



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:	February 19, 2016
EXPIRATION DATE:	March 21, 2016
REFERENCE NUMBER:	POA-1998-979-M1
WATERWAY:	Dutch 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 Jen Martin at (907) 753-2730, by fax at (907) 420-0813, or by email at jen.l.martin@usace.army.mil if further information is desired concerning this notice.

APPLICANT: City of Unalaska, David Martinson, P.O. Box 610, Unalaska, AK 99685

AGENT: PND Engineers, Inc., Lisa Baughman, 1506 West 36th Avenue, Anchorage, AK 99503

LOCATION: The project site is located within Section 26, T. 72 S., R. 117 W., Seward Meridian; USGS Quad Map Unalaska C-2; Latitude 53.9072° N., Longitude 166.5097° W.; Light Cargo Dock in Dutch Harbor, 2481 Ballyhoo Road on the Amaknak Island Spit, in Unalaska, Alaska.

PURPOSE: The applicant's stated purpose is to provide additional berthing capacity within Dutch Harbor at the Light Cargo Dock (LCD). The LCD currently acts an overflow area for the nearby Unalaska Marine Center (UMC) Dock and also provides berthing space for other commercial and private users.

PROPOSED WORK: The applicant proposes to expand the existing LCD, including: 1) the removal of two existing dolphins and catwalks (six 36-inch diameter steel king piles would be removed with a vibratory hammer, with batter piles cut off at the surface and buried); 2) removal of the existing armor rock between the existing bulkheads; 3) installation of an open cell sheet pile bulkhead backfilled with 5,800 cubic yards (cy) of gravel fill into 0.11 acre of navigable waters of the U.S.; 4) installation of five 36-inch diameter steel fender piles and four 24-inch support piles with an impact hammer [with ten temporary 18-inch diameter steel piles, installed with a vibratory hammer, for support during construction activities]; and, 5) construct a 0.20 acre concrete dock surface over new fill/sheet pile/fender piles. Work would occur over, and below, the high tide line (HTL, approximate elevation +6.7' above the 0.0 foot contour) and mean high water mark (MHW, approximate elevation +3.3' above the 0.0 foot contour) of Dutch Harbor.

All work would be performed in accordance with the enclosed plan (sheets 1-4), dated January 4, 2016.

ADDITIONAL INFORMATION: Previous permitting at this location includes a DA authorization issued May 4, 1999, to the City of Unalaska to: 1) discharge 32,500 cy of gravel fill and 5,200 cy of coarse armor rock below the HTL to construct a sheet pile crab pot dock [consisting of two bulkheads, with each bulkhead composed of two sheet pile cells filled with gravel]; 2) dredge 1,200 cy of material from below the HTL, with the dredged material used as fill behind the bulkheads; and, 3) construct four dolphins near the face of the dock. Total impacts included dredging 0.2 acre below the HTL, and a discharge of dredged or fill material into 1.4 acres below the HTL. See Sheet 2 of 4 for existing site conditions.

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: Waters of the U.S. could not be entirely avoided because the project is a dock expansion and is dependent on marine access. There are no wetlands in the project area.

b. Minimization: The dock was designed to have the least amount of fill needed to meet its purpose. Fill that would be placed is clean with relatively few fines, which would limit sedimentation. The contractor would comply with local, state and federal water quality standards.

c. Compensatory Mitigation: The applicant has proposed a permittee-responsible compensatory mitigation plan. In order to mitigate for the loss of 0.016 acre of intertidal habitat that would occur with the proposed LCD expansion, the applicant would clean up either 0.5 tons or 0.16 acre of marine debris along a local beach within the vicinity of the project. The marine debris clean-up would improve intertidal habitat and reduce the risk of entanglement for marine mammals, and other wildlife, that frequent the local area. Three possible sites have been selected by the City, but the final site location has not been chosen.

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: We have defined our scope of analysis under Appendix C of 33 CFR 325 (permit area) to be the footprint of the activities described in the section entitled "Proposed Work," above, and the 0.05 acre upland area that would be capped by concrete. 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 registered or eligible properties in the vicinity of the worksite. They have been designated UNL-00055 and UNL-470. Because the sites have been determined to be outside of the permit area, no further action is required. The project also lies within UNL-120, Dutch Harbor Naval Operating Base and Ft. Mears, National Historic Landmark (NHL). It has been determined that there would be no effect on the NHL because there are no longer any World War II-aged resources on Amaknak Spit and because the expansion of an existing docking facility would not cause a visual intrusion to the NHL. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time. Any comments the State Historic Preservation Officer (SHPO) and/or the National Park Service may have concerning this site and/or 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 northern sea otter (*Enhydra lutris kenyoni*) and their designated critical habitat, Steller's eider (*Polysticta stelleri*), Short-Tailed albatross (*Phoebastria (=diomedea) albatrus*), Steller sea lion (*Eumetopias jubatus*) and their designated critical habitat, blue whale (*Balaenoptera musculus*), fin whale (*B. physalus*), humpback whale (*Megaptera novaeangliae*), North Pacific right whale (*Eubalaena japonica*), sei whale (*B. borealis*) and sperm whale (*Physeter macrocephalus*).

We have determined the described activity would have no effect on the Short-tailed albatross, blue whale, fin whale, North Pacific right whale, sei whale or sperm whale 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.

We have determined the described activity may affect the threatened northern sea otter and Steller's eider and the endangered Steller sea lion and humpback whale and may affect northern sea otter and Steller sea lion designated critical habitat. We have initiated the appropriate consultation procedures under section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). 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 weathervane scallop (*Patinopecten caurinus*), squid (Teuthida), arrowtooth flounder (*Atheresthes stomias*), rock sole (*Lepidopsetta bilineata*), flathead sole (*Hippoglossoides elassodon*), sculpin (Cottoidea), Pacific cod (*Gadus macrocephalus*), skate (Rajidae), walleye pollock (*Gadus chalcogrammus*), chum salmon (*Oncorhynchus keta*), pink salmon (*O. gorbuscha*), coho salmon (*O. kisutch*), sockeye salmon (*O. nerka*), and Chinook salmon (*O. tshawytscha*).

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-1998-979-M1, Dutch 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.