



US Army Corps  
of Engineers  
Alaska District

ANCHORAGE  
Regulatory Division (1145)  
CEPOA-RD  
Post Office Box 6898  
JBER, Alaska 99506-0898

# Public Notice of Application for Permit

**PUBLIC NOTICE DATE:** September 11, 2013  
**EXPIRATION DATE:** October 11, 2013  
**REFERENCE NUMBER:** POA-2011-72-M1  
**WATERWAY:** Yukon River

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Interested parties are hereby notified that a Department of the Army (DA) permit application has been received for work in waters of the United States (US) as described below and shown on the enclosed project drawings.

Comments on the described work, with the reference number, should reach the US Army Corps of Engineers (USACE), Alaska District, Regulatory Division, no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact **Mr. Harry A. Baij Jr.** by e-mail message at [harry.a.baij@usace.army.mil](mailto:harry.a.baij@usace.army.mil), by calling 907-753-2784, or toll free from within Alaska at 800-478-2712 for assistance regarding this public notice.

**APPLICANT:** Alaska Department of Transportation and Public Facilities (ADOT&PF), 2301 Peger Road, Fairbanks, Alaska 99709; Telephone: 907-451-2238; Point-of-Contact: Mr. Thomas Benjamin.

**LOCATION:** Within the Yukon River in Section 1, T. 9 S., R. 9 E., Kateel River Meridian (KRM) and Section 6, T. 9 S., R. 10 E., KRM; United States Geological Survey Quadrangle Map Nulato C-2; approximate Latitude 64.7332° N., Longitude 156.9608° W.; in Galena, Alaska.

**PURPOSE:** The applicant's stated purpose is to access and excavate sand and gravel materials from the Yukon River for use in constructing the Galena-Campion road reconstruction project which was previously permitted by the USACE in 2012.

**PROPOSED WORK:** Conduct work in navigable waters of the US involving work and the discharge of dredged material into waters of the US to mine an existing material site, identified as Alaska Department of Natural Resources site MS 202-014-2. The work would be completed when the riverbed is dewatered from low seasonal water levels. Material would be pushed with equipment into wind-rows, loaded into trucks, and hauled from the riverbed to an upland stockpile location. All work would be performed in accordance with the enclosed plan drawings and descriptions: Figures 1 & 2 dated 2/15/2013; Figure 3, dated 8/20/2012; and the Contractor's Mining and Reclamation Plan, dated revision 6-25-13. One other attachment is Photo 1, showing the Yukon River south access point, dated May 15, 2013.

**ADDITIONAL INFORMATION:** DA permit number POA-2011-72, Crow Creek, was issued to the applicant on March 26, 2012 to re-construct the Galena-Campion Road. Approximately 214,000 cubic yards of material is needed to construct the road. The DA permit did not specify where the material would be obtained. Therefore, the applicant's contractor has now chosen to obtain material from the established Yukon River site, whereby they now seek USACE authorization. An Alaska Department of Fish and Game Fish Habitat Permit, number FH13-III-0077, has been issued for the work proposed in this Public Notice.

**APPLICANT PROPOSED MITIGATION:** The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the US from activities involving discharges of dredged or fill material.

a. Avoidance: The extraction of material would avoid direct impacts to waters of the US by working above the water level at the time of mining. The material is available on a gravel bar that is seasonally exposed as the seasonal water levels fall. No wetlands are involved as the gravel bar is un-vegetated and the haul route uses two lanes that were previously developed, maintained, and devoid of vegetation from continual local use as a route to the Yukon River.

The mining activity would remove material from a gravel bar when not submerged. After mining, the gravel bar recovers by accumulating material from the downstream motion of material caused by the flow of the river, generally during high flow conditions. Once the mined material is on shore, it would be hauled on existing roads to where it will be placed onto wetlands (to re-construct the Galena-Campion road) which have been previously permitted.

The only other identified available material site in the Galena vicinity is isolated from the project area by considerable wetland area/distance. To access the upland site would require approximately 12 miles of haul road across wetlands or ice road during winter time on a similar alignment. This would have much greater impact on the wetlands between Mueller Mountain the Galena Campion Road than is envisioned by the short haul from and use of the gravel bar.

b. Minimization: The mining activity should not have any substantial impacts to waters or wetlands of the US. The contractor does not anticipate constructing any ramps to haul material from the Yukon River gravel bar to uplands. This project will require approximately 266,000 cubic yards of material to construct the new road alignment, but will end the annual reconstruction (maintenance) along the existing road route.

c. Compensatory Mitigation: No compensatory mitigation is proposed as there is no impact to wetlands. There are also no direct projected impacts to waters of the US in using this material source as it is annually reconfigured by the Yukon River.

**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:** 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 National Marine Fishery Service (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 waters of the known range of the Chinook, Coho, Sockeye, Pink, and Chum salmon species. We have determined the described activity **would not adversely affect EFH** in the project as all proposed work would be conducted on a river gravel bar while the area is dry. In addition, the Alaska Department of Fish and Game has issued a Fish Habitat Permit (FH13-III-0077) for the applicant's proposal which requires the work be accomplished in a manner which protects anadromous and resident fish species. This Public Notice is being provided to the NMFS. Any comments or recommendations they may have concerning EFH 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 authorities:

(X) Perform work in or affecting navigable waters of the US – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(X) Discharge dredged or fill material into waters of the US – 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

# 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 Number POA-2011-72-M1, Yukon 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.