



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

Regulatory Division (1145)  
CEPOA-RD  
44669 Sterling Highway, Suite B  
Soldotna, Alaska 99669-7915

<b>PUBLIC NOTICE DATE:</b>	<b>February 10, 2017</b>
<b>EXPIRATION DATE:</b>	<b>February 27, 2017</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2003-566-M2</b>
<b>WATERWAY:</b>	<b>Pasagshak Bay</b>

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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) 420-0813, or by email at [Jamie.R.Hyslop@usace.army.mil](mailto:Jamie.R.Hyslop@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Mr. Tyler Polum, Alaska Department of Fish and Game, 351 Research Court, Kodiak, Alaska 99165

**LOCATION:** The project site is located within Section 26, T. 31 S., R. 20 W., Seward Meridian; USGS Quad Map AK-Kodiak B-1 & B-2; Latitude 57.4577° N., Longitude 152.4501° W.; Pasagshak Bay within the Pasagshak River State Recreation Area, near Kodiak, Alaska.

**SPECIAL AREA DESIGNATION:** The project is located within the Pasagshak River State Recreation Area.

**PURPOSE:** The applicant's stated purpose is to restore flows to the Pasagshak River drainage for fish passage and flood reduction of local homes. The Pasagshak River drainage is an area of high use for public recreation and also is in close proximity to a community that surrounds much of the drainage. The Alaska State Parks manages the lands near the mouth of the river and operates a campground and public recreation area. The drainage hosts one of the largest returns of salmon on the Kodiak Road System and is highly popular with anglers, hunters, hikers and general recreation. Other than the private community on the drainage, the



uplands surrounding one of the few areas on the Kodiak road system that is owned completely by the State of Alaska and public access is not limited by permit.

PROPOSED WORK: The applicant proposes to dredge up to 133 cubic yards of gravel material from a gravel bar located at the confluence of the Pasagshak River and Pasagshak Bay. The gravel would be dredged from an area up to 100 foot long by 6 foot wide by 6 foot deep below the high tide line (HTL, approximate elevation +10.7 feet above the 0.0 foot contour) and the mean high water mark (MHW, approximate elevation of +7.7 feet elevation above the 0.0 foot contour). The work would be performed in the dry, during low tide, by an excavator and hauled to the adjacent beach above the HTL. Work would be performed utilizing a one-step removal process and no material would be discharged below the HTL.

All work would be performed in accordance with the enclosed plan (sheets 1-3), dated February 2017.

ADDITIONAL INFORMATION: The applicant received an Alaska Department of Fish and Game Fish Habitat Permit on January 10, 2017, for the proposed work.

The applicant applied for an Alaska Department of Natural Resources Land Use Permit on January 20, 2017, which is currently pending.

The applicant was originally issued a DA permit on April 23, 2004 (POA-2003-566, Pasagshak River), to dredge an approximately 100 foot long by 6 foot wide by 6 foot deep area at the mouth of the Pasagshak River, and place the material (approximately 133 cubic yards) on the adjacent beach, below the HTL. (Included by reference in the Coastal Zone Consistency determination is the following time restriction: the berm may not be removed from October 16<sup>th</sup> through April 30<sup>th</sup>). This permit was authorized on an as needed basis for 10 years and expired on August 31, 2016.

A DA permit modification was issued on December 15, 2004 (POA-2003-566-M1), to remove the work timing restriction and effectively allowed the work to be performed at any time during the year for flood reduction or to provide fish passage.

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 gravel bar blocking surface flows from the Pasagshak River to the Pasagshak bay and the geographic location being below the HTL and MHW it is not possible to avoid impacts to waters of the U.S. However, the project area would occur in an area containing no vegetation and is highly dynamic due to the river and tidal influences.

b. Minimization: Impacts would be minimized by only removing the minimum amount of material needed to restore natural flow of the Pasagshak River. The intent is to get the river flowing again and allow the natural flow to erode the rest of the berm and ultimately restore surface flows and fish passage. Material would be placed above the HTL and would not be discharged into a water of the U.S. The work would only be conducted when it appears the river will not open naturally.



c. Compensatory Mitigation: Compensatory mitigation is not proposed for this project and is intended to only restore the natural flows of the River. There would be no loss of aquatic resource functions and values as a result of the project.

CULTURAL RESOURCES: The permit area for the proposed project is the entire footprint of the proposed project.

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 one eligible property in the vicinity of the worksite. It has been designated KOD-0067. Additionally, there is one unevaluated property in the vicinity of the worksite. It has been designated KOD-0068. Both of these properties are outside of the permit area. 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.

The gravel bar is deposited in this location as a result of storms pushing material into this location. Gravel removal efforts have disturbed this gravel bar in the past. This location is very dynamic. Some years the gravel bar is present and other years it is not there. Therefore, it is unlikely to contain historic properties due to the ever changing flows of the river and the tide cycles.

In accordance with 33 CFR 325 Appendix C (3)(b)(1), we have determined that the proposed project would have no potential to cause effects on historic properties because the proposed project area has been previously modified.

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 threatened Northern sea otter (*Enhydra lutris kenyoni*) and its designated critical habitat, Steller's eider (*Polysticta stelleri*), Mexican DPS of the Humpback whale (*Megaptera novaeangliae*), and the endangered Western DPS of the Steller sea lion (*Eumetopias jubatus*), Western North Pacific DPS of the Humpback whale (*Megaptera novaeangliae*), and Fin whale (*Balaenoptera physalus*).

The activity would be conducted when the area is dewatered. 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 (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 flathead sole (*Hippoglossoides elassodon*), rock sole (*Lepidopsetta bilineatus*), walleye pollock (*Theragra calcoagramma*), squid (*Cephalopoda* spp., *Teuthida* spp.), yellowfin sole (*Limanda aspera*), arrowtooth flounder (*Atheresthes stomias*), sculpins (*Cottidae*), pacific cod (*Gadus macrocephalus*), skates (*Rajidae*), pink salmon (*Oncorhynchus gorbuscha*), chum salmon (*Oncorhynchus keta*), sockeye salmon (*Oncorhynchus nerka*), Chinook salmon (*Oncorhynchus tshawytscha*), and the 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 authority:

(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

Project drawings are enclosed with this Public Notice.

District Commander  
U.S. Army, Corps of Engineers

Enclosures



Map of the Pasagshak River drainage and location of proposed work at the mouth of the Pasagshak River

POA-2003-566-M2, Sheet 1 of 3, February 2017

Area of proposed work

North

1 Mile

Applicant: State of Alaska, Department of Fish and Game

Waterway: Pasagshak River, Kodiak Island, Alaska

Proposed activity: Excavate a naturally occurring berm at the mouth of the river to restore flow

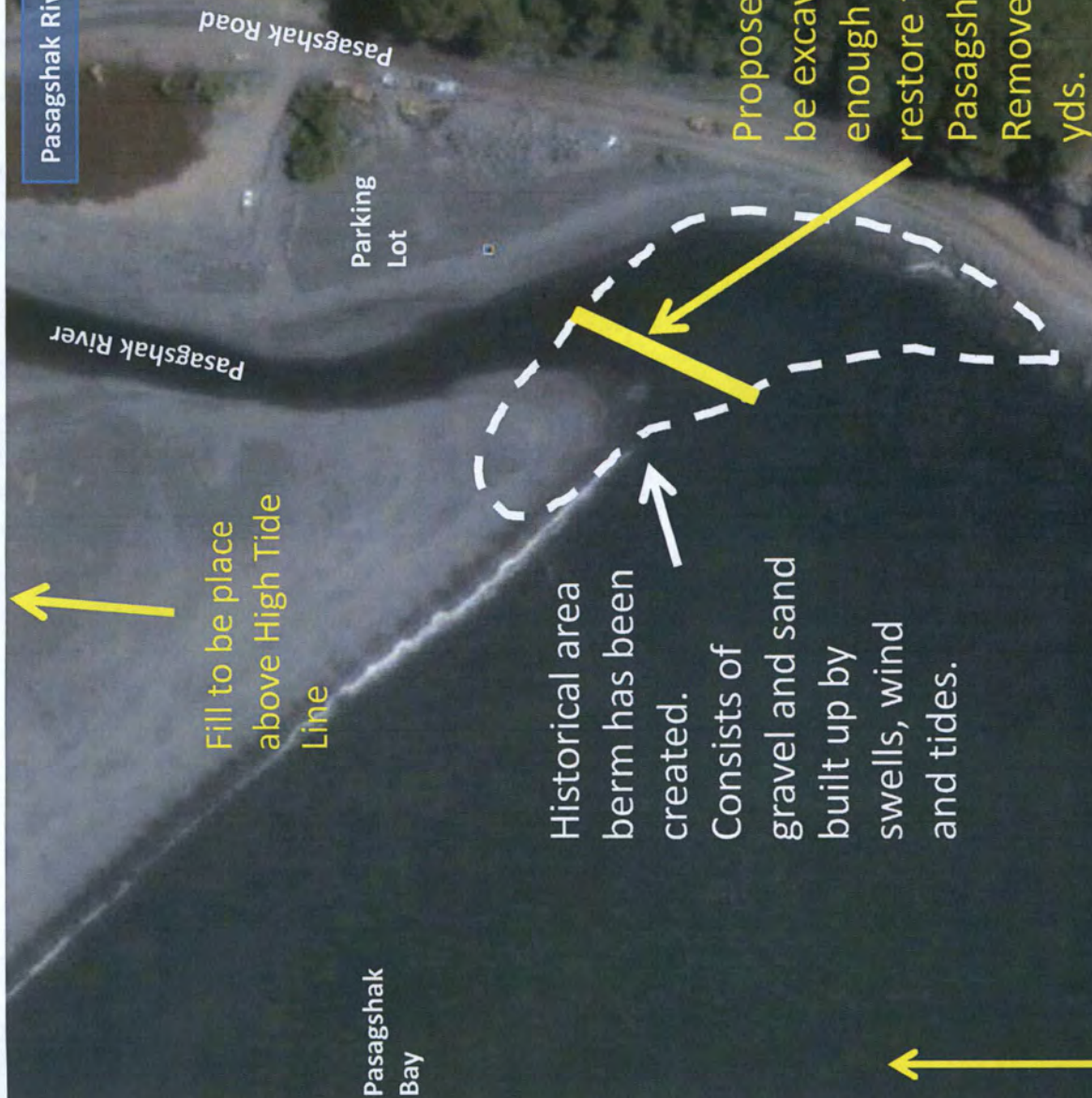
Lat: 57 Deg 27.45 min N

Long: 152 Deg 27.04 min W



Pasagshak River Mouth Berm Excavation Plan View

POA-2003-566-M2, Sheet 2 of 3, February 2017



Fill to be placed  
above High Tide  
Line

Historical area  
berm has been  
created.  
Consists of  
gravel and sand  
built up by  
swells, wind  
and tides.

Proposed channel to  
be excavated. Only  
enough material to  
restore flow of the  
Pasagshak River will be  
Removed up to 100 cu  
yds.

North

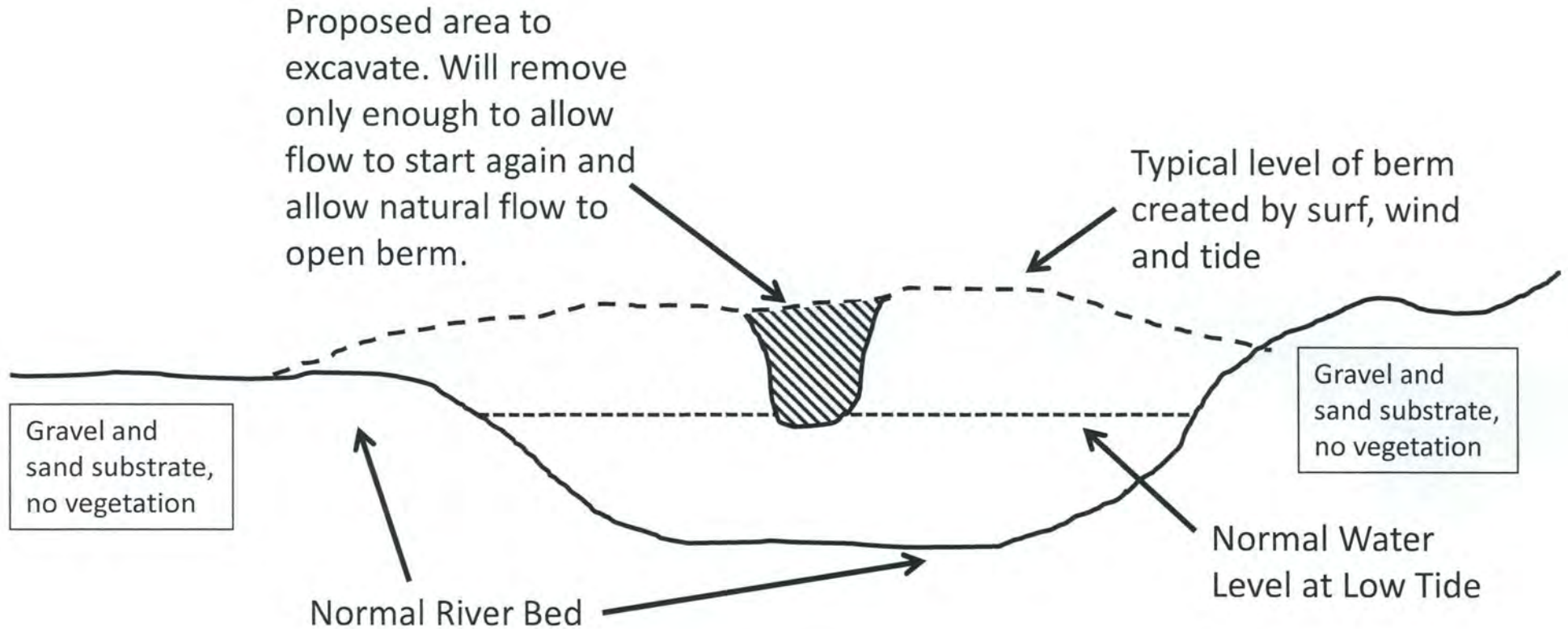
300 Feet

Applicant: State of Alaska, Department of Fish and Game  
Waterway: Pasagshak River, Kodiak Island, Alaska  
Proposed activity: Excavate a naturally occurring berm at the  
mouth of the river to restore flow  
Lat: 57 Deg 27.45 min N  
Long: 152 Deg 27.04 min W



**Cross section view of proposed excavation at the mouth of the Pasagshak River, looking upstream**

POA-2003-566-M2, Sheet 3 of 3, February 2017



**Applicant:** State of Alaska, Dept Fish and Game, Sportfish Division Kodiak

**Waterway:** Pasagshak River, Kodiak Island, AK

**Proposed Activity:** Excavate a naturally occurring berm that is sometimes created at the mouth of the Pasagshak River by wind, surf and tides to restore flow of the river.

**Lat:** 57 deg 26.45 min N

**Long:** 152 deg 27.04 min W