



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

ANCHORAGE
Regulatory Division (1145)
CEPOA-RD
Post Office Box 6898
JBER, Alaska 99506-0898

PUBLIC NOTICE DATE: July 27, 2017

EXPIRATION DATE: August 28, 2017

REFERENCE NUMBER: POA-2012-272

WATERWAY: Kotzebue Sound

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 Jeremy Grauf at (907) 753-2798, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at Jeremy.Grauf@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Brett Nelson, Alaska Department of Transportation and Public Facilities (ADOT&PF), 2301 Peger Road, Fairbanks, Alaska, 99709, brett.nelson@alaska.gov

LOCATION: The project site is located near Kotzebue, Alaska, North Arctic Borough (NAB), starting at approximately Latitude 66.8580° N., Longitude 162.6180° W, and ending at approximately Latitude 66.7299° N., Longitude 162.4314° W, Kotzebue Sound, near Cape Blossom.

PURPOSE: The applicant's stated purpose is to provide improved transportation efficiency and reduce the cost of shipping freight via marine cargo barges to the remote communities of the NAB. The project would construct a road from Kotzebue, Alaska to the Kotzebue Sound near Cape Blossom, an all-season transportation facility and freight staging area, and provide

access to a deeper barge landing site. The existing deep draft marine freight vessels serving Kotzebue currently set anchor in 300 feet of water approximately 15 miles from shore, and freight is then lightered by smaller vessels. The proposed project would provide access to a deep water barge landing with no dynamic shoaling.

PROPOSED WORK: The proposed project would improve and widen 1.7 miles of existing road, create 9.9 miles of new road with turnouts, and create a staging area near Cape Blossom. The proposed work would impact approximately 107.5 acres of wetlands and 432 linear feet of streams by placing approximately 996,253 cubic yards of clean fill material. All work would be performed in accordance with the enclosed plans (sheets 1-7), dated June 2017 (Enclosure #1).

ADDITIONAL INFORMATION: Other authorization required. See enclosed supplemental information (Enclosure #2).

Agency	Type Approval	ID Number	Date Applied	Date Approved
USACE	DOA Wetland Permit: Igy Hill Material Site	POA-2011-1077	1/12/2012	6/12/2012
Northwest Arctic Borough	Title 9 Major Use Permit: Ice Road, Igy Hill	108-03-14		3/25/2014
DOT&PF	Environmental Re-Evaluation Form	Z76884/NCPD-0002(204)		2/18/2015 05/25/2017
Alaska Office of History and Archaeology	No Historic Properties Affected	3130-IR FHWA	06/13/2013 04/05/2017	07/10/2013 04/12/2017
DOT&PF and	Environmental Assessment	Fed:NCPD-002(204)		10/2013
US Federal Highway Administration		State: 76884		
USFWS	Section 7	None	05/30,2012	11/07/2013
Alaska Dept. Fish and Game	Title 16 Fish Habitat	None	5/31/2012	Pending

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. See Enclosure #2.

a. Avoidance: The proposed project area is 99.4% jurisdictional waters of the United States, including wetlands, and therefore, impacts are unavoidable. However, the proposed project would avoid impacts to lakes and streams, by providing a 100 foot buffer from all fish bearing lakes and would avoid stream crossings to the extent practicable to avoid impacts to fish and wildlife.

b. Minimization: Following the preliminary and final wetlands avoidance and design reviews, the Applicant evaluated a suite of best management practices (BMPs) to further minimize anticipated impacts from the proposed project. See the Enclosure #2 for the list of BMPs proposed, which would be included in all construction contract documents in an effort to minimize impacts to the aquatic environment.

c. Compensatory Mitigation: The Cape Blossom Road project would be built to improve transportation efficiency and reduce the cost of shipping freight to the remote communities of the NAB. The project area is composed dominantly of wetlands; ADOT&PF reduced impacts of the project by using existing roads and a direct route to Cape Blossom. ADOT&PF and the City of Kotzebue propose to do permittee responsible mitigation (PRM) on the Baldwin Peninsula where the project would be located.

ADOT&PF, the NAB, and the Kotzebue Trilateral Working Group (Trilateral Group), to include representatives from the City of Kotzebue, KIC, and the Native Village of Kotzebue, co-developed and approved the following PRM plan. ADOT&PF proposes to protect the local drinking water supply of Kotzebue.

ADOT&PF, working with the above groups, proposes to help protect the Kotzebue drinking water supply at Devils Lake and/or Vortac Lake by placing wetlands and waters within the watershed in a protected status and re-route off-road vehicle (ORV) trails away from the watershed. ADOT&PF would work with the City of Kotzebue to create deed restrictions for up to 370 acres of contiguous wetlands within the Devils Lake and/or Vortac Lake watersheds.

The protection of the Devils Lake/Vortac Lake waters, to include the wetlands abutting and surrounding them, would be vital to the continued delivery of safe, dependable drinking water to the Kotzebue community. The City of Kotzebue is on a peninsula, surrounded by salt water. Few freshwater lakes are near the city that can be used for drinking water. The comprehensive plan calls for the relocation of the existing ORV trail, and to create a watershed protection 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 lead Federal agency, Federal Highway Administration, is responsible for compliance with the requirements of Section 106 of the National Historic Preservation Act. The Corps of Engineers (Corps) will review Federal Highway Administration's documentation and either concur with their documentation or continue to work with them until any issues are resolved. 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: The project area is within the known or historic range of the polar bear (*Ursus maritimus*), spectacled eider (*Somateria fischeri*), and Steller's eider (*Polysticta stelleri*).

The lead Federal agency, Federal Highway Administration, is responsible for compliance with the requirements of Section 7 of the Endangered Species Act. The Corps will review Federal Highway Administration's documentation and either concur with their documentation or continue to work with them until any issues are resolved. 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).

No EFH species are known to use the project area. 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 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, supplemental information, 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

ANCHORAGE

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-2012-272, Kotzebue Sound**, 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.