US Army Corps of Engineers
Alaska District

Public Notice of Application for Permit

JUNEAU FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
P.O. Box 22270
Juneau, Alaska 99802-2270

PUBLIC NOTICE DATE:	**August 19, 2014**
EXPIRATION DATE:	**September 18, 2014**
REFERENCE NUMBER:	**POA-2014-251**
WATERWAY:	**Gastineau Channel**

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 Matthew Brody at (907) 790-4493, or by email at Matthew.T.Brody@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Skye Stekoll, City, and Borough of Juneau, 155 South Seward Street, Juneau, Alaska 99801

LOCATION: The project site is located within Section 23, T. 41 S., R. 67 E., Copper River Meridian; USGS Quad Map Juneau B-2; Latitude 58.298629º N., Longitude -134.42309º W.; in Juneau, Alaska.

PURPOSE: The applicant's stated purpose is to restore and enhance the downtown Juneau waterfront by providing public access to bicycles and pedestrians, create a gateway park that incorporates a whale statue, and to provide educational interpretation for coastal environments.

PROPOSED WORK: The applicant requests authorization for the following work in waters and navigable waters of the United States (U.S.):

1. Discharge 410 cubic yards of riprap, soil material, cobble, and gravel below the High Tide Line (+20.8 feet above the 0.0 foot contour line) (HTL) impacting 0.1 acres of marine intertidal substrate to vegetate the existing riprap side slopes.

2. Discharge 11,500 cubic yards of shot rock, and riprap below the HTL impacting 0.58 acres of marine intertidal substrate to construct a park.

3. Discharge 30,000 cubic yards of shot rock and riprap below the HTL impacting 2.69 acres of marine intertidal and subtidal substrate including 0.12 acres of vegetated shallows to construct a recreational island.

4. Discharge 360 cubic yards of shot rock below the HTL impacting 0.07 acres of marine intertidal substrate to access the proposed island.

5. Discharge 127 cubic yards of rock below the HTL impacting 0.05 acres of marine intertidal substrate to construct two pedestrian paths for access to the proposed recreational island and intertidal waters.

6. Install 65, 14-inch to 16-inch diameter steel piles below the Mean High Water Mark (+15.4 feet above the 0.0-foot contour line) to construct two viewing platforms and one pedestrian and bicycle path.

Project Location	Total Fill <+20.8 [cy]	Type of Fill	Fill Volume by type [cy]	Impacts to waters of the U.S. [acres]
Island	30,000	Shot rock core, 12" minus	21,300	2.69
		Armor rock slope protection, 38" riprap	1,500	
		Large boulder slope protection, 30"	1,800	
		Large cobble habitat slopes, 12"	2,500	
		Small cobble habitat slopes, 3-4"	2,200	
		Small cobble, gravel and topsoil beach habitat	700	
		Of the 30,000 cubic yards of material to be placed into 2.69 acres 0.12 acres of that fill would be placed into vegetated shallows. Vegetated shallows are a special aquatic site.		
Existing Slopes	410	Armor rock slope protection, 38" riprap	60	0.1
		small cobble, gravel and topsoil mix	350	
Bridge Park	11,500	shot rock core, 12" minus	8,000	0.58
		Armor rock slope protection, 38" riprap	3,500	
Throughout	127	Stepping Stones	127	0.05
Construction Access Pad	360	Shot rock (12" minus) with a cap of 2" minus and clean sand	360	0.07

All work would be performed in accordance with the enclosed plan (sheets 1-15), dated 3/13/2014

ADDITIONAL INFORMATION:
Other enhancements include placement of root wads, logs, snags, and boulders, the creation of tide pools, and the placement of shell hash substrate. The previously dredged area would be preserved and a sheltered area for species diversity would be created by the island. The island has been located away from the previously dredged area to allow for better shorebird habitat and to increase shoreline buffering and riparian development. The planting plan is discussed below.

The Bridge Park would be constructed, to the extent possible, on existing uplands. The whale sculpture and infinity pool would be constructed on a fill pad. A concrete slab would support the pool and the whale sculpture would have a concrete foundation. The structures would be supported by shot rock core, 12” minus. A layer of armor rock would be placed on the outer edge of the fill pad for slope stability; the rock would have an approximate diameter of 24” – 38”. The Bridge Park would result in the total discharge of 11,500 cubic yards of material consisting of 12” minus shot rock core (8,000 cy) and 38” riprap (3,500 cy) into 0.58 acres of intertidal waters.

All plantings will be native to the Gastineau Channel coastal area, and selections will be based on observations at this site and similar reference sites around Juneau. The species chosen will be appropriate for the planting elevation based on the Pat Harris report *Biological Inventory: Habitats, Fish Use, Pond Water Quality Gold Creek Delta, and Juneau, Alaska*. Plantings will be seeds, transplanted or purchased plugs or transplanted or purchased container plants. Where possible given availability and access, transplanted or locally sourced plants will be used at the site. In each zone, care will be taken not to transplant any invasive plants and invasive plants found in these areas will be removed.

The site would be accessed from uplands for most of the construction. However to drive piles for some of the boardwalk leading to the island, water access may be necessary. A barge may be utilized for equipment staging. To discharge the fill material for the recreational island, a reinforced path would be created in waters from the area between Egan Drive and the Department of Labor building leading down the slope to the island footprint. This would be done by removing the top layer of surface material and disposing of it to an upland location. The reinforced road would be created with 30" of 12" minus shot rock with a 4" cap of 2" minus shot rock at a width of 12'. After construction a top layer of 6" of clean sand would be placed over the shot rock to return the area to its original contours. The construction access road would result in the total discharge of 360 cubic yards of shot rock and native material into 0.07 acres of intertidal waters of the U.S.

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 and Minimization: In 2004, the Long Range Waterfront Plan (LRWP) presented a series of alternatives for the proposed project area, Area A. This effort represents a first attempt at comprehensive planning of this area that was developed through multiple public meetings. The LRWP divides the downtown area into 6 sections: Areas A-F. Each of these sections is meant to house a different theme and has unique design guidelines. The area of this project, Area A, was set to incorporate a Gateway Feature, Redevelopment/ Mixed use, and Environmental Enhancement/ Open Space/ Recreation. Because the LRWP identified Environmental Enhancement and the project as a whole is dependent on its adjacency to waters no entirely upland sites were identified that would not result in an undue financial burden. Areas of wetland vegetation, primarily alkali grass, would be flagged and marked such that it would be avoided during construction. Other areas of alkali grass that cannot be avoided would be transplanted within the impacted project area. The construction access road would be marked/flagged during construction with markers that will be removed after construction is completed. Erosion and sediment controls for the entire project would consist of appropriate "Best Management Practices" such as filter rock strips, catch basin inserts, check dams, silt fences, and other measures as appropriate. In water, work such as driving piles and placing fill material would be contained using silt curtains.

In an attempt to further minimize and avoid impacts, the following strategies were employed during design development of the preferred alternative:

Project design minimizes excavated area to the minimum amount necessary to build construction access.

Impacts to the previously dredged area (proposed tidal pond) and associated outlet channel were avoided because the area was identified by members of the project team to provide unique habitat functions and wildlife use.

Impacts to the existing spit near the ADFG parking lot were avoided because it includes estuarine wetlands, offers unique habitat functions and wildlife use, and provides recreation for fishing.

The overall fill footprint (below the high tide line, HTL) for the recreational island was kept to a minimum (2.69 acres). The island slopes were steepened where possible to minimize fill while also allowing for diversity of habitats and slope stability.

The island would be created with fill that would result in benefits to the aquatic environment including increased shoreline and diversity of habitat along the slopes such as woody debris, tide pools, and increased vegetation. However, the geometry and location of the habitat island was shifted to minimize impacts to wetlands (0.12 acre) and to avoid impacts to the remaining 0.7-acre of mapped estuarine wetlands at the site.

The seawalk and viewing area along the shoreline will be supported by 14"-16" piles to minimize fill and extend 950 linear feet. Approximately 3⁄4 of the overwater seawalk will be supported by piles.

The overall fill footprint (below HTL) for the whale sculpture at Bridge Park was kept to the minimum necessary to achieve the project purpose and need (0.58 acre).

The applicant has surmised, the shoreline and tidelands to be filled is low functional quality as discussed in the scientific and environmental reports by Ehlert that are attached to this application. Other strategies to minimize impact to the waters of the U.S. include the following:

Consult with NOAA to plan construction of in water work outside of any fish migration windows.

Utilize a silt curtain to contain any sediment during filling and pile driving operations.

Utilize other best management practices (BMP's) such as silt fence, wattles, catch basin inserts, etc. during and after construction to minimize transport of sediment from the upland areas and slopes to Gastineau Channel.

Prepare a spill control plan, keep spill cleanup equipment on site during construction, and perform daily inspections of equipment for fuel and fluid leakages.

Staging areas and construction access points will be located at upland sites.

a) Compensatory Mitigation: The CBJ states that the proposed project as described above is self-compensating and would result in the restoration and enhancement of shoreline and intertidal areas. The CBJ further proposes the project would be onsite, in kind, permittee responsible mitigation for the unavoidable impacts to the project area. The mitigation is located on public land. The CBJ states the proposal represents an overall ecological benefit, because equal or greater ecological functions and values are anticipated to result from the project than will be impacted. The increased area and functions of wetlands resulting from the creation of the island will compensate for the unavoidable impact to 0.12 acre of estuarine emergent wetland and for the fill at Bridge Park. Therefore, to compensate for 0.12 acre of unavoidable permanent impact to waters of the U.S., the CBJ proposes to reestablish or restore 0.12 acre of lower low marsh wetland on the Habitat Island by salvaging the 0.12 acre of marsh vegetation that will be impacted and transplant it to areas onsite and within the same elevation zone. Furthermore to compensate for the loss of low intertidal habitat from the fill at Bridge Park and at the island, the CBJ proposes to:
    a. Re-establish a diversity of intertidal and upland habitats at the Habitat Island by creating an additional 1.19 acre of marsh that consists of the following planting areas:
        i. 0.56 acre lower low marsh planting
        ii. 0.09 acre of low marsh planting
        iii. 0.54 acre of high marsh planting

    b. Re-establish or enhance a 2.25 - acre sheltered intertidal habitat area behind the Habitat Island that includes the previously dredged area and outlet channel.

    c. Enhance 830 linear feet of existing rock revetment shoreline by removing concrete and metal debris, adding soil between the rocks, and establishing riparian plantings.

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: The project area is within the known or historic range of the Humpback Whale (Megaptera novaeangliae) and the Western Steller Sea Lion (*Eumetopias jubatus)*.

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 project area is within the known range of the Coho Salmon *(Oncorhynchus kisutch),* Sockeye salmon (Oncorhynchus nerka), Chinook salmon, (Oncorhynchus tshawytscha), chum salmon, (Oncorhynchus keta), Pink salmon, (Oncorhynchus gorbuscha).

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

SEAN PARNELL, 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
410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1795
PHONE: (907) 465-5321/FAX: (907) 465-5274

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-2014-251, Gastineau Channel**, 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.