



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD
2175 University Avenue, Suite 201E
Fairbanks, Alaska 99709-4927

PUBLIC NOTICE DATE:	July 15, 2014
EXPIRATION DATE:	August 14, 2014
REFERENCE NUMBER:	POA-1991-398-M7
WATERWAY:	Noyes Slough

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 Ellen Lyons at the address above, at (907) 474-2166, or by email at Ellen.H.Lyons@usace.army.mil if further information is desired concerning this notice.

APPLICANT: GEOHORN TL 3200, 2090 Van Horn Road, Fairbanks AK 99701

AGENT: Mr. Preston Wheeler, Chatanika Consulting Services, 599 Leuthold Drive, Fairbanks, AK 99712, wheeler.preston@gmail.com

LOCATION: The project site is located within Section 32, T. 1 N., R. 1 W., Fairbanks Meridian; USGS Quad Map Fairbanks D-7; Latitude 64.8658° N., Longitude 147.7832° W.; in Fairbanks, Alaska.

PURPOSE: This is a partial after-the-fact permit application for the retention of 20,500 cubic yards of coal ash fill in 1.75 acres of wetlands. The applicant's stated purpose is to mine remaining peat, rehabilitate 29.4 acres to retain wetland characteristics, and fill 4.6 acres of wetlands to construct cabins, picnic areas and wildlife viewing areas.

PROPOSED WORK: The applicant is requesting a time extension to remove the rest of the peat, and the retention of 20,500 cubic yards (cy) of coal ash fill in its current location (1.75 acres of wetlands; area 3 on plan sheet 4 of 12), and the additional discharge of 2,400 cy of pit run and 1600 cy of topsoil for capping of the coal ash. All work would be performed in accordance with the enclosed plan (sheets 1-8 of 12), dated March 3, 2014.

ADDITIONAL INFORMATION The proposed work also includes the following: The "old" staging area, shown in map 4, will be excavated to a depth of 4 feet to construct a pond to help re-establish the wetland potential in that section of the property. The current road/trail leading to the old staging area within wetlands portion of the property will be removed. Reclamation of the current mining area will be done to ensure the area is sloped to the center of the property. We intend to leave the northern 29.4 acres in a natural state that will benefit the ecosystem by providing habitat for migrating birds.

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 submitted the following: "The existing property conditions exist such that no drainage leaves the property boundary. In fact the current drainage patterns and existing pond serve as the primary drainage system for the property and surrounding properties. Native vegetation grows particularly well due to a rich substrate material located beneath the frozen peat therefore creating a natural filter throughout the property because the vegetative growth rate is greater than the vegetative decay rate. These features have been utilized within this planning process to best protect natural features already in place. The current north buffer zone parameters will be enhanced throughout the northern portion of the property to better protect the existing drainage ditch and ponds. The design will enhance the current wetlands configuration so as to best protect and preserve the current drainage patterns and wetlands conditions. The coal ash has been tested, and does not have any level of contamination, per the EPA regulations, that would pose a threat. Please see the accompanying test results, Sheets 2 of 2 of attached Water Quality Results."

b. Minimization: The applicant submitted the following: "The project design is such that the property already serves as a settling pond for the immediate surrounding area for water run-off. It enhances this feature by providing a larger area of greater water run-off holding capacity in acre feet. This will provide a better wetlands area for migratory fowl. The natural vegetation and growth rate of such will also aid in the filtration of waters within the property boundary. Water running off of the property will not occur."

c. Compensatory Mitigation: The applicant submitted the following: "Compensatory mitigation is not appropriate for this project due to the previously man-made drainage enhancements already in effect. The current design further enhances the existing aquatics of the site therefore providing a larger area capable of supporting more migratory birds, plants, and native animals than current conditions allow. All drainage from the property, and adjacent properties, flows directly to the center of the property. No runoff occurs off of the property."

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: 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 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).

No EFH species are known to use the project area.

We have determined the described activity would not adversely affect EFH.

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
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. **1991-398-M7, Noyes Slough**, 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.