



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: March 6, 2014
EXPIRATION DATE: April 7, 2014
REFERENCE NUMBER: POA-2013-620
WATERWAY: Kasaan Bay

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 Marcia L. Heer at (907) 753-5759, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at Marcia.L.Heer@usace.army.mil if further information is desired concerning this notice.

APPLICANT: The Organized Village of Kasaan (Mr. Sam Thomas), P.O. Box 26, Kasaan, Alaska 99950, (907) 401-0864.

AGENT: R&M Engineering (Mr. Robert Badgett), 355 Carlana Lake Road, Suite 200, Ketchikan, Alaska 99901, (907) 225-7917.

LOCATION: The project site is located within Sections 13 and 18, T. 73 S., R. 85 E., Seward Meridian; USGS Quad Map Craig C-2; Latitude 55.545017° N., Longitude 132.418629° W.; Kasaan Subdivision Addition Number 1, in Kasaan, Alaska.

PURPOSE: The applicant's stated purpose is to provide developed access to lots within an existing platted subdivision and to improve the standard of existing developed roads.

PROPOSED WORK: The Federal Highway Administration (FHWA), in cooperation with the Organized Village of Kasaan proposes to develop and improve six roads within the Kasaan Subdivision and is requesting Department of the Army (DA) authorization to place 9,871 cubic yards (cy) of rock fill material into 3.35 acres of wetlands and 293 cy of material into a 195-square foot section of two intermittent streams. The roads would vary in length and bottom surface width would vary from 35-50-feet wide, which would include roadside ditches and cross drain culverts. Material for the project is located offsite within an upland gravel pit located approximately 5 miles from the subdivision (see sheet 34).

All work would be performed in accordance with the enclosed plan (sheets 1-36), dated February 25, 2014.

ADDITIONAL INFORMATION: The project area is within a previously harvested timber stand comprised of palustrine forested wetlands and uplands and would provide access to 40 individually owned undeveloped

residential lots. Wetland areas occur within 26 out of the 40 lots. In order for us to facilitate a systematic evaluation process for new subdivisions completely or partially in wetlands and other waters of the U.S. and prevent piecemealing, the Alaska District Army Corps of Engineers issued Special Public Notice (SPN) 2005-08 on June 15, 2005. As discussed in SPN 2005-08, evaluations of subdivision developments must address the effects of all the ancillary subdivision development, including house pads, septic systems, driveways, garage pads, storage pads, yards, utilities, and any additional fill placed in wetlands and other waters of the U.S. to develop the subdivision.

To help facilitate this review process, the applicant has provided us with a preliminary jurisdictional determination of waters of the U.S. within the entire subdivision (see sheet 35). The preliminary jurisdictional determination indicates 38.2 acres of wetlands occur within the 194.06 acre subdivision. They have also provided us with an anticipated typical residential lot building pad size and configuration. Typical individual lot building pads are anticipated to be 50-foot by 60-foot with an 18-foot wide driveway (see Sheet 36). The individual lot owners are responsible for determining whether development of their lot would require a Department of the Army permit.

The subdivision is bisected by Tolstoi Highway. Poorman Drive and Totem Park Circle have previously been developed. Hammar Circle has also been partially developed. We were unable to locate any previous DA authorizations for this previous development or determine when they were constructed or who was responsible. 1994 USGS Topographic maps identify Totem Park Circle and Poorman Drive. These roads and Hammar Circle are also shown on 2003 aerial photographs.

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: According to the applicant, site selection was pre-determined when the subdivision was platted in 1986 and the proposed roads generally follow existing logging roads and skid trails, which would help avoid and minimize impacts. Development within the higher functioning wetland areas at the end of Estelle Place and Daily Circle would be avoided.

b. Minimization: Development of the site would include an extensive storm water pollution and prevention plan. Permanent and temporary soil stabilization and erosion controls include installation of silt fencing, sediment control ponds and ditching, and reseeding disturbed areas.

c. Compensatory Mitigation: The applicant is proposing to obtain credits from the S.E. Alaska Land Trust in-lieu fee program to compensate for unavoidable aquatic impacts.

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, is responsible for compliance with the requirements of Section 106 of the National Historic Preservation Act. They have determined that no listed or eligible properties in the vicinity of the worksite and the State Historic Preservation Office (SHPO) has concurred that no historic properties would be affected by the proposed project.

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 the Endangered Species Act of 1973 (87 Stat. 844). They have determined the described activity would have no effect on any listed or proposed threatened or endangered species and would have no effect on any designated or proposed critical habitat. 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 coho (*Oncorhynchus kisutch*) and pink salmon (*Oncorhynchus gorbuscha*). Federal Highway Administration has determined the described activity would not adversely affect EFH in the project area.

This Public Notice initiates EFH consultation with the NMFS. Any comments or 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 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
410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1795
PHONE: (907) 465-5321/FAX: (907) 465-5274

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-2013-620, Kasaan Bay**, 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.