidence that the CKNHL has been inhabited almost continuously for 11,000 years. Sites within the CKNHL represent virtually the entire range of known prehistoric cultures in northwestern Alaska, in a "horizontal stratification" that has improved understanding of the sequence of these cultures. Sites in the Noatak Valley, an important avenue to the interior may provide important information about early migrations. The CKNHL encompasses the region around Cape Krusenstern, on the coast from north of Kivalina Lagoon south and east to beyond the mouth of Noatak River, inland to a point northwest of Maiyumerak Mountains, comprising over 2 million acres both public and private land ownerships which underlie the entire subject project Area of Potential Effect (APE). The Cape Krusenstern Archaeological District was listed on the NRHP as a National Historic Landmark (Figure 4) under Criterion D in 1974 (AHRS 2021). **As an historic property listed on the NRHP, the CKNHL qualifies as a Section 4(f) property.**

III. Project Section 4(f) Preliminary Use Determinations and Potential Impacts

Cape Krusenstern National Monument (CKNM)

During contractor mobilization/demobilization, the proposed project would temporarily utilize the existing DeLong Mountains Transportation System (DMTS) road which generally bisects the CKNM. The DMTS is an existing transportation facility crossing for which NANA Regional Corporation (NANA) has a long-term access agreement with the NPS, and for which the Alaska Industrial Development and Export Authority (AIDEA) has a lease with NANA for its use across both NANA- and NPS-owned lands. As this portion of the CKNM has already been converted to an active, transportation-purposed Right of Way (ROW) currently owned by NANA and leased for transportation use by AIDEA, there is no Section 4(f) use of the CKNM by the proposed project. Should any off-road use of CKNM lands adjacent to the existing DMTS become necessary due to unforeseen circumstances, an updated Section 4(f) evaluation should be completed to ensure compliance is maintained.

Cape Krusenstern Archaeological District National Historic Landmark (CKNHL)

a) Portions of the CKNHL within the DMTS Road ROW (Figure 4).

The existing NANA-owned and AIDEA-leased DMTS developed transportation facility crosses through the CKNHL, including portions both within and outside of the CKNM. Contractor mobilization/demobilization would utilize a portion of the DMTS facility to access

¹ NPS 2015. Noatak National Preserve. *Western Arctic National Parklands*. Accessed online November 2021 at <https://www.nps.gov/noat/learn/management/wear.htm>

the proposed project construction site at Noatak. Within the DMTS ROW located inside the CKNHL, there would be No Section 4(f) Use by the proposed project as:

- a) the DMTS is not a listed contributing historic element to the CKNHL;
- b) the DMTS is an existing transportation facility overlying the CKNHL; and,
- c) there would be no additional anticipated impacts to CKNHL resources underlying DMTS beyond ongoing impacts effected by the ongoing, routine heavy mining traffic associated with Red Dog mine and port operations.

b) Portions of the CKNHL not within the DMTS Road ROW and proposed for project mobilization and demobilization use only (Figure 4).

During contractor mobilization/demobilization for the proposed project, a temporary snow/ice road between Noatak and the DMTS would be constructed across an undeveloped portion of the CKNHL and used to access the project construction site and community of Noatak when ground is frozen and adequate snow cover present. Mobilization/demobilization activity would only occur during two discrete periods: 1) prior to project construction to mobilize equipment to the project, and 2) to demobilize equipment after project construction is completed. The constructed snow/ice road would melt, and the route would not be used between the two periods and following the second period of use.

No adverse physical impacts to the CKNHL landscape, historic resources, ground surface, or existing vegetation on the route are anticipated to be caused by use of the route for travel during the proposed use periods and no mitigation is expected to be necessary. Design and operational measures to avoid and minimize potential effects include the following: the route has been developed to reasonably follow an alignment of least topographical grade to minimize the potential for snow/ice road subsidence and avoid the need for physically constructing areas of snow/ice embankment on sidehills or slopes; the temporary occupancy periods of the mobilization/demobilization route through that portion of the CKNHL for project construction-related activities would be minimal and only constitute two discrete transport events of equipment into and out from the project construction site with no other occasional use; the route would only be used when frozen and covered in adequate snow and/or ice to prevent damage to vegetation, water bodies or the ground surface; route conditions would be monitored during each transport period and any location potentially threatened with ground or vegetation disturbance reinforced with snow and/or ice cover by appropriate methods and equipment; the durations of the two periods of occupancy over the route would neither be greater than the time needed to build the project nor would there be a change in ownership of the land; there would be no more than minimal change to that portion of the CKNHL or its nature by its temporary use in existing ground conditions and vegetation would remain intact; constructed ice bridges over streams or other watercourses would be removed subsequent to final passage of equipment over them to ensure natural flow conditions resume during spring breakup; there would be neither anticipated permanent adverse physical impacts nor temporary or permanent interference with Section 4(f) activities or purposes of that portion of the CKNHL; that portion of the CKNHL would be fully returned to its existing condition; and, there is a documented agreement with the State Historic Preservation Officer (SHPO), the Official with Jurisdiction (OWJ) of the CKNHL, on a finding of No Historic Properties Adversely Affected by the proposed project. Resultantly, proposed temporary occupancy of a winter mobilization/demobilization route through the non-DMTS portion of the CKNHL does not constitute use within the meaning of Section 4(f).

c) Portions of the CKNHL where an airport, airport access road, material sites and pioneer material site access road would be Permanently Constructed (Figure 2).

On approximately 262 various acres of the 500,000-acre CKNHL (i.e., 0.0005% of the CKNHL), the proposed project would permanently construct a new airport, a new airport access road to the community of Noatak, several staging pads along the new airport access road, two material sites on gravel bars within the Noatak River, and a pioneer road between one material site and the new airport access road. As new transportation facilities would permanently occupy portions of the CKNHL containing archeological resources warranting preservation in place, their construction could potentially constitute physical Section 4(f) use of those portions of the CKNHL. However, Chapter 5.3.3 of the Desk Reference provides that FAA may make a “*de minimis* impact” (i.e., ‘*de minimis* use’) determination with respect to physical use of the CKNHL if, after taking into account any measures to minimize harm, the respective Section 106 finding is “no adverse effect to historic properties” or “no historic properties affected” and the FAA NEPA document includes documentation sufficient to support the determination. Such a *de minimis* determination would not require an analysis and finding of no feasible and prudent alternatives or finding that all possible planning has been done to minimize harm. FAA must also consult the consulting parties identified in accordance with 36 CFR part 800, inform the officials with jurisdiction of the intent to make a *de minimis* impact determination, and must concur in a finding of “no adverse effect to historic properties” or “no historic properties affected.” Compliance with 36 CFR part 800 satisfies the public involvement and agency coordination requirement for a *de minimis* finding for historic sites.

Regarding the above, the proposed project description was modified in 2017 and original project Section 106 APE revised to include the new proposed snow/ice road haul route not previously assessed as part of 2006 field investigations. In addition, the description of the proposed pioneer road material haul route to the south material source, previously proposed as a winter-only haul route, was revised to reflect proposed summertime access. The route of the proposed pioneer access road was also shifted to the north of the Kuchoruk Creek/Noatak River confluence to avoid crossing Kuchoruk Creek. As the revised, current route of the proposed pioneer road was not assessed during the 2006 archaeological field investigation, reviews of the Alaska Heritage Resources Survey (AHRS) in January and October 2019 indicated, respectively, that additional cultural resources had been recorded within one mile of the APE in the intervening years, and that no historic resources of concern were identified along the proposed snow/ice road route.

Agency Coordination and Section 106 Consultation on Revised Project Scope.

Including the incorporation of revisions and new information noted above, the following includes an updated, full summary of completed and pending Section 106 consulting party correspondence:

- *Oral History and Archival Research for the Noatak Airport Relocation, Noatak, Alaska and Noatak Airport Relocation Archaeological Survey, Noatak, Alaska* (Mobley 2006) were submitted to the Alaska Office of History and Archaeology for review and consideration during State Historic Preservation Officer (SHPO) review of the project results and findings in 2007.
- In December 2007, the DOT&PF on behalf of the FAA determined that no historic properties would be affected by the proposed Noatak Airport Relocation Project, and the SHPO concurred with this finding on January 31, 2008 (SHPO File No. 3130-IRFAA).
- Due to the extended time that elapsed since the initial project consultation efforts occurred and with the addition of the proposed winter snow road, pioneer road, staging pads, and material

sites, Section 106 consultation was re-initiated on February 21, 2019. Parties consulted included:

- the Alaska SHPO
- the NPS
- the Native Village of Kivalina
- the City of Kivalina
- the Native Village of Noatak
- NANA Regional Corporation
- Maniilaq Association
- the Northwest Arctic Borough
- NPS Western Arctic National Parklands Office
- the Bureau of Indian Affairs (BIA)

- The *Noatak Airport Relocation Project Cultural Resources Survey Report* (Stantec 2020) was submitted to the SHPO in April 2020.
- A finding of “No Historic Properties Adversely Affected” was transmitted by letter to SHPO, NPS, and other consulting parties on August 26, 2021; the SHPO concurred on September 22, 2021.
- The FAA will submit the draft de Minimis determination to the Official with Jurisdiction (NPS) for review and concurrence.
- Public notice and opportunity for comment as well as the concurrence for a de Minimis impact determination may be combined with similar actions undertaken as part of the NEPA process (23 CFR 774.5(b)). Upon reception of OWJ concurrence on the de Minimis finding, FAA will make the approved determination available for public review and comment a) during public meetings conducted for the release of the project Draft Environmental Assessment (DEA); and b) by posting of the approved determination on the DOT&PF project website and online public notice websites.

As FAA has conducted necessary agency coordination and consultation and found, with SHPO concurrence, the construction of the proposed new airport, access road, material sites and pioneer material site access road within portions of the CKNHL would result in no historic properties adversely affected, the proposed permanent use of those portions of the CKNHL for transportation purposes can be considered *de minimis* based in part, on FAA’s determination that the potential effects of noise, air and water pollution, wildlife and habitat effects, effects to aesthetic values and/or other permanent effects from the conversion of 262 acres of the approximately 500,000 acre NHL (0.0005%) would result in no impairment of intended uses of the potentially affected 4f lands.

IV. Proposed Final Section 4(f) Determinations

1) Cape Krusenstern National Monument (CKNM)

As all proposed project activities would occur on the existing, privately owned DMTS transportation ROW and facility within the CKNM, there is **no Section 4(f) use of the CKNM**.

2) Cape Krusenstern Archaeological District National Historic Landmark (CKNHL)

a) Portions of the CKNHL within the DMTS Road ROW.

As proposed project activities would occur only on the existing, privately owned DMTS transportation ROW and facility within the CKNHL, and the DMTS is not a contributing historic element to the CKNHL; and there would be no additional anticipated impacts above current conditions to CKNHL resources underlying DMTS there is **no Section 4(f) use of the CKNHL within the DMTS transportation ROW and facility.**

b) Portions of the CKNHL not within the DMTS ROW and proposed for project mobilization and demobilization use only.

Proposed temporary occupancy of this portion of the CKNHL for project construction-related activities would be minimal and durations of temporary occupancy no greater than the time needed to build the project, and there would be no change in land ownership. There would be no more than minimal change to that portion of the CKNHL or its nature; there would be neither anticipated permanent adverse physical impacts nor temporary or permanent interference with Section 4(f) activities or purposes of that portion of the CKNHL; and that portion of the CKNHL would be fully returned to its existing condition. There is also documented agreement with the State Historic Preservation Officer (SHPO), the Official with Jurisdiction (OWJ) of the CKNHL, on a finding of No Historic Properties Adversely Affected for the proposed project. **Therefore, proposed project temporary occupancy of a winter mobilization/demobilization route through the non-DTMS portion of the CKNHL does not constitute use within the meaning of Section 4(f).**

c) Portions of the CKNHL where an airport, airport access road, material sites and pioneer material site access road would be Permanently Constructed

The proposed project would permanently convert approximately 262 acres (0.0005%) of the CKNHL to transportation use by permanently constructing a new airport, new airport access road to the community of Noatak, several staging pads along the new airport access road, two new material sites on gravel bars within the Noatak River, and a new pioneer road between one material site and the new airport access road. However, FAA has conducted necessary agency coordination and consultation pursuant to 36 CFR 800.5(d)(2), implementing regulations of Section 106 of the National Historic Preservation Act and found, with SHPO concurrence, that proposed construction of an airport, airport access road, material sites and pioneer material site access road within portions of the CKNHL would result in No Historic Properties Adversely Affected. Further, FAA has determined that the amount of acreage and the location of the land impacted shall not impair the use of the remaining Section 4(f) land, in whole or in part, for its intended purposes.

Accordingly, the permanent conversion of approximately 262 acres of portions of the CKNHL to transportation purposes for the proposed project meets criteria for *de minimis* Section 4(f) use (23 CFR 774.17).

6/18/2022

X Keith Gordon

Keith Gordon

Signed by: 530791

Keith Gordon, Environmental Protection Specialist
Federal Aviation Administration
Alaska Region, Airports Division

Date: June 16, 2022

Hillman, Kacy

From: Jensen, Melissa L (DOT) <melissa.jensen@alaska.gov>
Sent: Monday, August 1, 2022 1:06 PM
To: Lindberg, Sara; Hillman, Kacy
Subject: FW: NPS response to FAA preliminary 4(f) determination on Noatak Airport Relocation

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

Attached is the 4(f) consultation for Noatak. Can you please incorporate language into the EA and send me a copy of the updated document. We need to send off to FAA to finalize.

Thanks,
Missy

From: Gordon, Keith (FAA) <keith.gordon@faa.gov>
Sent: Friday, July 22, 2022 8:49 AM
To: Jensen, Melissa L (DOT) <melissa.jensen@alaska.gov>; McKinney, Holly Jean (DOT) <holly.mckinney@alaska.gov>
Subject: FW: NPS response to FAA preliminary 4(f) determination on Noatak Airport Relocation

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

FYI

Keith Gordon
Environmental Protection Specialist
Federal Aviation Administration
Alaska Region
222 West 7th Avenue, #14
Anchorage, AK 99513-7587
Desk – 907-271-5030
Fax – 907-271-2851

From: Johnson, Emily A <Emily_A_Johnson@nps.gov>
Sent: Thursday, July 21, 2022 11:20 AM
To: Gordon, Keith (FAA) <keith.gordon@faa.gov>
Cc: Hilderbrand, Grant V <Grant_Hilderbrand@nps.gov>; Bella, Elizabeth M <elizabeth_bella@nps.gov>; Schofield, Leah J <leah_schofield@nps.gov>; Pederson Weinberger, Jennifer A. <Jennifer_Pederson@nps.gov>; Cochon, Grace M <grace_cochon@ios.doi.gov>; Scida, Pasquale J <pasquale_scida@ios.doi.gov>; Alam, Shawn K <Shawn_Alam@ios.doi.gov>; Stedeford, Melissa <Melissa_Stedeford@nps.gov>
Subject: NPS response to FAA preliminary 4(f) determination on Noatak Airport Relocation

Hi Keith,

Thank you for the opportunity to comment on the draft Section 4(f) determination for the Noatak Airport Relocation project.

Cape Krusenstern Archeological District National Historical Landmark (CKNHL) highlights the archeological and contemporary importance of travel, trade, communication, and hunting and gathering between the coast and the western foothills of the Brooks Range. The CKNHL was designated in 1973 and comprises over two million acres. More information is available here: [Cape Krusenstern National Historic Landmark \(U.S. National Park Service\) \(nps.gov\)](https://www.nps.gov/capekrusenstern/).

Regarding the National Historic Preservation Act of 1966 (NHPA) Section 106, the National Park Service (NPS) administers the National Historic Landmark (NHL) program for the Secretary of the Interior. Federal agencies undertaking a project within an NHL must be in compliance with Section 106 of the NHPA, as amended, and its implementing regulations (36 CFR Part 800). NPS Alaska concurred with the finding of No Historic Properties Adversely Affected via correspondence with the Federal Aviation Administration (FAA) emailed on June 21, 2022, May 23, 2022, and October 6, 2021.

Regarding the intent of Alaska Department of Transportation and Public Facilities (ADOT&PF) and FAA to make a Section 4(f) *de minimus* impact finding for the above referenced project, NPS is the Official with Jurisdiction for 4(f) purposes for NHLs per a 2018 Department of Interior (DOI) memo and a policy drafted by the Federal Highway Administration (FHWA).

NPS Alaska has reviewed the project. We understand that this transportation project will remove 262 acres permanently from the CKNHL. We concur with the Section 4(f) *de minimus* determinations. We also concur with the *de minimus* impact finding that this project will not adversely impact the CKNHL because no archeological features were found within the project Area of Potential Effect (APE) during an archeological survey conducted by/on behalf of the lead federal agency and that the acreage to be removed from the CKNHL is less than 0.0005% of the total area of the NHL.

Both NPS Alaska's findings for Section 106 and Section 4(f) align with the findings of the Alaska State Historic Preservation Office (SHPO) on May 17, 2022.

Emily A Johnson (*she/her*)
Environmental Protection Specialist
External Review Program Coordinator
Interior Region 11 - Alaska
Home office in Valdez
Work cell: (907) 202-3258

I am a graduate of the GOAL Academy. Ask me about the program!

NPS Core Values: Integrity, Collaboration, Accountability, Respect, Engagement, Stewardship

My Core Values: Experiencing the Outdoors, Security, Integrity, Accountability, Learning, Adventure, Laughter

