



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

<b>PUBLIC NOTICE DATE:</b>	<b>June 24, 2015</b>
<b>EXPIRATION DATE:</b>	<b>July 23, 2015</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2015-318</b>
<b>WATERWAY:</b>	<b>HALIBUT COVE LAGOON</b>

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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 Katherine A. McCafferty at (907) 753-2692 by fax at (907) 420-0813 or by email at Katherine.a.mccafferty2@usace.army.mil if further information is desired concerning this notice.

**APPLICANT:** Alaska Department of Natural Resources Division of Parks and Outdoor Recreation, ATTN: Chet Fehrmann, 550 West 7<sup>th</sup> Avenue, Suite 1340, Anchorage, AK 99501, (907) 748-2267

**LOCATION:** The proposed project is located within Section 20, T. 7 S., R. 11 W., Seward Meridian; USGS Quad Map Seldovia C-4; Latitude 59.56135° N., Longitude 151.19537° W.; Kenai Peninsula Borough parcel number 193-090-87, 51137 Halibut Cove Rem SW; southeast of Homer, Alaska.

**SPECIAL AREA DESIGNATION:** The project is located within the Kachemak Bay Critical Habitat Area, a component of the Kachemak Bay National Estuarine Research Reserve.

**PURPOSE:** The applicant's stated purpose is to repair an existing structure to re-establish access to public facilities in the Halibut Cove State Park.

PROPOSED WORK: The applicant proposes to remove the six- 20 foot x 10 foot floats and seven-12 inch diameter steel piles from below the mean high water mark of Halibut Cove Lagoon (MHWM, 17.3 feet above mean low low water of 0 feet elevation). The existing beach stairs, 60 foot gangway and 36 foot trestle would be salvaged and re-installed. The applicant proposes to install two-40 foot x 10 foot floats, six-12 inch diameter pilings, and an additional 60 foot long trestle section below the MHWM of Halibut Cove Lagoon. The piling removal and installation would be completed using either a vibratory hammer or a gravity hammer. It is estimated that installation of the new piles would take 4 hours per pile, for a total time of 3 days.

If the existing piles are corroded below the water line, they would be removed by dredging 1.5 cubic yards of substrate from around the piling, to 1 foot below the substrate surface, and then cutting the piling. The 1.5 cubic yards of substrate material around each piling would be temporarily sidecast into 40 square feet below the high tide line (23.4 feet above mean low low water of 0 feet elevation) of Halibut Cove Lagoon. Up to 0.06 cubic feet of gravel would be used to backfill the hole created by the cut off piling. The temporarily sidecast natural substrate would be spread over the gravel.

All work would be performed in accordance with the enclosed plan (sheets 1-2), dated June 23, 2015, (sheet 1) dated June 15, 2015, and (sheets 1-10) dated June 2, 2015.

ADDITIONAL INFORMATION: The applicant has obtained a Special Area Permit from Alaska Department of Fish and Game and a State Park Use Permit from Alaska State Parks.

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 and Minimization: The proposed project would reduce the number of pilings from seven to six.

b. Compensatory Mitigation: No compensatory mitigation has been proposed. The proposed project would result in no permanent loss of waters of the US.

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.

We have defined our scope of analysis under Appendix C of 33 CFR 325 (permit area) to be the footprint of the dock.

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.

The applicant has received concurrence with a determination of “no historic properties affected” under file number 3130-2R DPOR.

ENDANGERED SPECIES: The project area is within the known or historic range of the Short-tailed Albatross (*Phoebastria (Diomedea) albatrus*), Cook Inlet Beluga whale (*Delphinapterus leucas*), and the Humpback Whale (*Megaptera novaeangliae*).

We have determined the described activity would have no effect on the humpback whale and on the short-tailed albatross and would have no effect on Cook Inlet beluga whale 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 for these species. 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.

We have determined the described activity may affect the endangered Cook Inlet Beluga whale. We will initiate the appropriate 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 flathead sole (*Hippoglossoides elassodon*), the sculpin (*Cottidae*), pacific cod (*Gadus macrocephalus*), skates (*Rajidae*), Pink Salmon (*Oncorhynchus gorbuscha*), Chum Salmon (*Oncorhynchus keta*), Sockeye Salmon (*Oncorhynchus nerka*), Chinook Salmon (*Oncorhynchus tshawytscha*), and Coho Salmon (*Oncorhynchus kisutch*).

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 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

# 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-2015-318, Halibut Cove Lagoon**, 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.