



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>January 6, 2017</b>
<b>EXPIRATION DATE:</b>	<b>February 7, 2017</b>
<b>REFERENCE NUMBER:</b>	<b>POA-1965-45-M12</b>
<b>WATERWAY:</b>	<b>COOK INLET</b>

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 email at [Katherine.a.mccafferty2@usace.army.mil](mailto:Katherine.a.mccafferty2@usace.army.mil), or by fax at (907) 420-0813, if further information is desired concerning this notice.

**APPLICANT:** ASRC Marine Support, LLC, ATTN: Samuel Rexford-Brown, 3900 C Street, Suite 700, Anchorage, AK 99503

**AGENT:** ASRC Energy Services, Attn: Stacey Aughe, 3900 C Street, Suite 700, Anchorage, AK 99503

**LOCATION:** The project site is located within Section 21, T. 7 N., R. 12 W., Seward Meridian; USGS Quad Map AK-Kenai C-4; Latitude 60.686823° N., Longitude 151.394527° W.; 55525 Rig Tenders Dock Road, Nikiski, Alaska.

**PURPOSE:** The applicant's stated purpose is to ensure structural integrity of the Rig Tenders Dock during loading and unloading of moored vessels.

**PROPOSED WORK:** The applicant proposes to conduct maintenance dredging in order to remove up to 12,000 cubic yards (CY) of sand and gravel bottom substrate annually from a 2.9 acre area below the mean high water mark (MHW, 19.7 feet above the mean lower low water mark of 0 feet elevation) of the Cook Inlet, a navigable water of the United States (U.S.). The dredging would be conducted using either a bulldozer, a crane, an end loader, or an excavator, and a truck. Material would be removed down to -10 feet below the mean lower low water mark. Dredging would occur at any time of the year. All dredging would

occur while the tide is out and the area is dewatered. Dredged material may be temporarily stockpiled below the high tide line (HTL, 26.3 feet above mean lower low water elevation) during dredging activities; all stockpiled material would be removed from below the HTL before the area is inundated by the tide.

All dredged material would be temporarily stored in uplands and water from the dredged material would be allowed to percolate into the ground. No return water would enter the Cook Inlet. The dredged material would be used for routine construction and site maintenance on the upland portions of the property. No dredged material would be placed back below the high tide line or in other waters of the U.S..

All work would be performed in accordance with the enclosed plan (sheets 1-3), dated December 20, 2016.

ADDITIONAL INFORMATION: The original solid fill and pile supported dock was authorized for construction in a permit issued on December 13, 1965. Authorizations for expanding the solid fill footprint were issued in permits dated June 10, 1966, September 4, 1997, and September 13, 2012. One-time dredging at the dock has been authorized in permits dated September 26, 1975, May 11, 1976, September 13, 1985, and April 13, 1999. Maintenance dredging, defined as periodic dredging over a 10 year period, was authorized in permits dated August 20, 1993 and December 18, 2006.

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: ASRC Marine Support LLC (AMS) will operate in a way to avoid impacts on waters of the U.S., including employing the following methods of operation:

1) AMS will conduct dredging activities at the time in which the dredging area is dewatered or during low tidal stages. This will eliminate or minimize any potential effects on Endangered Species Act (ESA)-listed animals, Critical Habitat (CH), and Essential Fish Habitat (EFH).

2) Heavy equipment will not be operated in waters of the U.S. outside of the footprint of the project area defined in our application.

3) Dredge material will be stored for future beneficial reuse for maintenance purposes in uplands above the High Tide Line (HTL). Should any material temporarily be piled in the dredge area, it will be moved to the storage area above HWL prior to the area being inundated by the tide.

b. Minimization: AMS will operate in a way to minimize unavoidable impacts on waters of the U.S., including employing the following methods of operation:

- 1) AMS will operate in a fashion to limit time below high tide line during dry conditions.
- 2) AMS will minimize impacts to EFH, CH, and ESA-listed species by conducting maintenance dredging when the dredging area is dewatered or during low tidal stages. Dredging will not occur in water. Should any material temporarily be piled in the dredge area, it will be moved to the storage area above MHWL prior to the area being inundated by the tide.
- 3) Equipment will be clean and free of oily substances/petroleum products during work to prevent contamination of seafloor sediments.
- 4) AMS will adhere to any special conditions included in other required authorizations.

c. Compensatory Mitigation: The dredge material will be temporarily stored in upland areas prior to beneficial reuse and will not be used below the HTL. The minimization and avoidance measures above, in addition to no dredging material being placed below the High Tide Line fully compensates for any potential impacts from maintenance dredging activities; therefore, no compensation is offered.

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 permit area for the proposed project is the footprint of the dredge area below the mean high water mark.

The existing solid fill dock was authorized in a permit dated June 10, 1966.

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. Consultation of the AHRs constitutes the extent of cultural resource investigations by the District Commander at this time. Outside of the permit area and north of the existing dock, is AHRs site KEN-00391. No determination of eligibility has been made for KEN-00391. There are no known historic properties in the permit area.

The proposed dredging would occur in an area that has been disturbed by dredging activities over a 20+ year period. This site has been extensively modified. Under 33 CFR 325 Appendix C (3)(b)(1), a determination of no potential to cause effects to historic properties is appropriate.

Any comments State Historic Preservation Office (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 jubatus*), Cook Inlet beluga whale (*Delphinapterus leucas*), the Western North Pacific Distinct Population Segment (DPS) of the humpback whale (*Megaptera novaeangliae*), the Mexico DPS of the humpback whale, the fin whale (*Balaenoptera physalus*) and the Short-tailed Albatross (*Phoebastria (=Diomedea) albatrus*). The project is also within the range of Cook Inlet beluga whale critical habitat (area 2). 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 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 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-1965-45-M12, Cook Inlet, 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.