

US Army Corps of Engineers Alaska District

Regulatory Division (1145) CEPOA-RD Post Office Box 6898 JBER, Alaska 99506-0898

Public Notice of Application for Permit

PUBLIC NOTICE DATE:	April 8, 2020
EXPIRATION DATE:	May 8, 2020
REFERENCE NUMBER:	POA-1985-00180
WATERWAY:	Knudson Channel

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States (U.S.) as described below and shown on the enclosed project drawings.

All comments regarding this Public Notice (PN) 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 PN reference number listed above.

All comments should reach this office no later than the expiration date of this PN to become part of the record and be considered in the decision. Please contact Catherine Beatty at (907) 753-2554, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at: Catherine.E.Beatty@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Jeffrey Wedekind

<u>LOCATION</u>: The project site is located within Section 7, T. 74 S., R. 90 E., Copper River Meridian; Latitude 55.47302° N., Longitude 131.79488° W.; near Ketchikan, Alaska.

<u>PURPOSE</u>: The applicant's stated purpose is to replace 40 year old piles and floats that have been rendered unsafe due to winter storm damage, accommodate a future boathouse remodel, provide vehicle access to the existing boathouse and pier for the remodel and make the facilities ADA accessible.

PROPOSED WORK:

- Remove existing 244 linear feet of floats (10-foot x 44-foot, 10-foot x 100-foot and 12-foot x 100-foot) and the associated (12), 12-inch to 16-inch diameter creosote wooden piles and replace with 220 linear feet of floats (10-foot x 180-foot and 19-foot x 40 foot floats) and the associated (12), 12-inch diameter galvanized steel piles to restrain the new floats.
- 2. Remove an existing 50-foot x 5-foot gangway and replace it with a 65-foot x 5-foot aluminum gangway.
- 3. Remove rotted decking, beams and up to (28), 12-inch diameter wood piles that support the existing 22-foot x 41-foot boathouse and a 30 linear foot section of pier adjacent to the boathouse with up to (28), 12-inch to 16-inch diameter wood creosote piles.
- 4. Construct a new 24-foot x 46-foot pier extension supported by (9) 12-inch diameter hotdipped galvanizing (HDG) steel piles anchored to soil rock beach within 2-foot x 2-foot concrete footings. Concrete footings will be cast in place with 0.15 cubic yards of concrete per footing, with a total of 1.35 cubic yards of poured concrete into 36 square feet. Excavate and backfill 0.08 cubic yards of beach gravel at each footing, for a total discharge of 0.70 cubic yards below the High Tide Line (HTL).
- 5. Construct a 50-linear foot stacked rock wall approximately 8-feet high above Mean High Water (MHW) elevation to retain 160 cubic yards of clean rock fill over an area of 600 square feet, of which 100 cubic yards of the fill would be placed below the HTL.

Wood pile removal will be completed using an ICE vibratory extractor and a crane barge. New steel piles will be driven using an ICE vibratory driver to approximately 15-20 foot penetration depending on bottom depth, overall length of piling, soil characteristics and ease of driving. A MKT air hammer would only be used if the vibratory hammer is unable to penetrate a hard layer of seabed, in which case the air hammer would be used to punch through the solid layer. If the piling hits bedrock prior to achieving target penetration, the air hammer would be used to seat the piling into the rock.

The applicant is also proposing to replace a wastewater outfall, which will be reviewed under a separate request for Nationwide Permit 7 Outfall Structures and Associated Intake Structures.

All work would be performed in accordance with the enclosed plan (sheets 1-3), dated April 3, 2020.

<u>ADDITIONAL INFORMATION:</u> The following certificates of approval have been issued to the applicant: Ketchikan Gateway Borough Tidelands lease (ATS 1321) approved on July 29, 2015, State of Alaska DGC Consistency (AK850419-16J) approved on June 4 1985 and State of Alaska Department of Natural Resources Tidelands lease (ADL 104378) approved on December 1, 1987.

<u>APPLICANT PROPOSED MITIGATION</u>: 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: The proposed rock fill avoids impacts to marine vegetation in the area above the MHW.

b. Minimization: The footprint of the proposed fill is limited to an un-vegetated 600 square foot area. The proposed road location requires the least amount of fill and disturbs the least area of tidelands while maintaining a slope less than 12%.

c. Compensatory Mitigation: The applicant is not proposing compensatory mitigation due to the small footprint in a tideland area void of vegetation and above MHW.

<u>WATER QUALITY CERTIFICATION</u>: 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 (AHRS). There are cultural resources within the vicinity of the permit area. The permit area has been determined to be only the work within the waters of the U.S. as depicted in the plans on sheet 2 of 3. Consultation of the AHRS constitutes the extent of cultural resource investigations by the Corps of Engineers (Corps) at this time, and we are otherwise unaware of the presence of such resources. The Corps has made a No Historic Properties Affected (No Effect) determination for the proposed project. 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. The Corps is requesting the SHPO's concurrence with this determination.

ENDANGERED SPECIES: The project area is within the known or historic range of the humpback whale (*Megaptera novaeangliae*).

We have determined the described activity may affect the endangered humpback whale (*Megaptera novaeangliae*). We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with 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.

<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).

According to the NMFS Alaska EFH Mapper, the project area is within the known range of the: Pink Salmon (*Oncorhynchus gorbuscha*), Sockeye salmon (*Oncorhynchus nerka*), Chinook

salmon (*Oncorhynchus tshawytscha*), Chum salmon (*Oncorhynchus keta*), and Coho salmon (*Oncorhynchus kisutch*).

We have determined the described activity may adversely affect EFH in the project area for the above listed species and provide the following EFH Assessment:

The action that may adversely affect EFH is described in detail above under the proposed work and shown on the attached plans. The potential adverse effects to EFH from the discharge of fill material include: 1) loss of habitat functions and 2) changes to hydrologic patterns.

The existing site conditions include a 70 linear foot stacked rock wall along the shoreline, an existing creosote pile supported boathouse and wood pier over the intertidal area and a floating pier secured by wood creosote piles over the subtidal area. The site is located within Knudson Cove's waterfront and has been developed for many years. A shoreline site visit conducted by the applicant on March 15, 2020 found no aquatic vegetation present in the proposed fill area adjacent to the existing rock wall, which is entirely above MHW and rock weed present at approximately 14-foot elevation. At the proposed pier expansion area adjacent to the existing boathouse, small amounts of brown rock weed were present at the last row of the proposed pilings, in which pile installation would disturb approximately eight square feet of the vegetation. According to the NOAA Shorezone, the coastal class for the area is ramp with gravel and sand beach.

The proposed fill material will permanently eliminate shallow low gradient intertidal habitat and the native substrate that may provide feeding habitat, shelter from high currents, and shelter from predators for juvenile salmonids. The proposed fill will likely increase current velocity and may change circulation patterns which may affect erosion and deposition rates along the shoreline, particulate suspension, and mixing of dissolved and suspended nutrients and chemical constituents. The change in current patterns may also adversely affect availability of food sources such as zooplankton.

Suspension of sediments and the release of contaminants in the sediments may occur during removal of the existing creosote pilings. The adverse effects on EFH due to suspension of sediments are expected to be temporary in nature. Replacement of the creosote pilings with steel pilings may benefit EFH by eliminating a chronic source of contamination associated with creosote pilings. Pile driving associated with the proposed new structures will generate intense underwater sound pressure waves that may injure and or kill fish, adversely affecting EFH. Fish may leave feeding areas or avoid natural migration areas due to noise disturbances associated with pile driving activities. Adverse effects of underwater noise associated with pile driving will be temporary.

Although EFH is present and adverse effects are anticipated, the existing quality of the site for providing all necessary EFH habitat functions is likely marginal given the current site conditions and the heavy commercial and industrial uses of the Knudson Cove waterfront. The proposed discharge of fill would permanently eliminate 636 sf (0.01 acre) of intertidal habitat that may be

used by some or all the EFH listed species above or used by their prey species during various life stages for spawning, breeding, feeding, and growth. Due to the existing condition of the site, the loss of this intertidal area would result in a minor adverse impact to EFH and would not be expected to result in a significant loss of EFH or cause a measurable decline in local EFH managed species populations.

The applicant has proposed the following mitigation to reduce impacts to EFH: 1) the footprint of the fill pad was reduced to the minimum necessary to allow for the required switchback to maintain a slope less than 12%, 2) a stacked rock wall approximately 50 linear feet x 9-feet, tapering to a 3-foot wall would reduce the toe of slope impacts, 5) all work in the intertidal zone will be done during low tide eliminating suspension of sediments in the water, 6) pilings in submerged tidelands will be removed using a vibratory hammer with a crane barge minimizing the chance for injury and or mortality to fish and minimizing the amount of suspended sediments and contaminants released, 7) new steel pilings will be driven with a vibratory hammer to minimize the potential exposure to harmful sound pressure waves associated with impact hammers and an air hammer would only be used if the vibratory hammer is unable to penetrate a hard layer of seabed to achieve target penetration.

This PN initiates EFH consultation with the NMFS pursuant to the use of existing environmental review procedures in 50 CFR § 600.920(f). Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

<u>TRIBAL CONSULTATION</u>: 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 PN 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.

<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)(I) 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.

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 Wastewater Discharge Authorization Program (WDAP) / 401 Certification

DEPARTMENT OF ENVIRONMENTAL CONSERVATION WDAP/401 CERTIFICATION 555 CORDOVA STREET ANCHORAGE, ALASKA 99501-2617 PHONE: (907) 269-6285 | EMAIL: <u>dec-401cert@alaska.gov</u>

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 (PN) Reference Number **POA-1985-00180**, **Knudson Cove**, 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 or via email to <u>dec-401cert@alaska.gov</u> by the expiration date of the Corps of Engineer's Public Notice. All comments should include the PN reference number listed above. Mailed comments must be postmarked on or before the expiration date of the public notice.

Disability Reasonable Accommodation Notice

The State of Alaska, Department of Environmental Conservation complies with Title II of the Americans with Disabilities Act of 1990. If you are a person with a disability who may need special accommodation in order to participate in this public process, please contact Kate Orozco at 907-465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 within 5 days of the expiration date of this public notice to ensure that any necessary accommodations can be provided.





