



US Army Corps
of Engineers
Alaska District

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

Public Notice of Application for Permit

PUBLIC NOTICE DATE:	February 4, 2014
EXPIRATION DATE:	March 4, 2014
REFERENCE NUMBER:	POA-2012-88
WATERWAY:	KUSKOKWIM 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 **Patricia Lora** at (907) 753-2797; toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at patricia.l.lora@usace.army.mil, if further information is desired concerning this notice.

APPLICANT: Association of Village Council Presidents, P.O. Box 219, Bethel, Alaska 99559, Attn: Mr. Clarence Daniel, clarence@avcp.org, 9070543-7451, fax: 907-543-7455.

AGENT: Rodney P. Kinney Associates, Inc., 16515 Centerfield Drive, Eagle River, Alaska 99577, Attn: Mr. Brian Pederson, brianp@rpka.net, 907-694-2332, fax: 907-594-1807.

LOCATION: The project site is located within Section 18, T. 7 N., R. 72 W., Seward Meridian; USGS Quad Map Bethel C-8; Latitude 60.69647° N., Longitude -161.98588° W.; includes the following street routes: Mission Road (0400-5000), Lagoon Road (0600-0700), Kuskokwim Road (5013), and Airport Road (2900, 2800-2700, and 5012), within the City of Napakiak, Alaska.

PURPOSE: The applicant's stated purpose is to upgrade/rehabilitate approximately 1.14 miles of existing gravel roads and construct approximately 0.28 miles of new road as an extension to housing.

PROPOSED WORK: The proposed project will upgrade/rehabilitate 1.14 miles of existing gravel roads and construct approximately 0.28 miles of new road as an extension to housing. Upgrades follow the existing road alignment for the following routes: 0400-5000 (Mission Road); 0600-0700 (Lagoon Road); 5013 (Kuskokwim Road); 2900, 2800-2700, and 5021 (Airport Road)

The newly constructed road is an extension of route 0400-5000 (Mission Road) in order to access houses which have already been relocated to this section of Napakiak. All roads are designed to American Association of State Highway and Transportation Officials (AASHTO) standards for very low volume local roads. The roads will have an 18 foot travel width with 1 foot shoulders for a total of 20 feet width and they will be topped with 6 inches of crushed aggregate. The side slopes will be a 3:1 ratio. Fill material will be barged to Napakiak from a commercial material source. Drainage improvements are also required in some parts of the project to facilitate flow and avoid pooling and swamping during spring break up. Drainage along the proposed upgrades will be assisted by the replacement of eight damaged or undersized culverts of varying sizes, up to 36 inches in diameter. Construction is estimated to begin in the spring of 2014 and will occur over a 24-month timeframe.

All work would be performed in accordance with the enclosed plan (sheets 1-5), dated October 3, 2013.

ADDITIONAL INFORMATION: A copy of the Finding of No Significant Impact (FONSI) for the Environmental Assessment (EA) may be found at: www.rpka.net/files/Napakiak.

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 community of Napakiak is situated in an area where there is very little land available to develop, and portions of the community are eroding into the Kuskokwim River. The entire community lies within water of the U.S., so no practical alternative to constructing in wetlands exist. The total project area is 4.65 acres, with **1.52 acres** of new impacts to wetlands. The existing roads in Napakiak were constructed without design standards and have been failing the community's transportation needs as well as posing a risk to safety of Napakiak residents. The proposed project avoids impacts to wetlands by maintaining the existing transportation routing within the community and working within the existing rights-of-way. The new road segment being constructed provides direct and consolidated access to houses that were relocated to the west side of the community.

b. Minimization: Impacts to wetlands along the existing roads in Napakiak were minimized by design. The proposed upgrades are located along the existing alignment, with side slopes and road width minimized to produce the smallest footprint while meeting design criteria for improved safety and traffic needs. In addition, the proposed new road segment (extension of route 0400-5000) will provide a direct route to houses relocated on the west side of town thus minimizing and consolidating ATV use under current off-road conditions. Without this road segment, ATV use on wetlands will continue to erode great areas over time through erosion and rutting. The proposed project also minimizes future impacts to wetlands, by building a road prism that will not be as susceptible to erosion from use as it is currently. The subsiding road prism is creating impacts to a greater surface area over time, as road material is pushed out from the existing roadway. During construction sediment and erosion control measures will be identified and implemented through a Storm Water Pollution Prevention Plan (SWPPP) to minimize sediment impacts into adjacent wetlands.

c. Compensatory Mitigation: The proposed project will result in unavoidable wetland impacts up to **1.52 acres** spread out along 1.42 miles of roadway (see sheets 2-4). Wetland types impacted are classified as palustrine emergent/scrub-shrub (PEM/PSS) wetlands. There are no permittee-responsible or mitigation bank compensatory mitigation options available in Napakiak, or nearby Bethel, therefore, if compensatory mitigation is applied, it will have to be in the form of an in-lieu fee program. The Conservation Fund has credits available in the Southwest Service Area and would classify the proposed project into their Slope/Flat/Depressional and Remote category. The applicant is proposing a **1:1 ratio** be considered by the USACE due to the majority of the impact area occurs alongside the existing roadway, which currently impacts underlying wetlands (see sheets 2-4). These impacts are also discontinuous. The extension of route 0400-5000 is completely new impact, however, the installation of the road segment will prevent further erosion around routes currently being used by ATVs on bare land, thus minimizing the overall impact of not having an established road to access houses that have already been relocated.

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.

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

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. **2012-88, Kuskokwim 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.