



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:	February 16, 2018
EXPIRATION DATE:	March 19, 2018
REFERENCE NUMBER:	POA-1977-242-M1
WATERWAY:	Chiniak Bay (Inner 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 Randal Vigil at (907) 790-4490, or by email at Randal.P.Vigil@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Sun'aq Tribe of Kodiak, 312 West Marine Way, Kodiak, AK 99615.

AGENT: Trevor Sande, R&M Engineering-Ketchikan, Inc., Ketchikan, AK 99901.

LOCATION: The project site is located within Section 31, T. 27 S., R. 19 W., Seward Meridian; USGS Quad Map Kodiak D-2; Latitude 57.786492° N., Longitude 152.415310° W.; Alaska Tideland Survey 49, Tract N17B; 419 Shelikof Street, in Kodiak, Alaska.

PURPOSE: The applicant's stated purpose is "moorage of small boats that are used for commercial activities associated with the custom processing building Wildsource as well as future businesses that will occupy the new multi-use structure. The harbor will also continue to accommodate recreational boaters as well as water taxi and tour operators. The new dock will

also provide a commercial crane for unloading vessels as well as a small float for temporary moorage.”

PROPOSED WORK: The applicant requests authorization for the following work in and over Chiniak Bay (Inner Harbor), which is a navigable water of the United States:

1. Discharge of 250 cubic yards of shot rock and 50 of concrete fill material in to a 300 square feet area below the High Tide Line (approximate elevation +11.5 feet, above the 0.0 foot Mean Lower Low Water (MLLW) contour) to construct a seawall;
2. Install below the Mean High Water Mark (MHW) (approximate elevation +7.9 feet, above the 0.0 foot MLLW contour), one pile-supported (46 each 12-inch diameter steel piles capped with 14-inch deep galvanized steel beams and 17 each pressure treated wood fender piles) new 13,000 square foot, concrete decked dock;
3. Install below the MHW, one 1,500 square foot new wood float, including one 50 foot long by 6 foot wide aluminum gangway;
4. Remove from below the MHW, one pile-supported (80 creosote treated wood piles) 5,000 square foot wood decked dock, including joists;
5. Remove from below the MHW, one pile-supported (41 steel piles) 2,500 dock consisting of 8-inch thick concrete panels;
6. Remove from below the MHW, 28 creosote treated wood piles.

All work would be performed in accordance with the enclosed plan (sheets 1-8), dated November 7, 2017.

ADDITIONAL INFORMATION: The new float would be attached to the new dock support piling and to the existing 4 pile dolphin. No new piling would be installed for the float. The gangway would attach to the new dock.

Work would commence in the spring of 2018 and commence through the fall of 2018.

- March 1st – April 30th: Demolition of existing dock facilities.
- May 1st – July 30th: Pile installation
- June 1st – August 15th: Concrete Deck Installation
- Aug. 15th – Sept. 1st Wood Float Installation

Piles are anticipated to encounter shallow bedrock and would be installed using a down the pile expanding cutting bit and steel pipe casing supported from a crane and barge. If overburden depths greater than 10 feet are encountered then piles would be installed using a vibratory hammer to refusal and then proofed with a double acting impact hammer. It is anticipated that two to three piling would be installed per day with approximately 20 minutes of total pile driving per pile with 16 minutes being pile socketing or vibratory work and 4 minutes of impact hammer per pile.

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: “There are no practical alternatives for avoidance due to the water dependent nature of the custom fish processing plant and the marine related uses such as water taxi and small boat moorage. In addition, this facility has been in operation for many years and this permit request is for maintaining the facility’s existing footprint with new materials.”

b. Minimization: “We are replacing damaged piles with new pile. The new piles will be configured so that there will be far fewer piling that are currently installed. There is no change in the overall project footprint except a small 10 foot wide jog in the replacement seawall to allow construction without undermining the existing building.”

c. Compensatory Mitigation: No compensatory mitigation is proposed.

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 cultural resources in the permit area or within the vicinity of the permit area. The permit area has been determined to be Alaska Tideland Survey 49, Tract N17B; 419 Shelikof Street, in Kodiak, Alaska. 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 Short-tailed Albatross (*Phoeastria (=Diomedea) albatrus*), Steller’s Eider (*Polysticta stelleri*), Northern Sea Otter (*Enhydra lutris kenyoni*), Steller sea lion (*Eumetopias jubatus*) in the western Distinct Population Segment (DPS), Humpback whales (*Megaptera novaeangliae*), in the Western North Pacific and the Mexico DPS, Sperm whale (*Physeter macrocephalus*), Fin whale (*Balaenoptera physalus*) and North Pacific right whale (*Eubalaena japonica*).

We have determined the described activity may affect the endangered Steller’s Eider, Northern Sea Otter, Steller sea lion in the western DPS, Humpback whale, Fin whale, and North Pacific right whale and/or their designated critical habitat. We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service and/or 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 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 25 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 Flathead Sole (*Hippoglossoides elassodon*), Rock Sole (*Lepidopsetta bilineata*), Walleye Pollock (*Theragra chalcogramma*), Squid (*Teuthida spp.*), Yellowfin Sole (*Limanda aspera*), Arrowtooth Flounder (*Atheresthes stomias*), Sculpin (*Cottoidea spp.*), Pacific Cod (*Gadus macrocephalus*), Skate (*Rajidae spp.*), and chum salmon (*Oncorhynchus keta*), pink salmon (*Oncorhynchus gorbuscha*), coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*Oncorhynchus tshawytscha*), sockeye salmon (*Oncorhynchus nerka*).

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
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-7564/FAX: (907) 334-2415

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-1977-242-M1, Chiniak Bay (Inner Harbor)**, 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.