



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 9, 2014
EXPIRATION DATE: July 10, 2014
REFERENCE NUMBER: POA-2013-404
WATERWAY: Colville River

REVISION

Interested parties are hereby notified a Department of the Army (DA) permit application has been received for proposed work in waters of the United States (US), including wetlands, as described below and shown on the enclosed project figures, Figures 1-7 dated May 2014.

Comments on this proposed project, with the reference number listed above (POA-2013-404, Colville River), must be submitted to the US Army Corps of Engineers (USACE) no later than the expiration date of this Public Notice to become part of the administrative record and be considered in our permit decision. Comments must be submitted to Harry A. Baij Jr., USACE Project Manager, by e-mail message at harry.a.baij@usace.army.mil, (907) 753-2784, toll-free within Alaska at (800) 478-2712, or by US mail at the address above. Further detailed information may be obtained by contacting Mr. Baij.

The applicant, the Native Village of Nuiqsut (NVN), is a Department of the Interior (DOI), Bureau of Indian Affairs (BIA), Federally Recognized Tribe. For more detail, see the section below entitled ADDITIONAL INFORMATION.

APPLICANT: Native Village of Nuiqsut, Ms. Margaret Pardue, President, P.O. Box 169, Nuiqsut, AK 99789; e-mail address: native.village@astacalaska.net; office phone (907) 480-3010.

PROJECT NAME: Colville River Access Road.

LOCATION: Within Sections 13, 24, and 25 of T. 10 N., R. 4 E.; Sections 18, 19, 30, and 31 of T. 10 N., R. 5 E.; and Sections 6 and 7 of T. 9 N., R. 4 E. Umiat Meridian; US Geologic Survey Quadrangle Map Harrison Bay A-2; the proposed project begins at Latitude 70.190762°, Longitude -150.99386° and ends at Latitude 70.15093°, Longitude -150.95902902°, NAD 83; USGS Hydrologic Unit Code 19060304, immediately south of Nuiqsut, Alaska.

PURPOSE: The applicant's stated purpose is to provide vehicular road access to the Colville River to enhance the transportation of materials needed for subsistence hunting and fishing including return of harvest.

PROPOSED WORK: Construct a 3.75 mile single-lane gravel road, south from the village of Nuiqsut, to the main channel of the Colville River. The proposed project would begin at the end of the existing Fresh Water Lake Access Road and terminate at the Colville River, main channel, north bank. Construction would occur in winter.

- 1) Road fill: Discharge up to 175,000 cubic yards of clean fill material into 21.25 acres of tundra wetlands including three stream crossings. The road prism bottom footprint would be 32 feet wide (as measured from the toe-of-slope on each side) and have a 12-foot wide crown (top surface). The road prism side

slopes would be constructed at a ratio of 2 horizontal to 1 vertical (2H:1V). Fill would be 5 feet thick to protect permafrost, and geotextile fabric would be placed under all fill areas.

- 2) Culverts: A battery of four corrugated metal pipe culverts would be installed at the 3 fish stream crossings to ensure fish passage and accommodate high water events. The culverts would be embedded into compacted substrates and be installed during the thaw season for proper alignment. Sandbag headwalls would be constructed at the creek inlets and outlets. Other smaller metal pipe culverts, ranging from 18-inch to 36-inch diameters, would be appropriately placed for overland cross-drainage to maintain sheet flow and prevent ponding against the roadway in lower elevation tundra areas.
- 3) Turnouts, to accommodate vehicles meeting one another, would be located at intervals approximately 1000 feet apart. The turnouts would measure 300 feet long by 10 feet wide and be incorporated into the road prism.
- 4) The proposed access road would end in a turn-around of a 100 foot radius (total width). A 3H:1V slope would accommodate vehicles and trailers to drive off the turn-around to launch water craft to accommodate subsistence activities. A boat ramp or other river access improvements are not proposed.

All work would be performed in accordance with the enclosed Figures, sheets 1-7, dated May 2014.

ADDITIONAL INFORMATION:

- 1) The proposed project is being undertaken by the Native Village of Nuiqsut, a Federally Recognized Tribe, with funding provided by the BIA. The USACE Project Management Division has received funding from the applicant to design, contract, and construct the proposed Colville River Access Road. They have been and will continue to assist the applicant in the permit application process but not represent them as their official agent. BIA is the Lead Federal Agency and responsible for complying with the related federal laws under the National Environmental Policy Act (NEPA), such as The Magnuson-Stevens Fishery Conservation and Management Act (Essential Fish Habitat), Endangered Species Act (Section 7 consultation), and National Historic Preservation Act (Section 106 consultation) requirements. USACE Regulatory Division has been conducting preliminary assessments on the above inter-agency Federal coordination requirements in order to publish this public notice.
- 2) Fill material would come from the existing Arctic Slope Regional Corporation (ASRC) mine site across the Colville River during the winter by ice road or other available mine site in the vicinity.
- 3) A similar project design for the Colville River Access Road has been previously authorized by USACE, Regulatory Division in 1996 by DA permit issued to the BIA; permit number POA-1995-364, Colville River. An electronic copy of this permit is available upon request. No portions of the permitted roadway were ever constructed.
- 4) Two project planning documents are available for review in electronic .pdf version by request. The documents are entitled "Design Report, Colville River Access Road Project, Nuiqsut Alaska, March 2013" and "Geotechnical Investigation, Colville River Road- Nuiqsut, Alaska, April 14, 2000".
- 5) Digital aerial oblique snapshots, showing the general project areas, taken during July 2013, are available upon request.

APPLICANT PROPOSED MITIGATION: The Native Village of Nuiqsut proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the US from activities involving discharges of dredged or fill material:

a. Avoidance: The road route selected follows the highest topography, where possible, to minimize wetland impacts. The road design, a single lane with turn-outs, minimizes the road footprint to the smallest size possible for this design in this arctic environment.

b. Minimization: The quantity of fill has been minimized to the smallest quantity that will meet the design standard and allows a thick enough layer of fill to prevent thaw damage to underlying permafrost. Standard erosion control measures will be utilized to prevent water quality degradation. No gravel will be stockpiled outside developed areas to minimize temporary impacts of the road construction project.

c. Compensatory Mitigation: Compensation is expected to be in the form of an in-lieu fee or land preservation.

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: Listed species that may be present in the project area include: the spectacled eider (*Somateria fischeri*), Steller's eider (*Polysticta stelleri*), and polar bear (*Ursus maritimus*). In addition, the yellow-billed loon (*Gavia adamsii*), a candidate species proposed for listing, may be present in the project area.

We have determined the described activity may affect the threatened spectacled eider, Steller's eider, and polar bear. In addition, the project may affect the yellow-billed loon, but it is not currently a listed species.

We have initiated the appropriate consultation procedures under Section 7 of the Endangered Species Act of 1973 (ESA) by providing the service agency advanced information on the applicant's proposal. A Biological Opinion is being prepared by the US Fish and Wildlife Service (USFWS), Fairbanks Field Office, for the listed species referenced above per Section 7 of the ESA.

This application is being coordinated with the USFWS and the National Marine Fisheries Service (NMFS). 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).

No EFH is present within the project area where the direct impacts would occur from fill placement into the tundra wetlands or placement of culverts into the small Colville River tributary streams. We have determined the described activity would not adversely affect the EFH within the Colville River as the proposed road construction would not extend into the waters of the Colville River.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between all Federally Recognized Tribes and the Federal government. In this instance, the applicant is a Federally Recognized Tribe. 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 US-Section 404 of the Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the Environmental Protection Agency Guidelines as set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

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 Number **POA-2013-404, Colville River**, 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.