



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:	December 20, 2013
EXPIRATION DATE:	January 21, 2013
REFERENCE NUMBER:	POA-2012-917
WATERWAY:	KOTZEBUE SOUND

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 Estrella Campellone at (907) 753-2518, by fax at (907) 753-5567, or by email at Estrella.f.campellone@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Michael Wheatley, Project Manager, Brice, Inc, at 907-452-2512 or mikew@briceinc.com

AGENT: Sara Lindberg, USKH, Inc. at 907-343-5250 or slindberg@uskh.com.

LOCATION: The project site is located within Section 16, T.17 N., R. 18 W., Kateel Meridian; USGS Quad Kotzebue D-2 ; Latitude 66.8757° N., Longitude -162.6195° W.; the proposed project is located south of Isaac Lake, east of Kotzebue Sound, and adjacent to the City of Kotzebue's sewage lagoon, in Kotzebue, Alaska.

SPECIAL AREA DESIGNATION: The project site is located within the Kotzebue Airport and on ADOT&PF property.

PURPOSE: The applicant's stated purpose is to provide material for the Kotzebue Airport and Runway Safety Area improvements, Stage III Project (ADOT&PF No. 63181).

PROPOSED WORK: The proposed work encompasses the excavation of approximately 140,000 cubic yards of materials from an area of approximately 8.5 acres, of which 7 acres are wetlands. The area would be excavated to a depth of 0.5 to 20 feet below the ground surface. The extracted gravel would be processed on site and hauled to the runway construction areas through an existing road. This road would be widened to 30 feet to accommodate construction and hauling vehicles and would require the permanent fill of 1.1 acres of tundra wetlands (see table 1 and table 2).

Table 1: Estimated quantities and impacts on wetlands. The total area of impact, including area of excavation, is 8.5 acres.

Wetlands Impacts	Excavated Wetlands (acres)	Temporary Fill (acres)	Permanent Fill (acres)	Post-Construction Condition
Mining Area	7.0	0	0	open water
Haul Routes	0	0	1.1	uplands
Stockpile	0	0.5	0	open water
Equipment Staging	0	0.3	0	scrub/emergent
Wetland Impacts Total	7.0	0.8	1.1	

Table 2: Uplands impacts.

Upland Impacts	Excavated Uplands (acres)	Temporary Fill (acres)	Permanent Fill (acres)	Post-Construction Condition
Mining Area	1.5	0	0	open water
Haul Routes	0	0	3.4	uplands
Stockpile	0	0.5	0	open water
Equipment Staging	N/A	N/A	N/A	N/A
Upland Impacts Total	1.5	0.5	3.4	

All work would be performed in accordance with the enclosed plan (sheets 1-4), dated September 2013.

ADDITIONAL INFORMATION: Two additional authorizations would be required: coverage under the Construction General Permit from the Department of Environmental Conservation under the Alaska Pollutant Discharge Elimination System and a Finding of No Significant Impact by the Federal Aviation Administration for the proposed project.

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.

Avoidance:

1. Best management practices would be set in place to address daily silt runoff.
2. The Isaac Lake borrow site would be reclaimed by cutting back all other slopes to a maximum steepness of 3:1 ratio and reseeding all disturbed areas not submerged by water.
3. Removed overburden would be stockpiled in uplands within the material site boundaries.
4. The vegetative mat and top soil would be utilized for reclamation of the borrow site and on slopes of the project for erosion control. It would be also used to grade the slopes of the new open water areas. Reclamation use includes, but is no limited, spreading overburden to drain and grade any remaining areas above the water.
5. Overburden material would be seeded or covered with plastic if left for more than 14 days.

Minimization:

1. A 30-ft wide berm with a 3:1 slope will be maintained along the cut slope next to the sewage lagoon to protect the sewage lagoon's hydraulic integrity.
2. A new Memorandum of Agreement (MOA) will be established and signed between the Federal Aviation Administration, Department of Transportation & Public Facilities, and State Historic Preservation Officer (SHPO) with consulting parties being invited as a signatory that identifies mitigation measures to offset adverse effects to historic resources.

3. All avoidance and mitigation measures established in the new MOA will be followed, including archaeological monitoring for ground-disturbing activities and publication of a report that compiles existing research and investigations with those that may occur during the development of the Isaac Lake Material Site.
4. Drums and contaminated soil from the Sewage Lagoon Drum Dump site would be disposed of in the Kotzebue Landfill, if they do not exceed the ADEC's allowable contaminant levels for landfills, and the site will be cleaned up according to the ADEC's requirements.

Compensatory Mitigation:

The applicant considers that compensatory mitigation is not necessary. The applicant stated that avoidance measures taken to minimize fill in wetlands as part of haul route development, and the rehabilitation and seeding of the material site after excavation is complete would result in a net increase in wetlands. The overall project footprint would disturb approximately 8.1 acres of wetlands through excavation and fill (both temporary and permanent impacts). Once the project is complete, there would be a net increase in wetlands, with the conversion of 8.5 acres of low value wetlands and uplands to higher value lacustrine wetlands or palustrine pond wetlands (Cowardin Classification), an increase of 0.4 acres of waters of the U.S.

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 is a registered or eligible property in the vicinity of the worksite. It has been designated KTZ-00030. Because it has been determined to be near the proposed project area, a determination of effect will be made in consultation with SHPO. Consultation of the AHRs constitutes the extent of cultural resource investigations by the District Commander at this time. 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*), bowhead whales (*Baleana mysticetus*), fin whales (*Balaenoptera musculus*), humpback whales (*Megaptera novaeangliae*), bearded seal (*Erignathus barbatus nauticus*), and ringed seal (*Phoca hispida hispida*). The proposed area does not have surface water connection to the Kotzebue Sound. No threatened or endangered species are known to use the project area.

The proposed project site is in close proximity to Kotzebue City and it does not have a surface connection to the Kotzebue Sound. We have determined the proposed action would have no effect on any of these 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).

The project area is within the known range of the Chum salmon (majority), and Chinook, sockeye, Coho, and pink. Isaac Lake is not designated as Essential Fish Habitat (EFH), nor is there an outlet or an anadromous stream that connect to the lake. There are no fish that inhabit Isaac Lake.

No EFH species are known to use the project area; therefore, 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 authorities:

() 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).

() Transport dredged material for the purpose of dumping it into ocean waters - Section 103 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413). Therefore, our public interest review will consider the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate. 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 No. **POA-2012-917**, 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.