



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

KENAI FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
805 Frontage Road, Suite 200C
Kenai, Alaska 99611-7755

PUBLIC NOTICE DATE:	November 3, 2014
EXPIRATION DATE:	December 3, 2014
REFERENCE NUMBER:	POA-2014-423
WATERWAY:	Chilkat River

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 Michael Setering at (907) 283-3518, by fax at (907) 283-3981, or by email at Michael.t.setering@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Alaska Department of Transportation & Public Facilities (ADOT&PF) (Jane Gendron)

LOCATION: The project site is located within Section 9, Township 29 S., Range 57 E., Copper River Meridian; USGS Quad Map AK-Skagway B-3; Latitude 59.37307° N., Longitude -135.83437° W.; Mile Post (MP) 19 of the Haines Highway (HH); near Haines, Alaska.

SPECIAL AREA DESIGNATION: The project is located within the Chilkat River Critical Habitat (designation per Alaska Department of Fish & Game – ADF&G), and the Chilkat River Bald Eagle Preserve (designation per Alaska Department of Natural Resources).

PURPOSE: The applicant's stated purpose is to move naturally occurring slide material from the Takshanuk Mountains into the Chilkat River, adjacent to the HH.

BACKGROUND: MP 19 of the HH is situated at the base of a debris fan (alluvial and colluvial deposits), where unconsolidated material from the Takshanuk Mountains naturally accumulates (influenced by gravity and geologic processes). Historical records indicate debris flows at this location have occurred for over 100 years; the Chilkat Village of Kluktoo was destroyed in 1895. From 1900 to 1950 debris flows were less active; however, since the 1960s, the debris slides are nearly an annual occurrence, and frequently impact mobility and safety along the HH corridor. In 1967, the HH experienced a severe slide event as the highway was covered by 12 feet of material; the estimated volume was greater than 70,000 cubic yards. Noteworthy slide events at MP 19 have occurred in 1998, 2004, 2005, 2009, 2011, 2012, and 2013.

In contemporary times, the ADOT&PF has removed the debris from the roadway and stockpiled the material in the right-of-way (ROW) (in conjunction with other material management efforts); however, the ADOT&PF has reached a critical juncture where all available space within the ROW has been utilized, and an alternate location to deposit the material is required (expansion challenges and site constraints discussed in APPLICANT PROPOSED MITIGATION heading below).

While the frequency and volume of material varies from year-to-year, the majority of recorded slide events have occurred in the months of August, September and October. The recent event in 2013 resulted in an estimated 40,000 cubic yards of material on the Haines Highway at MP 19, while the slide event in 2009 deposited as little as 3,500 cubic yards. The 2013 slide event was the largest (documented) event since the 1967 slide (70,000 cubic yards).

PROPOSED WORK: The ADOT&PF is proposing to discharge up to 26,800 cubic yards of slide material (comprised of rocks/boulders, mud, silts) in 1.7 acres below the ordinary high water mark (OHWM) of the Chilkat River, annually, for a period of five years, totaling 134,000 cubic yards in 8.5 acres. Material would be stacked 15 feet high. The proposed work also includes placing up to 13,200 cubic yards of material above the OHWM of the Chilkat River, annually, for a period of five years, totaling 66,000 cubic yards. Please note, material placed above the OHWM is outside the limits of our jurisdiction, but has been included in this public notice for your information.

The proposed quantities are based on available (estimated) data from known slide events. Speculating precise quantities for discharge is not feasible as the volume of material is variable from year-to-year. As such, during the proposed five year authorization period, the ADOT&PF seeks to utilize an adaptive management strategy in consultation with other state and federal agencies, whereas each year the agencies would discuss what is working and what is not working, and whether the discharge plan (quantities, frequencies and seasonal timeframes) has been acceptable to effectively minimize impacts to the variety of terrestrial and aquatic resources, or if revisions/modifications to the plan are warranted

All work would be performed in accordance with the enclosed plan (sheets 1-4), dated July 2014.

ADDITIONAL INFORMATION: The proposed work would require a Special Area permit and a Fish Habitat Permit from the ADF&G, and Special Use permit from the Alaska Department of Natural Resources.

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 has stated it is impracticable to avoid impacts to waters of the United States while still meeting the stated project purpose.

b. Minimization: Impacts to waters of the United States have been minimized by reducing the footprint of the debris piles. The ADOT&PF considered stacking the debris to a depth of 10 feet, resulting in 2.6 acres of impact to waters of the United States. However, as proposed, debris material would be stacked 15 feet high within the Chilkat River, minimizing impacts to 1.7 acres of waters of the United States. The ADOT&PF has considered further minimizing impacts by stacking the material into taller piles, but claims the increased height of the debris piles would create unstable, unsafe elevated areas, between the HH and the main channel of the Chilkat River. Moreover, because the area surrounding MP 19 of the HH is within the Chilkat Bald Eagle Preserve, these elevated debris piles would have an adverse effect on the visual landscape.

c. Compensatory Mitigation: Debris material has been falling into the Chilkat River in this area long before the Haines Highway existed. As such, the ADOT&PF is not proposing compensatory mitigation.

WATER QUALITY CERTIFICATION: A permit for the described work would 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 is an unevaluated property in the vicinity of the worksite. It has been designated SKG-00206. Because the property has been determined to be outside of the project area, no

further action is required. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time. This application is being coordinated with 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: No threatened or endangered species are known to use the project area.

We have determined the described activity would have no effect on any listed or proposed threatened or endangered species, and would have no effect on any designated or proposed critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (NMFS) is required. However, any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

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).

The project area is within the known range of the Chum Salmon (*Oncorhynchus keta*), Coho Salmon (*Oncorhynchus kisutch*), Sockeye Salmon (*Oncorhynchus nerka*), Chinook Salmon (*Oncorhynchus tshawytscha*), and Pink Salmon (*Oncorhynchus gorbuscha*).

We have determined the described activity may adversely affect EFH in the project area for the following species: Chum Salmon (*Oncorhynchus keta*), Coho Salmon (*Oncorhynchus kisutch*), Sockeye Salmon (*Oncorhynchus nerka*), Chinook Salmon (*Oncorhynchus tshawytscha*), and Pink Salmon (*Oncorhynchus gorbuscha*). The proposed project involves discharging material directly into the Chilkat River, which may potentially increase the probability of injury or mortality of said species and/or loss of habitat. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

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

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1795
PHONE: (907) 465-5321/FAX: (907) 465-5274

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-2014-423, Chilkat River** 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.