



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

JUNEAU FIELD OFFICE  
Regulatory Division (1145)  
CEPOA-RD  
Post Office Box 22270  
Juneau, Alaska 99802-2270

<b>PUBLIC NOTICE DATE:</b>	<b>November 23, 2015</b>
<b>EXPIRATION DATE:</b>	<b>December 23, 2015</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2009-1064</b>
<b>WATERWAY:</b>	<b>Sweetheart Lake</b>

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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 Jamie Hyslop at (907) 753-2670, (907) 420-0813, or by email at [jamie.r.hyslop@usace.army.mil](mailto:jamie.r.hyslop@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Juneau Hydropower Inc., Post Office Box 22775, Juneau, Alaska 99802

**POINT OF CONTACT:** Mr. Duff Mitchell, Business Manager

**LOCATION:** The project site is located within Section 24, T. 45 S., R. 72 E., Copper River Meridian; USGS Quad Map SUMDUM D-6; Latitude 57.9561° N., Longitude 133.6911° W.; located within the City and Borough of Juneau, Alaska approximately 35 miles southeast of the City of Juneau. There is no road access to the project site. Access is limited to float planes, helicopter, and boat.

**SPECIAL AREA DESIGNATION:** The project is located within the Tongass National Forest.

**PURPOSE:** The applicant's stated purpose is to construct and operate a new hydropower project and transmit clean and reliable electricity to the grid within the City and Borough of Juneau.

**PROPOSED WORK:** The applicant requests authorization for the following work below the Ordinary High Water Mark (OHWM) of Sweetheart Creek, Sweetheart Lake and Gilbert Bay.

1. Discharge approximately 1,028 cubic yards of rock fill into 0.21 acre of Sweetheart Creek to construct two cofferdams and a 280' wide, 111-foot-high roller-compacted concrete (RCC) dam with a 45' long, 25' wide, 16' high rectangular concrete intake structure, with (6) 7' diameter, 10' high cylindrical fish screens adjacent to the right dam abutment, and a 125' wide ungated overflow spillway at a crest elevation of 636 feet. The RCC dam would permanently increase Sweetheart Lake's existing elevation by 25 feet to an elevation of 576 feet, and the maximum elevation to 636 feet, for a total maximum increase of 85 feet. The inundation area would result in the loss of waters of the U.S.; including, 11.38 acres of wetlands and 15,233 linear feet of stream channel. Additionally, 16.34 acres of wetlands would be impacted to varying degrees as a result of seasonal inundation.

2. The construction of the powerhouse facilities would include 155,000 cubic yards of excavation and 28,000 cubic yards of fill resulting in the loss of 2.42 acres of wetlands. These facilities include a 160' long, 60' wide powerhouse, a 541' long (30-90' wide) tailrace with a fish exclusion structure, a 25' long, 5' wide, 4' deep salmon smolt re-entry pool located adjacent to the powerhouse and tailrace, a 22,000 square foot fenced switchyard, and a 44,431 square foot visual landform barrier.

3. Discharge approximately 194,000 cubic yards of material below the high tide line (approximate elevation +20.8' above the 0.0' contour) (HTL), on the east side of Gilbert Bay. Activities include the construction of a 4,400' long coastal road, a 4,225 square foot caretaker's facility, a dock pad, staging areas, a 4,800-foot-long, 12.47-kV service transmission line and communication cable extending from the powerhouse to the dock and caretaker's facility. These activities are connected and would permanently fill 0.48 acre of estuarine wetland, and 9.18 acres of marine waters.

4. Construct an 8.69-mile-long, 138-kilovolt transmission line traversing Gilbert Bay, the Snettisham Peninsula, and Port Snettisham, consisting of: (a) two buried segments, totaling 4,800 feet in length; (b) two submarine segments within Waters of the U.S. below the mean high water mark (approximate elevation +15.4' above the 0.0' contour) (MHW), totaling 25,700 feet in length; and (c) one 15,400-foot-long overhead segment. These activities would result in the discharge of 7,000 cubic yards of fill permanently impacting 1.0 acre of marine waters at 4 separate locations below the HTL. Additionally, 0.29 acre of forested wetland would be disturbed from transmission line tower construction, and 18.8 acres of forested wetlands would be converted to emergent wetland as a result of transmission line right of way clearing.

5. Construct a marine dock facility within waters of the U.S. below the MHW mark, including a rock ramp (included with the dock pad above), mooring dolphins, small boat float, and a sea plane float. The dock would be constructed of steel and treated wood and would consist of a 100' gangway, a 24' x 100' loading float and a 4,500 square foot timber seaplane float. All supported by (4) 24" steel piles that would be installed utilizing vibratory hammer and/or impact hammer (if required).

All work would be performed in accordance with the enclosed plan (sheets 1-12), dated November 2015.

ADDITIONAL INFORMATION: On May 29, 2015, Juneau Hydropower Inc. submitted a license application to the Federal Energy Regulatory Commission (FERC) for the proposed project. As a result of this filing FERC prepared a Draft Environmental Impact Statement (EIS) with the U.S. Army Corps of Engineers, Alaska District serving as a cooperating agency. The Notice of Availability for the EIS was published in the Federal Register on October 29, 2015. The public comment period for the EIS closes on December 29, 2015.

The applicant was approved for a Special Use Permit (JUN899) by the U.S. Forest Service on February 20, 2014. The applicant also applied to the Alaska Department of Natural Resources for a Water Rights Permit (LAS 28660) and a Tideland Lease Easement (ADL 108211, 108212). Each of these are pending the FERC license approval.

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.

1. Avoidance: The project design was amended and updated throughout its planning to avoid wetland impacts to the extent practicable. The project surveyed two road alignments. The proposed project had less wetland impacts. The applicant chose to access the dam site through a tunnel which would avoid substantial wetland impacts as a result of surface road construction. The Transmission Line/Towers routing was evaluated and amended to avoid wetland impacts to the extent practicable. Material would be stockpiled primarily in developed areas and/or on uplands to avoid impacts to wetlands. The Project would attempt to fully utilize tunnel excavation rock in infrastructure features to minimize potential storage on wetland areas. This would result in the avoidance of as much as dozens of acres of wetland impacts.

2. Minimization: Direct impacts resulting from the proposed project have been minimized to the extent practicable through the project design. Increased water levels within Lower Sweetheart Lake resulting from the project would inundate wetlands and the lower reaches of streams adjacent to the existing lake level may result in secondary impacts to these aquatic resources. Indirect impacts would result in 15,233 linear feet of stream and 13.84 acres of wetlands permanently, and 16.34 acres of wetlands would be impacted to varying degrees as a result of seasonal inundation. As indirect impacts from increased water levels represent the bulk of the proposed project impacts the following best management practices (BMPs) would be implemented to minimize adverse effects to aquatic resources within the lake; seasonal timing of drawdown and inundation/flooding appropriately based on naturally occurring fluctuations along the growing season continuum, encouraging colonization of native plants within the drawdown zone and the use of other appropriate techniques to establish and retain wetland and riparian plant communities that benefit from fluctuating water levels.

3. Compensatory Mitigation: Due to adequate on-site mitigation potential, an effort was made to seek potential mitigation sites in the project boundary. On-site and in-kind compensatory mitigation that is tied to the impact location is somewhat feasible. Beyond project boundary; mitigation sites on Southeast Mainland near the project were looked for. Directly south of the project site is the Tracy Arms-Fords Terror Wilderness and the project is located in and surrounded by the Tongass National Forest.

No site was found that would provide wetland or habitat functional lift through restoration, enhancement or remediation within the proximity of the City and Bureau of Juneau (CBJ) that had previous disturbances to wetlands and habitat that could be restored or enhanced. Several sites in this area were examined and considered, including old gravel, mine sites, borrow sites, fill sites, and shaft mining sites. These sites were assessed for their capacity for functional lift through restoration or enhancement, their availability, cost, and potential to successfully achieve mitigation goals and objectives in advance of impacts. Therefore the applicant focused compensatory mitigation onsite.

The natural creation of wetland shoreline fringe as a result of the reservoir perimeter expansion would retain 1.46 wetland acres in the Sweetheart Lake delineated areas. This would function in the littoral zone. Additionally, with the lake perimeter expansion, 1.88 acres would be created in the 631 to 636 foot elevation contour. These areas naturally occur at less than a 20% slope allowing receding water to be retained for greater periods and allowing wetlands to develop. The seasonal lake elevation and rise would create a seasonal inundation acting as a perennial flood event that would assist in the creation for new wetlands from the 576 to 600 elevations and from the 600 to 631 elevation contours. Lands with less than a 20% slope would retain water as the lake elevation drops.

The natural indentations and tree fall at the head of the lake would create new wetlands with various degrees of wetland functions. Juneau Hydropower has determined with LiDAR mapping that there would be 35.62 and 40.2 acres of new, naturally occurring potential wetlands between these 2 lake elevation contours along the perimeter of the lake. It is in this band of acres, and more specifically between the elevations 600 to 631 contours, that Juneau Hydro has investigated developing on-site mitigation by creating wetlands by capturing the receding waters with abatis.

Abatis are a known military blocking device in which a tree is felled by explosive charges in a guided and predictable manner for a blocking action, but leaving the stump/root connected to the felled tree. In this manner, the felled trees remain upon rising and falling water. Juneau Hydro has found natural or beaver-felled trees to block waters at the head of the lake that have created natural ponds. The introduction of Abatis into this elevation band would create wetlands in a similar manner.

Juneau Hydro is proposing to create new wetlands on 11.96 acres at the head of the Sweetheart Lake between elevations 600 to 636 through the deployment of abatis. Additional matting and seeding can supplement the abatis on an as needed basis.

The applicant stated that given the abundance of tidelands and innumerable streams in the vicinity of the project, the loss of 9.52 acres of filled tidelands and net loss of 14,786 lineal feet of stream length represents a minor, long-term adverse effect.

An additional 18.8 acres of forested wetlands affected by construction of the power line would be converted to emergent wetlands which would still provide important wetland function to the ecosystem. Therefore, and due to the considerable area of forested wetlands in the project vicinity, no additional mitigation is proposed to compensate for the forested wetland conversion as this also represents a minor, long-term adverse effect.

**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, FERC, 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 project area is within the known or historic range of the humpback whale (*Megaptera novaeangliae*) and western DPS of the Steller sea lion (*Eumetopias jubatus*). The lead Federal agency, FERC, is responsible for compliance with the requirements of the Endangered Species Act (ESA). FERC has initiated informal consultation procedures under section 7 of the Endangered Species Act with the National Marine Fisheries Service. A permit for the described work will not be issued until the ESA process is complete.

**ESSENTIAL FISH HABITAT:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens 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 pink salmon (*Oncorhynchus gorbuschaand*) and chum salmon (*Oncorhynchus keta*). The lead Federal agency, FERC, is responsible for compliance with the requirements of the Magnuson-Stevens Act. A permit for the described work will not be issued until Magnuson-Stevens Act process is complete.

**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 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).

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

## **JUNEAU**

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-2009-1034, Sweetheart Lake, 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.