



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

KENAI FIELD OFFICE  
Regulatory Division (1145)  
CEPOA-RD  
44669 Sterling Highway, Suite B  
Soldotna, Alaska 99669-7915

<b>PUBLIC NOTICE DATE:</b>	<b>5 July 2018</b>
<b>EXPIRATION DATE:</b>	<b>20 July 2018</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2018-253</b>
<b>WATERWAY:</b>	<b>Sand Point Harbor</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.

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](mailto: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 Andy Mitzel at (907) 753-2689, by fax at (907) 420-0813, or by email at [andy.mitzel@usace.army.mil](mailto:andy.mitzel@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Alaska Department of Transportation and Public Facilities (AKDOT&PF)  
Attention: John Barnett  
6860 Glacier Highway  
Juneau, AK, 99811

**LOCATION:** The project site is located within Section 17, T. 56 S., R. 73 W., Seward Meridian; USGS Quad Map Port Moller B-2; Latitude 55.3318° N., Longitude 160.5041° W.; near Sand Point, Alaska.

**SPECIAL AREA DESIGNATION:** The project is located on the rubble mound breakwater that is part of the Robert E. Galovin Harbor US Army Corps of Engineers Civil Works Project.

**PURPOSE:** The applicant's stated purpose is to construct a new high-capacity marine dock facility, compliant with current seismic performance requirements and would provide additional upland area for safe passenger transfer and/or staging of cargo and materials.

PROPOSED WORK:

The proposed project would involve the discharge of 650 cubic yards (cy) of core rock fill, 200 cy class A armor, and 100 cy of class B armor into 0.03 acres below the high tide line (HTL, approximate elevation +9.5 feet above the 0.0 foot contour) and the discharge of 9,000 cy of core rock fill, 1,900 cy class A armor, and 1,600 cy of class B armor into 0.81 acres below the mean high water mark (MHW, approximate elevation +6.5 feet above the 0.0 foot contour) to construct a new pile supported dock adjacent to the southwest end of the existing dock and would be approximately 70-ft wide and 220-ft long.

The project would:

- Construct a pile supported dock, with fifty-eight 30" steel piles, a concrete deck, and concrete framing.
- Add a fender pile system, dock face beam, bull-rails and heavy duty bollards along the entire face of the new section of pier.
- Add a new dolphin and access catwalk to provide moorage for large vessels.
- Place new shot rock fill behind the structure to extend the existing breakwater and create additional uplands area for safe passenger staging and maneuvering of equipment.
- Install revetment rock to dissipate wave action at the pier face, to protect and stabilize the underlying new fill slopes.
- Refurbish existing adjacent dolphin and catwalk structure.

All work would be performed in accordance with the enclosed plan (sheets 1-6), dated April 9, 2018.

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 applicant has stated the following as methods to avoid impacts:

- Minimal project footprint by placing the project adjacent to the existing dock and impacting only those marine waters necessary to complete the work;
- To avoid harm to Essential Fish Habitat (EFH) species, the applicant has proposed actions that would reduce impacts to the species. These actions are discussed in the EFH portion of this public notice.
- To avoid harm to Stellar's eiders and northern sea otter, a marine wildlife observation area would be implemented during in-water work activities. If a designated species comes within the designated marine wildlife observation area, all in-water work would be halted immediately; work may resume when the animal moves outside the observation area on its own accord.
- To avoid harm to listed species under the jurisdiction of USFWS, DOT &PF would require the contractor to implement the following measures:
  - To minimize noise propagation, the steel pipe would be driven with a vibratory hammer, as practicable, except when an impact hammer is necessary.
  - To minimize disturbance and harm to listed and candidate species from pile driving noise, DOT &PF would also implement the following ramp-up procedures to allow animals to leave the area prior to full sound exposure:
  - For impact pile driving, provide an initial set of three strikes from the hammer followed by a 30-second waiting period; then two subsequent three-strike sets

- To minimize harm to protected species from accidental leaks and spills, the Contractor would develop a DOT &PF approved Hazardous Chemical Management Plan which would include provisions for on-site containment equipment (adsorbent booms) and personnel trained in their use.
- To avoid harm from potential non-acoustic impacts from project activities to listed species under the jurisdiction of NMFS, DOT&PF would implement the following measures:
  - All exposed project slopes and fills that are susceptible to erosion would be stabilized in accordance with the Project-specific Storm Water Pollution Prevention Plan (SWPPP) per standard specification Section 641.
  - If contaminated or hazardous materials are encountered during construction, all work in the vicinity of the contaminated site would be stopped until the Alaska Department of Environmental Conservation (ADEC) is contacted and a corrective action plan is approved by ADEC and implemented.
  - Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., would be checked regularly for drips or leaks, and would be maintained and stored properly to prevent spills.
  - Implementing shutdown measures if a marine mammal is detected within or approaching the 100 meter shutdown zone specified in the Incidental Harassment Authorization;
  - Shutting down if ESA-listed cetaceans approach relevant Level A take isopleths as identified in the Final Biological Opinion.

b. Minimization: The applicant has stated the following as methods to minimize impacts:

- The following measures would be incorporated to minimize noise impacts associated with pile installation:
  - Use of soft-start, delay, and shut-down procedures.
  - Establishing and monitoring Level B harassment zones for impact and vibratory driving as stated in the Final Biological Opinion.
  - For in-water heavy machinery work other than pile driving (e.g. standard barges, tug boats, barge mounted excavators), if a marine mammal comes within 10 meter, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.
- To minimize potential non-acoustic impacts from project activities to listed species under the jurisdiction of NMFS, DOT&PF would implement the following measures:
  - The Contractor would provide and maintain a spill clean-up kit on-site at all times, to be implemented as part of the SPCC Plan, as well as the HMCP and SWPPP, in the event of a spill or if any oil products are observed in the water.
  - Fill material would consist of rock fill that is free of fine sediments to the extent practical, to reduce suspended materials from entering the water column during tidal cycles. Fill material would also be free of invasive marine and terrestrial vegetation species.

c. Compensatory Mitigation: The applicant has stated the following regarding compensatory mitigation:

There would be a temporary loss of habitat, but based upon observations at the Sitka Rocky Gutierrez International Airport, which had adequate vegetation by year two, the rocky shore habitat would re-vegetate over time and there would be no net loss of habitat.

The applicant is not proposing any compensatory mitigation.

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 lead Federal agency, Federal Highway Administration (FHWA), is responsible for compliance with the requirements of Section 106 of the National Historic Preservation Act. The Corps has reviewed the Section 106 documentation from FHWA and concurs with their findings and/or determinations. In a letter dated June 29, 2016, the State Historic Preservation Officer provided a letter to the AKDOT&PF stating "No Historic Properties Affected".

ENDANGERED SPECIES: The project area is within the known or historic range of the US Fish and Wildlife Service (USFWS) listed species Steller's eiders (*Polysticta stelleri*) and short-tailed albatross (*Phoebastria albatrus*) habitat, and within designated Critical Habitat for northern sea otter (*Enhydra lutris kenyoni*).

The project is located in marine waters and within the known or historic range of the National Marine Fisheries Service (NMFS) listed species of the endangered western Distinct Population Segment (DPS) of the Steller sea lion (*Eumetopias jubatus*), Western North Pacific DPS of the humpback whale (*Megaptera novaeangliae*), Fin whale (*Balaenoptera physalus*), and the threatened Mexico DPS of the humpback whale (*Megaptera novaeangliae*). The project is also located within critical habitat of the western DPS of the Steller sea lion.

The lead Federal agency, FHWA, is responsible for compliance with the requirements of Section 7 of the Endangered Species Act. The FHWA has concluded consultations with both NMFS and USFWS regarding the listed species and the designated Critical Habitat.

The NMFS's biological opinion was issued on October 10, 2017 to the FHWA for the proposed city dock improvements in Sand Point, Alaska, and the Permits Division's issuance of an Incidental Harassment Authorization to FHWA/AKDOT&PF for the proposed project states that the action would not likely to jeopardize the continued existence of western DPS Steller sea lions, fin whales, western North Pacific DPS humpback whales, or Mexico DPS humpback whales, or destroy or adversely modify designated Steller sea lion critical habitat.

In a letter dated March 30, 2017, the USFWS concurred with the FHWA's determination that activities associated with the Sand Point City Dock Replacement may affect but are not likely to adversely affect listed species or 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 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, as well as yellowfin (*Limanda aspera*), rock (*Lepidopsetta bilineata*), and flathead (*Hippoglossoides elassodon*) sole, arrowtooth flounder (*Atheresthes stomias*), Pacific cod (*Gadus macrocephalus*), and walleye pollock (*Gadus chalcogrammus*).

FHWA and AKDOT has proposed the following minimization measures to minimize impacts to EFH during construction, and intends to implement the following measures:

- To minimize substrate disturbance and sediment suspension when removing piles, a vibratory hammer would be used, if practicable.
- To avoid harm to EFH species during pile driving, the steel piles would be driven with a vibratory hammer, as practicable, except for final proofing which would require use of an impact hammer.
- To avoid harm to EFH species during pile driving, pile driving activities would occur intermittently during daylight hours. This would ensure the noise disturbance would not act as a barrier to fish passage or change fish distribution, as migrating fish would be able to traverse the area without disturbance during nighttime hours.

The lead Federal agency, FHWA, is responsible for compliance with the requirements of Section 305(b)(2) of the Magnuson-Stevens Act. A permit for the described work will not be issued until the EFH process has been completed and the Corps concurs with Federal Highway Administration's work or documentation.

**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

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: [dec-401cert@alaska.gov](mailto:dec-401cert@alaska.gov)

## 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-2018-253, Sand Point 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 or via email to [dec-401cert@alaska.gov](mailto:dec-401cert@alaska.gov) 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 Theresa Zimmerman at 907-465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 within 30 days of publication of this notice to ensure that any necessary accommodations can be provided.

**File Number:** POA-2018-253  
**Waterway Name:** Sand Point Harbor

**APPLICANT:** Alaska Department of Transportation and Public Facilities (AKDOT&PF), Attn: John Barnett, 6860 Glacier Highway, Juneau, AK, 99811

**ADJACENT PROPERTY OWNERS:**

City of Sandpoint, PO Box 249, Sand Point, AK, 99661  
Alaska Marine Highway, 7559 N. Tongass Highway, Ketchikan, AK, 99901  
Trident Seafoods, 229 Main St., Sand Point, AK, 99661  
Alaska Department of Natural Resources (ADNR), 550 W. 7<sup>th</sup> Ave., Suite 1050A, Anchorage, AK

**MUNICIPAL OFFICIALS:**

City of Sandpoint Administrator, 3380 C Street, Suite 205, Anchorage, Alaska 99503  
Mayor, City of Sand Point, 249 Main Street, Sand Point, Alaska 99661-0249  
Postmaster, Sand Point, Alaska 99661-9998  
Administrator, Aleutians East Borough, P.O. Box 349, Sand Point, Alaska 99661-0349

**CONGRESSIONAL OFFICES:**

Representative Young Office - [catherine.petty@mail.house.gov](mailto:catherine.petty@mail.house.gov)  
Senator Sullivan Office – [carrie\\_keil@sullivan.senate.gov](mailto:carrie_keil@sullivan.senate.gov)  
Senator Murkowski Office – [services@murkowski.senate.gov](mailto:services@murkowski.senate.gov)

**FEDERALLY RECOGNIZED TRIBES:**

Pauloff Harbor Village, P.O. Box 97, Sand Point, AK, 99661 pauloff@arctic.net  
Qagan Tayagungin Tribe of Sand Point Village, P.O. Box 447, Sand Point, AK, 99661 qttadmin@arctic.net  
Unga Tribal Council, P.O. Box 508, Sand Point, AK, 99661 ungatribe@arctic.net

**MAILING LISTS USED:**

<u>List Used</u>	<u>Date of list used</u>	<u># on list</u>
<a href="#">Master list (Paper)</a> [Always use this list]	(Dated 7 Mar 2016)	4
<a href="#">Master list (email)</a> [Always use this list]		

**CHOOSE APPROPRIATE PAPER LIST(S) BELOW:**

Southwest (Dated 16 Jul 2014) 01

**CHOOSE APPROPRIATE EMAIL LIST(S) BELOW:**

PN Docks  
Waterways

**MEDIA:**

Associated Press (Alaska Bureau) [mthiessen@ap.org](mailto:mthiessen@ap.org)  
Bristol Bay Times/Dutch Harbor Fisherman [editor@reportalaska.com](mailto:editor@reportalaska.com)  
Bristol Bay Times/Dutch Harbor Fisherman (J. Paulin) [jpaulin@reportalaska.com](mailto:jpaulin@reportalaska.com)  
Bristol Bay Times/Dutch Harbor Fisherman/Arctic Sounder [crestino@reportalaska.com](mailto:crestino@reportalaska.com)  
Bristol Bay Times/Dutch Harbor Fisherman/Arctic Sounder [news@reportalaska.com](mailto:news@reportalaska.com)  
Alaska Public Radio Network (Anchorage) [news@alaskapublic.org](mailto:news@alaskapublic.org)  
KAKN (Bristol Bay) [kakn@kakn.org](mailto:kakn@kakn.org)  
KUCB Public Broadcasting (Unalaska) [news@kucb.org](mailto:news@kucb.org)  
KUCB-Public Broadcasting (Unalaska) [reporter@kucb.org](mailto:reporter@kucb.org)  
KYUK Public Broadcasting (Bethel) - Anna MacArthur [annarose@kyuk.org](mailto:annarose@kyuk.org)  
KUCB (Unalaska) [news@kucb.org](mailto:news@kucb.org)

**OTHER CONTACTS AS APPROPRIATE (see 33 CFR 325.3(d)(2)):**

NOAA, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
OFFICE OF COAST SURVEY, MARINE CHART DIVISION  
NAUTICAL DATA BRANCH, ATTN: JOHN WHIDDON  
N/CS261 ROOM 7220  
1315 EAST-WEST HIGHWAY  
SILVER SPRING, MD 20910