



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: May 15, 2015

EXPIRATION DATE: May 29, 2015

REFERENCE NUMBER: POA-2015-311

WATERWAY: Kwethluk River

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: Lower Kuskokwim School District, Daniel Walker, 907-543-4800

AGENT: Stantec Consulting Services Inc., Dale Smythe, 907-343-5254

LOCATION: The project site is located within Section 5, T. 8 N., R. 69 W., Seward Meridian; USGS Quad Map Bethel D-7; Latitude 60.807453° N., Longitude 161.423653° W.; Bethel Borough, Kwethluk, Alaska.

SPECIAL AREA DESIGNATION: The project is located within a parcel of land that is owned by Kwethluk, Inc. The parcel of land is located within the Yukon Delta National Wildlife Refuge.

PURPOSE: The applicant's stated purpose is to propose the construction of a new K-12 school in Kwethluk, Alaska.

PROPOSED WORK: LKSD will demolish the existing school's structures that have reached their useable life spans and may transfer the existing school property to another entity, which may repurpose or salvage some structures. LKSD will construct a replacement K-12 school at a new location. All work would be performed in accordance with the enclosed plan (sheets 1-4), dated April 2015.

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:

Wetlands cannot be avoided for several reasons. The first reason is that the existing school cannot be incorporated into the existing design. According to the Community Erosion Assessment, Kwethluk, Alaska prepared by the U.S. Army Corps of Engineers (USACE) in 2009, the reach that the school property is on is eroding at 2.5 feet/year. If this prediction holds true the river will destroy the four portable classrooms, the well, the water treatment plant, and one teacher housing unit, and put the north face of the school at the river's edge by 2037. Moreover, the school's grounds almost flood annually, which results in the school operations being affected and/or having the school to often close down until the flood waters subside. For these reasons, incorporating the existing school into the design to avoid wetland impacts was abandoned as an alternative.

The second reason is that there are no non-wetland sites in the vicinity of the village. All non-wetland areas in the vicinity are developed areas created by fill placement, as Kwethluk is in a low-lying river delta region made up almost entirely of wetlands. Non-wetland areas are currently in use, not of sufficient size, too close to the river, and/or unavailable for school development. Safety requirements necessitate finding a new school site that is short walking distance from the village, so that young children can arrive safely at school especially during the winter months when weather conditions can be harsh.

The third reason is that the new school pad cannot be further consolidated for safety reasons. The size and shape of the school pad and driveways was designed for minimum turning radii for fire equipment in the event of a fire. In addition, the driveway approaches and drives were designed to promote safe circulation of cars and four-wheelers as much as reasonably possible away from the pedestrian walkways, stairs, and doors.

b. Minimization:

The amount of wetland acreage to be filled for the school complex was reduced by eliminating some design features and consolidating others. The Alaska Department of Education and Early Development's (EED) Site Selection Criteria and Evaluation Handbook recommends a site of approximately 22 acres for a K-12 facility of this size. Rather than spread out the school's facilities over the 22 acre parcel, engineers have consolidated the school's facility onto one small 5.9 acre gravel pad (with access roads) to minimize impacts to wetlands. A northeast access road was eliminated from the design to minimize impacts. A separate contractor staging area (CSA) was also eliminated from the plans. Instead, the CSA has been incorporated into the new school pad and the CSA location will also serve a dual purpose of being the location of future teacher housing units. The proposed play field has been considerably reduced in size (from 2.1 acres to 1.0 acre) from a regulation size soccer and football field, making no room for bleachers to minimize impacts to wetlands.

c. Compensatory Mitigation:

LKSD understands that wetlands provide ecological functions and have value. LKSD requests that the U.S. Army Corps of Engineers (USACE) take several things into consideration regarding compensation of the unavoidable impacts to wetlands. Firstly, there are no uplands available as an alternative. Therefore, LKSD has gone to great lengths to minimize impacts to wetlands. Secondly, as you are aware, the State's budget has taken significant cutbacks and is in crisis. Extremely limited funds are sufficient only for design and construction. Any monies used to pay mitigation fees would directly reduce the available budget for quality educational space for an underserved community with a project that will serve the public good. For these reasons, LKSD is not also proposing compensatory mitigation and respectfully requests that USACE not require a mitigation fee.

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 listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. 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.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area.

We have determined the described activity would have no effect on any listed or proposed threatened or endangered species, 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 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).

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

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-2015-311, Kwethluk River**, 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.