



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

<b>PUBLIC NOTICE DATE:</b>	<b>5 January, 2018</b>
<b>EXPIRATION DATE:</b>	<b>5 February, 2018</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2017-35</b>
<b>WATERWAY:</b>	<b>Turnagain Arm</b>

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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 Mr. Matthew L. Beattie at (907) 753-2791, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at [Matthew.L.Beattie@usace.army.mil](mailto:Matthew.L.Beattie@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Alaska Department of Transportation and Public Facilities (ADOT&PF); POC: Mr. Mark Boydston; 907-269-0524, [Mark.Boydston@alaska.gov](mailto:Mark.Boydston@alaska.gov); 4111 Aviation Avenue, Anchorage, Alaska 99519.

**LOCATION:** The project site is located within Sections 2 and 3, T. 10 N., R. 2 W., Seward Meridian; USGS Quad Map Seward D-7; Latitude 60.984° N., Longitude 149.610° W.; in Anchorage, Alaska.

**SPECIAL AREA DESIGNATION:** The Seward Highway is recognized as an All-American Road and a National Scenic Byway, an Alaska State Scenic Byway, and as a National Forest Byway.

**PURPOSE:** The applicant's stated purpose is to improve the safety of the Windy Corner (around Milepost (MP) 105-107) stretch of the Seward Highway.

**PROPOSED WORK:** The Alaska Department of Transportation and Public Facilities (ADOT&PF) is proposing to realign and construct safety improvements to the Windy Corner segment of the Seward Highway. The proposed project would include:

- Realignment of the existing 12-foot northbound and southbound lanes of Seward Highway into Turnagain Arm, to allow for a design speed of 65 miles per hour and a curve radius of 1,660 feet;
- Realignment of the Alaska Railroad Corporation (ARRC) track into Turnagain Arm;
- Addition of a 12-foot auxiliary lanes, approximately 4,500 feet long, in both the northbound and southbound directions;
- Addition of a 24-foot median, to reduce the potential for head-on collisions;
- Addition of a 12-foot-wide left turn pocket, to enable southbound traffic to access parking areas without disrupting the flow of traffic;
- Inclusion of Eight-foot outside shoulders and Four-foot inside shoulders;
- Cutting into the rock face at Windy Corner within existing ADOT&PF right-of-way, to reduce the curvature of the highway;
- A southbound parking area, containing fifteen total parking spaces, including twelve standard spaces and three RV spaces;
- A north side parking area, accessible for both northbound and southbound traffic, including thirty-three total parking spaces, including twenty-four standard spaces, seven RV spaces, and two handicap-accessible spaces;
- A grade-separated pedestrian tunnel below the highway to connect the two parking areas;
- An emergency response access ramp to provide improved response time for marine rescue operations, and;
- User amenities, including improved signage for the southern terminus of Turnagain Arm Trail, vault toilets, wildlife viewing platforms and interpretive signage.

In total, the proposed project would discharge 1,700,000 cubic yards (CY) of Type C fill, 108,000 CY Type E fill and 140,00 CY of riprap into 27.6 acres of mudflats along Turnagain Arm and realign 0.001-acre of waterways. All work would be performed in accordance with the enclosed plan (sheets 1-21), dated December 29, 2017.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States (U.S.) from activities involving discharges of dredged or fill material.

a. Avoidance: Due to the nature of the proposed project, complete avoidance of impacts to waters of the U.S. would not be feasible.

b. Minimization: The applicant states that the current alignment of the proposed project would be a reduction of waters of the U.S. impacts of 15 acres versus the original alignment from 2013. In addition to the modified alignment, the proposed project overall footprint has been minimized by including 2:1 slopes.

c. Compensatory Mitigation: The applicant states that to offset the unavoidable impact of 27.6 acres of mudflats, ADOT&PF proposes to mitigate by purchasing credits through an existing, approved mitigation bank or other appropriate fee-in-lieu entity, or otherwise by conducting a permittee-responsible mitigation with the Corps' consent and concurrence on suitability.

**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 Corps of Engineers (Corps) has determined that the permit area under the National Historic Preservation Act (NHPA) is limited to the footprint of the proposed project in waters of the U.S. 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 cultural resources in the permit area. Consultation of the AHRs constitutes the extent of cultural resource investigations by the Corps at this time. The Corps has made a No Adverse 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.

**ENDANGERED SPECIES:** The project area is within the known range of the Cook Inlet distinct population segment of beluga whales (*Delphinapterus leucas*). The Cook Inlet beluga whale is federally designated as endangered under the ESA. The project area is located within waters designated as Critical Habitat for the Cook Inlet beluga whale.

The ADOT&PF, acting on behalf of Federal Highway Administration (FHWA), transmitted a Biological Assessment to the National Marine Fisheries Service (NMFS) on May 29, 2015. NMFS completed informal consultation and responded to FHWA in a letter dated October 28, 2015 with their concurrence that the project is not likely to adversely affect Cook Inlet beluga whales or adversely modify their critical habitat.

**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 (*O. keta*), coho (*O. kisutch*), sockeye (*O. nerka*), and pink (*O. gorbuscha*) salmon. The project would not adversely affect EFH within the project area. The ADOT&PF coordinated with NMFS concerning the project. NMFS responded to the ADOT&PF in an email dated February 14, 2017 that there were no EFH concerns.

**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 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  
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-2017-35, Turnagain Arm**, 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.