



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145b)
Post Office Box 6898
Elmendorf AFB, Alaska 99506-6898

PUBLIC NOTICE DATE: 18 August 2004
EXPIRATION DATE: 17 September 2004
REFERENCE NUMBER: POA-1976-124-1
WATERWAY NUMBER: Chatham Strait

Interested parties are hereby notified that an application has been received for a Department of the Army after-the-fact permit for certain work in waters of the United States as described below and shown on the attached plans.

APPLICANT: Mr. Richard L. Powers, Whaler's Cove Lodge, P. O. Box 101, Angoon, Alaska 99820-0101

LOCATION: This project area is located on Killisnoo Island, within section 7, T. 51 S., R. 68 E., Latitude 57°28'13"N., Longitude 134°34'15"W., Copper River Meridian, within Chatham Strait (Killisnoo Harbor), approximately 4 miles southeast of Angoon, Alaska.

WORK: The previous dock extension (10/26/1998) was permitted for a northwesterly direction from the original permitted dock. However, the existing dock configuration extends out from the existing dock in a northeasterly direction, beyond the eastern boundary of the current tidelands lease by approximately 90'. In addition, there are two finger floats of approximately 60' and 80' respectively, as well as a 16' x 32' float-plane dock, fish house and cleaning table which were not authorized. The finger floats also extend eastward of the lease boundary.

Construction is also currently proposed for the following additional installations: (1) a 246' x 12' wide dock, (2) a 596' x 10' wide dock, (3) a 16' x 32' extension to the existing float plane dock, (4) a 20' x 50' building, (5) a 34' x 122' foot float. Approximately 20 more piling will be needed to accommodate the new dock system; these will be 1' diameter x 45'-60' in length and be either steel or pressure-treated wood.

PURPOSE: (1) authorize existing structures which are currently out-of-compliance and (2) provide review for additional proposed docks and structures.

ADDITIONAL INFORMATION: The applicant had previously received a Notice of Default of Tidelands Lease (10/31/2003) from DNR; the applicant subsequently wrote to the Commissioner, DNR on 11/17/2003 requesting an appeal of the DNR's Notice of Default decision. On 08/08/2004 the applicant submitted a Tideland Lease Application (ADL #1062043) to the Division of Mining, Lands and Water, DNR. Changes under the current Development Plan for Tidelands Lease Enlargement include enlargement of the lease area boundary from 3.30 acres to 5.28 acres and, as noted

above, enlargement of the floating dock system, widening of the shore ramp and main walkways from 9-10' to 12', replacement of the existing log fish float building and fish cleaning float with a new 34' by 122' steel barge float, a 24' x 50' building and two 16' x 34' covered work areas, doubling the size of the airplane float from 16' x 32' to 16' x 64'.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

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.

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 two listed or eligible properties in the vicinity of the worksite. The first (SIT-00014), an historic (Tlingit) settlement site and cannery (Euroamerican), is located at Sec. 7, T. 51S., R. 68E., Latitude 57°28'10"N. Longitude 134°34'00"W., Copper River Meridian. The second (SIT-00056), a Russian Orthodox church building, is located at Sec. 7, T. 51S., R. 68E., Latitude 57°28'05"N. Longitude 134°34'00"W., Copper River Meridian. Both of these sites are in the vicinity of the project but are not in the immediate area.

Consultation of the AHRs constitutes the extent of cultural resource investigations by the District Engineer 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.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between the Federal government and Federally recognized Tribes. This notice invites participation by agencies, Tribes, and members of the public in the Federal decision-making process. In addition, 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 Engineer during the public comment period.

ENDANGERED SPECIES: The project area is within the known or historic range of the stellar sea lion and humpback whale. Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. 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 proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS). This area includes essential fish habitat for the Scarlet King Crab, Tanner Crab and Dover Sole. We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: None.

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 decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That 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 Engineer 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.

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 MS. V. Glooschenko at (907) 753-2720 toll free from within Alaska at (800) 478-2712, or by email at valanne.glooschenko@poa02.usace.army.mil if further information is desired concerning this notice.

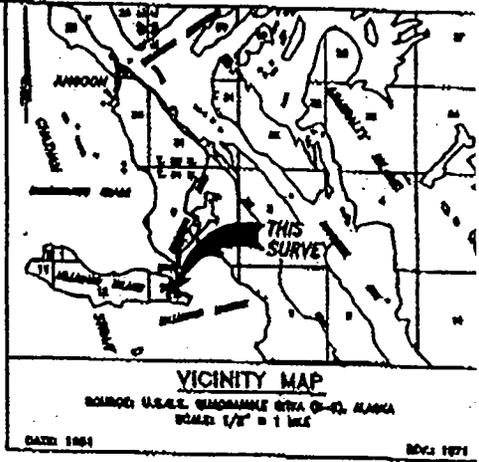
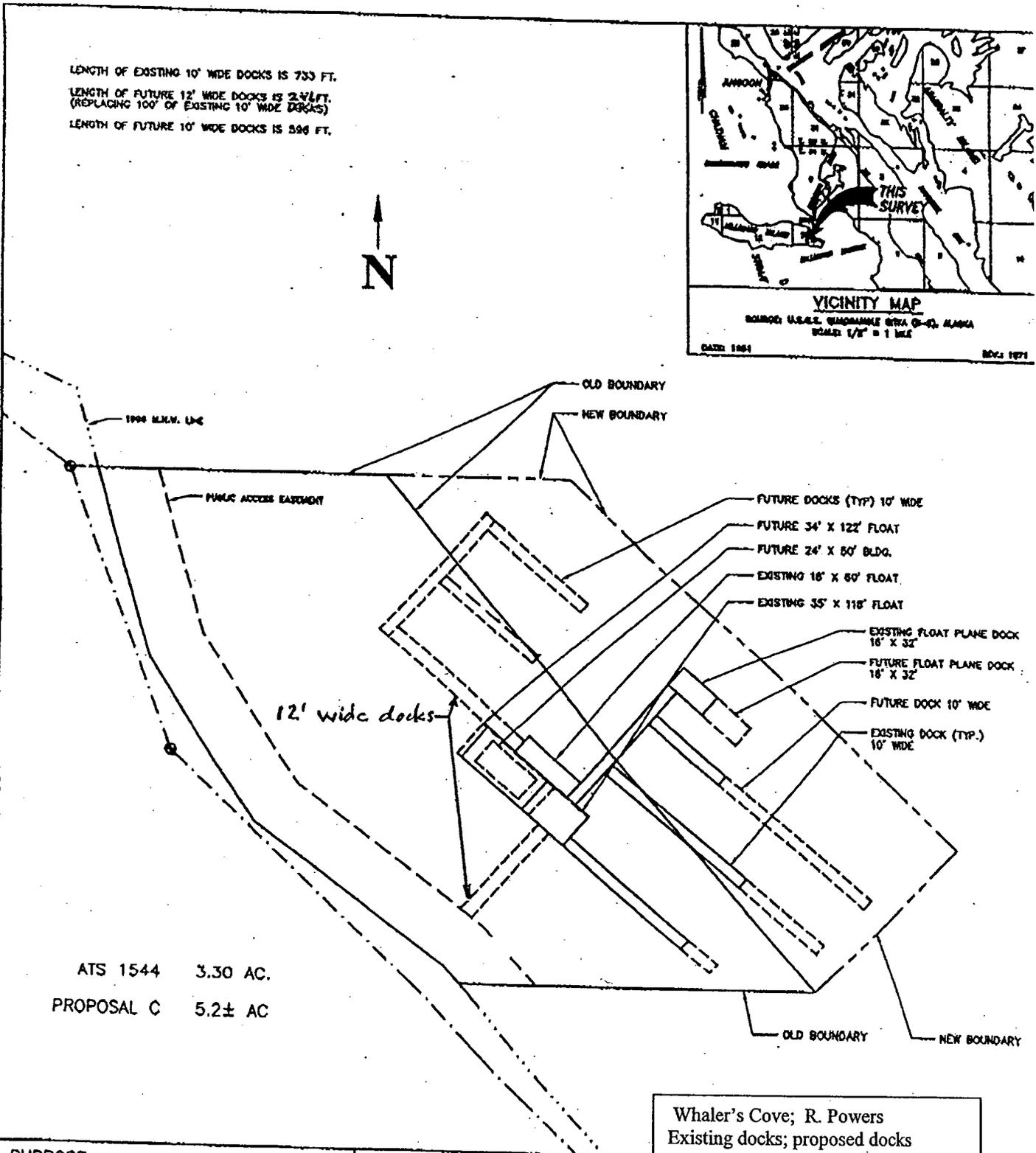
AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States -
Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

A plan and Notice of Application for Certification of Consistency with the Alaska Coastal Management Program are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments



ATS 1544 3.30 AC.
 PROPOSAL C 5.2± AC

PURPOSE:
 EXISTING & FUTURE DOCKS FOR
 BOATS, PLANES & FISH PROCESSING

DATUM: MLLW

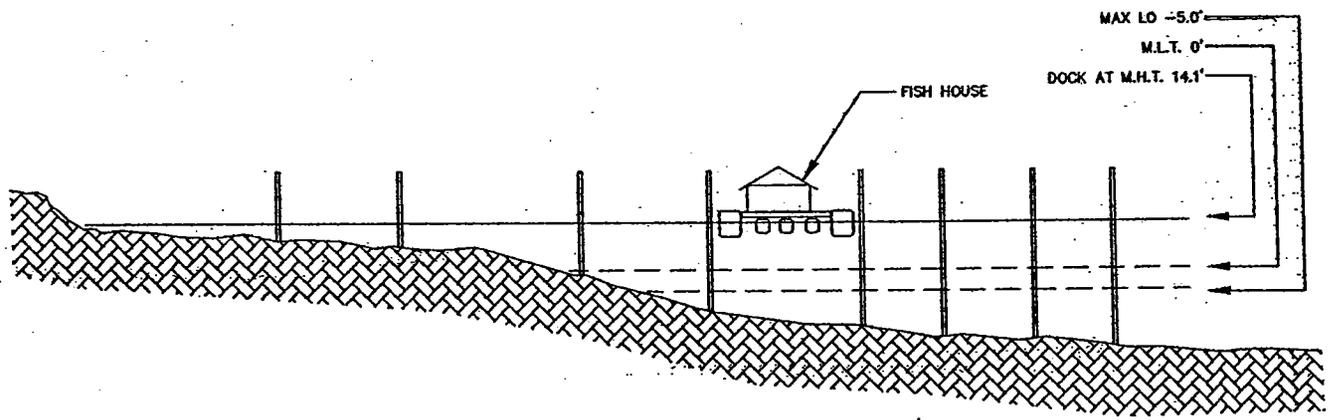
ADJACENT PROPERTY OWNERS:
 TOM & CHRIS AUBERTINE

PLAN VIEW
 SCALE: 1" = 120'

APPLICANT:
 WHALER'S COVE LODGE
 PO BOX 101
 ANGOON, AK 99802

Whaler's Cove; R. Powers
 Existing docks; proposed docks

WATERWAY: Chatham Strait
FILE #: POA-1976-124-1
LOCATION: .3 miles south of
 Angoon Ferry Terminal Harbor, east
 end of Killisnoo Island
DATE: 08/03/2004
 Sheet 1 of 2



PURPOSE:
EXPAND DOCKS FOR BOATS,
PLANES & FISH PROCESSING

DATUM: MLLW

ADJACENT PROPERTY OWNERS:
TOM & CHRIS AUBERTINE

SECTION VIEW

SCALE: 1" = 60'

APPLICANT:
WHALER'S COVE LODGE
PO BOX 101
ANGOON, AK 99802

Whaler's Cove; R. Powers
Existing docks; proposed docks

WATERWAY: Chatham Strait
FILE #: POA-1976-124-1
LOCATION: .3 miles south of
Angoon Ferry Terminal Harbor, east
end of Killisnoo Island

DATE: 07/07/2004

Sheet 2 of 2

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

401 Certification Program

Non-Point Source Water Pollution Control Program

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-1976-124-1 Chatham Strait, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that 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 within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation
WQM/401 Certification
555 Cordova Street
Anchorage, Alaska 99501-2617
Telephone: (907) 269-6281
FAX: (907) 269-7508

FRANK H. MURKOWSKI,
GOVERNOR

STATE OF ALASKA

OFFICE OF THE GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT AND PERMITTING**

ALASKA COASTAL ZONE MANAGEMENT
550 WEST 7TH AVENUE, SUITE 1660
ANCHORAGE, ALASKA 99501-3568

**NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM**

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. **POA-1976-124-1 Chatham Strait** will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

The Office of Project Management and Permitting requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.

Attachment 3