



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD
Post Office Box 6898
JBER, Alaska 99506-0898

PUBLIC NOTICE DATE: May 28, 2013
EXPIRATION DATE: June 27, 2013
REFERENCE NUMBER: POA-2013-197
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 Roberta Budnik at (907) 753-2785, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at roberta.k.budnik@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Kodiak Maritime Museum, Post Office Box 1876, Kodiak, Alaska 99615.

AGENT: PND Engineers, Inc., 1506 West 36th Avenue, Anchorage, Alaska 99503.

LOCATION: The project site is located within Section 32, T. 27 S., R. 19 W., Seward Meridian; USGS Quad Map Kodiak D-2; Latitude 57.7865° N., Longitude 152.4077° W.; in Kodiak, Alaska.

PURPOSE: The applicant's stated purpose is to install the Thelma C fishing boat in context in Kodiak to commemorate the 50th anniversary of the 1964 earthquake.

PROPOSED WORK: Discharge 820 cubic yards of fill material into 0.04-acre below the High Tide Line (+10.7') of St. Paul Harbor in order to install the historic wooden fishing boat, the Thelma C. The proposed project is located at a site within St. Paul Harbor previously developed and utilized as a boat maintenance grid. Work would include the removal of the remaining portions of the grid, modification of the bank to create a level area for the boat, and construction of an open air, steel and glass pavilion to shelter the boat. The proposed project would require the excavation of 420 cubic yards of material from 0.02-acre below the Mean High Water line (+7.6'). See attached project plans for a full project description. All work would be performed in accordance with the enclosed plan (sheets 1-4), dated March 25, 2013.

APPLICANT STATED 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 site is located on the shoreline bank of St. Paul Harbor in Kodiak at the site of a former boat maintenance tidal grid located between a boat launch and concrete dock in the midst of the extensively developed working harbor. The intent is to remove the remnants of the boat maintenance grid and utilize the previously disturbed and occupied area for the proposed improvements. The design configuration is parallel to the bank, same as the former boat grid, and utilizes armor rock walls and concrete retaining walls to limit its projection into the water to approximately the same distance from shore as the grid. The proposed development will not extend into the water beyond the mean lower low water line so it will have a negligible impact on navigation and it does not extend beyond the line of the former grid so there will be no change from what already exists."

b. Minimization: "The footprint of the plaza is the minimum size required to house the exhibit and accommodate visitor circulation. The plaza design employs cut and fill strategy to create a level area for the display of the boat incorporating a concrete retaining wall on the shore (cut) side to minimize the amount of armor rock and fill required on the water (fill) side. Handicapped accessibility requirements governed the design of the ramps leading from the upper sidewalk level to the plaza level and along with the desire to work within the existing disturbed site area and considerations of tidal fluctuation and storm surge limited the elevation at which the plaza could reasonably be set and the unavoidable impact by the amount of fill required."

c. Compensatory Mitigation: "Due to the following ways in which this project will mitigate its impacts, the applicant requests that compensatory mitigation not be required:

- Armor rock placed for the project will create a habitat for a variety of marine organisms and reinforce the slope it is placed on.
- The exhibit will put the Thelma C into context for the citizens of Kodiak, as well as having interpretive panels that describe the 1964 Great Alaskan Earthquake and tsunami that greatly affected Kodiak and its fleet of fishing boats.
- The exhibit will not only be historically relevant, but it will also be a major cultural addition to Kodiak's downtown waterfront.
- The applicant intends to remove the remnants of the old boat maintenance grid that is at the location of the proposed project."

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 and designated critical habitat of the Northern sea otter (*Enhydra lutris kenyoni*) and Steller sea lion (*Eumetopias jubatas*). 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, and their designated critical habitat, we will follow the appropriate consultation procedures under section 7 of the Endangered Species Act of 1973 (87 Stat. 844). Any comments the U.S. Fish and Wildlife Service or the National Marine Fisheries Service 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). No EFH species are known to use the project area. 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-2013-197, 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.