



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD
805 Frontage Road, Suite 200C
Kenai, Alaska 99611-7755

PUBLIC NOTICE DATE: December 21, 2012
EXPIRATION DATE: January 22, 2013
REFERENCE NUMBER: POA-2009-1228
WATERWAY: Swanson 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 Jen Martin at (907) 283-3519, by fax at (907) 283-3981, or by email at jen.l.martin@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Robert Warthen, NordAq Energy, Inc., 3000 A Street, Suite 410, Anchorage, AK 99503.

AGENT: Ms. Cynthia Trapp, ARCADIS-US, 420 L Street, Suite 100, Anchorage, AK 99501.

LOCATION: The project site is located within Sections 11, 13, 14 and 24, T. 8 N., R. 10 W., Seward Meridian; USGS Quad Map Kenai D-3; beginning at the Shadura Appraisal Well Pad - Latitude - 60.7912° N., Longitude 150.9950° W., and ending in the Kenai National Wildlife Refuge Latitude - 60.7661° N., Longitude 150.9474° W.; near Nikiski, Alaska; Kenai Peninsula Borough (KPB) Parcel numbers 025-081-01 and 025-080-11.

SPECIAL AREA DESIGNATION: The project is located within the Kenai National Wildlife Refuge (KNWR).

PURPOSE: Applicant's stated purpose: To bring new natural gas reserves (Shadura Natural Gas Development) into production to meet the energy needs of the Cook Inlet region. The Corps has determined the Applicant's stated purpose will be used as the 'overall project purpose' and thus, will also be used for the Corps alternative analysis.

PROPOSED WORK: The proposed project is to construct a 2.78-mile-long road partially located through 5,660 linear feet (lf) of wetlands (Phase 1) and also to construct 2.78 miles of utility line through 5,206 lf of wetlands (Phase 2). The road and utility lines would originate at the Shadura Appraisal Well Pad and terminate at an upland drilling and production pad (Shadura Natural Gas Development). Phase 2 would be constructed if the applicant determines that sufficient quantities of natural gas are present to make production economically viable

Road Construction (Phase 1)- Discharge 14,613 cubic yards (cy) of gravel fill material into 3.61 acres (5,660 lf) of 16 wetlands (see Sheet 2-3 of 9) to construct a gravel service road underlain by geotextile fabric. Road dimensions would be 28' wide by 30" deep with an 18' wide driving surface.

Utility Installation (Phase 2)- Two 6" gathering lines and one fiber optic cable would be installed within a 4' wide, 3.5' deep trench located within 10' of the toe of the service road. Trenching is proposed through 0.53 acres (5,206 lf) of 13 wetlands with 2,851 cy of excavated trench material temporarily sidecast into 1.20 acres of wetlands. If the frost line is deep enough, trenching methods would include removing frozen blocks of frost susceptible soil up to 4' thick to be set aside and reused in the same location. In thawed ground, the vegetation from the trench would be removed and stockpiled separately from underlying non-organic silts, sands and gravels, with a total sidecast width of ten feet (see Sheet 8 of 9). The trench would be backfilled in the opposite order of excavation, with the vegetative layer replaced on the surface.

All work would be performed in accordance with the enclosed plan (sheets 1-9), dated March 16, 2012, August 6, 2012, August 29, 2012, and October 26, 2012.

ADDITIONAL INFORMATION:

A Public Notice was originally issued January 3, 2012, for POA-2009-1228, Swanson River, however, the application was withdrawn. A revised proposal was submitted, which includes a modified road alignment and drilling/production pad location, as reflected above, and on the attached drawings.

The following information is provided for clarity, however, these proposed activities are not subject to DA jurisdiction, and do not require a DA permit:

- A 6.31-acre gravel drill and production pad would be located in uplands.
- One meter pad would be located in uplands.
- Four temporary turn-arounds and up to eleven permanent pullouts would be constructed in uplands.
- During Phase I, there would be a 40' vegetation clearing limit, with vegetation only cleared if it is an impediment to the operation of equipment or construction. Little, or no, clearing would occur in wetlands. If necessary, clearing in wetlands would be accomplished with a HydroAxe.
- Two stream crossings would occur along the proposed service road by installing a single lane, 16' by 16' clear span bridge with gravel embankments at each location. There would be no discharge of fill material below the ordinary high water mark of the streams, therefore, the stream crossings would not be regulated by the DA. The approaches in wetlands have been calculated above.

- During Phase II, the vegetation clearing limit would be expanded to 80', with vegetation only cleared if it is an impediment to the operation of equipment and construction. Little, or no, clearing would occur in wetlands. If necessary, clearing in wetlands would be accomplished with a HydroAxe.
- The gathering lines and fiber optic cable would be horizontally, directionally drilled beneath the two streams in the project area with entry bore holes located entirely in uplands. Therefore, a trench would not be constructed through wetland 2-26, 2-27, and 75 linear feet of wetland 2-25 (125 linear foot total) and through wetland 2-33 (328 linear foot).

Project life is estimated at 30 years. Post production, all fill material would be removed, and the site would be returned to pre-existing contours, as required by USFWS right-of-way permits, if issued.

Cook Inlet Region Inc. (CIRI) owns the coal, oil and gas estate in the project area. CIRI leased the lands to NordAq for the purpose of realizing an economic benefit.

The DA permit application was submitted concurrently with a permit application under Title XI of the Alaska National Interest Lands Conservation Act (ANILCA) to the Corps of Engineers and the U.S. Fish and Wildlife Service (USFWS). Pursuant to the provisions of Title XI of ANILCA, the USFWS is the lead agency. The USFWS is currently preparing a Draft Environmental Impact Statement (DEIS) for the proposed project, with the Corps of Engineers acting as a commenting agency during the EIS process. The DEIS should be posted in the Federal Register on December 21, 2012, with a comment closing period of February 4, 2013. A DA permit decision will not be made until after the Final Environmental Impact Statement (EIS), is prepared. This public notice reflects the applicant's preferred alternative only. Additional alternatives are included as Attachment A. Each alternative will be evaluated to determine if it meets the overall project purpose. If the overall project purpose is met, those alternatives, and the applicant's preferred alternative, will be evaluated under the Environmental Protection Agency's 404(b)(1) guidelines to determine which is the least environmentally damaging practicable alternative (LEDPA).

A separate DA permit authorization was issued July 20, 2012, (POA-2011-1143, Swanson River) to NordAq to construct a 1.5-mile long service road to develop the Shadura Appraisal Well located entirely on Alaska Department of Natural Resources land. For the current proposal, the applicant's preferred alternative begins at the Shadura Appraisal Well. If the applicant pursues an irreversible and irretrievable commitment of resources to develop the Shadura Appraisal Well, this will not limit the DA's examination of alternatives of the current proposal.

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 route best traverses the upland/wetland fringes; avoids the largest amount of wetland and forested habitats; avoids the greatest potential for bear denning and fishing areas; utilizes the greatest amount of the previously permitted ice road; and, uses single clear span bridges to cross the two streams present in the project area.

b. Minimization: To minimize impacts to wetlands, the project includes the following measures: Use earth fill or sand bags to fill in the open trench during construction; remove water accumulated while the trench is open; adopt buoyancy-control measures for gathering lines installed in wetlands; use the push-pull technique to install gathering lines in saturated or inundated wetland soil areas; service road would utilize existing ice road pathway whenever practicable; when practical, construction would occur during winter months to reduce wetland impacts; and, when practical, vegetation would be cleared in the fall and early winter so it would not destroy bird nests with eggs or young or disturb denning animals during hibernation.

c. Compensatory Mitigation: As compensation for unavoidable impacts to wetlands, mitigation would be provided at a 2:1 ratio, through In Lieu 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 lead Federal agency, U.S. Fish and Wildlife Service, 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: No threatened or endangered species are known to use the project area.

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.

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).

(X) Transportation and utility systems in and across, and access into, conservation system units - Title XI, Alaska National Interests Lands Conservation Act (PL 96-487; 94 Stat. 2371).

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
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-2009-1228, Swanson 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.