

US Army Corps of Engineers Alaska District

JUNEAU FIELD OFFICE Regulatory Division (1145) CEPOA-RD Post Office Box 22270 Juneau, Alaska 99802-2270

Public Notice of Application for Permit

PUBLIC NOTICE DATE:	January 11, 2022
EXPIRATION DATE:	February 10, 2023
REFERENCE NUMBER:	POA-2012-00033-M1
WATERWAY:	Akutan 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.

All comments regarding this public notice should be sent to the address noted above. If you desire to submit your comments by email, you should send it to the Project Manager's email as listed below or to regpagemaster@usace.army.mil. All comments should include the public notice reference number listed above.

All comments 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 Ms. Delana Wilks by phone at (907) 201-5021 or by email at Delana.P.Wilks@usace.army.mil if further information is desired concerning this notice.

APPLICANT: City of Akutan (point of contact: Joe Bereskin), P.O. Box 109, Akutan, AK 99553

<u>AGENT</u>: M and M Environmental (point of contact: Melissa Ferguson), 9430 Kylie Circle, Anchorage, AK 99502

<u>LOCATION</u>: The project site is located within Section 9, 10, 11, T. 70 S., R. 112 W., Seward Meridian; USGS Quad Map Unimak A-6; Latitude 54.131°, Longitude -165.833°; in Akutan, Alaska.

<u>PURPOSE</u>: The applicant's stated purpose is to provide road access between Akutan boat harbor and Trident Seafood Plant.

<u>PROPOSED WORK</u>: To discharge 29,500 cubic yards of crushed rock, 20,000 cubic yards of riprap, and 2,000 cubic yards of surface aggregate (gravel/sand) into 0.8-acre of wetlands and 2.6-acres of marine waters of Akutan Harbor, a navigable water of the U.S. The work would include a 1.25-mile road with 12 foot wide drivable surface with several turnouts along the way, as well as, a culvert in North Creek and a bridge over Whalebone Creek. All work would be performed in accordance with the enclosed plan (sheets 1-18), dated December 13, 2022.

<u>ADDITIONAL INFORMATION:</u> The proposed work was previously authorized on March 6, 2013, however, that authorization expired before any work was completed. The previous authorization encompassed a greater footprint to include 1.3-acres of wetlands and 4.2-acres of marine waters.

<u>APPLICANT PROPOSED MITIGATION</u>: 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.

1. Avoidance of impacts to waters of the U.S., including wetlands:

The project has been designed to avoid and minimize impacts to wetlands and intertidal waters wherever practicable, through measures such as route choice, method of construction, and selective siting of project components. Suitable upland only build alternatives cannot be defined because of the length and landscape complexity of the project area. Numerous environmental and engineering constraints, including steep terrain, rocky coastline, deep marine waters, severe weather patterns, and sensitive bird habitat, limit practicable alternatives that would provide safe and efficient access between the new Akutan small boat harbor and the community of Akutan and Trident Seafood Plant. Currently, the only way to access the harbor site is by boat or on foot at low tide. Persistent inclement weather and the need to access the harbor or city at all times of the day and night make access by small skiff unsafe. Likewise, travel on foot is limited to times when the tide is low and only by people in good physical condition; access on foot is fraught with hazards even during optimal conditions.

In considering environmental concerns related to impacting intertidal waters along Akutan Harbor, a high road alternative was identified and evaluated during the preparation of the project's environmental assessment. The high road alternative was determined to be impracticable as it would be far more dangerous for travel and maintenance than the low road alternative (proposed action). The high road would often be concealed in thick fog in the summer and travel in winter would be treacherous due to darkness, heavy snow squalls, and winds that can exceed 100 miles per hour. Though snow squalls and high winds are also present at lower elevations, it is possible to add design features such as roadside pullouts where vehicles could stop until squalls pass. If a vehicle were to leave the roadway on the proposed road alternative the results would likely be far less severe than falling down a steep hillside or cliff from over 100 feet above the water.

The project involves constructing an approximately 1.25-mile road between the community of Akutan and the small boat harbor. The road would begin on the beach west of Trident Seafood Plant and maintain a low elevation along the coastline and then cross the wetlands and Whalebone Creek at the head of Akutan Harbor.

The proposed road would be approximately 1.25-miles long with a 12-foot-wide drivable surface. The road could accommodate two-way traffic for ATV's but would be limited to one way traffic for larger vehicles. The road was designed to have a 12-foot-wide drivable width to minimize cost and potential environmental impacts, but several turnouts were included in the design to allow for one vehicle to pull off while an oncoming vehicle passes. The road surface would be gravel and culverts would be installed where necessary for adequate drainage. North Creek would be crossed by a large diameter culvert and Whalebone Creek would be crossed with a full span bridge.

Avoidance measures were implemented into the project design, wherever practicable. The challenging terrain generally limits opportunities to avoid small wetland areas, ephemeral streams, and intertidal waters along the route. Consequently, the safest and most cost effective option with the smallest embankment footprint is proposed in this permit application.

2. Minimization of unavoidable impacts to waters of the U.S., including wetlands:

Regulations and guidelines associated with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act call for project proponents to take measures to also minimize adverse impacts to wetlands and other waters of the U.S. Accordingly, the following minimization measures have been incorporated into the project:

- a. The width of the road surface was decreased from 16-feet (permitted, but not constructed under POA-2012-33) to 12-feet to minimize impacts to aquatic resources, including wetlands.
- b. The length of the road was also shortened from 1.8-miles to 1.25-miles.
- c. The combined minimization of road width and length resulted in a 42,581 cubic yard reduction (45%) in total fill volume and corresponding 2.1-acres (38%) reduction in aquatic resource impacts compared to the previous design.
- d. The 0.8-acre of freshwater wetlands that would be lost are abundant in the watershed and the marine impacts would be offset by the replacement of existing rocky intertidal habitat with new rocky intertidal (riprap) habitat.
- e. Whalebone Creek, a mapped anadromous fish stream, would be crossed using a clear span bridge.
- f. The access road would use the minimum width footprint necessary to provide a stable road base.
- g. On-site, native fill material would be used to the extent possible to construct the road embankment.
- h. Steepened embankment slopes (1.5:1 beach and 2:1 valley) would be used to the maximum extent possible to reduce impacts to intertidal waters.
- i. Riprap would be used to stabilize slopes along the coastal sections of the access road.

- j. Erosion and sedimentation control measures would be employed during construction and permanent stabilization measures employed as early in construction as possible.
- k. Staking would be done to delineate planned outside limits of disturbance prior to construction to ensure that impacts are limited to that area.
- I. Embankment slopes would be stabilized in a timely manner.
- m. Appropriate erosion control measures would be used adjacent to North Creek and Whalebone Creek just beyond the estimated toe of fill.
- n. Check dams in ditches would be used as necessary to reduce erosion during construction.
- o. Sedimentation basins would be used, as necessary, during construction.
- p. Spill response equipment would be readily available and construction personnel should be trained in spill response to contain accidental leaks of oil or fuel from construction equipment.

3. Compensation for unavoidable impacts to waters of the U.S., including wetlands:

In total, 3.4-acres of wetlands and other waters of the U.S. would be impacted by the proposed access road. This accounts for 0.8 acres of freshwater wetland impacts and 2.6-acres of intertidal impacts. In consideration of the applicant's demonstrated avoidance and minimizations efforts, the abundance of the impacted aquatic resource classes in the watershed, absence of in-lieu fee or mitigation banks with applicable service areas, and minimal existing permittee responsible restoration or enhancement projects, the applicant does not propose compensatory mitigation to offset unavoidable impacts to aquatic resources.

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.

<u>CULTURAL RESOURCES</u>: 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 cultural resources within the vicinity of the permit area (UNI-00100 and UNI-00099). Consultation of the AHRS constitutes the extent of cultural resource investigations by the U.S. Army Corps of Engineers (Corps) at this time. The Corps has made a No Effect determination for the proposed project. This application is being coordinated with the State Historic Preservation Office (SHPO), Federally recognized Tribes, and the Advisory Council on Historic Preservation (ACHP). Any comments SHPO, federally recognized tribes, other consulting parties, and ACHP 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.

<u>ENDANGERED SPECIES</u>: Fin whale (*Balaenoptera physalus*), North Pacific right whale (*Eubalaena japonica*), Mexico Distinct Population Segment (DPS) humpback Whale (*Megaptera novaeangliae*), and Western DPS Steller sea lion (*Eumatopia jubatus*), northern sea otter (*Enhydra lutris kenyoni*), Steller's eider (*Polysticta stelleri*)

We have determined the described activity may affect the listed threatened or endangered species, and/or its/their designated critical habitat. We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service. Any comments they may have concerning threatened or endangered wildlife, plants, or their critical habitat will be considered in our final assessment of the described work.

<u>ESSENTIAL FISH HABITAT</u>: 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 coho (*Oncorhynchus kisutch*) and pink (*Oncorhynchus gorbuscha*) salmon.

We have determined the described activity would not adversely affect EFH in the project area as the proposed mitigation measures would result in minimal impact to EFH.

<u>TRIBAL CONSULTATION</u>: The Corps fully supports tribal self-governance and government-togovernment 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 rights or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

<u>PUBLIC HEARING</u>: 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.

<u>EVALUATION</u>: 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 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 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.

<u>AUTHORITY</u>: 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 are enclosed with this Public Notice.

District Commander U.S. Army, Corps

Enclosure



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					POA-2012-00033 Akutan Harbor December 13, 2022
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