



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Juneau Field Office
Regulatory Division (1145)
CEPOA-RD
Post Office Box 22270
Juneau, Alaska 99802-2270

PUBLIC NOTICE DATE:	February 24, 2017
EXPIRATION DATE:	March 27, 2017
REFERENCE NUMBER:	POA-1992-515-M12
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 Randal Vigil at (907) 790-4491 or by email at Randal.P.Vigil@usace.army.mil, if further information is desired concerning this notice.

APPLICANT: Alaska Department of Transportation and Public Facilities, ATTN: John Barnett, Post Office Box 112506, Juneau, Alaska 99811. Telephone number (907) 465-4504.

LOCATION: The project site is located within Section 30, T. 30 S., R. 59 E., Copper River Meridian; USGS Quad Map Skagway A-2; Section 29, 30, 32, 33, 34, T. 28 S., R. 56 E., Section 5, 6, 8, 9, 10, 14, 15, 16, 23, 25, 26, 36, T. 29 S., R. 57 E., Section 31, T. 29 S., R. 58 E., Section 6, 7, 8, 14, 15, 16, 17, 23, 24, T. 30 S., R. 58 E.; Section 19, 30, T. 30 S., R. 59 E., Copper River Meridian; USGS Quad Map Skagway B-2; Section 25, T. 28 S., R. 55 E., Section 29, 30, 32, 33, 34, T. 28 S., R. 56 E., Section 5, 9, 10, 14, 15, 16, 23, 26, T. 29 S., R. 57 E., Copper River Meridian; USGS Quad Map Skagway B-3; Project Begin Latitude 59.248172° N., Longitude 135.535327° W., Project End Latitude 59.409865° N., Longitude 135.963462° W.; Haines Highway Milepost 3.9 to 25.0, near Haines, Alaska.

SPECIAL AREA DESIGNATION: The project is located within the Alaska Chilkat Bald Eagle Preserve.

PURPOSE: The applicant's stated purpose is to address:

- Highway deficiencies between Milepost 3.5 and Milepost 25.3;
- Bridge deficiencies;
- Highway instability and temporary closures caused by debris and water flooding;
- Recreational access deficiencies.

PROPOSED WORK: The applicant requests authorization for the following work in waters of the United States:

Discharge 131,236 cubic yards of clean gravel, sand, and rock fill material into 22 acres of palustrine wetlands and discharge 28,995.9 cubic yards of clean gravel, sand, and rock fill material into 4 acres below the Ordinary High Water Mark (OHW) of the Chilkat River to realign and widen the Haines Highway. Work would include the installation of 13 corrugated metal pipe culverts ranging in size from 48 inch to 3.5 feet diameter, and 13 arch pipes ranging in size from 81-inch by 59-inch to 12 feet 7 inch by 8 feet 4 inch into 1,857 linear feet of stream (0.3 acres) below the OHW.

All work would be performed in accordance with the enclosed plan (sheets 1-41), dated January 2017.

ADDITIONAL INFORMATION: List of other approvals needed or received.

Agency	Type Approval	Date Approved
Alaska Dept. Natural Resources	Park Use	2016-12-6
Alaska Dept. Fish & Game	Fish Habitat	Pending
US Fish and Wildlife Service	Eagle Disturbance	Pending
US Coast Guard	Section 9 Bridge	Pending

APPLICANT PROPOSED MITIGATION: Refer to the enclosed Applicant Proposed Mitigation Statements and Draft Compensatory Mitigation Plan for the applicant's proposed mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States from activities involving discharges of dredged or fill material.

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 lead Federal agency, Federal Highway Administration (FHWA), is responsible for compliance with the requirements of Section 106 of the National Historic Preservation Act. There are registered or eligible properties in the vicinity of the worksite. They have been designated Chilkat River Bridge (SKG-247), Yendistucky (SKG-054), Smokehouse Village (SKG-044), and the Haines-Fairbanks Pipeline's Gate Valve 4 (SKG-206). They have been determined to be within the project area. In a letter dated, August 6, 2014, a finding of "Adverse Effect" on the Chilkat River Bridge (SKG-247) and "No Adverse Effects" to Yendistucky (SKG-054), Smokehouse Village (SKG-044), and the Haines-Fairbanks Pipeline's Gate Valve 4 (SKG-206) was sent by the FHWA to the State Historic Preservation Officer (SHPO). On August 28, 2014, the SHPO concurred with this finding and the development of a Memorandum of Agreement (MOA) to resolve the adverse effects to the Chilkat River Bridge. An MOA dated June 2, 2016, between the applicant and the SHPO outlines the mitigation measures to be undertaken to resolve the adverse effects on the Chilkat River Bridge (SKG-247). Any comments the 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).

The project area is within the known range of the Chinook (*Oncorhynchus tshawytscha*), chum (*Oncorhynchus keta*), coho (*Oncorhynchus kisutch*), pink (*Oncorhynchus gorbuscha*), and sockeye (*Oncorhynchus nerka*) salmon.

We have determined the described activity would not adversely affect EFH in the project area. In an EFH assessment prepared for the proposed project dated August 2014, the applicant on behalf of FHWA determined that the described activity would not adversely affect EFH during construction. The applicant proposes EFH conservation measures. Refer to the EFH assessment located at the following:

http://dot.alaska.gov/sereg/projects/haines_hwy/assets/8.15.2016/Apx-F_EFH_8-9-2016.pdf.

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

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-1992-515-M12, 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.