



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

ANCHORAGE
Regulatory Division (1145)
CEPOA-RD
Post Office Box 6898
JBER, Alaska 99506-0898

PUBLIC NOTICE DATE:	March 14, 2014
EXPIRATION DATE:	April 14, 2014
REFERENCE NUMBER:	POA-2013-380
WATERWAY:	Nushagak Bay

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States as described below and shown on the enclosed project drawings.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Ms. Amanda Whittier by email at Amanda.L.Whittier@usace.army.mil or by phone (907) 753-5582, toll free from within Alaska at (800) 478-2712, or by fax at (907) 753-5567, if further information is desired concerning this notice.

APPLICANT: Bristol Bay Native Association (BBNA), 1500 Kanakanak Road, Dillingham, AK 99576; (907) 842-5257; Point-of-Contact: Ms. Julieanne Baker.

AGENT: Bristol Engineering Services Corporation, 111 W. 16th Ave., Anchorage, AK 99501; (907) 563-0013; Point-of-Contact: Ms. Susan Luetters.

LOCATION: The project site is located within Section 36, T. 15 S., R. 56 W., Seward Meridian; USGS Quad Map Nushagak Bay D-2; Latitude 58.8400° N., Longitude 158.5500° W.; between Clarks Point and Ekuak, Alaska.

PURPOSE: The applicant's stated purpose is to create/improve access between Clark's Point and Ekuak.

PROPOSED WORK: The proposed project would create a 4.3 mile road connecting the communities of Clark's Point and Ekuak, Alaska. The new road would be 22,700 linear feet (LF), with a driving surface width of 14 feet. The proposed project would place 220,100 cubic yards (CY) of select borrow fill to create the road embankment, followed by 6,650 CY of D-1 surface course to create the driving surface. The proposed road would have a total footprint of 28.26 acres, impacting 22.54 acres of wetlands. All work would be performed in accordance with the enclosed plan (sheets 1-29), dated January 16, 2014.

ADDITIONAL INFORMATION: The applicant has applied for a Fish Habitat permit from the Alaska Department of Fish and Game and a Temporary Water Use permit from the Alaska Department of Natural Resources concurrently with the Department of Army permit.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States from activities involving discharges of dredged or fill material.

a. Avoidance: The applicant states it is not possible or practicable to locate this portion of the proposed project within an upland area. The proposed road has been designed, redesigned, and sited to be the most efficient size possible while avoiding wetland impacts to the greatest extent practicable. The proposed alignment configuration is neither the most direct, nor the alignment with the least amount of wetland impacts. The alignment is the result of numerous proposed routes and meetings with the Native allotment holders in the area, and was the only constructible alternative that was acceptable to them.

Avoidance of impacts to wetlands includes:

- The proposed road was reshaped during the design phase to avoid wetland impacts.
- The proposed road alignment was routed/rerouted, where possible, to avoid wetland impacts.

b. Minimization: The applicant states that minimization of unavoidable impacts to wetlands has been addressed primarily in the project design. Project components including minimizing side slopes, road shape through wetlands, and borrow source area were reduced during the design phase to decrease the project footprint. The proposed road location through wetlands was designed and sited with as minimal footprint as practicable to maintain safety, comply with construction standards, and to minimize impacts to wetlands.

Culverts will be placed along the proposed road to facilitate overland water flow and to maintain the hydrologic regime. No culverts would be placed in fish bearing streams.

All construction activity would incorporate Best Management Practices (BMPs). Additionally, to minimize impacts to wetlands adjacent to the proposed area, all construction activity would be limited to the proposed project footprint.

c. Compensatory Mitigation: The applicant states that the unavoidable wetland impacts within the proposed project corridor include the loss of 22.54 acres of wetland habitat which is comprised of palustrine emergent/scrub shrub (PEM1/SS1B) and palustrine emergent (PEM1R) wetlands, along with the visual impacts of the new road. The temporary impacts associated with construction activities in wetlands are not anticipated to be substantial. Based on the functions discussed the project area wetlands are believed to be moderate functioning, Category II to III wetlands.

To offset the 22.54 acres of permanent wetland impact, the applicant proposes compensatory mitigation by in-lieu fee (ILF) with The Conservation Fund. Clark's Point and Ekuk area wetlands are largely undisturbed and not in need of rehabilitation. Due to the lack of compromised wetlands and features incorporated in the project's design to minimize wetland impacts, an ILF program has been determined to be the preferable compensation choice. The preservation compensatory mitigation ratio for the projects is anticipated to be 2:1.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRs) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRs constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: The project site is not within the known range of any threatened or endangered species or designated critical habitat.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). No EFH species are known to use the project area.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: This permit will be issued or denied under the following authority:

(X) Discharge dredged or fill material into waters of the United States – Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
401 Certification Program
Non-Point Source Water Pollution Control Program

ANCHORAGE

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-7564/FAX: (907) 334-2415

NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. **POA-2013-380, Nushagak Bay**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project, with respect to Water Quality Certification, may submit written comments to the address above by the expiration date of the Corps of Engineer's Public Notice.