



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:	March 28, 2017
EXPIRATION DATE:	April 28, 2017
REFERENCE NUMBER:	POA-2012-863
WATERWAY:	Beaver Creek

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 Andy Mitzel at (907) 753-2689, by fax at (907) 420-0813, or by email at andy.mitzel@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Alaska Department of Transportation and Public Facilities, Attn: Drew von Lindern, PO Box 196900, Anchorage, AK, 99519.

LOCATION: The project site is located within Sections 35 & 36, T. 6 N., R. 11 W., Section 31, T. 6 N., R. 10 W., Section 6, T. 5 N., R. 10 W., Seward Meridian; USGS Quad Map Kenai C-3; Latitude 60.5596° N., Longitude 151.1391° W.; Kenai Spur Highway (KSH) mile post 5.15 to milepost 8.1, in Kenai, Alaska.

PURPOSE: The applicant's stated purpose is: To extend the service life of the road, enhance transportation capacity, and enhance the overall safety of the KSH in Kenai, AK.

PROPOSED WORK: The applicant proposes to discharge 13,486 cubic yards (cy) of clean fill and aggregate cement (A/C) into 2.54 acres of wetlands for the widening of the existing road footprint and embankment of the Kenai Spur Highway, milepost 5.1 to 8.1. Additionally, the applicant proposes to discharge of 2095 cy of clean fill and A/C into 0.232 acres below the ordinary high water mark of Beaver Creek and an unnamed creek for widening of the existing road embankment, culvert replacement, and bank stabilization at the proposed culvert entrance and exit locations.

The proposed project would reconstruct the Kenai Spur Highway between Eagle Rock Place (milepost 5.1) and Swires Road (mile post 8.1) to construct two travel lanes in either direction and a center two-way left turn lane; upgrade or relocate the existing pedestrian pathway; extend or replace in-stream fish culverts and end treatments; relocate utilities; and vertically and horizontally re-align the existing highway.

If permitted, the applicant proposes to commence work on this project in 2017.

All work would be performed in accordance with the enclosed plan (sheets 1-11), dated February 1, 2017.

ADDITIONAL INFORMATION: The proposed project would be phase 1 of a 2 phase project. The 2nd phase of the proposed project is still in planning and would involve widening of the Kenai Spur Highway from milepost 2.4 to 5.1 at some point in the future.

Additional permitting that will be required includes:

- Alaska Pollutant Discharge Elimination System (APDES) Construction General Permit (CGP) coverage for ground disturbance over an acre.
- ADF&G Fish Habitat Permit for work in anadromous streams

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 applicant stated that the proposed project avoids waters of the US, including wetlands through project design (side slopes, alignment, and road width), while still meeting the project purpose and need. Total avoidance of impacts to wetlands and waterways is not feasible as the existing road alignment bisects several wetland areas and two anadromous fish stream. Realignment of the Kenai Spur Highway would be unable to avoid impacting aquatic resources in the area.

b. Minimization: The applicant stated that the proposed project minimizes impacts by the use of steep side slopes on the south side of the road and maintaining the existing road alignment. Additional minimization will occur through the implementation of a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the Alaska Pollutant Discharge Elimination System's (APDES) Construction General Permit (CGP). Compliance with the CGP requires implementing best management practices (BMPs) during construction to reduce or eliminate erosion and sediment discharge from the construction area and to permanently stabilize disturbed ground as soon as practicable. Revegetation will follow recommendations from the Alaska Department of Natural Resources' *A Revegetation Manual for Alaska*.

c. Compensatory Mitigation: The applicant stated that they are not proposing compensatory mitigation for the proposed impacts to waters of the US, including wetlands. The applicant has also stated that the proposed project will improve overall fish passage due to the culvert design.

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 FHWA, in conjunction with Alaska Department of Transportation & Public Facilities, have conducted a cultural resource survey for the proposed project location and are working with the State Historical Preservation Office on this project. A permit for the described work will not be issued until the Section 106 process has been completed and the Corps concurs with Federal Highway Administration's work or documentation.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area.

The lead Federal agency, Federal Highway Administration, is responsible for compliance with the requirements of Section 7 of the Endangered Species Act. A permit for the described work will not be issued until the Section 7 process has been completed and the Corps concurs with Federal Highway Administration's work or documentation.

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 *Oncorhynchus nerka* (sockeye salmon) and *Oncorhynchus kisutch* (coho salmon).

The lead Federal agency, Federal Highway Administration, is responsible for compliance with the requirements of Section 305(b)(2) of the Magnuson-Stevens Act. A permit for the described work will not be issued until the EFH process has been completed and the Corps concurs with Federal Highway Administration's work or documentation.

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-2012-863, Beaver Creek**, 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.