



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:** February 25, 2013  
**EXPIRATION DATE:** March 25, 2013  
**REFERENCE NUMBER:** POA-2013-33  
**WATERWAY:** Tongass Narrows

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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 **Marcia L. Heer** at (907) 753-5759, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at **Marcia.L.Heer@usace.army.mil** if further information is desired concerning this notice.

**APPLICANT:** Mr. Trevor Sande, Marble Island LLC, (907) 225-7917; Email: trevorsande@rmketchikan.com.

**AGENT:** Mr. Bret Hiatt, R&M Engineering-Ketchikan, Inc.; (907) 225-7917; Email: brethiatt@rmketchikan.com.

**LOCATION:** The project site is located within Section 29, T. 74 S., R. 90 E., Copper River Meridian; USGS Quad Map Ketchikan B-6; Latitude 55.428° N., Longitude -131.774° W.; White Rock Estates Subdivision, Lot 4A of Tract J; Behind D-1 Loop Road off of North Tongass Highway in Ketchikan, Alaska.

**PURPOSE:** The applicant's stated purpose is to access a rock quarry and to develop a site to place overburden from off-site projects.

**PROPOSED WORK:** The applicant is requesting a Department of the Army permit to place a total of 4,005 cubic yards of fill material into 1.66-acres of waters of the U.S. that include wetlands and a 158-square foot area of intermittent streams to place off-site overburden and to mechanically land clear and excavate 0.28 acres of wetlands to develop a rock quarry site. Total area of impacts to wetlands and intermittent streams is 1.94-acres. All work would be performed in accordance with the enclosed plan (sheets 1-6), dated February 19, 2013.

**ADDITIONAL INFORMATION:** The total area of the proposed overburden site is 5.40-acres (of which 1.66 acres is wetlands and intermittent streams). Total cubic yards of overburden proposed for the site is 9,872 cubic yards (of which 3,950 would be placed in waters of the U.S.)

The proposed project is located adjacent to a recently capped wood waste land fill site. According to the applicant, the proposed overburden accumulation site would expand the existing cap beyond the finished toe and re-establish the 3:1 slope further down gradient and will allow for a more usable storage/staging area for wetland soils that will come from off-site construction projects.

Rock from the proposed rock quarry site would be used as additional capping of the existing wood debris landfill.

The applicant has also stated that the proposed overburden disposal site is positioned to compliment the adjacent proposed residential development of 15 lots by providing for a site to dispose of wetland overburden without the costly expense of finding an alternative site that would require significant truck haul time.

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: According to the applicant a 50-foot buffer strip of palustrine forested wetlands would remain along the southern property boundary that abuts the residential lots below. The applicant also stated that much of the proposed overburden debris site is within the footprint of the previously disturbed upland fill area.

The proposed rock quarry site was designed to utilize the smallest size practicable. The proposed quarry site would allow for a run-on water diversion ditch to be removed from its current location and would re-direct the water into natural drainages in undeveloped areas onsite to the east and west of the property, which would enhance the protection to the existing capped landfill from water intrusion.

b. Minimization: According to the applicant, overburden fill discharges would be within similar wetland soil types and long-term impacts would be minimal and short-term for the 3:1 slope area of the debris accumulation site. The applicant anticipates that ultimately these wetland slope areas would re-establish a similar ecology to what is currently present.

c. Compensatory Mitigation: The applicant is stating that based on functional assessment results and the following factors compensatory mitigation is not necessary:

- The proposed work is on a previously disturbed site used as a wood waste landfill in the 1990's by prior ownership and would not have a significant individual or cumulative impact on environmental values.
- The project involves some restoration of the impacted wet areas on the 3:1 slope as well as the preservation of additional areas that would continue to exhibit forested wetland characteristics.
- The placement and compaction of wetland soil overburden within the 3:1 slope area would establish conditions to promote the natural succession of native hydrophytic vegetation because of the methods of placement and the hydric nature of the soil material. The wetland soil would also retain a seed bank of native hydrophytic vegetation that would help re-establish the plant community. In addition, substantial sheet flow from surface water above the 3:1 slope would create the necessary hydrology to maintain soil saturation. The hydrology may actually increase due to the increased amount of surface area of the capped landfill that would be intercepting rainwater and transferring this surface runoff to the lower slopes. The soils are anticipated to maintain somewhat poorly drained to poorly drained conditions, which would mean they would be saturated throughout the growing season establishing ideal conditions for forested wetland characteristics.

- The applicant anticipates the development plan for this site would result in no net loss to wetlands and that a net increase of 0.67-acres of wetlands would result.

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: No threatened or endangered species are known to use the project area.

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 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; therefore we have determined the described activity would not adversely affect EFH.

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).

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  
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-2013-33, Tongass Narrows, 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.