



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>February 8, 2017</b>
<b>EXPIRATION DATE:</b>	<b>March 10, 2017</b>
<b>REFERENCE NUMBER:</b>	<b>POA-1972-183-M6</b>
<b>WATERWAY:</b>	<b>Jamestown Bay</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 Mr. Jamie Hyslop at (907) 753-2670, by fax at (907) 420-0813, or by email at [Jamie.R.Hyslop@usace.army.mil](mailto:Jamie.R.Hyslop@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Mr. David Allen, Allen Marine Inc., 1512 Sawmill Creek Road, Sitka, Alaska 99835

**AGENT:** Mr. Richard H. Smith, Herringbay PE, LLC, 3960 Spruce Cape Road, Kodiak, Alaska 99615

**LOCATION:** The project site is located at ,Section 6, T. 56 S., R. 64 E., Copper River Meridian; USGS Quad Map Sitka A-4; Latitude 57.0470° N., Longitude 135.2980° W.; approximately one mile from the City center off Sawmill Creek Road, in the City and Borough of Sitka, Alaska.

**PURPOSE:** The applicant's stated purpose is to replace the existing dilapidated vessel haul out system with an improved system to accommodate increasingly larger vessels as well as an existing floating dry dock and to expand the existing work yard.

**PROPOSED WORK:** The applicant requests authorization for the following work over and below, the high tide line (HTL, approximate elevation +12.7 feet above the 0.0 foot contour)



and mean high water mark (MHW, approximate elevation +9.1 feet above the 0.0 foot contour) in Jamestown Bay, a navigable water of the United States (U.S.).

1. With tracked excavators, staged in the uplands, remove 260 cubic yards of steel superstructure, including a 26 foot by 130 foot grounded steel barge, derelict steel from the tidelands near the proposed stacked rock wall, 220 linear feet of dilapidated sheet pile wall, (12) 8 inch by 8 inch H piles, (1) 20 inch diameter steel pile, and existing steel rail haul out system.
2. Discharge 1,200 cubic yards of rip-rap and 9,600 cubic yards of shot rock into 0.47 acres of tidelands below the HTL and MHW to construct a haul out ramp. The haul out ramp would permanently fill a 0.013 acre eelgrass bed.
3. Discharge 1,815 cubic yards of shot rock into 0.08 acres of tidelands below the HTL and MHW to fill in between the existing travel lifts and expand the work yard.
4. Discharge 447 cubic yards of riprap to construct a 310 linear rock wall and 5,509 cubic yards of shot rock into 0.28 acres of tidelands to replace the removed sheet pile wall and expand the work yard, of which 0.26 acres would be below the MHW and 0.02 acres would be between the HTL and MHW.

All work would be performed in accordance with the enclosed plan (sheets 1-7), dated November 28, 2016.

ADDITIONAL INFORMATION: The applicant was originally issued a DA permit on January 16, 1973 (POA-1972-183, Jamestown Bay), to remove approximately 52,000 cubic yards of material, place a fill, and construct a bulkhead.

A DA permit modification was issued November 27, 1978 (POA-1972-183-M1), to construct additional facilities consisting of a 190 foot steel sheet pile bulkhead, a sewage outfall line, two fills comprised of 9,000 cubic yards of material and to permanently beach two rock-filled barges.

A DA permit modification was issued March 31, 1993 (POA-1972-183-M2), to withdraw the installation of 190 foot steel bulkhead because the structures were not installed within the three year construction period and to authorize an additional placement of 350 cubic yards of riprap armor rock on the top edge of the previously permitted fill.

A DA permit modification was issued March 15, 1995 (POA-1972-183-M3), to discharge approximately 100 cubic yards of fill material for the construction of a 25 foot by 90 foot boat ramp and an 80 foot by 40 foot staging area. The boat ramp paving consists of removable pre-cast concrete panels. Less than 60 cubic yards of material shall be excavated below the MHW. The entire project filled area is 0.125 acres. The area impacted below the MHW is approximately 0.04 acres.

A DA permit modification was issued January 21, 1999 (POA-1972-183-M4), to place approximately 115 feet of steel sheet piling with a top elevation of +15 feet above Mean Lower Low Water (MLLW, elevation 0.0). Dredge approximately 400 cubic yards of material from within a 90 foot by 34 foot area down to MLLW. Place approximately 100 cubic yards of dredged material into a 60 foot by 10 foot cell (created by the placement of the sheet piling stated above) to an elevation of +14.5 feet. The cell shall then be capped with poured



concrete to a top elevation of +15.0 feet. The remaining dredged materials shall be placed behind the steel bulkhead to fill approximately 0.06 acres of tidelands below the HTL to construct the approach to the lift. An additional 100 cubic yards of road grade material may be placed above the MHW to level the approach area to an elevation of +15.0 feet. Any excess dredged materials shall be placed at an upland location. Construct a 90 foot by 4 foot pier on piling. The purpose of the work is to replace an existing boat ramp with a travel lift wall.

A Nationwide Permit was verified on October 13, 2000 (POA-1972-183), for maintenance activities to replace existing dock supporting pilings and dolphins with new pilings and dolphins.

A DA permit modification was issued October 20, 2008 (POA-2008-236) (it is effectively the 5<sup>th</sup> modification to the original DA permit POA-1972-183), to remove and replace the existing dilapidated marine boat haul out system that would result in an impact to 0.068 acres of waters of the United States. However, this modification was not constructed.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the U.S. from activities involving discharges of dredged or fill material.

a. Avoidance: All of the proposed activities at the Allen Marine vessel fabrication yard need direct access and must be situated within intertidal and subtidal waters, avoidance is not possible for these uses. There are no practical alternatives for avoidance of waters of the U.S. due to the nature of the business. Allen Marine is in the business of building commercial boats under contract of sale and also for their own use in commercial tour operations. The boats are constructed on land and launched into the water. The existing vessel haul out which is beyond its useful life and in dire need to replacement is integral to the operation. The most practical replacement is to remove the haul out and sheet pile walls and replace with structural rock slopes armored for erosion control. The existing travel lift would be replaced with a newer style submersible travel lift which allows the operator to drive down a launch ramp into the water to lift the vessels. This style lift is much more versatile and quickly moves vessels to and from the water. The new launch ramp would be able to accommodate vessels of a much wider range of sizes. For vessels larger than the hydraulic lift, floatation bags may be used to move them on shore. The launch ramp would also allow maintenance of Allen Marine's existing floating dry-dock which has never been out of the water. There is currently no facility in Southeast Alaska other than Ketchikan that is large enough to service the dry dock.

b. Minimization: The size of the proposed harbor facility is the least practical for its intended use. The project footprint within the fill zone has been designed to be the smallest practicable area for the proposed vessel fabrication operations as well as servicing the Allen Marine fleet. Rock fill work would consist of constructing a machine placed armor rock wall and back filling with clean shot rock. All machine work would occur from the upland side of the site within the pad footprint and would be done during low tide events to reduce and/or eliminate potential for any disturbance beyond the fill area. The lowest portion of the launch ramp would need to be constructed in water due to the depth to mud line at the end of the ramp. The launch ramp, which is proposed to be 60 feet wide by 165 feet long has been designed to be the minimum width and gradient to allow large vessels to be constructed on land and launched into the



water. The ramp is also wide enough to allow the existing dry dock to be pulled out and serviced. The launch ramp has been oriented in an alignment that is compatible with the adjacent floating dry dock. The alignment also is favorable for vessels maneuverability with regard to prevailing wind and seas during normal operations and allows good access through the rocky bay to the ramp. The ramp has been located to minimize impacts to the existing eel grass while still allowing vessels using the ramp to maneuver from the ramp to the existing concrete wash down pad. The pad is designed for structural blocking of larger vessels and it also has storm water collection built in for containment of biofouling as well as bottom paint and other coatings. The fill area is the smallest area necessary to safely accommodate the size of vessels that this facility regularly constructs and maintains. Work would only occur outside the "fish window" and would not be conducted between April 1st and June 30th to avoid any impact to out-migrant salmonids that may be traversing the area at that time.

c. Compensatory Mitigation: In-lieu fee compensatory mitigation is proposed for this project through the Southeast Alaska Land Trust or other similar entity, if determined 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 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 unevaluated properties in the vicinity of the worksite. They have been designated SIT-1007, SIT-1008, SIT-1009, and SIT-1010. Because the property has been determined to be outside of the project area, no further action is required. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time. This application is being coordinated with 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 threatened humpback whale (Mexico DPS; *Megaptera novaeangliae*), and the endangered Steller sea lion (Western DPS; *Eumatopia jubatus*), North Pacific right whale (*Eubalaena japonica*), sperm whale (*Physeter macrocephalus*).

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 Chinook (*Oncorhynchus tshawytscha*), chum (*Oncorhynchus keta*), Coho (*Oncorhynchus kisutch*), pink (*Oncorhynchus gorbuscha*), and sockeye (*Oncorhynchus nerka*) salmon.

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  
410 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1795  
PHONE: (907) 465-5321/FAX: (907) 465-5274

## 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-1972-183-M6, Jamestown 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.