

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:	April 8, 2020
EXPIRATION DATE:	April 23, 2020
REFERENCE NUMBER:	POA-1983-00503
WATERWAY:	Tenakee Inlet

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 Randal Vigil at (907) 790-4491 or by email at: Randal.P.Vigil@usace.army.mil if further information is desired concerning this notice.

<u>APPLICANT</u>: Alaska Department of Transportation and Public Facilities, PO Box 112506, Juneau, AK 99811.

<u>LOCATION</u>: The project site is located within Section 21, T. 47 S., R. 63 E., Copper River Meridian; USGS Quad Map Sitka D-4; Latitude 57.779221° N., Longitude 135.219501° W.; Alaska Marine Highway System Ferry Terminal, in Tenakee Springs, Alaska.

<u>PURPOSE</u>: The applicant's stated purpose is to provide safe and improved facilities for Tenakee Springs Alaska Marine Highway System ferry vessel users.

<u>PROPOSED WORK</u>: Discharge 6,250 cubic yards of rock fill material into 0.35 acres below the high tide line (approximate elevation +19.2 feet above the 0.0 foot contour) and mean high water mark (approximate elevation +13.7 feet above the 0.0 foot contour) of Tenakee Inlet to construct a staging area consisting of a base footprint of 122 feet wide by 109 feet long and surface footprint of 57 feet wide by 109 feet long.

All work would be performed in accordance with the enclosed plan (sheets 1-11), dated February 2020.

ADDITIONAL INFORMATION: On September 23, 2019, Department of the Army permit file number POA-1983-00503, Tenakee Inlet was issued to the ADOT&PF to:

Remove:

-and replace the existing 12-feet x 216-feet approach dock concrete decking and -existing timber dock and city's storage building;

-pile-supported concrete city dock and timber fender piles;

-(3) 3-pile berthing and mooring dolphins.

Install:

-install additional lateral support steel pipe pile supports; section below

-transfer bridge landing float with adjustable intermediate ramp, apron systems, and steel pile restraint dolphin structures;

-13-feet x 100-feet steel transfer bridge and pile supported abutment;

-50-feet x 60-feet pile supported city dock with new utility building and associated steel and timber pile fender systems;

-50-feet x 70-feet pile supported ferry staging dock with waiting shelter;

-(3) 4-pile mooring/berthing dolphins;

-timber small boat mooring float and associated steel pipe mooring pile.

<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 project has incorporated the following measures to avoid impacts:
- Minimal project footprint surrounding the existing ferry terminal and impacting only those marine waters and tidelands necessary to complete the work; and
- Fill placement would be conducted at low tide, as practicable.

To avoid possible impacts to marine mammals:

- Marine mammal monitoring would be employed during all pile-driving and pile removal activities;
- For all pile installation/removal, and down-the-hole drilling activities, DOT&PF would establish a shutdown zone of 50 meters for WDPS Steller sea lions and 100 meters for Mexico DPS humpback whales; and
- Vessels would adhere to the Alaska Humpback Whale Approach Regulations when transiting to and from the project site.

b. Minimization: Project activities would not affect wetlands as defined by the USAGE. DOT&PF would include Best Management Practices to protect water quality, including a Hazardous Material Control Plan. Best Management Practices, along with local currents and tidal action, would limit any potential water quality exceedances to be temporary and highly localized

The following measure would be incorporated to minimize EFH impacts to during construction:

- Minimize substrate disturbance and sediment suspension when removing piles by using a vibratory hammer, if/when practicable.
- The contractor would be required to develop a Hazardous Materials Control plan and provide and maintain absorbent boom materials on-site at all times to contain any potential hydrocarbon releases. Equipment on-site would be kept clean and well-maintained.
- Fill would be placed in the dry or during low tide as practicable.
- Any debris sighted on land above mean lower low water (0.00') within the project area shall be picked up and disposed of properly.
- c. Compensatory Mitigation: No compensatory mitigation is proposed.

<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 lead Federal agency, ADOT&PF acting on behalf of the U.S. Department of Transportation, Federal Highway Administration, is responsible for compliance with the requirements of Section 106 of the National Historic Preservation Act. According to information provided by the applicant, the proposed work would comply with the 106 Streamlined Project Review Screening, Programmatic Agreement between the ADOT&PF and the State Historic Preservation Office. The Corps of Engineers (Corps) has reviewed the Section 106 documentation from ADOT&PF/U.S. Department of Transportation, Federal Highway Administration and concurs with their finding that the proposed project is included under the list of Programmatic Allowances that contains the types of undertakings (projects) that have been determined to have low potential to affect historic properties.

<u>ENDANGERED SPECIES</u>: The project area is within the known or historic range of the Mexico Distinct Population Segment (DPS) of humpback whale (*Megaptera novaeangliae*), Steller sea lions (*Eumetopias jubatus*) of the Western DPS, and the Sperm Whale (*Physeter microcephalus*).

The applicant on behalf of the FHWA initiated the consultation procedures under Section 7 of the Endangered Species Act with the National Marine Fisheries Service (NMFS) on March 21, 2018. The NMFS in a Biological Opinion dated June 18, 2018, determined the described activity is likely to adversely affect threatened humpback whales and endangered Steller sea lions. However, it is the NMFS's biological opinion that the ADOT&PF's proposed Tenakee Springs Ferry Terminal improvements are not likely to jeopardize the continued existence of the humpack whale or Steller sea lion. Additionally, the proposed project is not likely to adversely affect the sperm whale or Steller sea lion critical habitat. On January 10, 2020, the ADOT&PF received an extension of the Biological Opinion from

June 1, 2020, through May 31, 2021. Any comments the NMFS may have concerning endangered or threatened wildlife 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).

The near shore marine waters within the project area have been designated as EFH for the Alaska stocks of all five species of Pacific salmon. Tenakee Inlet provides EFH for the Distinct Population Segment (DPS) of Pacific Herring.

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.

<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-1983-00503**, **Tenakee Inlet**, 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.





















