



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:	March 11, 2022
EXPIRATION DATE:	April 8, 2022
REFERENCE NUMBER:	POA-1977-00016
WATERWAY:	Sagavanirktok 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.

All comments regarding this Public Notice should be sent to the address noted above. If you desire to submit your comments by email, you should send it to the Project Manager's email as listed below or to regpagemaster@usace.army.mil. All comments should include the Public Notice reference number listed above.

All comments 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 Steve Moore at (907) 753-5713, toll free from within Alaska at (800) 478-2712, or by email at stephen.a.moore2@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Matt Dunn, North Slope Borough, Service Area 10, P.O. Box 69, Utqiagvik, Alaska 99723. Email: MattC.Dunn@north-slope.org; telephone: 907-852-0253.

AGENT: Ms. Emily McDonald, Umiag Environmental, 6700 Arctic Spur Road, Anchorage, Alaska 99518. Email: emily.mcdonald@uiccs.com; telephone: 907-677-8288.

LOCATION: The project site is located within Sections 20 & 29, T. 10N., R.15 E., Umiat Meridian; Point Roberts OE N; near Latitude 70.19669° N., Longitude 148.386947° W.; North Slope Borough, in the Sagavanirktok river channel east of the existing NANA SA-10 freshwater reservoir in Deadhorse, Alaska.

PURPOSE: The applicant's stated purpose is to divert erosional water flow away from the SA-10 reservoir, with the goal of returning flow conditions as they were prior to the mining that occurred upstream in 2006.

PROPOSED WORK: Construction of an approximate 9,950 foot channel along the westerly Sag River floodplain, which would redirect waters away from the reservoir walls and into other existing channels of the Sag River. Material removed to form the channel will be used to construct an approximate 8,100 foot dike (berm) westerly of the proposed channel, between the proposed channel and the western bank of the River. The dike is necessary to prevent waters from continuing to flow towards the reservoir walls, especially during in high water events.

The bottom of the proposed channel will be 100 feet wide, with side slopes at 5:1 horizontal to vertical (hv). The proposed dike will be 30 foot wide at the top, with an elevation of 34 foot along its entire length. The side slopes are 5:1 on the easterly side and 10:1 on the westerly side of the dike. The channel and the dike are both contoured with existing topography, and distance from the channel to the dike varies between approximately 350 feet to 1,600 feet.

The existing flow conditions are the primary routing of waters going down the west channel of the Sag River. After realignment, the projected primary routing of the waters will be easterly of the existing channels flow into the new channel that follows existing secondary channels in that location. There will be projected backwater flow from below the dike into the current channel, but not a primary flow. During times of an extreme flow event the dike may be overtopped with limited flow, but the majority of the water going down the Sag River's westerly channel is projected to remain easterly of the new dike.

The proposed work will result in the excavation of 60,739 cubic yards of river gravel, and the subsequent placement of approximately 38,264 cubic yards of clean gravel fill into approximately 12.9 acres of waters of the U.S., including 1.75 acres wetlands.

All work would be performed in accordance with the enclosed plan (sheets 1-3).

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 applicant has stated that due to the location of the existing reservoir and erosional trends of the Sagavanirktok River that complete avoidance of wetlands is not possible.

b. Minimization: The applicant believes that the proposed work is the minimum necessary to provide long-term protection to the existing SA-10 reservoir.

c. Compensatory Mitigation: The applicant has stated that the proposal is an initiative of the local municipal government aimed at securing the fresh water source for the community of Deadhorse. As this project is for the protection of a needed utility, the applicant requests compensatory mitigation requirements be waived.

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 (ADEC). The applicant submitted a water quality certification request to ADEC on March 3, 2022.

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 cultural resources in the permit area or within the immediate vicinity of the permit area. The permit area has been determined to be only those areas comprised of waters of the United States upon which fill is being excavated and deposited within the Sagavanirktok River. Potential for encountering cultural resources is considered low. Consultation of the AHRs constitutes the extent of cultural resource investigations by the Corps of Engineers (Corps) at this time, and we are otherwise unaware of the presence of such resources. The Corps has made a No Historic Properties Affected (No Effect) determination for the proposed project. 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. The Corps is requesting the SHPO's concurrence with this determination.

ENDANGERED SPECIES: We have determined the described activity may affect the spectacled eider (*Somateria fischeri*), Steller's eider (*Polysticta stelleri*), and polar bear (*Ursus maritimus*). We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service. 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).

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat will be considered in our final assessment of the described work.

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) 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



PUBLIC NOTICE

Alaska Department of Environmental Conservation (DEC)
Wastewater Discharge Authorization Program/401 Certification
555 Cordova Street, Anchorage AK 99501-2617
Phone: 907-269-6285 | Email: DEC-401Cert@alaska.gov

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 (CWA) 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 CWA, the Alaska Water Quality Standards, and other applicable State laws.

Notice is hereby given that a request for a CWA §401 Water Quality Certification of a Department of the Army Permit application, Corps' Reference Number POA-1977-00016, Sagavanirktok River, has been received for the discharge of dredged and/or fill materials into waters of the United States (WOUS), including wetlands, as described in the Corps public notice and project figures/drawings (18 AAC 15.180).

Any person desiring to comment on the project with respect to water quality, may submit comments electronically via email to DEC-401cert@alaska.gov by the expiration date of the Corps of Engineer's public notice. All comments need to include the Corps public notice reference number in the subject heading. Physically mailed comments must be postmarked on or before the expiration date of the public notice.

After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the CWA, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

The permit application and associated documents are available for review. For inquires or to request copies of the documents, contact dec-401cert@alaska.gov, or call 907-269-6285.

Disability Reasonable Accommodation Notice

The State of Alaska, Department of Environmental Conservation complies with Title II of the Americans with Disabilities Act (ADA) of 1990. If you are a person with a disability who may need special accommodation in order to participate in this public process, please contact ADA Coordinator Brian Blessington at 907-269-6272 or TDD Relay Service 1-800-770-8973/TTY or dial 711 within 5 days of the expiration date of this public notice to ensure that any necessary accommodations can be provided.