



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:	May 16, 2017
EXPIRATION DATE:	May 31, 2017
REFERENCE NUMBER:	POA-1985-421-M2
WATERWAY:	Sawmill Creek

Interested parties are hereby notified that a Department of the Army (DA) 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 Mr. Jamie Hyslop at (907) 753-2670, by fax at (907) 753-5567, or by email at Jamie.R.Hyslop@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Timothy L. McDonald, Seward Mount Alice Resort and Tourism LLC, Post Office Box 25, Seward, Alaska 99664

AGENT: Mr. J. David Hawkins, H2 Architects Inc, 726 9th Avenue, Suite 1, San Diego, California 92101

LOCATION: The project site is located at Section 1, T. 1 S., R. 1 W., Seward Meridian; USGS Quad Map Seward A-7; Latitude 60.1229° N., Longitude -149.3772° W.; Kenai Peninsula Borough; in Seward, Alaska.

PURPOSE: The stated purpose is to maintain the previously authorized depths of the existing basin and channel to prevent flooding of adjacent and upstream properties. The maintenance dredging would provide material to maintain/repair and enlarge the existing berm.

PROPOSED WORK: Annually dredge up to 50,000 cubic yards of sand and gravel material from an 11.68 acre area of tidelands to maintain an existing basin and channel to their original depth of -6.0 feet below the mean lower low water mark (MLLW) of 0 foot elevation. The overall dredge area would be 2000 feet long and is broken up into two sections consisting of a basin section which would be 300 feet wide by 1,500 feet long and a channel section which would be 100 feet wide by 500 feet long. Over a 10 year period, up to 230,656 cubic yards of material would be dredged from below the high tide line (HTL, +13.8 feet above the MLLW), of which 229 cubic yards of material would be dredged from above the mean high water mark (MHW, +9.6 feet above the MLLW). Up to 21,500 cubic yards of the dredged material would be discharged annually below the HTL and MHW to create and maintain a 5 foot high by 100 foot wide by 1,000 foot long berm resulting in the discharge of gravel into 2.3 acres below the HTL, of which 0.4 acres would be above the MHW. The dredged material not used for maintaining the berm would be disposed of in nearby uplands. Work would be performed with a bull dozer and/or scraper equipment. All work would be performed in accordance with the enclosed plan (sheet 1 dated April 4, 2017, and sheets 2-3 dated March 10, 2017).

ADDITIONAL INFORMATION: The applicant was originally issued a DA permit on November 6, 1985, to dredge approximately 150,000 cubic yards of gravel to create a channel through the tidelands. Dredging was authorized to be done with a dragline and dump truck or with a sauerman dragline. Material was to be disposed of at an upland site. The dredge area was approximately 110 feet by 200 feet wide by 2,000 feet long. Maintenance dredging was to be done once a year between June 15 and April 1.

The applicant received a Nationwide Permit (NWP) verification on December 10, 1991, to install pilings and place fill material in waters of the U.S. for bank stabilization, not to exceed 500 linear feet in length or one cubic yard, on average, per running foot.

The applicant received a DA permit modification (POA-1985-421-N) on September 10, 2007, to dredge an existing basin and channel to their original depth of -6.0 feet below the MLLW. An average of 20,000 cubic yards of sand and gravel was authorized to be removed each year by bulldozer, backhoe, or scraper. Dredging was authorized for ten years. The area to be dredged was 2,000 feet long. The basin portion was 200 feet wide and the channel portion was 100 feet wide. A total of 6.89 acres of tidelands was authorized to be dredged. Some of the dredged material was used to create a 50 feet wide by 500 feet long (0.57 acre) berm along the west side of the basin. The remainder was to be stockpiled or disposed of on nearby uplands.

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: Due to the purpose of the project being to maintain previously authorized channel depths and to prevent flooding the applicant could not avoid impacting waters of the U.S.

b. Minimization: The applicant has designed the project so that all spoils, not used for the construction of the berm, would be stockpiled well above the HTL and surrounded by appropriate barriers to assure no dredge effluent would be allowed to drain into the tidelands.

c. Compensatory Mitigation: No compensatory mitigation has been proposed by the applicant.

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 cultural resources in the permit area or within the vicinity of the permit area. The permit area has been determined to be the footprint of the proposed dredge and fill areas within waters of the U.S. Consultation of the AHRs constitutes the extent of cultural resource investigations by the Corps of Engineers (Corps) at this time, and we are otherwise unaware of the presence of such resources. The Corps has made a No Potential to Cause Effects determination for the proposed project. Consultation with the State Historic Preservation Office (SHPO) is not required, however, 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 endangered short-tailed albatross (*Phoebastria albatrus*); the endangered Steller sea lion (*Eumetopias jubatus*); the humpback whale (*Megaptera novaengliae*), including the endangered Western North Pacific DPS and the threatened Mexico DPS; the endangered fin whale (*Balaenoptera physalus*); the endangered North Pacific right whale (*Eubalaena japonica*); and the endangered sperm whale (*Physeter macrocephalus*).

Because the proposed work would be performed when the area is dewatered we have determined the described activity would have no effect on any listed 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 (NMFS) 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 pink salmon (*Oncorhynchus gorbuscha*), chum salmon (*Oncorhynchus keta*), sockeye salmon (*Oncorhynchus nerka*), Chinook salmon

(*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), pacific cod (*Gadus macrocephalus*), walleye pollock (*Theragra calcogramma*), and Flathead sole (*Hippoglossoides elassodon*).

We have determined the described activity would not adversely affect EFH in the project area because the proposed work would be performed when the area is dewatered.

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).

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

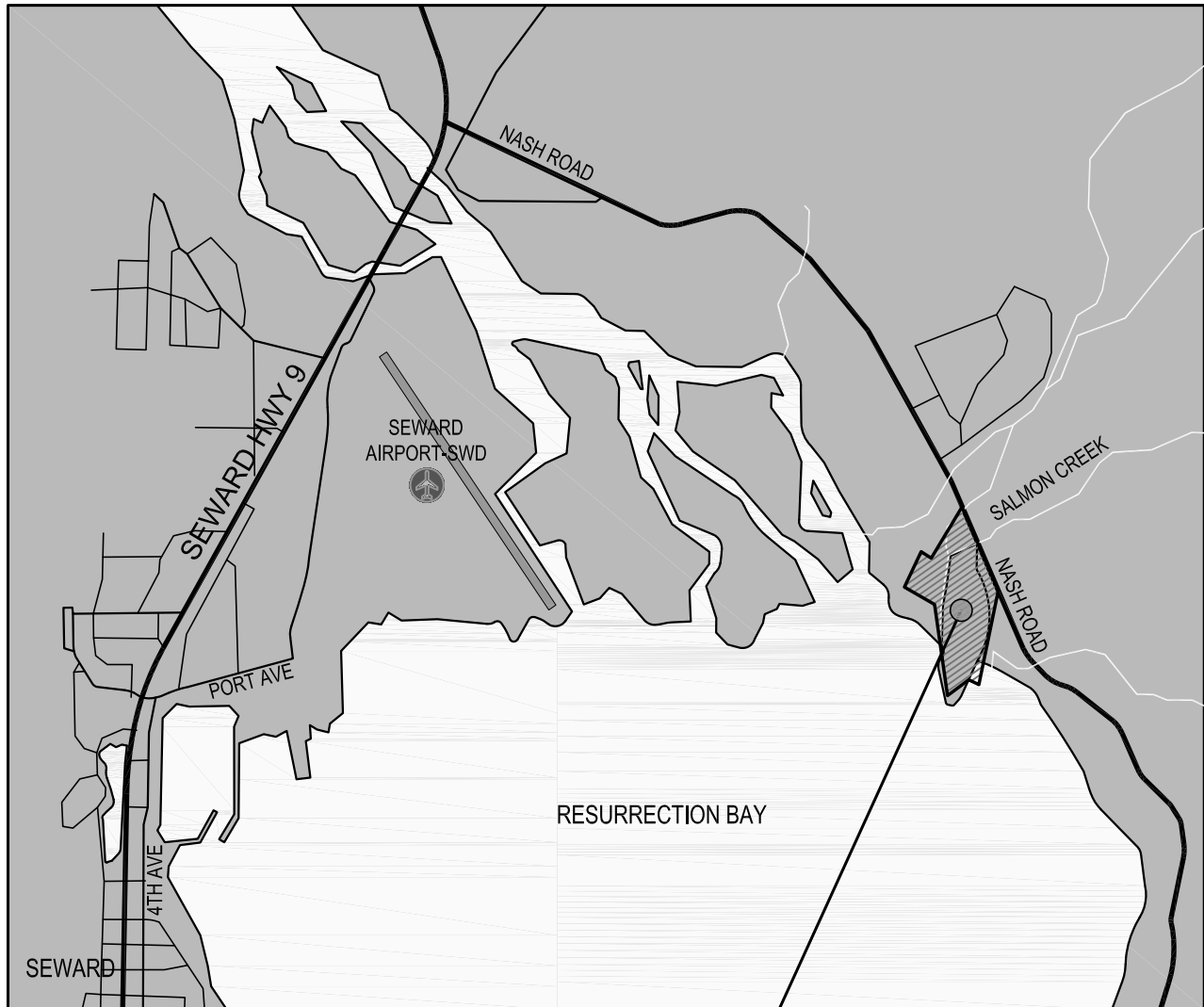
Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation 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-1985-421-M2, Sawmill Creek**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

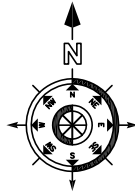
After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

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.

VICINITY MAP



PROJECT SITE
33987 NASH ROAD
N 60.1228 LATITUDE
W 149.3755 LONGITUDE
NW 1/4, SECTION 1
TOWNSHIP 1 SOUTH



RESURRECTION RIVER/
SALMON CREEK
ESTUARY

WETLANDS

EXISTING
FILL

ACCESS
ROAD

SAYMILL CREEK

NASH
ROAD

BERM

WOODED

A

HTL
HIGH TIDE LINE (13.8')

MHW
MEAN HIGH WATER (9.6')

TIDELANDS

TIDELANDS

DREDGING PER
EXISTING PERMIT

PROPOSED
DREDGING

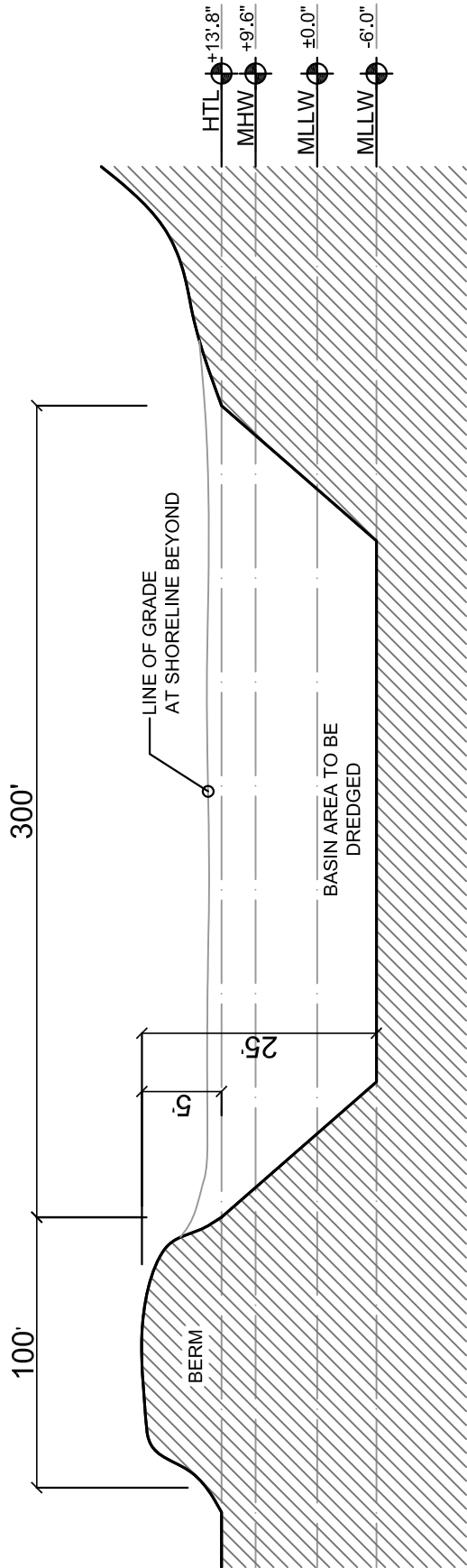
RESURRECTION
BAY

B

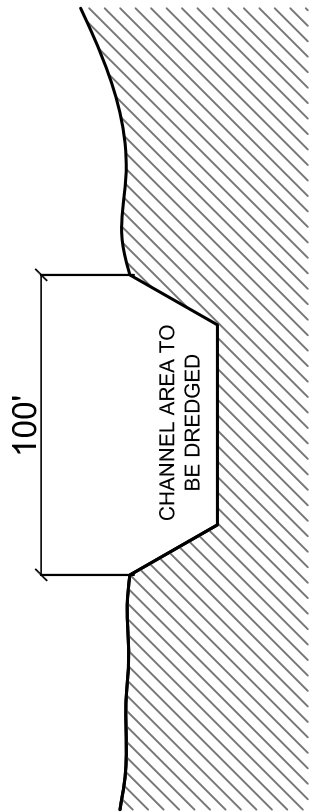
POA-1985-421-M2, SHEET 2 OF 3

**MOUNT ALICE HARBOR
MAINTENANCE DREDGING PLAN**

10 MARCH 2017



A. CROSS SECTION AT SHORELINE



B. CROSS SECTION AT DEEP WATER