



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: June 20, 2013
EXPIRATION DATE: July 22, 2013
REFERENCE NUMBER: POA-2013-192
WATERWAY: Kwiguk Pass

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 Estrella Campellone at (907) 753-2518, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at Estrella.f.campellone@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Martin Moore, City of Emmonak, (907)949-1227, emkcity@gmail.com

AGENT: Emily Creely, DOWL HKM, (907)562-2000, ecreely@dowlhkm.com

LOCATION: The project site is located within Section 17, T. 31 N., R. 81 W., Seward Meridian; USGS Quad Kwiguk D-6; Latitude 62.7761° N., Longitude -164.5156° W., north of the City Dock and across of Emmonak Road; City of Emmonak, Alaska.

SPECIAL AREA DESIGNATION: The project is located within the boundaries of the City of Emmonak.

PURPOSE: The applicant's stated purpose is to provide a safe storage, fueling, and stockpiling yard for near-term construction activities. Upon completion of near-term construction activities, the yard would be converted into a cargo and materials staging and storage area for the Port of Emmonak.

PROPOSED WORK: To place 102,640 cubic yards (CY) of fill in 8.9 acres of palustrine scrub-shrub wetlands for the purpose of building a flood protection pad for storing and/or staging equipment and materials. Approximately 87,920 cubic yards would be comprised of sands and silts and 14,720 cubic yards of gravel. All work would be performed in accordance with the enclosed plan (sheet 1 dated March 21, 2013; sheets 2-3 dated May 21, 2013) (table 1).

Table 1: Discharge amounts and area of wetland impacts.

Material Type	Amount	Wetland Area	Wetland Type
Silts and sands	87,920 CY	8.90 acres	Palustrine scrub-shrub
Gravel course	14,720 CY		
TOTAL	102,640 CY		

ADDITIONAL INFORMATION: This project would be constructed in three phases from 2013 to 2015 (table 2). Initially, the proposed flood protection pad would be used by the Port of Emmonak for construction projects proposed between 2013 and 2016. When construction of the regional port and associated projects are completed, the proposed flood protection pad would be used as staging and material handling area supporting port's operations.

Table 2: Fill amounts proposed for the construction of the flood protection pad on each phase during a 3-year period.

Phase	Construction Year	Size (acres)	Description	Amount
I	2013	3.0	Use of 10,000 CY of silt and sands from the landfill and 10,000 CY from the material stockpiled at the dock storage area, and additional 11,420 CY from an established borrow site near Saint Mary's.	31,420 CY
II	2014	3.0	Use of 29,000 CY from permitted gravel island across Kwiguk Pass (hailed on an ice road). Plus 2,420 CY of gravel cap from the borrow site near Saint Mary's.	31,420 CY
III	2015	2.9	Use of 37,500 CY from permitted gravel island across Kwiguk Pass (hailed on an ice road). Plus 2,300 CY of gravel cap from the borrow site near Saint Mary's.	39,800 CY
Total		8.90		102,640 CY

The gravel borrow site located across Kwiguk Pass was permitted under POA-1991-599-M5, which was issued on April 7, 2010, and would expire on April 30, 2015 (See sheet 1).

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 and Minimization:** Avoidance and minimization measures would include working outside the local bird nesting season (May 1 through July 15), implementing best management practices, identifying project boundaries clearly (e.g., staking, flagging, silt fencing, etc.), and stabilizing disturbed ground upon project completion.
- b. **Compensatory Mitigation:** The City of Emmonak proposes to compensate for unavoidable impacts by either using The Conservation Fund In-Lieu-Fee program sponsor or by developing permittee-responsible mitigation measures.

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: The project area is 10 miles upstream the Yukon River from the Norton Sound. It is located within the historic breeding range of the spectacled eider (*Somateria fischeri*) and Steller's eider (*Polysticta stelleri*), both listed as threatened species. No eiders are known to nest or feed in areas near the Port or village.

Bowhead whale (*Balaena mysticetus*) and Steller sea lion (*Eumetopias jubatus*) are listed endangered species. Although known to occur in the deeper waters offshore from the Yukon River mouth, they do not move up river and would not be affected by the proposed flood protection pad construction.

Critical habitat for polar bear (*Ursus maritimus*) has been designated offshore from the mouth of the Yukon River to include barrier islands and spits. There are no disturbance zones associated with these islands especially in March and April when female bears and new cubs are emerging. No barge traffic associated with the project would occur at that time.

Two marine mammal species are candidate species for threatened status: the ringed seal (*Phoca hispida*) and bearded seal (*Erignathus barbatus*). The ringed seal stays in shallow Bering Sea waters, not moving up river. The bearded seal is known to move past Emmonak village in late summer and fall as the immature seals seek out whitefish in the area's shallow channels and sloughs. Fill material would be obtained from the gravel island spit located in the middle of the Kwiguk Pass, which has already been permitted. Any potential impact on candidate seal species due to extraction of gravel would be avoided by hauling gravel material via ice road during winter months.

We have determined the described activity would have no effect on any listed or proposed threatened or endangered species, specifically no effect on polar bear, ringed seal, bearded seal, bowhead whale, or Steller sea lion, and would have no effect on any designated or proposed critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). We have also determined the described activity would have no effect either on any listed eiders and it would have no effect on any eiders' 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 Chinook salmon (*Oncorhynchus tshawytscha*), Chum salmon (*Oncorhynchus keta*), Coho salmon (*Oncorhynchus kisutch*), Pink salmon (*Oncorhynchus gorbuscha*), Sockeye salmon (*Oncorhynchus nerka*), sheefish (inconnu) (*Stenodus leucichthys*), whitefish (*Coregonus nasus*), and arctic char (*Salvelinus alpinus*). 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 authorities:
(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
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-2013-192, Kwiguk Pass, 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.