



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:	May 8, 2017
EXPIRATION DATE:	June 7 2017
REFERENCE NUMBER:	POA-2015-428
WATERWAY:	Gastineau Channel

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: John Armstrong, Cutting Edge Development, Post Office Box 35513, Juneau, Alaska 99803.

LOCATION: The project site is located within Section 25, T. 40 S., R. 65 E., Copper River Meridian; USGS Quad Map Juneau B-2; Latitude 58.371060° N., Longitude 134.615544° W.; Andsoh Subdivision, Block B, Lot 7, 8, and 9; Sherwood Lane, in Juneau, Alaska.

PURPOSE: The applicant's stated purpose is to "preserve fish passage and to mitigate vehicle parking, maneuverability and access constraints."

PROPOSED WORK: The applicant requests authorization to discharge 1,641 cubic yards of clean shot rock and 369 cubic yards of gravel (grading D-1) fill material below the ordinary high water mark into 0.46. acres of tributary streams of Casa Del Sol Creek, including the installation of 532 lineal feet of 48-inch diameter and 40 lineal feet of 36-inch diameter culvert, in order to construct vehicle parking, turnaround area, and property access.

All work would be performed in accordance with the enclosed plan (sheets 1-7), dated April 20, 2017.

ADDITIONAL INFORMATION: The applicant has previously received the following authorizations from the Alaska Department of Fish and Game: Fish Habitat Permit FH1-I-0071, June 9, 2011; Fish Habitat Permit FH12-I-0027A, September 8, 2015.

The waters of the United States at the site consisting of tributary streams of Casa Del Sol Creek have perennial water flow.

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 number of culvert inlets was minimized in the proposal to reduce the potential entry points for contaminants into the stream. The industrial-zoned lots present a source of contaminants from vehicle traffic and equipment use. The culvert design proposed will preserve a large area of this stream, allowing safe fish passage beneath the proposed traffic areas.

Two alternate easement locations were considered, but due to the limited site area, neither option reduced the area of fill. The options are to leave the stream as is, place a portion of the culvert and fill necessary to flip the fire truck turnaround and increase parking, or to place all of the proposed culvert and fill to optimize traffic flow through the lots.

b. Minimization: The proposed culvert layout optimizes the vehicle parking and turnaround area on Lots 7, 8 and 9 by focusing on the part of the stream closest to the access easement where the most traffic occurs. The surest point of access to Fraction Lot 4 is along the north boundary adjacent to Glacier Highway; therefore, culverting must extend the full length of the stream within the panhandle of Lot 9 to provide access. Fill placement is minimized to the areas necessary to install culverts and to feasibly construct vehicle access.

c. Compensatory Mitigation: To offset unavoidable adverse impacts to the stream passing through Andsoh Subdivision, the applicant proposes mitigation by enhancement and preservation of the aquatic areas. Culverting would enhance the fish passage by creating a controlled environment safe from potential contaminants. Fish could pass through the industrial-zoned lots and under the vehicle traffic areas unharmed. Simulating natural channels through culverts by bedding them in gravel would allow for consistent stream bed width, water depth and uninterrupted flow.

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). There are cultural resources within the vicinity of the permit area. The permit area

has been determined to be the property that the applicant's project would occur on described as, Andsoh Subdivision, Block B, Lot 7, 8, and 9. Consultation of the AHRs constitutes the extent of cultural resource investigations by the Corps of Engineers (Corps) at this time, and we are otherwise unaware of the presence of such resources. The Corps has made a No Historic Properties Affected (No Effect) determination for the proposed project. 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. The Corps is requesting the SHPO's concurrence with this determination.

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 (NMFS) 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 chum (*Oncorhynchus keta*) and coho (*Oncorhynchus kisutch*) salmon.

We have determined the described activity may adversely affect EFH in the project area for the following species chum and coho salmon. The proposed project would involve the discharge of fill material into 0.46 acres of tributary streams of Casa Del Sol Creek, including the installation of 572 lineal feet of culvert that may result in the loss of streambed and the reduction in stream flow that would reduce stream productivity and increase the potential for salmon mortality from habitat loss. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

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
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-2015-428, Gastineau Channel**, 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.