



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Juneau Field Office
Regulatory Division (1145)
CEPOA-RD
Post Office Box 22270
Juneau, Alaska 99802-2270

PUBLIC NOTICE DATE: August 7, 2017
EXPIRATION DATE: September 6, 2017
REFERENCE NUMBER: POA-2008-782-M4
WATERWAY: Auke Bay

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

APPLICANT: City and Borough of Juneau, 155 South Seward Street, Juneau, Alaska 99801, (907) 586-0294.

AGENT: Mr. Dick Somerville, PND Engineers, Inc., 9360 Glacier Highway, Suite 100, Juneau, Alaska 99801, (907) 586-2093.

LOCATION: The project site is located within Section 23, T. 40 S., R. 65 E., Copper River Meridian; USGS Quad Map Juneau B-2; Latitude 58.385° N., Longitude 134.646° W.; Don D. Statter Harbor, in Juneau, Alaska.

PURPOSE: The applicant's stated purpose is to improve safety, increase efficiency and reduce congestion by increasing harbor efficiency through safe access to the harbor, improving pedestrian access, reducing congestion and separating user groups.

PROPOSED WORK: The applicant requests authorization for the following work in waters of the United States, including navigable waters:

From below the Mean High Water Mark ((MHW) approximate elevation +15.3 feet above the 0.0 foot contour) demolish and dispose of the existing 16 feet wide by 200 feet long concrete boat launch ramp and planks;

From below the MHW demolish and dispose of the existing 8 feet wide by 240 feet long timber boarding float, including (4) 12.75 inch diameter steel pipe piles;

From below the MHW demolish and dispose of the existing 1,152 square feet timber boat haul-out pier, including (16) creosote treated timber piles.

Dredge approximately 24,300 cubic yards of marine sediment from 1.47 acres below the MHW to provide sufficient water depth for vessels at all tidal ranges. The disposal of 30,375 cubic yards of dredged material (increase due to bulking factor) is proposed through the discharge over 65 acres of the seafloor at a location approximately 1 mile southwest of the proposed dredging site at Latitude 58.3728° N., Longitude 134.6637° W. in Auke Bay;

Remove by blasting 2,000 cubic yards of bedrock from 0.27-acres below the high tide line ((HTL) approximate elevation +20.6 feet above the 0.0 foot contour) and MHW;

Install below the MHW one 12 feet wide by 240 feet long concrete main float with five 6 feet wide by 42 feet long finger floats;

Install below the MHW one 16 feet wide by 180 feet long timber main float;

Install below the MHW one 16 feet wide by 140 feet long timber main float;

Install below the MHW one 16 feet wide by 226 feet long timber headwalk float;

Install below the MHW one 20 feet wide by 20 feet long gangway landing float;

Install below the MHW on 8 feet wide by 110 feet long aluminum gangway;

Install below the MHW (20) 16-inch diameter steel pipe piles, (6) 24-inch diameter steel pipe piles;

Discharge 8,800 cubic yards of shot rock and armor rock fill and 2,496 cubic yards of concrete planks into 0.45 acres below the HTL to construct a 12 feet wide by 208 feet long kayak launch ramp;

Discharge 1,350 cubic yards of armor rock fill material into 0.42-acres below the HTL to stabilize the dredge basin side slopes;

Temporary placement of 12,500 cubic yards of 4-inch minus shot rock fill into 0.75-acres below the HTL to construct a drill pad to place explosive charges for bedrock removal.

All work would be performed in accordance with the enclosed plan (sheets 1-14), dated May 2017.

ADDITIONAL INFORMATION: The applicant submitted to the Corps of Engineers (Corps) a sediment characterization and analysis report dated December 2016, for the above referenced proposed dredging. According to the applicant's report, some chemicals of concern were detected in the site sediment; however, all testing results were below screening levels.

The aforementioned sediment characterization study was performed under a sediment sampling plan approved on September 6, 2016, by the Corps. Based on the data provided, this material appears to be suitable for in-water disposal as proposed, provided all other requirements to offset impacts to the aquatic environment are satisfied, including the Environmental Protection Agency's 404(b)(1) Guidelines.

In order to proceed with the proposed work the applicant is required to obtain a State of Alaska, Department of Natural Resources, Land Use Permit and a City and Borough of Juneau, Conditional Use permit.

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 dredge basin footprint has been minimized to the greatest extent practicable, while still meeting the purpose of the project. Bedrock removal has been limited to the amount necessary to allow the charter vessels to safely use the new floats. Additionally, a mechanically stabilized earth (MSE) wall was selected, rather than an armored slope, which greatly reduces the overall project footprint;

At no time will the construction activities result in a migration barrier to salmonids;

Contaminant-free, clean shot rock embankment and surface materials will be used during all aspects of construction. Material used for construction or discharge will not consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.);

Placement of clean shot rock fill materials will be utilized so that entry of fine sediment and other suspendible material into Auke Bay is kept to the minimum practicable. Rock for the fill pad will be removed along with the bedrock following blasting;

The contractor will comply with water quality restrictions as required by law and implement corrective measures if water quality standards are exceeded;

To prevent spills or leakage of hazardous material during construction, standard spill-prevention measures will be implemented during construction;

Care will be taken to prevent any petroleum products or other toxic or deleterious materials from entering the waters of the U.S. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., will be checked regularly for drips or leaks, and shall be maintained and stored properly on secondary containment pallets to prevent spills;

The selection of the in-water disposal site for dredge spoils was selected through coordination with the Alaska Department of Fish and Game (ADFG) to avoid impacts to crab and other resources. The initial disposal area proposed contained important crab habitat and a new site was selected based on data provided by ADFG where the crab densities are low;

Impacts to special aquatic sites have been avoided to the maximum extent feasible. Several large eelgrass beds and smaller fragmented eelgrass beds are present within the harbor area. The dredge basin avoids all of the largest eelgrass beds;

A marine wildlife monitor shall be assigned to the project during blasting and pile driving operations;

Impacts to bald eagles and migratory birds will be avoided by conducting blasting outside of the breeding season.

b. Minimization: Measures would be taken to minimize the underwater sound pressure waves that have the potential to disrupt migration and harass or injure marine mammals;

Timing windows would be incorporated during construction activities for all in-water work to minimize potential adverse effects to salmon during critical life stages;

The US Fish and Wildlife Service will be contacted for guidance if active bird nests, eggs, or nestlings are observed during construction. If a bald eagles nest is located in the vicinity of the project area during construction a bald eagle permit will be obtained, if needed;

The proposed disposal site minimizes impacts to crabs and other resources;

The overall footprint for dredge disposal has been minimized to the extent possible based on the barge accuracy to hit the specified disposal site;

All bedrock removed during blasting will be disposed of at an uplands disposal location;

Impact hammers shall only be allowed for piles that encounter soils too dense to penetrate with the vibratory equipment;

Cushion blocks would be used with all impact hammers;

Piles encountering bedrock would be installed in drilled sockets located below the mudline.

c. Compensatory Mitigation: Impacts associated with this project are temporary in nature and no long-term negative impacts are anticipated as a result of the dredge activities. The two small, fragmented eelgrass beds are very sparse and are not likely to provide rearing habitat. Due to the minimal and temporary nature of the anticipated impacts it is not believed mitigation is warranted.

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 (AHSR) 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 cultural resources (JUN-1090, JUN-1091, and JUN-1092) in the permit area or within the vicinity of the permit area. In a May 29, 2009, Cultural Resources Report prepared for the Statter Harbor Improvements Project (DA permit POA-2008-782, Auke Bay), it was determined that JUN-1090, JUN-1091, and JUN-1092 were ineligible for inclusion in the National Register of Historic Places, and a finding of No Historic Properties Affected was sent by the applicant to SHPO on July 15, 2009. On September 2, 2009, SHPO concurred with this finding. The permit area has been determined to be the footprint of the proposed activity. Our review of the 2009 Cultural Resources Report and consultation of the AHSR constitutes the extent of cultural resource investigations by the 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 currently 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 whales (*Megaptera novaeangliae*) and Steller sea lions (*Eumetopias jubatus*) in the Western Distinct Population Segment (WDPS).

We have determined the described activity may affect the endangered humpback whales and Steller sea lions in the western DPS. We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the National Marine Fisheries Service (NMFS). Any comments the NMFS 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 Chinook (*Oncorhynchus tshawytscha*), chum (*Oncorhynchus keta*), coho (*Oncorhynchus kisutch*), pink (*Oncorhynchus gorbuscha*), and sockeye (*Oncorhynchus nerka*) salmon.

We have determined the described activity may adversely affect EFH in the project area for Chinook, chum, coho, pink, and sockeye salmon.

Two small eelgrass beds are present on the edge of the proposed dredge basin, adjacent to the newly constructed boat launch ramp. The largest of the beds covers an area approximately 16 feet long by 13 feet wide. The smaller eelgrass bed covers an area approximately 6 feet long by 6 feet wide. The proposed dredging and discharge of fill would impact approximately 244 square feet of eelgrass resulting in the loss of salmon rearing habitat.

This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH 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 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

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-2008-782-M4, Auke Bay, 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.