



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

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

<b>PUBLIC NOTICE DATE:</b>	06/02/2017
<b>EXPIRATION DATE:</b>	07/03/2017
<b>REFERENCE NUMBER:</b>	POA-2013-448
<b>WATERWAY:</b>	Turnagain Arm

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 Shane McCoy at (907) 753-2715, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at [Shane.M.McCoy@usace.army.mil](mailto:Shane.M.McCoy@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** State of Alaska Department of Transportation and Public Facilities (DOT&PF), 4111 Aviation Drive, Anchorage, Alaska 99519-6900

**LOCATION:** The project site is located within Sections 5-6, T.8 N., R.3 E.; Section 36, T.9 N., R. 2 E.; Sections 19, 30-31, T. 9 N., R. 3 E.; Seward Meridian; USGS Quad Seward D-6. The project starts at Seward Highway Milepost (MP) 75 near Ingram Creek (Latitude 60.8467° N., Longitude 149.0607° W.) and ends at MP 90 (Latitude 60.9446° N., Longitude 149.1893° W.) near the Girdwood/Alyeska Highway intersection located about 37 miles south of Anchorage, Alaska. It should be noted that phase I is discontinuous; Phase I would include upgrades from mile post (MP) 75 to approximately MP 77.8 and MP 81.3 to MP 90. Phase II would be upgrades to the area excluded, the area commonly referred to as the "Portage Curve" and will have a separate application.



SPECIAL AREA DESIGNATION: The Seward Highway is recognized as an All-American Road and a National Scenic Byway, an Alaska State Scenic Byway, and as a National Forest Byway.

PURPOSE: The applicant's stated purpose is to address safety problems, roadway deficiencies, and congestion on the Seward Highway between MP 75 and 90.

PROPOSED WORK: The applicant proposes to discharge up to 365,000 cubic yards (CY) of fill into 52.46 acres of wetlands and other waters (which includes 19.41 acres below mean high water (MHW) of Turnagain Arm). The 365,000 CY of fill material would consist of 400 CY of hot mix asphalt, 600 CY of asphalt treated base, 200 CY of crushed aggregate base, 215,000 CY of riprap, 10,300 CY of Class A fill, and 138,500 CY of Type C fill material. Construction of the project would temporarily impact approximately 1.28 acres of wetlands and waters (includes 0.14-acre below MHW).

The project would resurface approximately 11.5 miles of the highway, construct auxiliary passing lanes in three locations; realign the MP 88 curves; replace bridges over Glacier Creek, Virgin Creek and Peterson Creek and rehabilitate the Ingram Creek bridge; improve drainage by removing 10 culverts, replacing 15 culverts, and lengthening one culvert; and install avalanche mitigation gun pads.

All work would be performed in accordance with the enclosed plan set (sheets 1-29, dated May 27, 2017; BR-6, BR-7, BR-8, TBR-6, TBR-7, and TBR-8, dated May 2017).

ADDITIONAL INFORMATION: Other required permits and authorizations associated with the project include Title 16 fish habitat permits from the Alaska Department of Fish and Game (ADF&G); a Flood Hazard permit from the Municipality of Anchorage (MOA); a Land Use permit from the United States Forest Service; Section 9 Bridge authorization from the U.S. Coast Guard (USCG); a Stormwater Pollution Prevention Plan (SWPPP) from the Alaska Department of Environmental Conservation (ADEC); a Section 401 Certificate of Reasonable Assurance from ADEC; coordination with the U.S. Fish and Wildlife Service (USFWS) regarding the Fish and Wildlife Coordination Act, Bald Eagle Protection Act, and Migratory Bird Treaty Act; and a Kenai Peninsula Borough Conditional Use Permit.

APPLICANT PROPOSED MITIGATION: Refer to the enclosed Applicant's Proposed Mitigation Statements document for proposed avoidance and minimization measures for waters of the U.S.

- a. Avoidance: Refer to enclosed Applicant's Proposed Mitigation Statements, Phase I-May 2017.
- b. Minimization: Refer to enclosed Applicant's Proposed Mitigation Statements, Phase I-May 2017.
- c. Compensatory Mitigation: The Applicant has proposed the following as compensatory mitigation for unavoidable impacts to waters of the United States:
  - Replace existing culverts that are undersized and/or in poor condition to improve fish passage to upstream habitats.
  - Remove old bridges in their entirety to eliminate impacts to existing waters of the U.S. at those locations.



- Provide an in-lieu fee (ILF) to an approved ILF sponsor based on the results of an Anchorage Debit / Credit Method Analysis.

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 lead Federal agency, Federal Highway Administration (FHWA), is responsible for compliance with the requirements of Section 106 of the National Historic Preservation Act. The Proposed Action affects the Seward Highway (SEW-01557); however the Seward Highway is exempt from further Section 106 review consideration.

While the State Historic Preservation Office (SHPO) concluded that the evaluation of a historic district is beyond the scope of the Permit Area, they did recommend FHWA make a finding of no adverse effect to historic properties for the total project. The DOT&PF has treated the district as if it were eligible for project planning purposes. In a letter to SHPO dated February 17, 2015, the DOT&PF, consulting on behalf of FHWA, found no adverse effect on historic properties by the Proposed Action, including the MP 88 material site, as per Appendix C of 33 CFR 325. The SHPO concurred on March 10, 2015.

ENDANGERED SPECIES: The project area is within the known range of the Cook Inlet distinct population segment of beluga whales (*Delphinapterus leucas*). The Cook Inlet beluga whale is federally designated as endangered under the ESA. The project area is located within waters designated as Critical Habitat for the Cook Inlet beluga whale.

The DOT&PF, acting on behalf of FHWA, transmitted a *Biological Assessment* incorporating the MP 88 material site to the National Marine Fisheries Service (NMFS) on February 12, 2015. NMFS completed informal consultation and responded to FHWA in a letter dated September 18, 2015 with their concurrence that the project is not likely to adversely affect Cook Inlet beluga whales or adversely modify their critical habitat. Design changes and a modification to the numeric designation of the mean high water (MHW) elevation in Turnagain Arm occurred in 2017 which has resulted in an additional 5.23 acres of impact to Critical Habitat for the Cook Inlet beluga whale that was not previously considered by NMFS. DOT&PF will initiate the appropriate consultation procedures under section 7 of the ESA with the NMFS for the additional impacts.

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 EFH.

The project area is within the known range of the Chinook (*Oncorhynchus tshawytscha*), chum (*O. keta*), coho (*O. kisutch*), sockeye (*O. nerka*), and pink (*O. gorbuscha*) salmon. The project would not adversely affect EFH within the project area from permanent and temporary construction activities as bridges and culverts are rehabilitated, replaced, or removed. An EFH Assessment was sent to NMFS on February 12, 2015. Based on their review of the revised EFH, NMFS stated they agreed with DOT&PF's determination that the proposed project would have no adverse affect to EFH. Design changes and a modification to the numeric designation



of the MHW and high tide lines in Turnagain Arm within the project area resulted in an additional 5.23 acres of impact to EFH that was not previously considered by NMFS. ADOT&PF will initiate the appropriate EFH consultation procedures with NMFS for the additional impacts. Any conservation 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 authorities:

(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(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 the applicant's proposed mitigation statements 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-2013-448, Turnagain Arm**, 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.