US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145b)
Post Office Box 6898
Elmendorf AFB, Alaska 99506-6898

PUBLIC NOTICE DATE: 16 September 2005

EXPIRATION DATE: 17 October 2005

REFERENCE NUMBER: POA-2005-1602-4

WATERWAY NUMBER: Trail Creek

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached plan.

APPLICANT: The Alaska Railroad Corporation, Post Office Box 107500, Anchorage, Alaska ((510. Contact person: Ms. Sasha S. Forland, Environmental Permits Analyst (907) 265-2357.

LOCATION: Within section 32, T. 6 N., R. 2 E., Seward Meridian, near Seward Alaska, Railroad mile-post 40.1, Latitude: 60.567, Longitude: 149.150.

WORK: Retain 3 previously constructed dikes, constructed of bed load materials from the project site (approximately 1,550 cubic yards, placed into 0.2 acres of braded gravel stream bed).

PURPOSE: Divert high-water serge from damaging the railroad infrastructure.

ADDITIONAL INFORMATION: The berms were constructed during a high-water-event in late August of this year to prevent destruction of the rail-bed in the immediate area. The Alaska Railroad received a Fish Habitat Permit (FH-V-0161), on August 29, 2005, for the above-described work.

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.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Management and Budget, Division of Governmental Coordination has concurred with the applicant's certification.

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.

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

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS).

We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: None.

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 those factors which 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 decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That 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 Engineer 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.

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 Mr. Skip Joy at, (907) 753-2724 or toll free in Alaska at (800) 478-2712, if further information is desired concerning this notice.

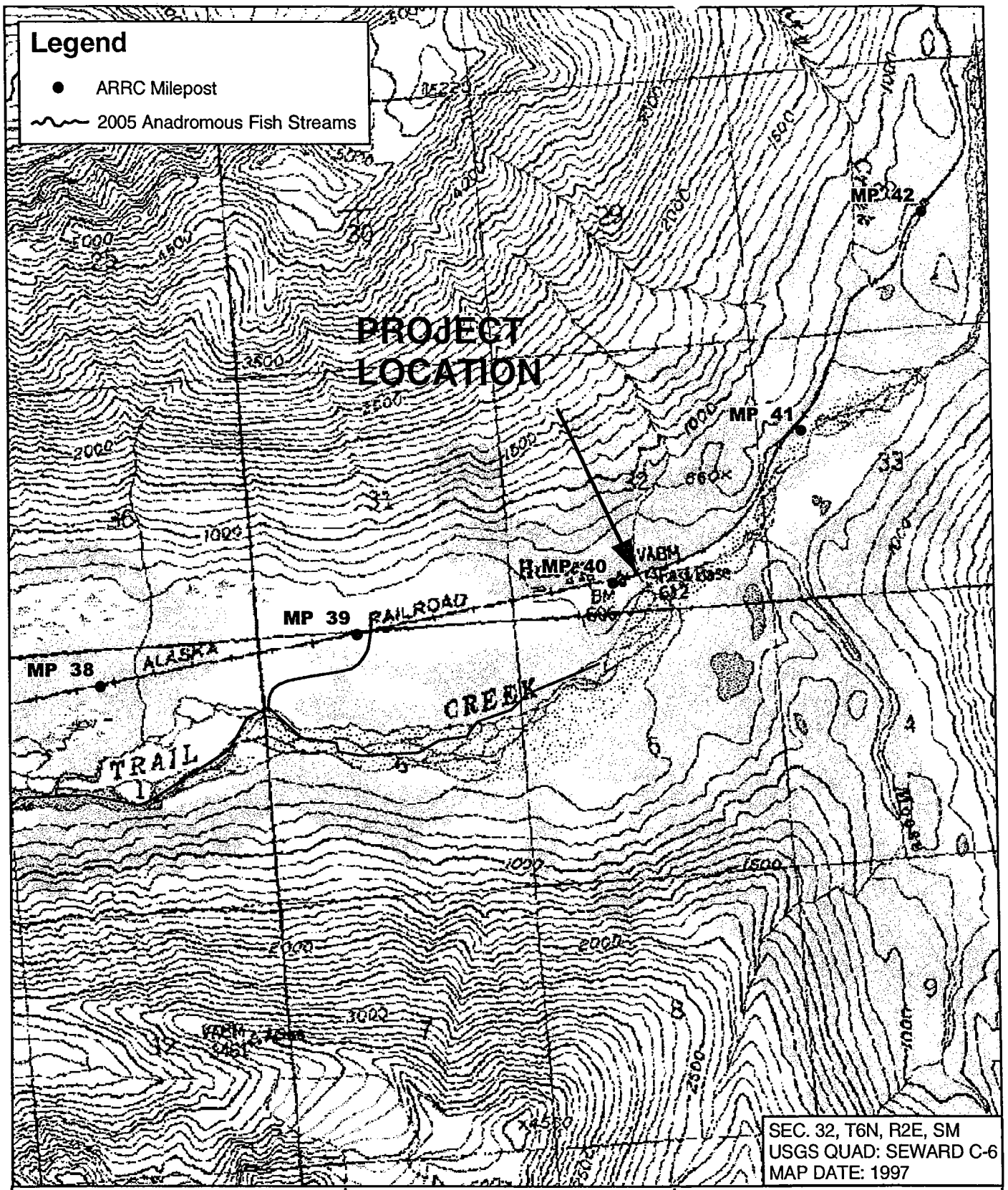
AUTHORITY: This permit will be issued or denied under the following authorities:

(**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).

A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments



PURPOSE: PROTECT HUNTER WYE

PERMIT:

DATUM: ALASKA ALBERS NAD 1927

ADJACENT PROPERTY OWNERS
UPLANDS: N/A
OFFSHORE: N/A

VICINITY MAP

0 0.25 0.5 1 Miles

1 inch equals 0.5 miles

ALASKA RAILROAD CORP.
P.O. BOX 107500
ANCH., AK 99510-7500

HUNTER WYE TEMPORARY FLOOD CONTROL

IN: TRAIL CREEK, ARRC MILEPOST 40.1
AT: HUNTER
KENAI PENINSULA BOROUGH

APPLICATION BY:
T.E. BROOKS, CHIEF ENGINEER
ARRC--ENGINEERING SERVICES

POA-2005-1602-4, Trail Creek

SHEET: 1 OF 2 DATE: 8/25/05

REV:

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT (33 CFR 325)	OMB APPROVAL NO. 0710-0003 Expires December 31, 2004

The Public burden for this collection of information is estimated to average 10 hours per response, although the majority of applications should require 5 hours or less. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research and Sanctuaries Act, 33 USC 1413, Section 103. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
POA-2005-1602-4	CEPOA-CO-R-S		

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME Alaska Railroad Corporation (ARRC)	8. AUTHORIZED AGENT'S NAME AND TITLE *(an agent is not required)* Sasha S. Forland Environmental Permits Analyst
6. APPLICANT'S ADDRESS P.O. Box 107500 Anchorage, Alaska 99510	7. AGENT'S ADDRESS P.O. Box 107500 Anchorage, Alaska 99510
7. APPLICANT'S PHONE NOS. W/AREA CODE a. Residence N/A b. Business (907) 265-2456	10. AGENT'S PHONE NOS. W/AREA CODE a. Residence N/A b. Business (907) 265-2357

11. STATEMENT OF AUTHORIZATION

I hereby authorize Sasha Forland to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

T. Brooks — 9/2/05

APPLICANT'S SIGNATURE — DATE

NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE *(see instructions)*
Hunter Wye Temporary Flood Control, ARRC Milepost 40.1

13. NAME OF WATERBODY, IF KNOWN *(if applicable)* Trail Creek	14. PROJECT STREET ADDRESS *(if applicable)* N/A
15. LOCATION OF PROJECT Kenai Peninsula Borough (COUNTY) — AK (STATE)	

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)
Section 32, T6N, R2E; Seward Meridian (USGS Quadrangle Map Seward C-5)

17. DIRECTIONS TO THE SITE
ARRC Milepost 40.1 – Only access to site is on the railroad

ALASKA RAILROAD CORPORATION

Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510
327 Ship Creek Avenue, Anchorage, Alaska 99501

Engineering Services
Telephone:(907) 265-2357
Facsimile: (907) 265-2595
e-mail: forlands@akrr.com

September 2, 2005

Skip Joy
U.S. Army Corps of Engineers
Regulatory Branch
P.O. Box 6898
Elmendorf AFB, AK 99506-6898

Megan Marie
Alaska Department of Natural Resource
Office of Project Management and Permitting
550 West 7th Avenue, Suite 1660
Anchorage, AK 99501

Subject: Hunter Wye Temporary Flood Control, ARRC Milepost 40.1 (Trail Creek)
Request for After-the-Fact Authorization
USGS Quadrangle Seward C-6, T6N, R2E, Sec. 32, SM

Dear Mr. Joy and Ms. Marie:

RECEIVED
SEP 06 2005
REGULATORY BRANCH
ANCHORAGE DISTRICT
U.S. ARMY CORPS
OF ENGINEERS

The Alaska Railroad Corporation (ARRC) requests after-the-fact authorization of temporary berms constructed in Trail Creek for immediate protection of our Hunter Wye embankment.

On August 25, 20005, ARRC notified regulatory agencies of the situation at Milepost 40.1 and our need for immediate action to address the situation (see attached email). Our original intention for the area, as briefly described in the attached email and discussed by phone, was to clean out the main channel helping to divert the main flow back to it. However, while in the field the operators discovered that the main channel was too deep and swift to operate the D7 Cat in. To be safe, the operators worked from downstream of the new channel building temporary berms to accomplish the diversion. This work as described below took place on August 25 and 26, 2005.

ARRC constructed 3 berms consisting of native river bed material, as shown on the attached drawings. One main berm is redirecting the stream flow back to its main channel, and the other two berms are directing residual flow away from the tracks. The berms were constructed using a D7 Cat operating downstream of where the channel split. A total of approximately 1,550 cubic yards of native river bed material was used to build the berms. Approximately 0.2 acres of Waters of the U.S was disturbed by construction of the berms.

We realize that the berms are only a temporary fix. ARRC was in the process of developing plans to address flood control for the area prior to the large river shift and we are continuing to do so. Permit applications for this work will be sent once the design is complete.

Thank you for your assistance. Please contact me at (907) 265-2357 or Christie Kearney at (907) 265-2376 if you have questions or require additional information.

Sincerely,

Sasha S. Forland
Environmental Permits Analyst

FRANK H. MURKOWSKI,
GOVERNOR

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMNT AND PERMITTING

ALASKA COASTAL ZONE MANAGEMENT
550 WEST 7TH AVENUE, SUITE 1660
ANCHORAGE, ALASKA 99501-3568

NOTICE OF APPLICATION FOR CERTIFICATION OF CONSISTENCY WITH THE ALASKA COASTAL MANAGEMENT PROGRAM

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. **POA-2005-1602-4, Trail Creek,** comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

The Office of Project Management and Permitting requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at http://www.gov.state.ak.us/gdc/Projects/projects.html.

Attachment 1

FRANK H. MURKOWSKI, GOVERNOR

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER
401 Certification Program
Non-Point Source Water Pollution Control Program

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-2005-1602-4, Trail Creek,** State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that 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 within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation
WQM/401 Certification
555 Cordova Street
Anchorage, Alaska 99501-2617
Telephone: (907) 269-6281
FAX: (907) 269-7508

Attachment 2