



US Army Corps  
of Engineers  
Alaska District

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

# Public Notice of Application for Permit

**PUBLIC NOTICE DATE:** July 15, 2015  
**EXPIRATION DATE:** August 17, 2015  
**REFERENCE NUMBER:** POA-2008-1450  
**WATERWAY:** Brown's 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 Mary Romero at (907) 753-2773, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at [mary.r.romero@usace.army.mil](mailto:mary.r.romero@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Mr. Lyman Hoffman, PO Box 763, Bethel, Alaska 99559; (907) 940-9466

**AGENT:** Restoration Science & Engineering (RSE), LLC., 911 West 8<sup>th</sup> Avenue, Suite 100, Anchorage, Alaska; POC - Colette Brandt, 278-1023 extension 1113.

**LOCATION:** The project site is located within Section 12, T. 8 N., R. 71 W., Seward Meridian; USGS Quad Map Bethel D-8; Latitude 60.7991° N., Longitude 161.8498° W.; approximately 1 mile northwest of the Bethel Airport, in Bethel, Alaska.

**SPECIAL AREA DESIGNATION:** The project is located on private property within the Yukon Delta National Wildlife Refuge.

**PURPOSE:** The applicant's stated purpose is to provide single-family residences for rural Alaskans in the Bethel area.

**PROPOSED WORK:** The placement of 95,900 cubic yards (cy) of clean fill material, from the Dale Construction Material Site and Knik Construction, into 18.6 acres of jurisdictional scrub-shrub and emergent wetlands for the development of a 78 house/lot subdivision to be named Blue Sky Estates Subdivision (BSES). One lot would be set aside for a city park; there would be an area for a small lift station easement also set aside, and several open space

preservation areas. 28,300 cy of fill would be placed into 5.7 acres of wetlands for the construction of roads within the subdivision and 67,600 cy of fill would be placed in 12.9 acres for the construction of house pads and driveways. The proposed subdivision would be in a U-shape surrounding the existing Tsikoyak Subdivision (TS). The project would be constructed in phases. Phase I would be the construction of all roads, power poles, and the park pad. For Phase II individual lots would only be filled after the respective lot has been sold so no unnecessary fill is placed in wetlands unless a home would be constructed on the lot.

The proposed property for the subdivision consists of 48.5 acres, of which 47.2 are jurisdictional wetlands. This proposal would fill 18.6 acres of jurisdictional wetlands and preserve 28.6 acres of wetlands through open spaces and leaving the remainder unfilled. All work would be performed in accordance with the enclosed plan (sheets 1-11), dated June 29, 2015.

ADDITIONAL INFORMATION: Typical lots would be 10,500 square feet (sf) with a typical house pad and driveway footprint of 7,267.5 sf. The lift station easement would be set aside for the City of Bethel, if water and sewer service are extended to the site, and would be completed by the City of Bethel. Prior to the construction on any lot the wetland boundaries and watercourses would be clearly marked with stakes and flagging to minimize project footprint. During construction, stormwater runoff would be controlled by Best Management Practices as detailed in a Construction General Permit Stormwater Pollution Prevention Plan. This would include the installation of silt fencing and straw wattle along the construction areas, use of track walking and other slope stabilization techniques, and inlet and outlet protection of culverts. Side slopes of the roads and residential lots would be permanently stabilized by revegetation. The roads and residential side slopes would be seeded with an approved native vegetation seed mix. Road surfaces would be capped with a minimum of six inches of a compacted gravel leveling course in accordance with the Bethel Municipal Code.

In 2009, the City of Bethel and some residents of the Tsikoyak Subdivision provided comments to the U.S. Corps of Engineers (Corps) in response to the public notice for the original proposed subdivision permit application of October 2008. The Corps requested the applicant address those comments before this public notice was issued. The concerns from those letters were:

1. We have concerns that fill from your subdivision may exacerbate existing flooding in the TS. Describe how excess precipitation and snow melt in your new development will be carried away from your improvements and not contribute to problems in the existing adjacent subdivision. Describe how you have addressed snow storage and calculated road culvert capacity.
2. Also of concern to the Corps is a letter from the City of Bethel Planning Department regarding several components of your subdivision plan which do not appear to meet current requirements in the Bethel Municipal Codes and the Bethel Comprehensive Plan for new subdivisions.

In response to those concerns Lyman Hoffman (applicant), had RSE conduct a drainage analysis (document is linked below the public notice) at the proposed Blue Sky Estates Subdivision (BSES).

Based on the drainage analysis the subdivision was designed to ensure stormwater and snowmelt would not back up into the existing adjacent subdivision. The BSES was designed to ensure general continuation of existing drainage patterns conveying runoff away from the TS and minimize future drainage issues due to construction of the BSES. BSES lots that border TS lots include 10-20 foot drainage easements along the subdivision boundary which when coupled with the existing 10 foot drainage easements of TS lots provide a 20-30 foot drainage easement width. The proposed BSES design includes all main drainage ways that convey runoff away from TS and through the proposed BSES maintained as open space preservation areas to ensure drainage is not restricted. Culverts will convey runoff away from the subdivision to the existing drainage channels leading away from BSES. The drainage analysis was presented to the City of Bethel Planning Commission at their December 11, 2014 meeting by RSE principal David Nyman, PE.

Some of the TS culverts were observed to be partially or fully blocked and some residential pads may have been installed impeding drainage patterns through the TS. BSES design cannot fix existing issues with the existing subdivision fill placement as some of the culverts are not set at the correct elevations. Concerns from 2009, in conjunction with the construction of BSES, Mr. Hoffman is proposing to conduct maintenance or possibly repair, depending on the condition of the three culverts that were observed to be backed up and likely clogged in TS as mitigation in an attempt to help the adjacent neighborhood with existing drainage issues. TS culverts which would have maintenance include one near the northeast corner crossing Sonny's Way from Lot 4 Block 3 to Lot 8 Block 1, and one crossing Tunralik Road from Lot 6 Block 3 to Lot 15 Block 1, and the location of the third culvert is still being determined. The subdivision earthwork contractor will also be available to clean out any additional neighborhood culverts at a cost to the lot owner that requests the cleanout. Lot owners will be able to save costs on this service by not having to pay for contractor mobilization and demobilization to the site. Construction of BSES will not fix all existing TS drainage issues, but will allow drainage to pass freely away from the neighboring subdivision and will not exacerbate drainage issues and promote unobstructed drainage away from the development.

The updated subdivision design submittal was reviewed by the City of Bethel Planning commission at their December 2014 meeting. At that meeting the public had an opportunity to comment on the subdivision. Four members of the public provided testimony on the subdivision. RSE engineer David Nyman, PE presented the RSE subdivision drainage design at the meeting. Multiple planning commission members commented on the subdivision design including the cost of City of Bethel sewer and water haul. City of Bethel's own analysis and the conclusions of the planning commission were that water and sewer haul funds itself with the user fees and piped water and sewer utilities are subsidized by the City and are not fully supported by user fees.

The planning commission discussed the merits of the subdivision, the public comments, and approved the subdivision with two conditions. 1) Require the subdivision to have a development agreement with the City of Bethel, and 2) Require the proposed development adhere to the City Code and the Comprehensive Plan. The developer, Lyman Hoffman, is currently working with the City to address these items and plans to fully comply.

Water and sewer service for much of Bethel including the adjacent TS is via truck haul. Currently there is no piped water and sewer service to the area of Bethel where the TS and proposed BSES are located. RSE reviewed the City of Bethel Water and Sewer Master Plan (Master Plan) which indicates future piped water and sewer service planned for the TS. These improvements are scheduled at priority number 35 of the Water and Sewer Project Prioritization and Funding Summary (Funding Summary) dated 2005 in the Master Plan. Review of the Funding Summary indicates \$190,000,000 of funding is required for the improvements scheduled as priority 1 through 34 before the TS Piped Water and Sewer Improvements are constructed. The Funding Summary indicates the TS improvements are scheduled to be constructed in 20 years from the date of the Funding Summary Report, or 17 years after the proposed Wastewater Treatment Facility is constructed.

Review of the December 11, 2014 City of Bethel Planning Commission meeting minutes provides evidence that currently water and sewer haul services are supported by user fees, while piped water and sewer service fees are currently inadequate to support operational costs. The Master Plan provides a route for the water and sewer service to the TS and the same service mains presumably would accommodate the proposed BSES.

The subdivision design has provided space on the pad of each lot for a 1,000-gallon water tank and a 1,500-gallon sewer tank adjacent to the house to accommodate haul services. A 45-foot by 60-foot area has also been set aside in the subdivision as space for future water and sewer lift station to accommodate City of Bethel future planning for water and sewer services. The lift station pad would be constructed only if water and sewer service are extended to the site, which would be completed by the City of Bethel. Water and sewer piping would be accommodated in the utility and drainage easements along the front and back of the Blue Sky Estates Subdivision lots.

**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 project location is in a region dominated by wetlands, lakes, and other aquatic resources; avoidance of all wetlands is impracticable.

b. Minimization: Only a small portion of the property is uplands, it would be utilized in the project to the extent practicable within the limitations of road and driveway configuration.

c. Compensatory Mitigation: Compensatory mitigation for wetland impacts will be provided by on-site preservation of 8.9 acres of wetland area on individual lots, 0.5 acre within the ROW that will not be filled, and 19.4 acres of designated open spaces within the

subdivision. Existing culverts within the TS will also be cleaned out to improve existing drainage.

**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).

Project drawings and a Notice of Application for State Water Quality Certification are enclosed with this Public Notice.

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. **POA-2008-1450, Brown's 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.