



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:	November 7, 2019
EXPIRATION DATE:	December 9, 2019
REFERENCE NUMBER:	POA-2013-00192-M1
WATERWAY:	Kwiguk Pass

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States (U.S.) as described below and shown on the enclosed project drawings.

All comments regarding this Public Notice (PN) should be sent to the address noted above. If you desire to submit your comments by email, you should send it to the Project Manager's email as listed below or to regpagemaster@usace.army.mil. All comments should include the PN reference number listed above.

All comments should reach this office no later than the expiration date of this PN to become part of the record and be considered in the decision. Please contact Janet Post at (907) 753-2831, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at: janet.l.post@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Martin Moore, City of Emmonak, 907-949-1227, emcity@gmail.com

LOCATION: The project site is located within Section 17, T. 31 N., R. 81 W., Seward Meridian; USGS Quad Map D-6; Latitude 62.7761° N., Longitude 164.5156° W.; north of the City Dock and across from Emmonak Road, City of Emmonak, Alaska.

PURPOSE: The applicant's stated purpose is to construct a flood protection pad that would be used to safely store four wheelers and equipment during a flood event. The Corps of Engineers (Corps) previously issued a permit for this project, however the project was not constructed and the permit expired.

PROPOSED WORK: Discharge 102,640 cubic yards of fill into 8.9 acres of palustrine scrub-shrub wetlands. All work would be performed in accordance with the enclosed plan (sheet 1 dated March 21, 2013; sheets 2-3 dated May 21, 2013).

ADDITIONAL INFORMATION: The Corps previously issued a permit for this project, however the project was not constructed and the permit expired.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the U.S. from activities involving discharges of dredged or fill material.

a. Avoidance and Minimization: Avoidance and minimization measures would include working outside of the local bird nesting season (May 1 through July 15), implementing best management practices, identifying project boundaries clearly (e.g. staking, flagging, silt fencing, etc.), and stabilizing disturbed ground upon project completion.

b. Compensatory Mitigation: The City of Emmonak proposes to compensate for unavoidable impacts by developing a permittee responsible mitigation plan.

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 cultural resources in the permit area or within the vicinity of the permit area. The permit area has been determined to be in the vicinity of the work site. Consultation of the AHRS constitutes the extent of cultural resource investigations by the Corps at this time, and we are otherwise unaware of the presence of such resources. The Corps has made a No Historic Properties Affected (No Effect) determination for the proposed project. 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. The Corps is requesting the SHPO's concurrence with this determination.

ENDANGERED SPECIES: The project area is 10 miles upstream the Yukon River from the Norton Sound. It is located within the historic breeding range of the spectacled eider (*Somateria fischeri*) and Steller's wider (*Polysticta stelleri*), both listed as threatened species. No eiders are known to nest or feed in areas near the Port or village.

Bowhead whale (*Balaena mysticetus*) and Steller sea lion (*Eumetopias jubatus*) are listed endangered species. Although known to occur in the deeper waters offshore from the Yukon

River mouth, they do not move up river and would not be affected by the proposed flood protection pad construction.

Critical habitat for polar bear (*Ursus maritimus*) has been designated offshore from the mouth of the Yukon River to include barrier islands and spits. There are no disturbance zones associated with these islands especially in March and April when female bears and new cubs are emerging. No barge traffic associated with the project would occur at that time.

Two marine mammal species are candidate species for threatened status: the ringed seal (*Phoca hispida*) and bearded seal (*Erignathus barbatus*), the ringed seal stays in shallow Bering Sea waters, not moving up river. The bearded seal is known to move past Emmonak village in late summer and fall as the immature seals seek out whitefish in the area's shallow channels and sloughs. A potential impact on candidate seal species due to extraction of gravel would be avoided by hauling gravel material via ice road during winter months.

We have determined the described activity would have no effect on any listed or proposed threatened or endangered species, specifically no effect on polar bears, ringed seal, bearded seal, bowhead whale, or Steller sea lion, and would have no effect on any designated or proposed critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (NMFS) 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 the Chinook salmon, Chum salmon, Sockeye salmon, shellfish, whitefish, and arctic char. We have determined the described activity would not adversely affect EFH in the project area.

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 PN 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 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 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

Wastewater Discharge Authorization Program (WDAP) / 401 Certification

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WDAP/401 CERTIFICATION
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-6285 | EMAIL: dec-401cert@alaska.gov

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 (PN) Reference Number **POA-2013-192-M1, Kwiguk Pass**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

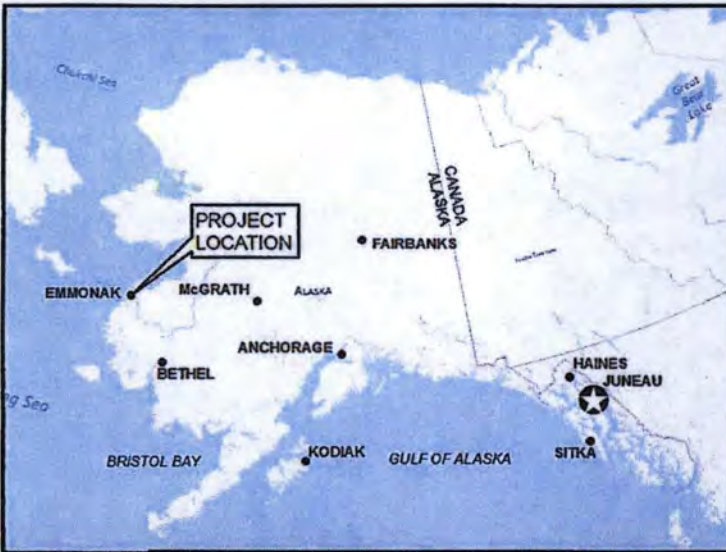
After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.


Any person desiring to comment on the project with respect to Water Quality Certification, may submit written comments to the address above or via email to dec-401cert@alaska.gov by the expiration date of the Corps of Engineer's Public Notice. All comments should include the PN reference number listed above. Mailed comments must be postmarked on or before the expiration date of the public notice.

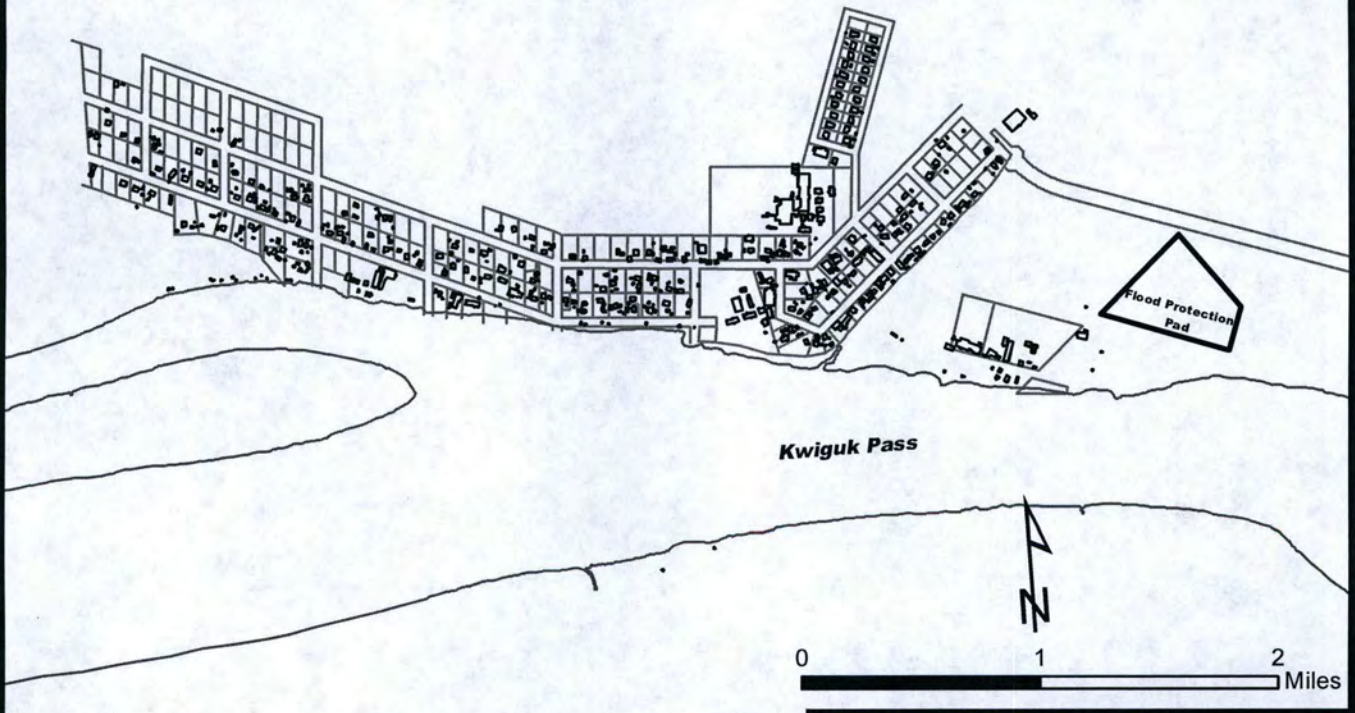
Disability Reasonable Accommodation Notice

The State of Alaska, Department of Environmental Conservation complies with Title II of the Americans with Disabilities Act of 1990. If you are a person with a disability who may need special accommodation in order to participate in this public process, please contact Theresa Zimmerman at 907-465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 within 5 days of the expiration date of this public notice to ensure that any necessary accommodations can be provided.

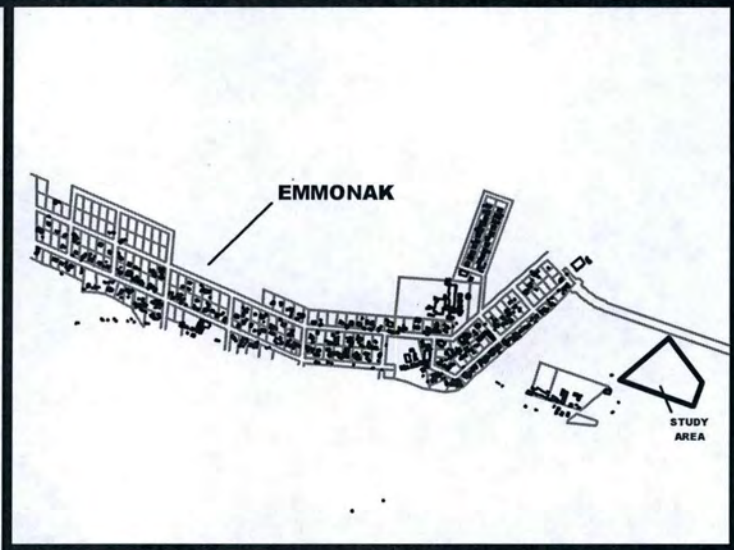
Permit: POA-2013-192
Waterway: Kwiguk Pass
Project: Flood protection pad
Applicant: City of Emmonak
Agent: DOWL-HKM
Date: March 21, 2013
Sheet 1 of 3



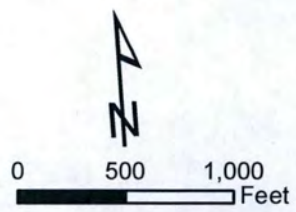
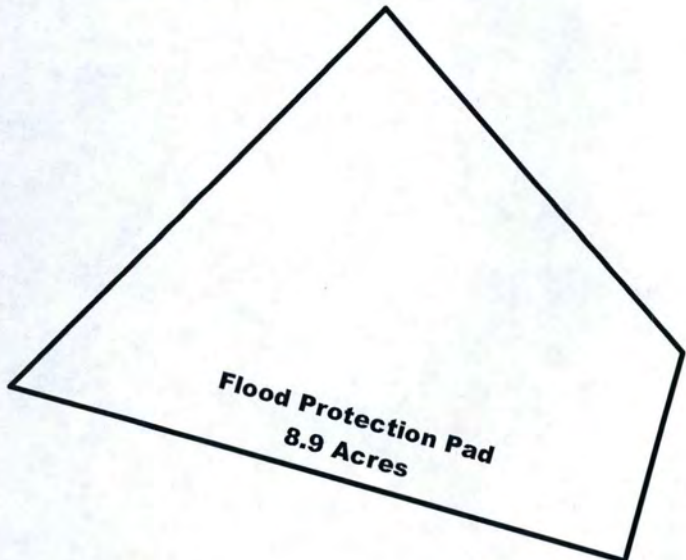
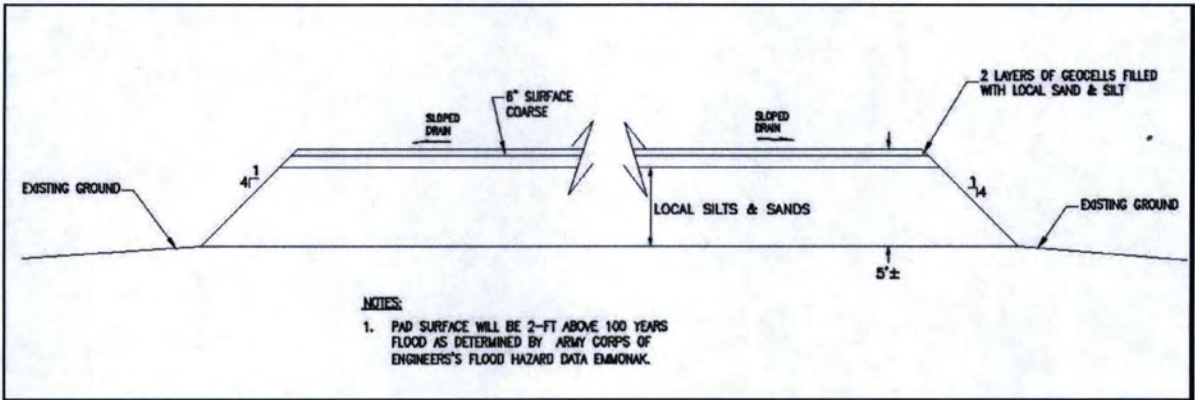
Location and Vicinity Map	
Emmonak, AK	
 DOWL HKM	
March 21, 2013	D60613



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 Waterway: Kwiguk Pass
 Project: Flood protection pad
 Applicant: City of Emmonak
 Agent: DOWL-HKM
 Date: May 14, 2013
 Sheet 2 of 3



**Flood Protection Pad
Cross Section**



Permit: POA-2013-192
 Waterway: Kwiguk Pass
 Project: Flood protection pad
 Applicant: City of Emmonak
 Agent: DOWL-HKM
 Date: May 14, 2013
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