**US Army Corps
of Engineers
Alaska District**

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

Public Notice of Application for Permit

PUBLIC NOTICE DATE:	**December 16, 2014**
EXPIRATION DATE:	**January 15, 2015**
REFERENCE NUMBER:	**POA-1965-34-M20**
WATERWAY:	**Resurrection Bay**

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: Alaska Railroad Corporation (ARRC), 327 Ship Creek Ave., Anchorage, AK 99501, ATTN: Jeanette Greenbaum, (907) 265-2440

LOCATION: The project site is located within Section 3, T. 1 S., R. 1 W., Seward Meridian; USGS Quad Map Seward A-7; Latitude 60.122706º N., Longitude 149.428505º W.; those portions known as Alaska Railroad Terminal Reserve in Seward; Kenai Peninsula Borough parcel number 145-025-17; Seward, Alaska.

PURPOSE: The applicant's stated purpose is to improve the safety and efficiency of freight intermodal operations (ship-train and/or ship-truck) within ARRC's Seward Terminal Reserve, accommodate recent and anticipated future increases in freight traffic volumes, improve the overall utility of the freight dock, and provide support for future upgrade/replacement of the Seward Cruise Ship Passenger Dock.

PROPOSED WORK: The applicant proposes to conduct the following work below the high tide line (HTL) (approximate elevation +13.8 feet above mean low low water) and the mean high water mark (approximate elevation +9.6 feet above mean low low water) of Resurrection Bay, a navigable water of the United States (U.S.):

- Dredge 22,000 cubic yards (CY) of bottom substrate from a one acre area, to a depth of -30 feet below mean low low water (MLLW, 0 feet elevation). A portion of this material may be used as fill for the solid fill center of the dock.
- Discharge up to 22,000 CY of the dredged material into a 133 acre deepwater disposal area. The disposal area is located between 2,000 feet and 5,600 feet south of the existing passenger dock.
- Discharge a total of 86,000 cubic yards of material (47,900 CY of granular fill, 13,570 CY of filter rock, and 24,530 CY of armor rock), from an approved clean material source, to construct the 189 foot wide by 400 foot long solid fill center of the proposed dock extension.
- Install up to 245 steel pilings, 24 inches in diameter, to support two concrete panel decks:
  - The east concrete panel would be 58.5 feet wide x 400 feet long.
  - The west concrete panel would be 72.5 feet wide x 400 feet long.
- Install seven new fender pilings, each consisting of two 24-inch diameter steel pin piles, along the west face of the proposed dock extension.
- Install a mooring dolphin, consisting of five 24-inch diameter steel pilings, at the southwest corner of the proposed dock. The mooring dolphin would be connected to the freight dock by a 70 foot long catwalk.

The applicant proposes to begin work in 2016. All work would be performed in accordance with the enclosed plan (sheets 1-6, dated June 2014).

ADDITIONAL INFORMATION:
Other approvals which are required from other Federal, State, or Local Agencies for work described in this Notice include: a Floodplain Development Permit from the City of Seward, and a Conditional Letter of Map Revision from the Federal Emergency Management Agency.

ARRC proposes to collect geotechnical information at a later date. No chemical sampling or analysis of the material to be dredged has been conducted. The applicant has stated that there is no 'reason to believe' that the material proposed to be dredged may contain contaminants. Therefore, ARRC does not believe testing is required to make factual determinations regarding the potential impacts of the discharge of dredged material on the chemical, physical and biological components of the aquatic environment under the 404(b)(1) guidelines. As shown in Figure 1, the applicant has conducted sampling and analysis of material from areas near to the proposed dredge site. The data characterizes dredged material from areas between the existing freight dock and the passenger dock, and from areas near the coal loading dock. The previous sampling occurred between 1989 and 2014. These documents are available upon request.

As described in the permitting history below, ARRC has been authorized to dispose of dredged material in an area bounded by the contour line at -180 foot MLLW and the ARRC property boundary. Based upon a dredged material fate model, the 22,000CY of material proposed for in-water disposal would travel beyond the limits of the ARRC property boundary. Therefore the proposed disposal site extends to approximately 5,600 feet south of the passenger dock.

Permitting history of the project site, in reverse chronological order, is as follows:

April 10, 2014: Permit modification POA-1965-34-M19 authorized ARRC to conduct dredging and disposal until April 15 in 2014 only.

March 8, 2013: Permit modification POA-1965-34-M18 authorized ARRC to dispose of material dredged under authorization POA-1965-34-M13 at a previously used deepwater disposal site, approximately 2,000 feet south of the docks, or discharged on the east side of the freight dock to facilitate dock expansion.

May 18, 2012: Permit modification POA-1965-34-M17 authorized additional time to complete the activities authorized under POA-1965-34-M14. The permittee has until May 31, 2017 to complete the construction. Construction of the work authorized under this modification has not begun. POA-1965-34-M16 was skipped.

September 15, 2009: Permit modification POA-1965-34-M15 (renumbered from POA-1965-34-M14) was revised to authorize ARRC to dredge 15.06 acres adjacent to the ARRC passenger dock and the ARRC freight dock to depths of -42 feet MLLW. Up to 400,000 CY of silt, sand, and gravel may be dredged. Dredged material was disposed of offshore at a previously used deepwater disposal site.

June 6, 2007: Permit modification POA-1965-34-M14 authorized ARRC to expand the width of an existing freight dock to 320 feet, install a mooring dolphin to aid in berthing barges, and trench an electrical line from the dock to the mooring dolphin. The discharge of approximately 115,000 CY of fill, with about 92,000 CY below the high tide line (86,000 CY of gravel fill and 6,000 CY of riprap), to expand the footprint of the existing dock by approximately 5.3 acres was authorized.

October 28, 2005: Permit POA-1965-34-M13 (Z-650034, Numbers in parenthesis indicate the format for the file number that was used at the time of permit issuance.) Resurrection Bay 26, authorized dredging of 250,000 CY within the footprints of the previously dredged basins at the passenger and freight docks to their previously authorized depths of -36 feet MLLW and -59 feet MLLW, respectively. The disposal site was at a previously used deepwater site located about 2,000 feet south of the existing dock. All maintenance dredging and disposal shall be conducted between October 1 and March 31, unless otherwise requested and authorized on a case-by-case basis. This permit authorized maintenance dredging through February 28, 2017.

Permit Modifications POA-1965-34-M10 (W-650034) through POA-1965-34-M12 (POA-1965-34-Y) authorized maintenance at the cruise ship passenger dock and minor changes to authorized maintenance dredging activities at the passenger dock.

January 12, 2000: Permit POA-1965-34-M9 (U-650034), Resurrection Bay 26, was issued to authorize the construction of a new 200 foot x 620 foot freight dock and upgrades to the existing ARRC passenger dock. The freight dock construction included 143,700 CY of fill material, installation of a catwalk and dolphin at the end of the dock, and dredging 9.5 acres (220,000 CY) to -33 feet MLLW. The disposal site was at a previously used deepwater site located about 2,000 feet south of the existing dock.

Permits POA-1965-34, which was issued in January 28, 1966, and modifications 1 (M-650034) through 8 (T-650034) authorized the construction of the cruise ship passenger dock, maintenance of that dock, and dredging activities, including marine in-water disposal. Disposal of the dredged material was authorized in marine waters of -180 feet MLLW depth or greater, and extending seaward to the ARRC property line.

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: Avoidance of impacts to waters of the U.S. is not possible for this dock expansion project, but impacts have been minimized to the extent practicable.

b. Minimization: Although it has a slightly larger footprint than a dock constructed entirely of sheetpile and fill, and would impact marginally more tidelands, the proposed project provides other environmental benefits. It requires substantially less fill, and the dock is designed to provide refuge/cover habitat for fish. Also, the sloped rock structure beneath dock would absorb wave energy and reduce the wave reflection and scour problems associated with a vertical bulkhead wall design.

ARRC would implement the following measures to further minimize impacts to waters of the U.S., along with other measures to minimize environmental impacts:

1. Prepare a SWPPP or an erosion and sediment control plan, as appropriate, and identify and implement appropriate BMPs to minimize the potential for erosion and sedimentation during construction. Such measures may include:
    a. Minimize the amount of unstable, erodible soil that is generated or stockpiled;
    b. Use silt fences, coir logs, hay bales, diversion channels, check dams, infiltration basins, or other effective measures around unstable soil and disturbed ground to prevent release of sediment-laden runoff into surface water;
    c. Stabilize all disturbed surfaces as soon as possible.

2. Limit fill/discharges to the minimum amount/size necessary to achieve the project purpose. Use contaminant-free fill material, and monitor construction activities as necessary to reduce temporary impacts.

3. Develop and implement a project-specific spill prevention and response plan for construction work that specifies BMPs to reduce the potential for release of contaminants during construction. Such measures may include:
    a. Conduct fueling of equipment only at designated transfer areas within lined or bermed secondary containment (except in the unlikely event of equipment breakdown);
    b. Ensure equipment is in good working order prior to operating in or near the marine habitat -- do not use equipment that is visibly leaking fuel or oil;
    c. Conduct mechanical repairs/ maintenance in a suitable location away from marine habitat;
    d. Take appropriate measures to minimize or prevent fuel spills and leaks;
    e. Use proper fuel storage containers and handling procedures;
    f. Ensure spill clean-up equipment is available onsite during construction (e.g., oil-absorbent pads and appropriate response materials).

4. As appropriate based on consultation with the USACE and ADEC, conduct sampling and analysis of material to be dredged to confirm its suitability for improving uplands, filling waters of the U.S., or ocean disposal.

5. Coordinate construction of the project with the City of Seward and the Kenai Peninsula Borough to avoid conflicts with subsistence and recreational activities. For example, during the Seward Salmon Derby (mid-August), ensure construction activities do not prevent access to the fishery or significantly affect the quality of the fishing experience.

6. To the extent possible, conduct intertidal work when the area is dewatered.

7. Conduct in-water work during construction windows determined through consultation with agencies. For example, the permit the dock widening included the following requirement: Ensure fill material placed from April 1 through September 14 does not contain more than 12 percent fines passing through a 200 mesh sieve, and if it does, placed it within a confining dike to limit the release of fines to the marine environment.

8. If possible, use vibratory pile drivers instead of impact pile drivers to minimize potential noise impacts.

9. To the extent possible, beneficially reuse dredged material for dock improvements, as well as the rip rap in the existing sediment groin, which supports kelp and algae growth.

10. Dispose of dredged material not suitable for beneficial reuse in an area located approximately 2,000 feet south of the dock area. A portion of this area has been previously used for ocean disposal. Use a barge that allows dredged material to be discharged below the water surface to minimize turbidity.

c. Compensatory Mitigation: ARRC proposes to provide compensatory mitigation for unavoidable impacts to waters of the U.S. The proposed mitigation ratios are 1.5:1 for permanent impacts to 1.9 acres resulting from the permanent loss of waters, and 0.3:1 for the "replacement" of 1.2 acres of tidal mudflats with rock substrate. Based on these ratios, ARRC would provide The Conservation Fund with sufficient funds to permanently preserve 3.21 acres of waters of the U.S. (2.85 acres for permanent loss of waters and 0.36 acres for "replacement" of waters).

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 an unevaluated property in the vicinity of the worksite. It has been designated SEW-01551. Because the property has been determined to be outside of the project area, no further action is required. The entire project would occur in waters under our jurisdiction; therefore we have defined our scope of analysis under Appendix C of 33 CFR 325 (permit area) to be the footprint of the activities described in the section entitled "Proposed Work," above. We have determined that the proposed project would have no effect on historic properties. 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 Steller sea lion *(Eumetopias jubatas)*.

We have determined the described activity may affect the endangered Steller sea lion *(Eumetopias jubatas).* On November 5, 2014, we initiated consultation procedures under section 7 of the Endangered Species Act with the National Marine Fisheries 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).

The project area is within the known range of the Pink salmon *(Oncorhynchus gorbuscha),* Chum salmon *(Oncorhynchus keta),* Sockeye salmon *(Oncorhynchus nerka),* Chinook salmon *(Oncorhynchus tshawytscha),* Coho salmon *(Oncorhynchus kisutch),* cod *(Gadus macrocephalus),* walleye pollock *(Theragra calcogramma),* and Flathead sole *(Hippoglossoides elassodon).* The nearest anadromous stream is the Resurrection River, which is located less than 1 mile from the proposed project.

ARRC proposes the following conservation and mitigation measures to avoid, minimize, or mitigate adverse impacts to EFH:

- Implement BMPs to minimize the introduction of suspended sediment and siltation to Resurrection Bay.
- Implement standard spill-prevention measures during construction to minimize and prevent spills or leaks of hazardous materials and ensure spill clean-up equipment (e.g., oil-absorbent pads) is available onsite during construction.
- Keep construction staging, fueling, and servicing operations a minimum of 100 feet from any freshwater wetlands, streams and water bodies to the extent possible.
- Use contaminant-free fill and surface materials.
- Incorporate design considerations to provide refuge for juvenile fish.
- During the Seward Salmon Derby (mid-August), ensure construction activities do not prevent access to the fishery or significantly affect the quality of the fishing experience.
- To the extent possible, conduct intertidal work when the area is dewatered.

- Conduct in-water work during construction windows determined through consultation with agencies. For example, the permit for dock widening included the following requirement: Ensure fill material placed from April 1 through September 14 does not contain more than 12 percent fines passing through a 200 mesh sieve, and if it does, placed it within a confining dike to limit the release of fines to the marine environment.

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, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat will be considered in our final assessment of the described work.

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)(l) 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:
(**X**) 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).

District Commander
U.S. Army, Corps of Engineers

Enclosures

BILL WALKER, GOVERNOR

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-1964-35-M20 Resurrection Bay, 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.