



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD
44669 Sterling Highway, Suite B
Soldotna, Alaska 99669-7915

PUBLIC NOTICE DATE: December 16, 2016

EXPIRATION DATE: January 17, 2017

REFERENCE NUMBER: POA-2016-369

WATERWAY: Beluga Lake

Interested parties are hereby notified that a Department of the Army (DA) 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 Ms. Jen Martin at (907) 753-2689, by fax at (907) 420-0813, or by email at jen.l.martin@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Michael Arno, P.O. Box 1772, Homer, AK 99603

AGENT: Mr. John Bishop, Bishop Engineering, LLC, P.O. Box 2501, Homer, AK 99603

LOCATION: The project site is located within Section 14, T. 6 S., R. 13 W., Seward Meridian; USGS Quad Map Seldovia C-4; Latitude 59.6622° N., Longitude 151.4552° W.; Kenai Peninsula Borough (KPB); Phase 1, Commercial Park No. 1 Subdivision; beginning 400 foot south of the intersection of East End Road and Birch Lane, in Homer, Alaska; KPB Parcel # 179-080-29.

PURPOSE: The applicant's stated purpose is to create affordable and reasonably sized mixed use commercial/residential parcels served by municipal services within the City of Homer.

PROPOSED WORK: The applicant has proposed to excavate 1,730 cubic yards (cy) of native material and discharge 2,329 cy of rock fill into 0.69 acre of wetlands to construct an access road with a 26 foot crest width, and an average base width of 39 foot. An 8-inch diameter water main and a 3-inch diameter sanitary sewer line would be trenched in within the footprint of the proposed road (see Sheet 4 of 4). Additionally, an 18-inch wide utility trench (temporarily impacting 1,002 square foot of wetlands) would be excavated north of Kilokak

Lane for underground electrical service, resulting in the temporary discharge of fill material into 2,672 square foot of wetlands through sidecasting. Up to 150 cy of sand and rock would be discharged into the utility trench to support the electrical line installation, with sidecast material returned to the trench. There would be no change in pre-construction contours. Any native fill not utilized in backfilling of trenches or road construction would be removed to an upland location.

All work would be performed in accordance with the enclosed plan (sheets 1-4), dated November 22, 2016.

ADDITIONAL INFORMATION:

The proposed project lies within the City of Homer Functional Wetland Assessment area. The wetlands on this parcel scored as moderate value.

There are a total of 2,420 linear foot (lf) of access roads which would be constructed in Phase 1 (1,100 lf of Ternview Place and 1,320 lf of Kilokak Lane), of which 698 lf are proposed in wetlands (as described in 'Proposed Work' above). The remainder of the project would occur in uplands, which would not require DA authorization.

The proposed roads and utilities would service Phase 1 of Commercial Park No. 1 Subdivision, which includes Tract A and lots 1-8, including five lots where wetlands occur (Lots 3, 4, 5, 6 and 8). Attachment A includes a typical plan view of lot development, a cross-section of the driveway access from Kilokak Lane and a table of potential impacts which may occur by individual property owners. Individual property owners would apply separately for single lot development at a future date.

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 Phase 1 project would develop the northern half of the 40-acre parcel which is predominantly uplands. Only the northerly 1.126-acres of the 14.701-acre wetland area on the parcel would be impacted by the Kilokak Lane roadway and four of the eight newly formed parcels north of Kilokak Lane. The remaining portion of the wetland south of Kilokak Lane is not proposed to be impacted in Phase 1.

The project would allow for all parcels to connect to City municipal sewer service and thus eliminates future impacts associated with installation of on-site wastewater disposal systems during parcel development. By installing City sanitary sewer services, approximately 7000 square feet of future impacts to wetlands is avoided within Lots 3 through 5.

Project construction specifications would direct temporary and permanent stockpiles of excavated or fill material to be placed in upland areas or within the recognized "Limits of Impacts" (roadway footprint) thus eliminating additional impacts to the wetland area outside the roadway footprint and utility trenching areas.

b. Minimization: The proposed subdivision parcels (1-acre nominal) are larger than the minimum (0.25-acre nominal) allowed per City of Homer City Code 21.27.040 for lots served by City water and sanitary sewer. The limited number of parcels in the subdivision results in lower traffic demands, therefore the roadway width has been reduced while still meeting City standards. Fewer parcels also reduces the overall total impact to wetlands when the parcels are developed based on anticipated acceptable development that adheres to the City of Homer zoning code.

The proposed roadway would also utilize geotextile fabric below the embankment. The use of geotextile fabric minimizes the roadway embankment footprint within the wetland and maximizes the amount of native soils that can remain as subgrade thus reducing the excavation and backfill volumes on the project within the wetland areas.

c. Compensatory Mitigation: The project developer has identified two possible means to compensate for unavoidable impacts to wetlands; the information provided is conceptual in nature, and a compensatory mitigation plan has not been submitted.

First, the project developer has identified possible wetland areas that may be set aside for preservation. These areas may be within the Phase 2 area of the subdivision and additional areas may be identified through further study on adjacent parcels owned by the project developer within the same wetland complex.

Second, the project developer is prepared to propose compensation through an in-lieu fee program with a governmental or non-profit natural resources management entity for loss of wetlands.

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 permit area for the proposed project is the entire footprint of the proposed project (Phase 1), including the areas that would be located in uplands.

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 known listed or eligible properties in the vicinity of the worksite. The nearest AHRS sites are over 1,800 feet from the permit area. 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.

The Corps has determined that the proposed project would have no effect on historic properties. This application is being coordinated with the State Historic Preservation Office

(SHPO), and this Public Notice serves to initiate consultation in regards to the Corps no effect determination. The Corps is requesting the SHPO's concurrence with our determination of no effect.

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.

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.

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
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-2016-369, Beluga Lake**, 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.