



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: August 17, 2012
EXPIRATION DATE: September 17, 2012
REFERENCE NUMBER: POA-2012-557
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 project drawings located at the Regulatory Division website: www.poa.usace.army.mil/reg/PNNNew.htm.

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 **Mary Romero** at telephone (907) 753-2773, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at mary.r.romero@usace.army.mil if further information is desired concerning this notice.

APPLICANT: David Chaput, Northern Construction & Maintenance, LLC (NCM), Post Office Box 224889, Anchorage, Alaska 99522

LOCATION: The project site is located within Section 17, T. 10 N., R. 15 E., Umiat Meridian; USGS Quad Map Beechey Point A-3; Latitude 70.2272° N., Longitude 148.40607° W.; tract 6, 7, and 8, north of Spine Road; in Prudhoe Bay, Alaska.

PURPOSE: The applicant's stated purpose is to construct a gravel laydown pad for pipeline activities.

PROPOSED WORK: The applicant proposes to place 235,000 cubic yards (cy) into 30 acres of wetlands over a period of at least three years for the development of a working gravel pad to be utilized for equipment and material staging for construction activities in support of the Prudhoe Bay industry.

Phase 1: The project timing for Phase 1 is planned as soon as NCM receives authorization. Phase 1 involves the discharge of 78,300 cy of gravel onto tract 6, 7 & 8 to make 9.7 acres of gravel pad. This would provide for a sufficient working pad for a laydown area for equipment, procured project material, logistics and project support activities.

Phase 2: The project timing for Phase 2 is planned for 2013. Phase 2 involves the discharge of 78,366 cy of gravel onto tract 7 to make 9.7 acres of gravel pad. This would expand the working pad to approximately 19.4 acres and provide the necessary additional working pad space for equipment, procured project material, logistics and project support activities.

Phase 3: The project timing for Phase 3 is planned for 2013 or may need to be postponed through 2014 or 2015. Phase 3 involves the discharge of 78,334 cy of gravel onto tract 7 to make 10.6 acres of gravel pad. This would expand the working pad to 30 acres and provide the necessary additional working pad space for equipment, procured project material, logistics and project support activities. All work would be performed in accordance with the plan on sheets 1-8, dated August 1, 2012, available on line www.poa.usace.army.mil/reg/PNNNew.htm as a separate attachment at under POA-2012-557.

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: NCM proposes to avoid filling approximately 3.15 acres of 'high valued' wetlands in tract 8. The open water pond that currently exists in the center of tract 8 will not be filled. Instead NCM proposes to place gravel fill around the pond keeping the toe of the gravel thirty feet away from the water's edge. The remaining proposed area of tracts 6, 7, and 8 is the only area we could feasibly expand into because it is the only available land that NCM currently has under lease. Additionally, the entire area of Deadhorse is considered wetlands, so even if we could build a pad at a separate location, we ultimately would still be required to fill wetlands

For these reasons Tracts 6, 7 & 8 is the best alternative. With the exception of the unnamed pond located in the center of tract 8, by land standards tracts 6, 7 and 8 are considered 'low value' lands ecologically and are situated between other gravel pads used/leased by others for industry purposes. This means that avoidance of impacts to the wetlands in this area would be possible only if we did not place any additional fill. This solution is impractical and not the intended and historical uses of the Deadhorse area. There are no other lands in the Deadhorse area outside of pre-platted lands demised for industrial use such as Tract 6, 7 or 8. Pad space is very limited in Deadhorse. Few tracts remain to be used for industrial purposes such as tracts 6, 7, & 8.

Relocating to another tract is not an option and requesting that new lands be surveyed for plat by the State of Alaska for industrial use is also not an option because lands belonging to the Federal, State and local North Slope Borough outside of the industrially designated lands of the Deadhorse community are barred from development for the very purpose of environmental conservation. Possible use of already established pads for additional storage is also not practicable for two reasons. First, according to the Alaska Department of Natural Resources, there are no established pads available for lease. Therefore, the option to form a new lease for an established pad with the state is unavailable. Second, negotiating a leasing option for a portion of a pad from a current lease holder (an unlikely scenario given the highly competitive nature of North Slope contracting operations), the possibility of short-notice termination of the arrangement and/or restriction of access to the pad could cause serious problems with our operations.

b. Minimization: NCM proposes to minimize impacts by maintaining a separation zone of 10 feet from the roadway and in between adjacent neighboring pads to allow for water drainage thereby creating additional habitat to aquatic flora and fauna. NCM will also minimize impacts by not filling approximately 3.15 acres of 'high valued' wetlands in tract 8; NCM proposes to place gravel fill around the pond keeping the toe of the gravel thirty feet away from the water's edge. Refer to Illustration A, below. NCM also takes the following into consideration for this minimization statement. Minimization of adverse effects on human use potential is also achieved by:

1. NCM will take measures to ensure water quality is not impacted by sediment load by using Best Management Practices of an APDES Storm Water Pollution Prevention Plan (SWPPP).
2. Tundra lands excluding the open water pond on tract 8 are considered 'low Value Habitats'. Most of the land adjacent to and on tract 6, 7 & 8 is considered to be of low value, primarily comprised of sedge/willow tundra with the exception of the pond on tract 8. Impoundments and ponds surrounding the Tract 6, 7 & 8 generally provide abundant emergent vegetation and an important source of invertebrates for foraging water birds (Kertell, 1993). Based on wetland type and wildlife habitat assessment, is Non-patterned Wet Meadow and Moist Sedge-Shrub Meadow (ABR, 2003). This is not considered high value habitat for waterfowl, including spectacled eiders, and should therefore be categorized as moderate or low-value wetlands. The remaining 6 percent of the total area of Tract 8 is comprised of Shallow Open Water without Islands, Young Basin Wetland Complex (described as a complex mosaic of open water and Aquatic Sedge or Grass Marsh), and Aquatic Sedge Marsh. This combined area was judged to be of potential value to waterfowl, water birds and shorebirds, including the spectacled eider (ABR, 2003). However, the USFWS has indicated that they consider the area to be low-value habitat for the spectacled eider. (Jonathan Priday, (USFWS), personal communication, 04/19/04).
3. Timing the discharge to avoid the seasons or periods when human recreational activity associated with the aquatic site is most important, timing will be considered prior to filling activities to minimize wildlife impacts.
4. Following discharge procedures which avoid or minimize the disturbance of aesthetic features of an aquatic site or ecosystem. Discharge procedures and best management practices will be followed while placing gravel fill;
5. Selecting sites that will not be detrimental or increase incompatible human activity, or require the need for frequent dredge or fill maintenance activity in remote fish and wildlife areas. Tract 6, 7 & 8 meet this criteria and fill sources for initial and future maintenance activities have no impact on remote fish or wildlife because the gravel source is not fish bearing nor an area of wildlife density.
6. Locating the disposal site outside of the vicinity of a public water supply intake. Tract 6, 7 & 8 also meet this criterion. There is no public water supply intake near Tract 6, 7 & 8.

NCM is meeting or exceeding these minimizing criteria. Additionally, the area we are proposing to fill is in a designated development area, is surrounded by heavily

developed land which has already compromised the immediate watershed and has been described as poor habitat for the endangered spectacled eiders and other wildlife. All of this points to our proposed project being in line with the intended use of the area and having less potential impact than development at other locations in the Deadhorse area may.

c. Compensatory Mitigation: NCM is avoiding and minimizing impacts by not filling 3.15 acres of high valued wetlands and in addition will compensate at a ratio of 1.5 acres to 1 acre at a price determined to be within fair market value by authorities to an escrow fund to hold per USACE specifications until such time that a mitigation bank is established for this purpose. Compensation by monies to the escrow account will occur in phases as described in the work description. In the event that a phase is postponed temporarily or indefinitely compensation would cease.

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: The project area is within the known or historic range of the Polar Bear (*Ursus maritimus*), Steller's eider (*Polysticta stelleri*), Spectacled eider (*Somateria fischeri*), and Candidate for Listing species Yellow-billed loon (*Gavia adamsii*).

We have determined the described activity may affect the Polar bear, Spectacled eider, and Yellow-billed loon. 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). 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).

The Notice of Application for State Water Quality Certification is enclosed with this Public Notice and project drawings are located at the Regulatory Division website: www.poa.usace.army.mil/reg/PNNNew.

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-2012-557, Sagavanirktok 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.