



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

<b>PUBLIC NOTICE DATE:</b>	<b>November 19, 2015</b>
<b>EXPIRATION DATE:</b>	<b>December 17, 2015</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2014-120</b>
<b>WATERWAY:</b>	<b>Kotzebue Sound</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 Ms. Heather Markway at (907) 753-2797, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at Heather.N.Markway@usace.army.mil if further information is desired concerning this notice.

**APPLICANT:** The Native Village of Kotzebue, P.O. Box 296, Kotzebue, AK 99752; (907) 442-3467; Point-of-Contact: Mr. Ukallaysaaq Tom Okleasik.

**AGENT:** Bristol Engineering Services Corporation, 111 W. 16<sup>th</sup> Ave., Third Floor, Anchorage, AK 99501; (907) 563-0013; Point-of-Contact: Ms. Susan T. Luetters.

**LOCATION:** The project site is located within Section 11, T. 17 N., R. 18 W., Kateel River Meridian; USGS Quad Map KOTZEBUE D-2; Latitude 66.889808° N., Longitude -162.551375° W.; Ted Stevens Way and Cemetery Hill Road in Kotzebue, Alaska.

**PURPOSE:** The applicant's stated purpose is transportation improvements to enhance the year-round useability, safety, and accessibility of subsistence areas along Ted Stevens Way (TSW) and Cemetery Hill Road (CHR).

**PROPOSED WORK:** The proposed project would upgrade the road prism and parking lot of the 0.11 mile long CHR, and repair/improve the 4.1 miles of TSW between CHR and the intersection with Air Force Road. The proposed CHR rehabilitation to allow for year-round accessibility to the cemetery would include increasing the driving surface to a consistent 22 feet, with a 10 foot parking lane extending the length of the road; standardizing the parking area to accommodate cemetery visitor parking; and improving drainage. Improvements to TSW would include softening the side slopes from 2H:1V to 4H:1V, widening the road surface to a consistent 24 feet to allow for easier passage of two vehicles, adding six pullouts for subsistence user parking, extending 23 culverts to accommodate the widened right-of-way, reshaping the outlet of three culverts, and adding one new culvert.

The proposed project would result in 80,550 cubic yards of fill, with impacts to 9.26 acres of wetlands within a total project footprint of 31.6 acres. The wetland impacts within the proposed project corridor would include the loss of 9.26 acres of jurisdictional wetlands, comprised of:

- 6.96 acres of palustrine emergent persistent/scrub shrub broad-leaved deciduous saturated (PEM1/SS1B),
- 1.3 acres of palustrine scrub-shrub broad-leaved deciduous/emergent saturated hyperhaline (PSS1/EMB1),
- 0.95 acres of persistent scrub-shrub broad-leaved deciduous (PSS1B) wetlands,
- 0.07 acres of palustrine emergent persistent/scrub shrub broad-leaved deciduous-seasonally flooded (PEM1-SS1C) wetlands, and
- 0.01 acres of palustrine unconsolidated bottom-permanently flooded (PUBH) wetlands.

All work would be performed in accordance with the enclosed plan (sheets 1-37), dated 01/08/2015.

**ADDITIONAL INFORMATION:** The applicant has applied for a Fish Habitat permit from the Alaska Department of Fish and Game concurrently with the Department of Army permit.

**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.

a. Avoidance: The proposed project involves the rehabilitation of an existing roadway, and as such, it is not possible to completely avoid adjacent wetlands. The applicant proposes that the road rehabilitation has been designed to be the most efficient size possible, while still providing the community with the desired improvements to travel, safety, and increased access to essential community subsistence use areas. It is not possible or practicable to completely avoid impacts to area wetlands.

b. Minimization: The safety and subsistence access improvements will increase the combined overall footprint of TSW and Cemetery Hill Road from the existing footprint of 22.34 acres to 31.6 acres. The proposed road location through wetlands (see sheets 1-37) was designed and sited with as minimal footprint as practicable to satisfy project purpose, while addressing safety and construction standards.

Culverts will be placed, replaced, and/or rehabilitated along the existing road to facilitate overland water flow and to maintain the hydrologic regime. No culverts will be placed in fish bearing streams.

All construction activity will incorporate Best Management Practices (BMPs) and will be limited to the proposed road footprint.

c. **Compensatory Mitigation:** The applicant states that the temporary impacts associated with construction activities in wetlands are not anticipated to be significant. To mitigate the unavoidable wetland impacts, the proposed project design incorporates repairs, replacement and rehabilitation, as needed, to culverts located along Ted Stevens Way and Cemetery Hill Road. Several of the existing culverts are failing, which is impeding cross-gradient water flow on the outflow side. Repairs to existing culverts, the addition of new culverts, and replacement of existing culverts would improve the overall hydrologic regime and quality of wetland habitat throughout the larger area that was impacted from the initial construction of Ted Stevens Way, and from the subsequent deterioration of failing culverts in the following years.

Based on the functions discussed the project area wetlands are believed to be moderate to low functioning, Category III wetlands with an anticipated mitigation ratio of 1.5:1.

**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 Indian Affairs, 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, Bureau of Indian Affairs, is responsible for compliance with Section 7 of the Endangered Species Act. A permit for the described work will not be issued until 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).

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).

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-2014-120, 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.