



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:	August 21, 2017
EXPIRATION DATE:	September 20, 2017
REFERENCE NUMBER:	POA-2015-16
WATERWAY:	Beaufort Sea

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 Heather Markway at (907) 753-2797, or by email at Heather.N.Markway@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Hilcorp Alaska, LLC, 3800 Centerpoint Drive, Anchorage, Alaska 99503; Ms. Kate Kaufman, 907-777-8300, kkaufman@hilcorp.com

LOCATION: The project site is located within two federal leases (OCS-Y1650 and OCS-Y1585), in Foggy Island Bay within the Beaufort Sea, northeast of the Prudhoe Bay Unit, and east of the Duck Island Unit. The Liberty Development Production Island (LDPI) will be located approximately 5 miles north of the Kadleroshilik River in approximately 19 feet of waters at Latitude 70.2746° N., Longitude 147.5863° W.

SPECIAL AREA DESIGNATION: The project is located on the Outer Continental Shelf (OCS).

PURPOSE: The applicant's stated purpose for the development is to recover oil from the Liberty Prospect and transport it to the Trans Alaska Pipeline System via the Badami Pipeline.

PROPOSED WORK: Hilcorp Alaska, LLC (HAK) proposes to construct a self-contained offshore drilling and production facility located in the Beaufort Sea OCS. A 12-inch sales oil pipeline inside a 16-inch outer pipe will transport crude oil from the facility to the Badami Sales Oil Pipeline. The offshore portion of the pipeline will be trenched on the ocean floor. The overland portion of the pipeline will be trenched for 350 feet (ft) from the shoreline, and then elevated approximately 7 ft high on vertical support members (VSMs) for most of the remaining distance to the Badami tie-in. The onshore pipeline will go underneath a newly constructed gravel pad where it intersects with the Badami ice road. A second gravel pad will be constructed at the pipeline tie-in point with the Badami Pipeline. HAK also proposes to mine the gravel needed for the project from a selected nearby site.

The following proposed activities would be subject to Section 404 of the Clean Water Act:

- the development of a 25 acre (ac) gravel mine site [mechanized land clearing and discharge of fill into jurisdictional wetlands];
- the construction of the tie-in pad, totaling 0.71 ac (193 ft by 1600 ft) [discharge of fill into jurisdictional wetlands];
- the construction of ice road gravel crossing pad, totaling 0.15 ac (80 ft by 80 ft) [discharge of fill into jurisdictional wetlands];
- the construction of VSMs (footprints) to support the elevated onshore pipeline over 1.5 miles, totaling 0.03 ac (3 ft diameter for ~170 VSMs – one every 50 ft over 1.5 mi) [discharge of fill into jurisdictional wetlands];
- the construction of the pipeline landfall trench, totaling 1.2 ac (350 ft by 150 ft) [discharge of fill into jurisdictional wetlands]; and,
- the construction of a portion of the pipeline located within the Territorial Seas, totaling 4.5 miles and 33 ac (60 ft wide by 4.5 miles) [the discharge of fill below mean high tide in Navigable Waters (the Beaufort Sea)].

The construction of the 4.5 miles portion (33 ac) of pipeline in marine waters within the Territorial Seas is subject to not only Section 404 of the Clean Water Act jurisdiction, but also to Section 10 of the Rivers and Harbors Act.

A Department of the Army permit under Section 10 of the Rivers and Harbors Act (as extended by section 4(f) of the Outer Continental Shelf Lands Act of 1953 as amended (43 U.S.C. 1333(e))) would be required for the construction of the 24 ac artificial island and 1.1 miles (8 ac) of the pipeline on the OCS. This work would not be subject to Section 404 of the Clean Water Act.

Therefore, the Proposed Action would result in 27.09 ac subject to Section 404 only (onshore impacts), 33 ac subject to both Section 404 and Section 10 (Territorial Seas impacts), and 32 ac subject to Section 10 only (OCS impacts).

All work would be performed in accordance with the enclosed plan (sheets 1 – 23), dated 06/13/17.

ADDITIONAL INFORMATION:

The Draft Environmental Impact Statement (DEIS) was published in the Federal Register on August 18, 2017. The DEIS can be viewed at:

www.federalregister.gov/documents/2017/08/18/2017-17481/draft-environmental-impact-statement-on-the-liberty-development-and-production-plan-in-the-beaufort.

The lead agency, Bureau of Ocean Energy Management (BOEM), is hosting the following public meetings in October 2017 to discuss the DEIS (*all times are 7pm-10pm*):

Nuiqsut	Mon, Oct 2 nd	<i>Kisik Community Center 2230 2nd Avenue</i>
Fairbanks	Tues, Oct 3 rd	<i>Westmark Hotel & Convention Center 813 Noble Street</i>
Kaktovik	Wed, Oct 4 th	<i>Kaktovik Community Center 2051 Barter Avenue</i>
Utqiagvik (Barrow)	Thurs, Oct 5 th	<i>Inupiat Heritage Center 5421 North Star Street</i>
Anchorage	Tues, Oct 10 th	<i>Dena'ina Civic & Convention Center 600 West 7th Avenue</i>

The following tables (Tables 15-1, 15-2, 15-3 and 15-4) were pulled directly from the Liberty Development and Production Plan (DPP) Amendment 3 (dated May 26, 2017), which was included as part of the application package. The tables list the various permits and authorizations required for the project from federal, state, and local agencies, and are broken out by Liberty Drilling and Production Island (LDPI) development, pipeline development, and onshore development.

Table 15-1. Permits and Approvals Required for LDPI Development¹

AGENCY	PERMITS AND APPROVALS²	REGULATORY AUTHORITY³	STATUS
FEDERAL			
Federal Agencies	Evaluation of potential impacts and decision on proposed action under the National Environmental Policy Act, as amended (NEPA)	40 CFR 1500-1508	Initiated by Federal agency after submission of DPP and other requests for authorization.
U.S. Department of the Interior Bureau of Ocean Energy Management (BOEM) expected to be lead		43 CFR 46; 30 CFR 550.269	
BOEM	Development and Production Plan (DPP)	30 CFR 550.202; 550.241-262	Agreement with agency requires submittal by year-end
BOEM	Ancillary Activities Permit	30 CFR.550.207-210	As needed.
BOEM	Certificate of Oil Spill Financial Responsibility	30 CFR Part 553	Included in DPP.
BOEM	Air Quality approval	30 CFR 550.218, 550.245, 550.249, 550.257, 550.258, 550.302-304	Included in DPP.
U.S. Department of the Interior Bureau of Safety and Environmental	Oil Spill Response Plan (OSRP) Approval	30 CFR 254	Submit concurrently with DPP.
BSEE	Pipelines and Pipeline Rights- of-Way	30 CFR 250 Subpart J	Apply for and obtain prior to construction.
BSEE	Application for Permit to Drill	30 CFR 250 Subpart D	Apply for and obtain prior to drilling.
BSEE	Pollution Prevention	30 CFR 250.300(b)(2)	Obtain approval of method of disposal of drill cuttings, sand, and other well solids from the District Manager.
BSEE	Platform Verification	30 CFR Part 250.900, 902	"Design Verification Plan" submitted with or subsequent to DPP submittal. "Fabrication Verification Plan" and "Installation Verification Plan" submitted prior to start of operations.
U.S. Army Corps of Engineers	Clean Water Act (CWA), Section 404 Permit	33 CFR 323	Apply for and obtain prior to construction.
USACE	Rivers and Harbors Act, Section 10 Permit	33 CFR 322	Apply for and obtain prior to construction.
USACE	Ocean Dumping Permit	33 CFR 324	If needed, apply for and obtain prior to construction and pipeline installation.
U.S. Environmental Protection Agency		40 CFR 220-229	Contingency for excavated trench materials.
EPA	National Pollutant Discharge Elimination System (NPDES) Individual Permit (or General Permit if	40 CFR 122	Apply for and obtain before construction; submit application information in DPP.
National Oceanic and Atmospheric Administration National Marine Fisheries Service (NMFS)/U.S. Fish and Wildlife Service (USFWS)	Authorization for Incidental Take of Marine Mammals	Marine Mammals Protection Act of 1972, as amended (MMPA)	Apply for and obtain prior to activity.
NMFS	Essential Fish Habitat (EFH) Consultation	Magnusson-Stevens Fisheries Conservation and Management Act	Federal agency consultation.

Table 15-1. Permits and Approvals Required for LDPI Development¹ (continued)

AGENCY	PERMITS AND APPROVALS²	REGULATORY AUTHORITY³	STATUS
NMFS/USFWS	Endangered Species Act (ESA) Consultation and Biological Opinion (BO)/ Incidental Take Statement	Section 7(a) ESA	Agency consultation; BOEM may designate Liberty Operator as "designated non-federal representative" in drafting BO for NMFS review.
U.S. Coast Guard (USCG)	Facility Response Plan	33 CFR 154 Subpart F	Submitted as part of the OSRP.
USCG	Letter of Adequacy for Operation Manual	33 CFR 154 Subpart B	Submit and obtain Letter of Adequacy prior to
USCG/USACE	Aid to Navigation	33 CFR 66.01	Apply concurrently with USACE permit.
STATE OF ALASKA			
ADNR, Office of History and Archaeology	National Historic Preservation Act, Section 106, as amended. Review and concurrence that no	36 CFR 800	Required by USACE for issuing 404 permit. BOEM may lead consultation for activities requiring BOEM authorization.

Notes:

1. Listed are key permits/authorizations/reviews required for Liberty Development based on information available at this time. Until the conclusion of the NEPA process, the project, laws and regulations, and baseline information may change regulatory requirements. As needed, this table will be updated. Coastal Zone Consistency determination is not listed because Alaska does not currently have a Coastal Zone Management Program.
2. AAC = Alaska Administrative Code; AS = Alaska Statute; CFR = Code of Federal Regulations.
3. Other state and local government agencies may serve as cooperating agencies, based on their interest in the proposed action.
4. This assumes that U.S. Department of Transportation regulatory authority will be coordinated through the SPCS and the State-Federal Joint Pipeline Office.

Table 15-2. Permits and Approvals Required for Liberty Pipeline Development¹

AGENCY	PERMITS AND APPROVALS ²	REGULATORY AUTHORITY ³	STATUS
STATE OF ALASKA			
Alaska Department of Natural Resources (ADNR), Division of Oil and Gas (DOG)	Right-of-Way Easements	11 AAC 51	Apply and obtain prior to construction.
ADNR DOG	Land Use Easement	AS 38.05.850 and/or 11 AAC 51	Apply and obtain prior to construction activity.
SPCS ⁴	Right-of-Way Leases	AS 38.35	Apply and obtain prior to construction activity.
FEDERAL			
BOEM	Development and Production Plan (DPP)	30 CFR 550.202; 550.241-262	Agreement with agency requires submittal by year-end
BSEE	Pipelines and Pipeline Rights- of-Way	30 CFR 250 Subpart J	Apply for and obtain prior to construction.
USACE	Ocean Dumping Permit	33 CFR 324	If needed, apply for and obtain prior to construction and pipeline installation.
U.S. Environmental Protection Agency		40 CFR 220-229	Contingency for excavated trench materials.
PHMSA	Special Permit	40 CFR 195	Apply and obtain prior to construction.
National Oceanic and Atmospheric Administration Marine Fisheries Service (NMFS)/U.S. Fish and Wildlife Service (USFWS)	Authorization for Incidental Take of Marine Mammals	Marine Mammals Protection Act of 1972, as amended (MMPA)	Apply for and obtain prior to activity.
NMFS	Essential Fish Habitat (EFH) Consultation	Magnusson-Stevens Fisheries Conservation and Management Act	Federal agency consultation.
NMFS/USFWS	Endangered Species Act (ESA) Consultation and Biological Opinion (BO)/Incidental Take	Section 7(a) ESA	Agency consultation; BOEM may designate Liberty Operator as "designated non-federal representative" in drafting BO for NMFS review.
LOCAL GOVERNMENT			
North Slope Borough (NSB)	Development Permit	NSB Municipal Code 19.50	Apply and obtain prior to construction.
OTHER			
Private Landowners	Land Easement		Obtain prior to activity on privately owned land.

Notes:

1. Listed are key permits/authorizations/reviews required for Liberty Development based on information available at this time. Until the conclusion of the NEPA process, the project, laws and regulations, and baseline information may change regulatory requirements. As needed, this table will be updated. Coastal Zone Consistency determination is not listed because Alaska does not currently have a Coastal Zone Management Program.
2. AAC = Alaska Administrative Code; AS = Alaska Statute; CFR = Code of Federal Regulations.
3. Other state and local government agencies may serve as cooperating agencies, based on their interest in the proposed action.
4. This assumes that U.S. Department of Transportation regulatory authority will be coordinated through the SPCS and the State-Federal Joint Pipeline Office.

Table 15-3. Permits and Approvals Required for Liberty Onshore Development¹

AGENCY	PERMITS AND APPROVALS²	REGULATORY AUTHORITY³	STATUS
FEDERAL			
BOEM	Development and Production Plan (DPP)	30 CFR 550.202; 550.241-262	Agreement with agency requires submittal by year-end
STATE OF ALASKA			
Alaska Department of Natural Resources (ADNR), Division of Oil and Gas (DOG)	Right-of-Way Easements	11 AAC 51	Apply and obtain prior to construction.
ADNR DOG	Land Use Easement	AS 38.05.850 and/or 11 AAC 51	Apply and obtain prior to construction activity.
SPCS ⁴	Right-of-Way Leases	AS 38.35	Apply and obtain prior to construction activity.
ADNR DOG	Geophysical and Seismic Surveys	11 AAC 96.030(a)	As needed.
ADNR, Division of Mining, Land, and Water	Land Use Permit	11 AAC 96	Apply and obtain prior to construction activity.
ADNR, Division of Mining, Land, and Water	Temporary Water Use Permits	11 AAC 93	Apply and obtain prior to activity.
ADNR, Division of Mining, Land, and Water	Material Sales Contract (including Mining and Rehabilitation Plan)	11 AAC 71	Modify Existing Material Sale Contract as needed prior to construction; coordinate with USACE permitting.
ADNR, Office of History and Archaeology	National Historic Preservation Act, Section 106, as amended. Review and concurrence that no	36 CFR 800	Required by USACE for issuing 404 permit. BOEM may lead consultation for activities requiring BOEM authorization.
Alaska Department of Environmental Conservation	Existing Endicott Title V Operating Permit Modification	18 AAC 50	Modify Endicott permit if required by SDI tank volume.
ADEC	Oil Discharge Prevention and Contingency Plan	18 AAC 75	Apply and obtain prior to activity.
ADEC	Section 401 Water Quality Certificate of Reasonable Assurance	18 AAC 15 18 AAC 70 CWA	Automatic review during federal permitting.
ADEC	Short-Term Water Quality Variance or Zone of Deposit (variance)	18 AAC 70.200 Or 18 AAC 70.210	Optional, depending on potential effects of island and/or pipeline construction.
ADEC	Alaska Pollutant Discharge Elimination System (APDES) discharges from facilities on state land or	18 AAC 83	Apply and obtain prior to activity; file Notice of Intent under General Permit, if available.
Alaska Department of Fish and Game (ADF&G)	Fish Habitat Permit	AS 16.05 (Title 16)	Apply and obtain prior to construction, including ice roads.
ADF&G	Public Safety Permit	AS 16.05.930	Apply for and obtain prior to activity.
Department of Public Safety	Fire Marshal Plan Review	13 AAC 50	Submit plans, if needed.
LOCAL GOVERNMENT			
North Slope Borough (NSB)	Development Permit	NSB Municipal Code 19.50	Apply and obtain prior to construction.
NSB	Rezoning – Conservation District to Resource Development District – Master Plan	NSB Municipal Code 19.60	Apply and obtain prior to construction.

Table 15-3. Permits and Approvals Required for Liberty Onshore Development¹ (continued)

AGENCY	PERMITS AND APPROVALS ²	REGULATORY AUTHORITY ³	STATUS
NSB	Traditional Land Use Inventory (TLUI) Archaeology Clearance/ Form 500	NSB Municipal Code 19.50 and 19.60	Apply and obtain prior to activity.
OTHER			
Private Landowners	Land Easement		Obtain prior to activity on privately owned land.

Notes:

5. Listed are key permits/authorizations/reviews required for Liberty Development based on information available at this time. Until the conclusion of the NEPA process, the project, laws and regulations, and baseline information may change regulatory requirements. As needed, this table will be updated. Coastal Zone Consistency determination is not listed because Alaska does not currently have a Coastal Zone Management Program.
6. AAC = Alaska Administrative Code; AS = Alaska Statute; CFR = Code of Federal Regulations.
7. Other state and local government agencies may serve as cooperating agencies, based on their interest in the proposed action.
8. This assumes that U.S. Department of Transportation regulatory authority will be coordinated through the SPCS and the State-Federal Joint Pipeline Office.

Table 15-4. Required Project Approvals

Regulatory Authority (30 CFR PART 250)	Description
250.204	Development and Production Plan (this document)
250.301(b)(2)	Approval of the method of disposal of drill cuttings
250.401(a)(3)	Fitness of drilling unit
250.402(b)(2)	Welding, burning, and hot tapping plan
250.414	Application for Permit to Drill (includes detailed safety and operational information)
250.415	Sundry Notices (minor changes in drilling plans)
250.417(h)(1)	Hydrogen sulfide contingency plan
250.513	Well completion
250.613	Well workovers
250.802(e)	Safety-systems design and installation features (requires detailed design review of process facilities)
250.803	Firefighting system
250.901(b)(8)	Application for approval of platform
250.909	Foundation (soils investigations; site investigation; including shallow hazards and geological surveys)
250.1007 and .1010	Application for approval of pipeline right-of-way grant
250.1102(b)(2)	Oil and gas production rates
250.1105(c)	Bottomhole pressure survey
250.1107	Enhanced oil and gas recovery operations
250.1200(b)	Measurement of liquid hydrocarbons
250.1201(b)	Gas production
250.1501	Application for approval of training program
250.1503(f)	Submission of training programs for well completion, well work-overs, and well control
250.1504(d)	Submission of training programs for production safety systems course

APPLICANT PROPOSED MITIGATION: The applicant submitted the following statements regarding their proposed mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States from activities involving discharges of dredged or fill material. The Corps has not evaluated these mitigation statements at this time.

a. Avoidance:

The following measures will be taken to avoid impacts to the greatest extent practicable:

- Use of directional drilling tools and techniques to limit the number of drilling pads (i.e., islands) to one.
- Selection of a southern pipeline route that avoids sensitive ecosystems and risks of strudel scour to the north.
- The selected Liberty Drilling and Production Island (LDPI) location is outside (inshore) of the mapped Boulder Patch while still facilitating maximum resource recovery and minimizing directional drilling requirements.
- Selection of gravel mine and onshore pad locations avoids active river and stream channels and ponds. Permanent infrastructure is located approximately 1.5 miles west of the Kadleroshilik River.
- Mine site restoration would provide a continuous water source for ice road development which would avoid future impacts to Waters of the US (WOUS).
- Wetlands mapping conducted in the vicinity of candidate mine sites and gravel pad sites to avoid higher value wetland types to the extent feasible.
- Mine site configured to avoid high quality open water habitats.
- No overland access to LDPI in summer (see below mitigation option).
- Access to a remote offshore site by seasonal ice roads, barges, hovercraft, and aircraft to avoid need for a causeway to the island.
- Construct an annual winter ice road (Badami Road) to avoid the need to place granular fill for a permanent access road from Prudhoe Bay.
- Construct ice pad apron at mine site for the placement of overburden to avoid temporary impacts and facilitate replacement of overburden during reclamation.
- This will also protect the sensitive tundra mat from impacts.
- Construction of ice pads for equipment staging to avoid impacts to wetlands and the need to place granular fill.

Table 1 shows the acreage associated with the avoidance mitigation measures mentioned above that can be quantified.

Table 1- Avoidance Measures

Feature	Acres Avoided
Avoid Constructing a Causeway to LPDI	103 acres
Ice Apron at Mine to Protect Tundra	27 acres
Ice Road from Prudhoe Bay	69.6 acres
Mine Site Reclamation to Open Water Habitat/Long Term Water Source	25 acres
Total Avoidance Mitigation	224.6 acres

b. Minimization:

The following measures will be taken to minimize impacts to the greatest extent possible:

- Reduction of LDPI size and layout, while accommodating worker safety and spill prevention and response, minimizes the gravel requirements and seabed footprint.
- LDPI will have a mat slope armor protection system that will extend from the island bench to the sea floor with a 3:1 (horizontal to vertical) profile and sheetpile wall. This system minimizes the seabed footprint and overall gravel requirements as well as the need for long-term maintenance. The slope protection may provide substrate for population by kelp and other organisms.
- The selection of the routing of the onshore pipeline minimizes impacts to water resources and coastal erosion.
- Pipeline design features will minimize the depth and size of the trench and thus the impacts from excavation and backfill. Engineering optimization has reduced the size of the production pipeline to 12-inch diameter; the minimum backfill thickness required to avoid upheaval buckling has also been optimized. The single phase, pipe-in-pipe design maximizes leak detection sensitivities.
- Gravel placement for the island and pipeline construction will occur in winter when under-ice currents are minimal and the plume from temporarily increased total suspended solids (TSS) will likely be localized.
- LDPI operational staffing is minimized. The smaller staff size reduces logistical support needs and, therefore, impacts related to logistics.
- Process modules on LDPI will employ a fit-for-purpose design that matches equipment sizing and emissions sources to the reservoir and production needs of the Liberty reservoir.
- Optimization of the project gravel needs and construction schedule minimizes the size of gravel pit needed and length of time it is operated.
- Ice pads will be used for staging on frozen ponds during winter, minimizing impacts to ponds and wetlands.
- HAK intends to replace sediment into the pipeline trench immediately after construction to minimize the temporal impacts. These sediments will be mounded and allowed to disperse to natural contours as a result of wave and current action.
- Implementation of North Slope best management practices (BMPs) to provide long-term habitat enhancement by converting the mine site into a high value water resource.

c. Compensatory Mitigation:

Pursuant to the 2008 Guidelines for Compensatory Mitigation for Losses of Aquatic Resources (40 CFR 230) (Guidelines), after all appropriate and practicable avoidance and minimization measures have been applied, USACE may then consider requiring compensatory mitigation for unavoidable impacts to ensure that the activity complies with the Guidelines and the USACE's Public Interest Review regulations (33 CFR 320.4[r]; 33 CFR 332.1[c]).

The extensive avoidance and minimization measures incorporated into the Project are discussed in Sections 1 and 2 above. For the reasons discussed below, HAK contends that compensatory mitigation is not appropriate or practicable for the Project.

In May 1994, the USACE, the U.S. Environmental Protection Agency (EPA), the USFWS, and the National Marine Fisheries Service (NMFS) developed the Alaska

Wetlands Initiative (AWI) Summary Report.¹ The report evaluates how Section 404 is implemented in Alaska. The Agencies reported that compensatory mitigation is required only in circumstances when it is appropriate and practicable.

The 2008 Mitigation Rule (2008 Rule) developed regulatory standards and criteria for compensatory mitigation within the Section 404 program. The 2008 Rule addresses how compensatory mitigation should be structured; however, the 2008 Rule does not mandate compensatory mitigation is always necessary.

Unique wetland conditions recognized on Alaska’s North Slope include the following:

- low ratio impacted wetlands in relationship to abundance of pristine wetlands;
- limited upland habitats;
- wetlands created through permafrost conditions, that would take long periods of time to re-develop;
- technical and logistical difficulties in restoring or creating these habitats; and
- unique land ownership issues in Alaska that hinder the long term protection instruments required under the 2008 Rule.

HAK’s Liberty Project falls within two 10-digit Hydrologic Unit Code (HUC) watersheds: the Mikkelson Bay-Frontal Beaufort Sea (HUC 1906040311), and Lower Sag River-Frontal Beaufort Sea (HUC 190604217). These two watersheds total approximately 930,000 acres, and all direct impacts (Section 10 and 404) from the project would result in a loss of approximately 88.1 acres of wetlands/WOUS (32 acres in OCS Section 10 and 60.1 acres in State Waters Section 10/404). Currently, only 0.62 percent of those 930,000 acres is currently developed, and approved Jurisdictional Determination POA 2015-16, Beaufort Sea indicates none of the area is classified as uplands. This demonstrates the enormous abundance of pristine wetlands within project drainages, relative to the project footprint.

The LPDI project would only increase development in the watersheds by 0.01 percent, for a total of 0.63 percent being developed after the project is complete. As demonstrated above, HAK avoidance measures (Table 1), coupled with proposed minimization measures, would total approximately 224.6 acres of avoidance and minimization mitigation. The debit credit analysis resulting from these avoidance and minimization measures is presented below in Table 2.

Table 2- Debit Credit Analysis for Section 404 Impacts

Project Feature	Debits	Mitigation Measure	Credits
Pipeline/VSMS	33.0/0.03 acres	Avoid Constructing a Causeway to LPDI	103 acres
Pads/Ice Road Crossing	0.71/0.15 acres	Ice Apron at Mine to Protect Tundra	27 acres
Shore Crossing	1.20 acres	Ice Road from Prudhoe Bay	69.6 acres
Material Site	25.0 acres	Mine Site Reclamation to Open Water Habitat/Long Term Water Source	25 acres
Total Project Debits	60.1 acres	Total Project Credits	224.6 acres

The Liberty Project occurs in precisely the type of region identified by USACE and EPA in their joint summary report that may not be appropriate for compensatory mitigation. There are no approved mitigation banks or available ILF credits for these watersheds. No land is available for purchase in the watersheds. Therefore, given the extensive avoidance and minimization measures incorporated into the Project, the Project's small footprint relative to the wetlands resources within the project watersheds, and the unsuitability of the project area for compensatory mitigation, HAK takes the position that compensatory mitigation is inappropriate and should not be required.

¹ U.S. Environmental Protection Agency, Department of the Army, U.S. Fish and Wildlife Service, National Marine Fisheries Service. Alaska Wetlands Initiative – Summary Report. May 13, 1994.

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, Bureau of Ocean Energy Management (BOEM), is responsible for compliance with the requirements of Section 106 of the National Historic Preservation Act. A permit for the described work will not be issued until the Section 106 process has been completed.

ENDANGERED SPECIES: The lead Federal agency, BOEM, is responsible for compliance with the requirements of Section 7 of the Endangered Species Act of 1973 (87 Stat. 844), and as such is responsible for initiating the appropriate consultation procedures with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS) regarding listed or proposed threatened or endangered species and any designated or proposed critical habitat that might be effected by the proposed project. Any comments USFWS and NMFS may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work. A permit for the described work will not be issued until BOEM provides the USACE with documentation showing that the Section 7 process has been completed.

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).

As the lead Federal agency, BOEM is responsible for compliance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. A permit for the described work will not be issued until the consultation with NMFS regarding EFH has been completed.

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 Federal government on a government-to-government basis. The lead Federal agency, BOEM, is responsible for completing tribal consultation.

According to Section **6.2.1. Tribal Consultation** of CHAPTER 6. CONSULTATION, COORDINATION, PREPARER LIST of the “Liberty Development and Production Plan Draft EIS”:

BOEM has determined that Development and Production activities in the Beaufort Sea could have tribal implications for the villages of Nuiqsut, Kaktovik, and Utqiagvik. BOEM has offered to consult with each of these tribal governments at venues within various North Slope villages, or in the alternative, via telephone (an accepted communications practice among tribal members and within the villages of the North Slope Borough).

For this DEIS, BOEM has conducted, thus far, government-to-government tribal consultations by delivering letters to and holding meetings with tribes whose members could be affected by the Liberty DPP activities, including:

- Native Village of Kaktovik
- Native Village of Nuiqsut
- Native Village of Utqiagvik
- Inupiat Community of the Arctic Slope (note: also a Participating Agency)

BOEM has conducted, thus far, government-to-ANCSA Corporation consultations and/or meetings with ANCSA corporations whose members could be affected by the Liberty DPP activities, including:

- Arctic Slope Regional Corporation
- Nuiqsut - Kuupik Corporation
- Kaktovik – Kaktovik Inupiat Corporation
- Utqiagvik – Ukpeagvik Inupiat Corporation (UIC)

BOEM anticipates additional consultations and meetings in Fall 2017 with the entities listed above. BOEM is grateful for the continued participation and support from the Inupiat Community of the Arctic Slope, a Participating Agency on the EIS, and Arctic Slope Regional Corporation, which volunteered to translate a of summary project documents into Inupiaq.

The views of each Tribe regarding protected rights and resources will be accorded due consideration in this process.

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.

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

(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(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
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-2015-16, BEAUFORT SEA**, 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.