



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

KENAI FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
805 Frontage Road, Suite 200C
Kenai, Alaska 99611-7755

PUBLIC NOTICE DATE: March 20, 2014
EXPIRATION DATE: April 21, 2014
REFERENCE NUMBER: POA-1980-468-M13
WATERWAY: RESURRECTION BAY

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) 283-3562, by fax at (907) 283-3981, or by email at katherine.a.mccafferty2@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Jim Hunt, City of Seward, P.O. Box 167, Seward, AK, 99664, (907)224-3331

AGENT: Ms. Kristi McLean, R&M Consultants, Inc., 9101 Vanguard Drive, Anchorage, AK 99507, (907)646-9689

LOCATION: The project site is located within Section 18, T. 1 S., R. 1 E. and Section 13, T. 1 S., R. 1 W, Seward Meridian; USGS Quad Map Seward A-7; Latitude 60.0863° N., Longitude 149.3560° W.; Fourth of July Creek Subdivision, Seward Marine Industrial Center, that Portion of Block 10 excluding Lots 1 & 2; Kenai Peninsula Borough Parcel Number 145-340-40; Seward, Alaska.

PURPOSE: The applicant's stated purpose is to improve existing facilities by addressing wave exposure deficiencies and to provide new facilities to accommodate the growing industrial and moorage needs of the Seward Marine Industrial Center (SMIC).

PROPOSED WORK: The applicant would dredge a total of 206,000 cubic yards (CY) of material from an 11.6 acre area below the mean high water mark (MHWM, 9.6 feet elevation) of Resurrection Bay to a depth of -26 feet below mean low low water (MLLW, 0 feet elevation) and discharge 206,000 CY of the dredged material into a 28 acre deepwater disposal area, located below the high tide line (HTL, 13.8 feet elevation) of Resurrection Bay. In addition, a total of 143,350 CY of material would be discharged into 5.8 acres below the HTL of Resurrection Bay.

Phase I of the project would begin in June 2014. The applicant would dredge 116,000 CY of material from below the MHWM to a depth of -20 feet MLLW and discharge 116,000 CY into the 28 acre deepwater disposal site. In addition, the applicant would discharge 120,000 CY of rock into 4.5 acres below the HTL in order to construct a 1,000 foot long by 160 foot wide by 21 foot high breakwater. In addition, up to 5 steel guide piles, up to 24 inches in diameter, and up to 4 pile mounted navigational aids, up to 24 inches in diameter, would be installed. Also, an

existing catwalk and timber pile dolphin would be removed from the harbor and would be replaced by two turning dolphins, each of which includes up to 3 steel pipe piles, up to 30 inches in diameter.

Phase II would include the dredging of an additional 90,000 CY of material from below the MHW to a depth of -26 feet MLLW and the discharge of 90,000 CY into the 28 acre deepwater disposal site. In order to construct a 112 foot extension of the 120 foot wide solid-fill North Dock, the applicant proposes to discharge 13,000 CY of classified gravel fill into 0.3 acres below the HTL and drive 344 linear feet of sheetpile.

Also in Phase II, a 200 foot by 40 foot pile supported dock, with a 280 foot long by 20 foot wide trestle would be constructed. The pile supported dock, called the Center Dock, would be constructed with up to 80 steel pipe piles, up to 32 inches in diameter and up to 28 fender pin piles, up to 24 inches in diameter. The Center Dock would support a 5-ton crane. In addition, the applicant would construct a 280 foot long by 16 foot wide and a 374 foot long by 12 foot wide floating dock, with associated 260 foot long by 12 foot wide main float, 16 foot long by 16 foot wide gangway float, and a 100 foot long by 6 foot wide gangway ramp. The floating dock would include no more than 60 steel pipe guide piles, up to 24 inches in diameter. As part of the installation of the floating dock, an existing derelict barge ramp, consisting of 7,400 CY of gravel, shot rock, concrete, and exposed rebar, and up to 500 linear feet of sheetpile would be removed from 0.9 acres below the HTL. The area from which the barge ramp would be removed would be graded to a 2:1 slope and 350 CY of Class II or III rip rap would be placed over 0.1 acre below the HTL. The applicant also proposes to discharge 10,000 CY of Class III rip rap into 0.9 acres below the HTL for shoreline protection. Final completion of Phase II is expected in 2016 or 2017.

A vibratory hammer and/or an impact hammer would be utilized for pile installation. In addition, a vibratory hammer may be required in order to remove existing sheetpile.

All work would be performed in accordance with the enclosed plan (sheets 1-10), dated February 2014.

ADDITIONAL INFORMATION: Testing of the sediment in the proposed dredge area has been conducted. A copy of the report, entitled "A Sampling and Analysis Report for Dredge Sediment and Characterization: Seward Marine Industrial Center Improvements, Seward, Alaska," dated September 3, 2013, has been posted on our website at <http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>, under file number POA-1980-468-M13.

POA-1980-468, Resurrection Bay, was issued to the City of Seward on June 11, 1981, and authorized the construction of an industrial marine park, including the dredging of a boat basin, the construction of a breakwater/pier, the placement of 48.5 acres of fill, two wood docks, a shiplift, one dolphin, a spillway, and included the relocation of Fourth of July Creek. The original permit has been modified 12 times. Modification number 7, issued in December 1988, authorized the construction of a 160 foot long sheetpile cell dock and timber fender system.

The SMIC is used by barges, commercial fishing boats and vessels using the two existing haul-out facilities. The Seward Drydock, Inc. is a lessee and provides upland storage and maintenance/repair areas for vessels and a 5,000-ton Syncrolift vessel haulout facility. The SMIC also hosts Polar Seafoods, a seafood processor, and the City of Seward's 250-ton marine Travelift. The North Dock has a fuel header, owned and operated by Shoreside Petroleum, Inc.

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 location of the proposed project is dictated by the existing SMIC facilities. Proposed impacts are highly dependent upon local marine topography and environmental factors such as wind and wave energy. Uplands would be utilized for work and staging areas to avoid temporary impacts. Erosion and stabilization measures would be used during construction and fill slopes and other disturbed areas would be stabilized using appropriate methods to prevent erosion.

b. Minimization: The proposed action meets the purpose and need while minimizing the impacts to the greatest extent practical. The lengths and widths of the proposed breakwaters have been minimized while providing adequate protection and structural integrity.

c. **Compensatory Mitigation:** There is no practical way to completely avoid impacts to waters of the U.S. given the existence, location and function of the SMIC facility. The project area is a previously disturbed site consisting of an existing, developed facility and basin frequented by vessel traffic and harbor operations. Mitigation measures in the form of avoidance and minimization measures have been included throughout project design. The area to be dredged is largely part of the originally permitted basin. Dredging activities would simply transport sediment that has been accumulated in one area of Resurrection Bay to a nearby deepwater location with similar sediment composition resulting in no long-term impacts. Construction of a rock breakwater rather than a sheetpile structure for the breakwater would also provide shoreline and bottom habitat for aquatic species. Additional mitigation beyond protecting Resurrection Bay from ongoing erosion and additional impacts to existing marine infrastructure is not proposed.

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. 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 Steller sea lion (*Eumetopias jubatas*) and the humpback whale (*Megaptera novaengliae*).

We have determined the described activity may affect the endangered Steller sea lion (*Eumetopias jubatas*) and the humpback whale (*Megaptera novaengliae*). 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 Pink salmon (*Oncorhynchus gorbuscha*), Chum salmon (*Oncorhynchus keta*), Sockeye salmon (*Oncorhynchus nerka*), Chinook salmon (*Oncorhynchus tshawytscha*), Coho salmon (*Oncorhynchus kisutch*), skates (*Rajidae* sp.), cod (*Gadus macrocephalus*), walleye pollock (*Theragra calcogramma*), Flathead sole (*Hippoglossoides elassodon*), Arrowtooth flounder (*Atheresthes stomias*), Rex Sole (*Glyptocephalus zachirus*), and Dover Sole (*Microstomus pacificus*).

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat will be considered in our final assessment of the described work.

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:

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

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).

Transport dredged material for the purpose of dumping it into ocean waters - Section 103 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413). Therefore, our public interest review will consider the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate.

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-1980-468-M13, Resurrection Bay**, 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.