



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: December 13, 2012
EXPIRATION DATE: January 14, 2013
REFERENCE NUMBER: POA-1997-546-M1
WATERWAY: Hamilton 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 project drawings available online under POA-1997-546-M1 at <http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>.

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 **Heather Boyer** at (907) 753-2877, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at heather.l.boyer@usace.army.mil if further information is desired concerning this notice.

APPLICANT: U.S. Forest Service, Petersburg Ranger District, Post Office Box 1328, Petersburg, Alaska 99833.

AGENT: Ms. Michelle Parker, U.S. Forest Service, Petersburg Supervisor's Office, Post Office Box 309, Petersburg, Alaska 99833; phone 907-518-1079.

LOCATION: The project site is located within Section 29, T. 57 S., R. 74 E., Copper River Meridian; USGS Quad Map Petersburg D-6; Latitude 56.8951° N., Longitude -133.80438° W.; 8.5 miles southeast of Kake, Alaska.

SPECIAL AREA DESIGNATION: The project is located within the Tongass National Forest, Petersburg Ranger District.

PURPOSE: The applicant's stated purpose is to extend the boat ramp's working range to 6 foot and higher tides to better accommodate recreation, subsistence, and search and rescue use. The boat ramp currently is only usable at 16 foot and higher tides.

PROPOSED WORK: The applicant proposes to place 6,000 cubic yards (CY) of 6-inch minus rock and 1,000 CY of 8-10 CF size riprap into a 0.25-acre intertidal area to reconstruct and extend the existing boat ramp and jetty in order to raise the grade

above the high tide level. The jetty and ramp would also be resurfaced with 122 lineal feet of concrete planks. The width of the footprint of the ramp would increase by an estimated 20-40 feet to accommodate the additional fill. All work would be performed in accordance with the plan (sheets 1-8), dated October 26, 2012, available online under POA-1997-546-M1 at <http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>.

ADDITIONAL INFORMATION: A permit was issued on January 6, 1998, for the original 36-foot by 478-foot boat ramp. The permit authorized the excavation of 70 CY at the site and placement of 1,408 CY of clean shot rock and 348 CY of clean riprap into 0.36-acre area below the high tide line. Construction was limited to low tide periods and no construction was allowed within the time period of April 15 through June 25 to avoid impacts to fish. The current proposal would be the first modification to this permit.

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 applicant stated that much of the construction would take place on existing developed land. The site currently has a parking lot and boat ramp. This project would improve these areas and adding fill to extend the boat ramp. The land that would be developed is a level, well-drained area with little standing water. The area is not a wetland and there are no streams on the site.

b. Minimization: The applicant stated that check dams would be constructed in the ditch line on site to minimize the runoff of sediment from the site to the nearby water of Hamilton Bay. Erosion control methods, including filter fabric and riprap cladding, would be used in the areas where construction would occur below the high tide line to prevent fill material from moving from its intended location.

c. Compensatory Mitigation: The applicant stated that compensatory mitigation is not appropriate for this project due to the avoidance and minimization efforts and there would be no significant impact to waters of the United States.

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: No threatened or endangered species are known to use the project area. 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 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 salmon (*Oncorhynchus tshawytscha*), chum salmon (*Oncorhynchus keta*), Coho salmon (*Oncorhynchus kisutch*), sockeye salmon (*Oncorhynchus nerka*), and pink salmon (*Oncorhynchus gorbuscha*). We have determined the described activity would not adversely affect EFH in the project area. 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:

(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).

A Notice of Application for State Water Quality Certification is enclosed with this Public Notice and project drawings are available online under POA-1997-546-M1 at <http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>.

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-1997-546-M1, Hamilton 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.