



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

PUBLIC NOTICE DATE: December, 7 2016
EXPIRATION DATE: January, 9 2017
REFERENCE NUMBER: POA-1971-39-M10
WATERWAY: ST. PAUL HARBOR

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: City of Kodiak, 2410 Mill Bay Road, Kodiak, Alaska, 99615, Attn: Mr. Glenn Melvin, (907) 486-8086

AGENT: DOWL, 4041 B Street, Anchorage, Alaska, Attn: Mr. Adam Morrill, (907) 562-2000

LOCATION: The project site is located within Section 31, T. 27 S., R. 19 W., Seward Meridian; USGS Quad Map Kodiak D-2; Latitude 57.7877° N., Longitude 152.4123° W.; St. Paul Harbor, Kodiak, Alaska.

PURPOSE: The applicant's stated purpose is to improve pedestrian facilities along Shelikoff Street and to reduce pedestrian/vehicle conflicts.

PROPOSED WORK: The applicant proposes to conduct the following work below the mean high water mark of Saint Paul Harbor, which is a navigable water of the United States (MHW): Dredge up to 310.8 cubic yards of poorly graded gravel (7-10% silt and sand) and rip rap from 0.29 acres and discharge 3,410 cubic yards of silts, sands, gravels, and riprap into 0.27 acres of Saint Paul Harbor, which is a navigable water of the United States (U.S.) in order to construct a solid fill bulkhead to support a parking lot.

The solid fill portion of the dock would be constructed in lifts by wrapping rock and dredged material in geotextile fabric. The face of the geotextile wrapped fill would be protected by a timber bulkhead wall. The timber bulkhead wall would be installed through excavation rather than pile driving. The foot of the bulkhead would be protected with dredged rip rap, supplemented with new riprap.

The dredging would be conducted using an excavator. The excavation for setting the vertical members of the timber bulkhead would be conducted using hand tools or using an excavator. All excavation and fill activities would occur while the tide is out and the area is dewatered.

All work would be performed in accordance with the enclosed plan (sheets 1), dated June 20, 2016 and (sheets 2-4), dated September 22, 2016.

ADDITIONAL INFORMATION:

This project represents the 10th modification of the original permit. The original permit, issued in 1971, authorized the construction of a rock breakwater. Subsequent modifications authorized the construction of a dock and floats; dredging; float extensions and replacement; and boat grid installation, removal, maintenance, and replacement.

A portion of the proposed project overlaps the area where boat grid #2 was constructed in 1971 and removed in 2002.

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: The applicant states that, because the project is located in downtown Kodiak, there are no reasonable alternatives that would meet the purpose and need of the project.

b. Minimization: The applicant reduced the proposed footprint of the fill from 0.39 acres to 0.27 acres through design changes. Additional minimization was achieved by reducing the slopes of the rip rap embankment to 2:1.

c. Compensatory Mitigation: The applicant states that the proposed project would fill an already disturbed slope consisting of riprap. The adverse effects of the project area would be considered minimal as the project is located in a heavily used boat harbor and would result in no tangible negative effects on marine habitat, existing floodplain, or the aquatic environment. The applicant states that the adverse effects of the proposed project would be minimal and no compensatory mitigation is necessary.

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 entire footprint of the proposed project, including the areas that would lie in uplands.

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. The nearest AHRS sites are over 1,400 feet from 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 ground has been disturbed in the permit area by construction of the existing roadway, construction and removal of a boat grid, construction of the existing harbor facilities, and bank stabilization activities.

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 Short-tailed albatross (*Phoebastria albatrus*), Northern sea otter (*Enhydra lutris kenyoni*) and their designated critical habitat, Steller's eider (*Polysticta stelleri*), Steller sea lion (*Eumetopias jubatus*) and their designated critical habitat, Humpback whale (*Megaptera novaeangliae*), and Fin whale (*Balaenoptera physalus*).

The activity would be conducted when the area is dewatered. We have determined there would be no effect on any listed species, and would have no adverse modification to 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 calcogramma*), 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 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. 1971-39-M10, St. Paul Harbor, 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.