



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

KENAI FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
44669 Sterling Highway, Suite B
Soldotna, Alaska 99669-7915

PUBLIC NOTICE DATE:	DECEMBER 19, 2014
EXPIRATION DATE:	JANUARY 21, 2015
REFERENCE NUMBER:	POA-2014-460
WATERWAY:	COOK INLET

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 Katherine A. McCafferty at (907) 252-3770, or by email at Katherine.a.mccafferty2@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Apache Alaska Corporation (Apache), 510 L Street, Suite 310, Anchorage, Alaska 99501; ATTN: Sean Palmer, Phone 907-272-2722, Fax 907-277-0005,.

AGENT: HDR Alaska Inc., 2525 C Street, Suite 305, Anchorage, AK, 99503; ATTN: Anna Kohl , Phone 907-644-2008, Fax 907-644-2022.

LOCATION: The project site is located within Section 2, T. 8 N., R. 10 W.; Section 36, T. 9 N., R. 10 W.; and Sections 13-15, 21-24, 28-31, T. 9 N., R. 9 W., Seward Meridian; USGS Quad Map Kenai D-3. The proposed Kenai Spur extension would begin at the Captain Cook State Recreation Area and extend north, within the Kenai Peninsula Borough's (KPB) existing right-of-way (ROW) through the Gray Cliff Subdivision and terminate before reaching Otter Creek. The northern terminus of the proposed Kenai Spur extension is at approximately latitude 60.8714 N. and longitude 150.8252 W.

Three access roads would extend from Mountain Violet Drive and would terminate in three gravel pads. Site 1 would be located at approximately latitude 60.870976 N., 150.799360 W; Site 2A would be located at approximately latitude 60.860434 N., longitude 150.823291 W; and Site 2B would be located at approximately latitude 60.858834 N., 150.816213 W. The proposed project is located on the east side of Cook Inlet, in the Kenai Peninsula Borough (KPB), Alaska, and north of Nikiski, Alaska.

SPECIAL AREA DESIGNATION: The proposed exploratory pads, and a portion of the associated access roads to the exploratory pads, are located within the boundary of the Kenai National Wildlife Refuge (KNWR); however the lands on which these pads and access roads lie are not owned by the U.S. Fish and Wildlife Service. The proposed exploratory pads and the access roads within the KNWR are located on privately owned surface and

subsurface estates. These lands subject to the patent restrictions imposed by Section 22(g) of the Alaska Native Claims Settlement Act (ANCSA) and therefore Title 11 of Alaska National Interest Lands Conservation Act (ANILCA) does not apply.

PURPOSE: The applicant's stated purpose is to access land owned by Tyonek Native Corporation (TNC) and Cook Inlet Region, Inc. (CIRI), with whom Apache has land use agreements, in order to evaluate the subsurface geologic structure for oil and gas resources. The proposed exploration site is located on land owned by TNC (surface estate) and CIRI (subsurface estate) that is currently inaccessible by road.

PROPOSED WORK: Apache proposes to discharge up to 721,371 cubic yards (CY) of KPB Type 1 and Selected Type A material into a total of 16.6 acres of waters of the U.S., including wetlands in order to construct:

- the Kenai Spur Extension (KSE) and associated turnouts, a turnaround, and subdivision road approaches;
- Mountain Violet Drive, including the access road to exploratory pad 1;
- access roads from Mountain Violet Drive to exploration pads 2A, and 2B; and
- exploration pads 1, 2A, and 2B.

The KSE would consist of a 7.45 mile, single-lane gravel road with an 18 foot wide surface width and a maximum bottom width of 29.5 feet. The embankment, which would be 30 to 35 inches high, would be constructed on geotextile fabric with 2:1 shoulders. In wetlands, geogrid would be installed under the non-woven geotextile fabric where warranted. The KSE would result in a discharge of fill into 12.8 acres of waters of the U.S., including wetlands (included in the total wetland acreage above).

The KSE would have 200 foot long turnouts at approximately one-quarter-mile intervals to allow for safe passage of vehicles traveling in the opposite direction. Most of the turnouts would add 10 feet to the road surface width for a distance of 100 feet. Transitions into and out of the turnout areas would each be 50 feet long. Five turnouts would add 25 feet to the road surface width for a distance of 100 feet. One of the turnouts would result in a discharge of fill into 0.03 acres of wetlands (included in the total wetland acreage above); all other turnouts would be located in uplands.

One turnaround site, located at the end of the proposed project, would allow for equipment staging during construction as well as vehicle parking during exploratory operations. The turnaround would be 400 feet long by 160 feet wide. The proposed turnaround would be located entirely in a wetland and would result in the discharge of fill into 1.3 acres of jurisdictional wetlands (included in the total wetland acreage above).

The KSE would include road approaches at each platted subdivision road. These road approaches would allow the travelling public to exit the KSE onto existing, platted side roads. The road approaches would be 30 feet long, with an 18 foot wide surface width and a maximum bottom width of 27 feet. Six road approach locations (Crimson Clover Street, Mountain Laurel Court, Jacobs Ladder Drive, Cloud Berry Loop, Purple Iris Way, and Larkspur Loop) would result in the discharge of fill into 0.1 acres of jurisdictional wetlands (included in the total wetland acreage above).

Mountain Violet Drive, a platted subdivision road, would be constructed from the end of the KSE road to the exploratory pad designated as Site 1. Mountain Violet Drive and the two other access roads to exploration pads 1, 2A, and 2B would total 2.25 miles in length. These access roads would have the same cross section as the KSE. The construction of Mountain Violet Drive would result in the discharge of fill into 2.3 acres of waters of the U.S., including wetlands (included in the total wetland acreage above).

The KSE would cross 13 streams. Eighteen inch diameter culverts would be installed to convey stream flow under the proposed embankment. The contractor would install additional 18 inch diameter culverts in the roads as necessary to maintain natural drainage patterns. In addition, manufactured corrugated plastic drainage mats, which allow sheet flow under the road, would be installed to support non-channelized drainage through the road prism in wetland areas.

All work would be performed in accordance with the enclosed plan (sheets 1-26), dated December 12, 2014.

ADDITIONAL INFORMATION:

The following proposed activities do not require Department of the Army (DA) authorization:

- Three 8.2-acre gravel exploration pads and two access roads would be located in uplands. At the outset of exploration activities, the gravel pads would host temporary drilling equipment including a rig, drilling fluid tankage, aboveground fuel storage tanks, portable offices, and equipment. Temporary well test equipment and tankage may be located on the pads after the drilling phase. Initially, it is likely that the only permanent features on the pads will be the actual well(s). Depending on the evaluation results, tankage and other process-related equipment may ultimately be required. Drilling equipment and the proposed exploration activity will be conducted according to standard practices for oil and gas exploration activities in the Cook Inlet basin.
- Clearing limits along the KSE would be a maximum of 50-feet wide in uplands.
- Clearing limits along the KSE would be a maximum of 40-feet wide in wetlands and no soil disturbance would occur outside of the limits of the proposed fill.
- Vegetation debris remaining after clearing will be mulched and spread onsite in uplands or stored in upland areas prior to being spread.
- The KSE will cross one anadromous fish stream (Leif's Creek) using an existing bridge and approach embankments. No work will occur below the Ordinary High Water (OHW) mark of Leif's Creek.
- The applicant anticipates construction to occur in the winter. If constructed in the winter, work may include use of the existing petroleum pipeline corridor during frozen ground conditions, or construction of an ice and snow road between and paralleling the proposed new road and the petroleum pipelines, weather conditions permitting. This will allow for one-way construction traffic within the construction zone – hauling onsite on newly constructed road and leaving the site on winter road.
- The material source for this project would come from KPB permitted sites, to be determined by the contractor.

The applicant would be required to obtain permits, authorizations, and/or approvals from the following federal, state and local agencies:

- US Fish and Wildlife Service must complete a KNWR Compatibility Determination as required by Alaska Native Claims Settlement Act Section 22(g) for activity in KNWR
- Alaska Department of Environmental Conservation (ADEC) requires the preparation of a Spill Prevention, Countermeasure, and Controls (SPCC) Plan. Preparation of an SPCC plan is required for any facility with storage of over 1,320 gallons of petroleum hydrocarbons.
- ADEC Division of Water may issue, waive, or deny a 401 water Quality Certification. Issuance of a certification would indicate that the discharge would comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws.
- KPB Road construction permit
- KPB Conditional use permit for work in the riparian area.

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

a. Avoidance:

Due to the abundance of wetlands on the northern Kenai Peninsula and in the KPB road right-of-way, avoiding all fill discharges into wetlands is not practicable. The avoidance measures include:

- Site selection and design with full avoidance of WOUS by siting the exploration pads, and access roads to Pads 1, 2A, and 2B in upland areas.
- Construction of a one-lane road itself avoids additional impacts to WOUS that a two-lane road would cause.
- Fill area boundaries will be clearly delineated in the field to avoid accidental impacts from equipment operation and fill material placement.
- Clearing will be done outside the migratory bird nesting window, or biologists will conduct breeding bird surveys to ensure clearing activities do not accidentally harm migratory birds.
- Routes and pad siting were selected based on criteria that included avoiding wetlands where possible. The proposed road has an 18-foot-wide top surface, which is narrower than the KPB standard 24-foot width. By proposing a narrower road, Apache avoids impacts to approximately 3.1 additional acres (133,788 square feet) of wetlands that would be impacted by an additional 133,380 cy of fill to augment the road prism associated with a 24-foot-wide road surface.

- Additionally, a shorter access road to Pad 1, using Arctic Poppy Place, would have impacted an additional 0.95 acres (41,153 square feet) of wetlands, requiring an additional 3,210 cy of fill in WOUS. To avoid these impacts, the access roads were routed to areas of existing disturbance, uplands, or areas where wetland impacts could be reduced.

b. Minimization:

Practicable minimization measures that have been incorporated into the project location and design would include:

- Field and office-based wetland delineations evaluated potential access road routes to Pad 1 to evaluate the feasibility of complete avoidance of wetlands; it was not deemed feasible. To minimize disturbance and impacts to wetlands, the access road to Pad 1 was therefore co-located along an existing disturbed linear feature containing uplands. This co-location reduces landscape-level degradation of the wetland environment.
- Using a corridor that is already utilized for petroleum pipelines, and which has been slated for road construction by the KPB. The KPB received federal funding for road construction in the Gray Cliff ROW in the 1990s, and has planned for development of an access road to the Gray Cliff subdivision and further north since subdividing the area. Use of this corridor instead of a separate, independent corridor minimizes the potential for multiple roads in the area, since the KPB could construct a road in their ROW if this project were constructed elsewhere.
- Using public road rights-of-way to the maximum extent practicable for access to exploration pads was used to minimize proliferation of single-purpose roads that would cause additional impacts to WOUS.
- Using a corridor that is already degraded by off-road vehicle use, and placing the road within degraded wetlands rather than undisturbed WOUS, where possible, on unavoidable wetland crossings.
- Clearing just what is necessary for project construction and safe operation. On segments crossing wetlands, the maximum clearing width will be 40-feet, rather than the 50-foot limits used in uplands.
- Not “grubbing” land outside the project footprint.
- Using steep (2:1) road and pad embankment slopes on wetland crossings to minimize the footprint width while providing long-term stability.
- Installing culverts in wetland areas as appropriate to minimize road effects on natural drainage patterns.
- Requirement from the project construction contractor that an erosion and sediment control plan be developed for the road and pad construction.
- It is anticipated that initiating construction in winter conditions (frozen ground and consistent snow cover) will result in fewer temporary discharges and indirect effects to wetlands.

c. Compensatory Mitigation:

For the unavoidable permanent adverse impacts to 16.6 acres of wetlands, the applicant proposes to pay an in-lieu fee to The Conservation Fund or a similar organization deemed appropriate by the United States Army Corps of Engineers (USACE). The applicant has stated that there are no Category 1 wetlands in the proposed project area. The applicant proposes to provide compensatory mitigation at a ratio of 2:1 for 5 acres of Category 2 wetlands in the proposed project area. The applicant proposes to provide compensatory mitigation at a ratio of 1.5:1 for 1.7 acres of Category 3 wetlands in the proposed project area. The applicant proposes to provide compensatory mitigation at a ratio of 0.5:1 for 9.9 acres of disturbed Category 3 wetlands in the proposed project area.

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.

A cultural resource survey was conducted at the project site on September 24-28 and October 9, 10, and 12, 2014 and no new historical sites were identified. We have defined our scope of analysis under Appendix C of 33 CFR 325 (permit area) to be the footprint of the fill within all waters of the U.S., in addition to the footprint of the fill within uplands that are located within 50 feet of the ordinary high water mark (OHWM) or the boundary of the wetlands.

We have determined that the proposed project would cause no effect to historic properties. 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).

The proposed project area crosses Leif's Creek which is listed in the Alaska Department of Fish and Game Catalog of Anadromous Waters as supporting the rearing of Coho Salmon (*Oncorhynchus kisutch*). No work would occur below the OHWM of Leif's Creek. No other streams or lakes that contain EFH are within the project area.

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 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-2014-460, Cook Inlet, 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.