



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

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

<b>PUBLIC NOTICE DATE:</b>	<b>January 24, 2017</b>
<b>EXPIRATION DATE:</b>	<b>February 24, 2017</b>
<b>REFERENCE NUMBER:</b>	<b>POA-1995-36</b>
<b>WATERWAY:</b>	<b>Kotzebue Sound</b>

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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 Jason Brewer at (907) 753-753-2823, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at [Jason.D.Brewer@usace.army.mil](mailto:Jason.D.Brewer@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** City of Kotzebue, Post Office Box 46, Kotzebue, AK 99752; Mr. Jason Jessup (907) 442-5402

**LOCATION:** The project site is located at Latitude 66.85284° N., Longitude 162.60892° W.; Kateel River Meridian; USGS Quad Map Kotzebue D-2; on the east side of Air Force Road approximately 2,000 feet south of the intersection of Ted Stevens Way and Air Force Road near Kotzebue, Alaska.

**PURPOSE:** The applicant's stated purpose is "to expand the Kotzebue Landfill to accommodate old, broken down, heavy equipment such as excavators, dump trucks, dozers, asphalt equipment, vehicles, snow machines, four wheelers, and other heavy equipment located throughout core Kotzebue town."

PROPOSED WORK: The City of Kotzebue is proposing to install approximately 167,000 square feet of geotextile fabric and discharge up to 15,000 cubic yards of fill into 3.8 acres of tundra wetlands to develop a new storage pad at the city landfill. The fill would come from local borrow sources. The applicant also proposes to install up to 1,000 linear feet of fencing to enclose the pad. All work would be performed in accordance with the enclosed plan (sheets 1-2), dated January 19, 2017.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the U.S. from activities involving discharges of dredged or fill material.

- a. Avoidance: Lands in and around Kotzebue and the vicinity of the existing landfill are underlain by continuous permafrost and contain wetlands. It is not possible to avoid wetlands to create this storage facility.
- b. Minimization: The applicant considered developing the remainder of the 45-acre Lot 23, which was transferred under ANCSA 14(C)3 specifically for use as a city landfill. However, the project was reduced to 3.8 acres to minimize the area impacted while still providing an adequate sized storage area to contain the heavy equipment found at the landfill and around Kotzebue. Impacts would also be minimized by keeping the disturbance localized at the existing landfill, rather than creating a new storage pad and access road in an undisturbed area.
- c. Compensatory Mitigation: The applicant states that "compensatory mitigation should not be required as the City of Kotzebue received this land specifically for the Kotzebue Landfill."

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 (NRHP). Three eligible properties were found in the vicinity of the worksite, Kotzebue LRRS Gravel Pad System, Kotzebue LRRS Road System, and White Alice Communication System. These sites were originally determined to be eligible for the NRHP; however, after mitigation efforts and subsequent demolition, these sites were later determined ineligible for the NRHP. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time. 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: The project area is within the known or historic range of the Steller's eider (*Polysticta stelleri*), spectacled eider (*Somateria fischeri*), and polar bear (*Ursus maritimus*). There is no designated Critical Habitat in the vicinity of the project area.



We have determined the described activity may affect the threatened Steller's eider, spectacled eider, and polar bear. The project would not affect designated Critical Habitat. We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service. 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 in 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

## ANCHORAGE

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-1995-36, Kotzebue Sound**, 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.



## PROJECT LOCATION MAP

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Hotham Inlet

Kotzebue

PROJECT  
LOCATION

Kotzebue Sound

### VICINITY MAP

PROJECT  
LOCATION

Eschscholtz Bay

Not to scale.

POA-1995-36 Kotzebue Sound  
City of Kotzebue, Landfill Expansion  
Sheet 1 of 2  
January 19, 2017



