



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD
2175 University Avenue, Suite 201E
Fairbanks, Alaska 99709-4927

PUBLIC NOTICE DATE: November 20, 2012

EXPIRATION DATE: December 19, 2012

REFERENCE NUMBER: POA-2006-678-M2

WATERWAY: Tanana 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 **Ellen Lyons** at (907) 474-2166 or by email at Ellen.H.Lyons@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Milton D. Behr, P.O. Box 71398, Fairbanks, Alaska, 99707,
email: mbehr@acsalaska.net

AGENT: N/A

LOCATION: The project site is located within Section 28, T, 1 South, R. 2 West, Fairbanks Meridian; USGS Quad Map Fairbanks D-2, Latitude 64.8050° N., Longitude 147.9560° W., in Fairbanks, Alaska.

PURPOSE: The applicant's stated purpose is to develop a 20 acres residential cluster housing area that would provide for 20 lots for residences, (townhouse style), recreational activities with trails, parks, and a community center.

PROPOSED WORK: The applicant proposes to mechanically clear and discharge 44,000 cubic yards (cy) of gravel fill and 1200 cy of washed rock into 17.7 acres of the parcel and excavate 2.3 acres of the parcel for gravel,

(this includes 6.8 acres of wetlands which were filled under POA-2006-678, April 2006, and POA-2006-678-M, April 2007), and 2.7 acres of uplands. The total additional fill will be 9.5 acres of wetlands with an additional 1 acre of wetlands excavated for the pond. The purpose of the fill is for the construction of pads for houses, facilities, roads, and septic systems. All work would be performed in accordance with the enclosed plan, (sheets 1-3), dated November 14, 2012.

ADDITIONAL INFORMATION: The entire parcel is wetlands except for 2.7 acres of uplands in the south east corner of the lot, (see attached plan, Sheets 2 and 3). A portion of the work has already been completed under POA-2006-678 dated April 2006 and POA-2006-678-M, dated April 27, 2007. (6.8 acres of wetlands have been filled or impacted under these permits). The applicant is working to subdivide TL 2808 into two 40 acre parcels. The applicant currently does not propose development of the western 40 acre half of the parcel. The road across the western 40 acre half of the parcel, permitted under POA-2006-678-M, would not be constructed and that permit would be rescinded. The current development proposal would occur in the eastern 40 acre parcel.

The applicant has also provided the following information: "The purpose of a cluster housing development is to allow better, safer and more flexible residential development by maximizing the best use of the features of a particular piece of property. The intent is to provide an alternative to the conventional zoning approach and to encourage more creative utilization of land by permitting flexibility and innovation in design, placement and use of open spaces, traffic and pedestrian circulation facilities and off-street parking areas. Our development is designed around a high value wetlands area which we plan to preserve with a conservation easement. Cluster development can allow variation in lot sizes without an increase in the overall density of population or development. A residential cluster development is intended to be a compatible and stable environment in harmony with and at substantially the same population density of the surrounding area." The applicant is proposing to build townhouses and shared septic systems. The applicant plans to develop the northern half of the area first, (Lots 1-10 and the community area), and gravel would be stockpiled just north of the gravel pond shown on the plans, (marked on plans as "storage area"). The depth of the pond would depend on the type of equipment used for excavation. "If a dragline is used, the approximate depth will be 25 feet. If a slack line is used, the approximate depth will be much deeper than 25 feet."

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: Of the total 80 acre parcel currently owned by the applicant, twenty acres would be filled. Twenty acres of the east half of the parcel would be placed in a conservation easement. The other 40 acre half of the parcel may be sold to the Interior Land Trust.

b. Minimization: The applicant is utilizing the areas of uplands, and areas already filled under previous permits for his housing development.

c. Compensatory Mitigation: The applicant proposes to place 20 acres of the parcel into a conservation easement.

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.

We have determined the described activity would have no effect on 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).

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

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-2006-678-M2, Tanana 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.

Chena Point Cluster Housing Project



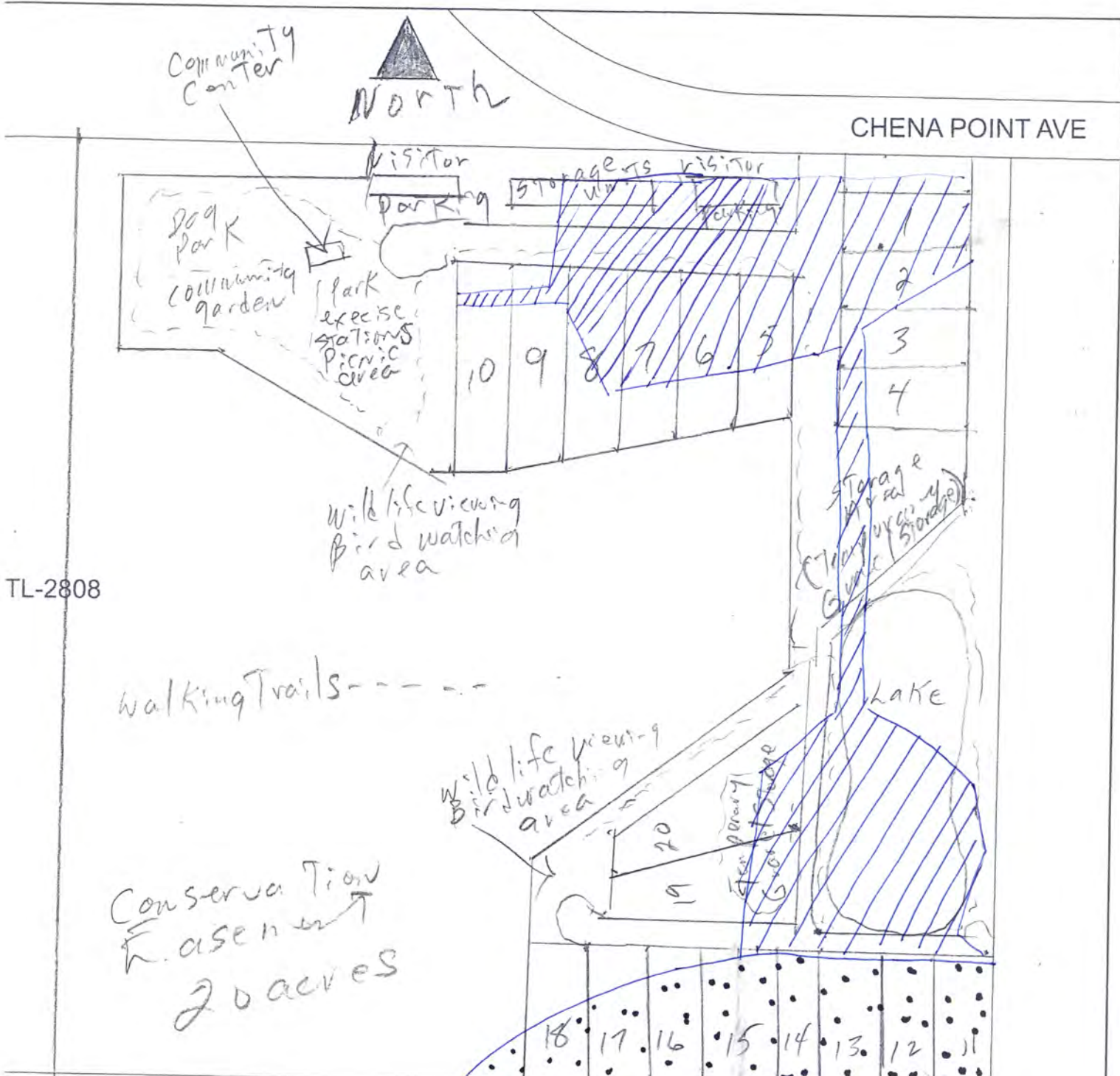
TL-2808

POA - 2006-678-MZ
 Tanana River
 Plan View
 Sheet 1 of 3
 November 14, 2012

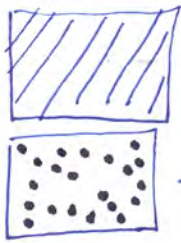
1 inch equals 200 feet



Chena Point Cluster Housing Project



TL-2808

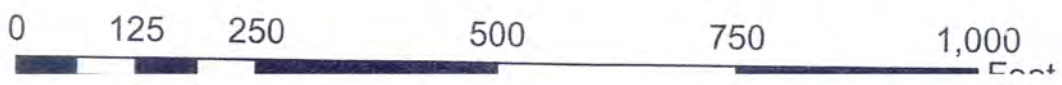


- area previously filled or impacted under POA-2006-678 and POA-2006-678-M.

- uplands

POA-2006-678-MZ
Tanana River
Plan view w/previous impacts
Sheet 2 of 3
November 14, 2012




1 inch equals 200 feet



POA-2006-678-M2, Tanana River
 Plan view over aerial photo
 sheet 3 of 3
 November 14, 2012



Legend

-  Parcel (40 acres)
-  *Area proposed to be filled*
- uplands (2.7 acres)**
-  Area filled under POA-2006-678 (04/06) and POA-2006-678-M (04/07)

Fairbanks Field Office
 ArcGIS 10 Map
 Compiled By: ehl
 Date: 9/28/2012

Scale: 1:2,400
 1 inch = 200 feet

N

