



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

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

**PUBLIC NOTICE DATE:** November 15, 2012  
**EXPIRATION DATE:** December 17, 2012  
**REFERENCE NUMBER:** POA-2009-1249  
**WATERWAY:** Kasaan Bay

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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 project drawings located online at the Regulatory Division website <http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices>.

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 **Heather Boyer** at telephone (907) 753-2877, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at [heather.l.boyer@usace.army.mil](mailto:heather.l.boyer@usace.army.mil) if further information is desired concerning this notice.

APPLICANT: Organized Village of Kasaan, P.O. Box 26, Kasaan, Alaska 99950.

LOCATION: The project site is located within Sections 7 and 18 of T. 73 N., R. 86 W., Sections 1, 2, and 12 of T. 73 N., R. 85 W., Sections 30 and 31 of T. 72 N., R. 85 W., Sections 3, 4, 10, 13, 14, 15, 24, and 25 of T. 72 N., R. 84 W., Sections 23, 30, 32, and 33 of T. 71 N., R. 84 W., and Sections 25 and 26 of T. 71 N., R. 83 W., Copper River Meridian; USGS Quad Map Craig C-2; Latitude 55.5397° N., Longitude 132.4008° W.; beginning in Kasaan and ending in Thorne Bay, Alaska.

SPECIAL AREA DESIGNATION: The project is located within the Tongass National Forest.

PURPOSE: The applicant's stated purpose is to improve physical, operations and safety conditions of the existing road, reduce emergency response times, improve access to recreational and cultural activities, and provide safe and efficient access from Kasaan to the Thorne Bay Road.

PROPOSED WORK: Discharge a total of 6,500 cubic yards of fill material into 6.9 acres of wetlands and 0.857-acre of other waters of the U.S. in order to make improvements to 17.3 miles of the Goose Creek Road from Kasaan to Thorne Bay.

The proposed project would consist of realigning the horizontal and vertical alignments, and widening and flattening of the existing road to prepare it for an asphalt road surface. Road embankments would be improved or constructed to receive an asphalt road surface. Seventy one (71) creeks would be crossed with new culvert crossings, and three creeks would be crossed with bridges. Three hundred six (306) drainage culverts would be installed along the length of the improved road. All work would be performed in accordance with the plan (sheets 1 - 64), dated October 26, 2012, located online at the Regulatory Division website <http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices>.

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 proposed project was developed to provide the least environmentally damaging practicable alternative. The proposed project was designed to avoid impacts to waters of the U.S., including wetlands, by utilizing the existing road alignment as much as possible, except in locations required to be realigned for operation and safety of the roadway.

b. Minimization: The proposed project utilized the existing alignment to the greatest extent feasible to minimize unavoidable impacts to waters of the U.S., including wetlands. The proposed project was developed to produce the smallest possible road footprint. The side slopes and widths of the road were adjusted to produce the smallest possible road footprint. The road improvements were designed to match the existing road elevation as much as possible to minimize road footprint.

c. Compensatory Mitigation: The applicant proposes to upgrade resident and anadromous fish crossings along the road in order to enhance the aquatic resources along the roadway. The applicant would monitor the resident and anadromous fish crossings to ensure adequate fish passage, and would work with the property owner to correct any deficiencies in the crossings.

In addition, the applicant proposes to document baseline salmon distribution and habitat conditions in Karta River, Son-I-hat Creek, and Jacob's Creek watersheds in Southeast Alaska. This would enhance the understanding of salmon distribution and riparian habitat conditions of the Kasaan area watersheds. This would also ensure fish passage as well as adequate riparian buffers on salmon spawning and rearing habitat, along with providing important information on habitat characteristics such as stream channel type, pools, and presence of large woody debris that can be documented as baseline conditions for future conservation. This project would also document fish presence and habitat quality in order to help protect and preserve resources, and for making informed restoration actions. See the attached proposed compensatory mitigation statement for further information.

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 Bureau of Indian Affairs, Alaska Region (BIA), issued a finding of "no historic properties affected" for the proposed project on January 13, 2011. This determination was made after consultation between the BIA, Organized Village of Kasaan, and the Alaska State Historic Preservation Officer.

The determination was made based on information from an onsite field investigation conducted in June 2008, and June 2009, by Walking Dog Archaeology. See the attached determination letter for further information.

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 Coho salmon (*Oncorhynchus kisutch*) and pink salmon (*Oncorhynchus gorbuscha*). We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat will be considered in our final assessment of the described work. It should be noted that the applicant has already received Fish Habitat Permits for the proposed work from the State of Alaska, Department of Fish and Game on August 20, 2012.

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).

A Notice of Application for State Water Quality Certification is enclosed with this Public Notice and project drawings are available online at the Regulatory Division website <http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices>.

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-2009-1249, Kasaan Bay, 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.