



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

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

PUBLIC NOTICE DATE:	September 12, 2017
EXPIRATION DATE:	October 12, 2017
REFERENCE NUMBER:	POA-1986-428-M4
WATERWAY:	Clover Passage

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.

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 Michael R. Gala at (907) 753-2821, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at michael.r.gala@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Russell Thomas, Clover Pass Resort

AGENT: Mr. Fred Monrean, MEA Inc.

LOCATION: The project site is located within Section 12, T. 74 S., R. 89 E., Copper River Meridian; USGS Quad Map Ketchikan B-6; Latitude 55.4742° N., Longitude 131.8142° W.; near Ketchikan, Alaska.

PURPOSE: The applicant's stated purpose is to provide boat ramp access to launch and retrieve boats, provide additional cabins for tourists, and housing for staff.

PROPOSED WORK: Discharge 90.5 cubic yards of concrete, 57 cubic yards of rip rap, and 1160 cubic yards of clean fill material to upgrade the current resort facilities. The project would include the following:

- 1) Construct one new 16 foot by 146 foot concrete boat ramp, with a 6 foot by 120 foot float supported by three 12-inch steel piles below the High Tide Line ((HTL) +19.7 feet, above the Mean Lower Low Water (MLLW) contour of 0 feet). The piles would be attached to bedrock via twelve 1.25-inch steel bolts installed during low tides when the site is dewatered. The applicant proposes to utilize an air track rock drill to pre-drill the holes for the bolts.
- 2) Construct one new 400 square foot concrete pad and associated structure below the HTL in order to construct a 2nd wastewater treatment plant.
- 3) This permit would include an after the fact permit for a 20 foot by 18 foot concrete structure below the HTL for the original wastewater treatment plant. The original authorized structure was a 7 foot by 9 foot by 13 foot cement septic tank and associated outfall pipes.
- 4) Discharge fill material into 0.0255-acre of wetlands to construct one new 184 foot by 84 foot pad which includes one new 32 foot by 92 foot bunkhouse and parking lot for staff.
- 5) Discharge fill material into 0.0645-acre of wetlands to construct 11 new 20 foot by 20 foot cabins, driveway, road, and parking area to the west of the current facilities. Cabin #6 will require posts to be placed below the HTL and will be bolted in place in the same manner as the piles for the boat launch piles.
- 6) Discharge fill material into un-named stream to construct one new bridge crossing to reach the new cabins site. The bridge will utilize the old dam currently in place and a new culvert will be installed of sufficient size to allow hydrologic flow.

All work would be performed in accordance with the enclosed plan (sheets 1-8), dated August 28, 2017.

ADDITIONAL INFORMATION: Applicant has a current Waste Water Treatment Plan #AKG572000 that expires on October 31, 2017

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 design was planned to avoid wetlands and impacts to waters as much as possible.
- b) Minimization: An existing dam used for water supply is being repurposed to provide access to the new recreation cabins, minimizing the need for additional fill into waters of the U.S.

- c) Compensatory Mitigation: The applicant does not feel compensation is necessary do to the small amount of wetlands being impacted which falls below the 0.5-acre allowed for commercial activities.

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 within Ketchikan Parcel numbers 313620094000, 313620086000, 313620092000, 313620094000ATS2, 313620091000, and the adjacent marine waters. 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 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 (NMFS) 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 chum salmon (*Oncorhynchus keta*), pink salmon (*Oncorhynchus gorbuscha*), coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*Oncorhynchus tshawytscha*), sockeye salmon (*Oncorhynchus nerka*), Big Skate (*Raja binoculata*), Longnose skate (*Raja rhina*), Octopus (*Octopoda spp.*), shark (*Selachimorpha spp.*), and Gulf of Alaska Shallow Water Flatfish Complex.

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat will be considered in our final assessment of the described work.

The original plans dated December 31, 1998, indicated eel grass in the shallow waters adjacent to the current docks and the immediate area of the proposed boat ramp. The area was inspected for eel grass at low tide on August 29, 2017, out to approximately 175 feet from the current retaining wall where the proposed boat ramp and associated piles would be constructed with no eel grass visible within the proposed project area. The applicant stated the only eel Grass they were aware of is approximately 350 feet to the northwest of the proposed 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

JUNEAU

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-1986-428-M4, Clover Passage**, 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.