



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 28, 2025
EXPIRATION DATE:	September 27, 2025
REFERENCE NUMBER:	POA-2005-00246
WATERWAY:	Hotham 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.

All comments regarding this public notice should be sent to the address noted above. If you desire to submit your comments by email, you should send it to the project manager's email as listed below or to regpagemaster@usace.army.mil. All comments should include the public notice reference number listed above.

All comments 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 Drew E. Sliger at (907) 753-2723, toll free from within Alaska at (800) 478-2712, or by email at drew.e.sliger@usace.army.mil if further information is desired concerning this public notice.

APPLICANT: Thomas C. Baker, Kikiktagruk Inupiat Corporation
Post Office Box 1050, Kotzebue, Alaska 99752
tbaker@kikiktagruk.com

AGENT: Tiffany Phelan, MLP & Associates, LLC
721 Depot Drive, Anchorage, Alaska 99501
Tiffany@mlpassociates.com

LOCATION: The project site is located at Section 25 & 30, T. 16 N., R. 15 & 16 W., Nimiuk Point, Northwest Arctic Borough, Alaska (Latitude 66.7622, Longitude -162.0147).

PURPOSE: The applicant's stated purpose is to is to extract sand and gravel material for infrastructure projects in the Kotzebue, Alaska, to include road construction, landfill reclamation, sewer cell improvements, and building pads.

PROPOSED WORK: The applicant proposes the extraction, processing and stockpiling of approximately 104,000 cubic yards of aggregate materials at the site of the existing 27 acre Nimiuk Point material site. Additionally, the applicant requests to stockpile topsoil and overburden removed from the extraction area onsite for reuse. The combined footprint area of these activities would result in impacts to 8.8 acres of palustrine wetland. Overburden would be removed with crawler dozers. Extraction would be performed with a combination of hydraulic excavators and wheeled front-end loaders. Some processing of the material would occur onsite with a screen plant, crusher, grizzly, and/or sand separator. The material would be transported across the site to a barge for transport to Kotzebue by either front-end loaders or articulated dump trucks. Access to the site would be by beach landing craft and/or deck barge with landing ramp adjacent to the extraction site. Other vehicle traffic to the site would be employee four wheelers and/or snow machines along informal trails to and from Kotzebue. All work would be performed in accordance with the enclosed plan (sheets 1 through 5), dated July 26, 2024. Sheets 1 through 5.

ADDITIONAL INFORMATION:

On June 29, 2005, the initial individual permit was issued authorizing mechanized land clearing of approximately 27 acres of wetland to facilitate the development of the Nimiuk Point Sand Gravel borrow site. Additionally, activities authorized for the operation of the borrow site consisted of the stockpiling of approximately 3,000 cubic yards overburden and 10,000 cubic yards of gravel resulting impacts to 8 acres of wetland.

On January 8, 2009, a time extension was issued, extending the time limit to complete the authorized to January 31, 2014.

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: The applicant stated the following: Material extraction is not planned to take place within a 100-foot setback/buffer from adjacent properties and Hotham Inlet. The extraction area would be graded such that stormwater, and any other potential discharges cannot travel into wetlands onsite or offsite, and waters of the U.S.

b. Minimization: The applicant stated the following: Topsoil and overburden removed from areas to be excavated would be stockpiled onsite for reuse. If possible, stockpiles would be located away from areas of concentrated runoff flow and a minimum of 100 feet from any wetland or waters of the U.S. in accordance with Best Management Practice (BMP) 44 Stockpile Management and BMP 40.00 Cold Weather Stabilization.

c. Compensatory Mitigation: The applicant proposes no mitigation.

The applicant has proposed the following reclamation plan: Reclamation would take place at the end of the extraction period, once all aggregates are exhausted.

- a. Develop a lake with a minimum 20 foot wide underwater littoral zone with a slope no steeper than 10 to 1 vertical (10H:1V).
- b. Create irregular shoreline with coves and peninsulas, and islands where space allows, to maximize the shore to water interface. Islands, where provided, would be at least 20 feet from any main shoreline to provide nesting birds refuge from predators.
- c. Construct a minimum 25 foot-wide buffer around the shoreline, above the normal high water level, capable of supporting native vegetation to help filter sediments and pollutants before they enter the water. The new vegetation buffer would be graded with positive drainage to the shoreline with a slope between 0 and 2 percent as described in BMP 38.00 Vegetation Buffer.
- d. The full width of the underwater littoral zone and buffer around the shoreline would be covered with a 2 to 4 inch layer of organic-rich soil material to maximize natural revegetation.

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 known cultural resources in the permit area or within the vicinity of the permit area. The permit area has been determined to be the direct project footprint as well as the project specific ice road. Consultation of the AHRs and review of the original POA-2011-1077 permit files and cultural resources consultation constitutes the extent of cultural resource investigations by the U.S. Army Corps of Engineers (Corps) at this time, and we are otherwise unaware of the presence of such resources or any other new information to change the prior effect determination. USACE has made a No Historic Properties Affected (No Effect) determination for the proposed project. This application is being coordinated with the State Historic Preservation Office (SHPO), Federally recognized Tribes, and other consulting parties. Any comments SHPO, Federally recognized Tribes, and other consulting parties 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. USACE is requesting the SHPO's concurrence with this determination.

ENDANGERED SPECIES: According to the U.S. Fish and Wildlife Services Information, Planning, and Conservation System (IPAC) statement, and the National Oceanic and Atmospheric Administration, Alaska Protected Resources Division, the project area is within the known or historic range of the bearded seal (*Erignathus barbatus nauticus*), polar bear

(*Ursus maritimus*), spectacled eider (*Somateria fischerii*), Steller's eider (*Polistica stellari*). Additionally, the project area is within polar bear critical habitat.

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, and the designated critical habitat, we will follow the appropriate consultation procedures under section 7 of the Endangered Species Act of 1973 (87 Stat. 844). Any comments the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (NMFS) 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 (Magnuson-Stevens 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 not located within mapped EFH.

We are currently gathering information and have yet to make a determination of effect. Should we find that the described activity may adversely affect EFH for the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the NMFS may have concerning EFH will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: USACE 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 USACE, 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 rights or resources. Consultation may be initiated by the affected Tribe upon written request to the District Commander. This application is being coordinated with federally recognized tribes and other consulting parties. Any comments federal recognized tribes and other consulting parties may have concerning presently unknown archeological or historic data that may be lost or destroyed by the work under the requested permit will be considered in USACE final assessment of the described work.

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.

USACE 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 USACE 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 are enclosed with this public notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures