



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

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|----------------------------|---------------------------|
| <b>PUBLIC NOTICE DATE:</b> | <b>September 24, 2015</b> |
| <b>EXPIRATION DATE:</b>    | <b>October 23, 2015</b>   |
| <b>REFERENCE NUMBER:</b>   | <b>POA-2000-641-M4</b>    |
| <b>WATERWAY:</b>           | <b>Anchorage Bay</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 Michael Setering at (907) 753-2627 or by email at Michael.t.setering@usace.army.mil if further information is desired concerning this notice.

**APPLICANT:** Mr. Nathan Hill, Lake and Peninsula Borough, P.O. Box 495, King Salmon, Alaska 99613

**AGENT:** Ms. Jane Gendron, Alaska Department of Transportation & Public Facilities, P.O. Box 112506, Juneau, Alaska 99811

**LOCATION:** The project site is located within Section 8, Township 45 S., Range 58 W., Seward Meridian; USGS Quad Map AK-Chignik B-2; Latitude 56.2964° N., Longitude 158.3886° W.; Chignik, Alaska.

**PURPOSE:** The applicant's stated purpose is to construct a public dock facility in Chignik.

**PROPOSED WORK:** The applicant proposes to discharge 49,000 cubic yards (cy) of fill material, stockpiled gravel and riprap, into 1.6 acre of Anchorage Bay to facilitate construction of a 315 foot long sheetpile dock and associated facilities, including fender systems, mooring and breasting dolphins, catwalk, and staging and access areas. As provided by the applicant, proposed work includes:

- Remove and salvage the existing Class B armor rock along the existing fill area, where the proposed dock would be constructed;
- Construct a bulkhead dock structure by driving 935 sheet piles, backfilling with the existing material stockpiled on-site. Material would be stabilized using vibracompaction;
- Reconfiguration of salvaged Class B rock, addition of new Class A rock at Sections A, B and C, (refer to sheet 8 of 9). Section A includes placement of 800 cy of Class B rock and 1400 cy of Class A rock along two areas with a combined length of 230-ft and 40-50-ft width. Section B includes placement of 4900 cy of Class A rock within an area 520-ft in length and 40-50-ft in width. Section C includes placement of 1800 cy of Class A rock within an area 470-ft in length by 15-40-ft in width. At Sections B and C, additional Class B rock would be placed; however, this activity would occur above the high tide line, thus outside our regulatory jurisdiction;
- Install breasting dophin, mooring dolphin, linked with a catwalk. Each dophin would be supported by four 30-inch diameter steel piles, (install eight 30-inch steel piles);
- Install five fender systems along the dock face and one fender system on the breasting dolphin, each with two steel pin piles, (install twelve 30-inch diameter steel piles);
- All 30-inch diameter steel piles would be driven with a vibratory hammer, as practicable; an impact hammer would only be utilized if necessary.
- The applicant is requesting Special Condition 2C be removed from the original permit and from this modification, should the work be authorized. Special Condition 2C prohibits in-water work between July 30 and September 10, to protect returning salmon (adults). The applicant has indicated that all pile driving would occur during daytime hours to ensure a minimum 12 hour period of time (overnight) when fish may pass through the area, minimizing disturbance.

All work would be performed in accordance with the enclosed plan (sheets 1-9), dated July 2015, and August, 2015.

**BACKGROUND INFORMATION:** Department of the Army permit number POA-200-641 was issued to the City of Chignik (the City) on August 22, 2002, and authorized the following:

“Construct of a boat dock complex (to include boat haul-out slip/lift) by discharging approximately 175,000 cubic yards (approximately 125,000 cubic yards below the high tide line) of gravel fill and approximately 15,000 cubic yards of armor rock in 7.7 acres

of tidal waters. The dock will consist of 360 feet of sheet pile dock face, and approximately 30-pipe pile for dock face fenders and boat take-out facility.”

POA-2000-641 was modified on August 11, 2005, February 6, 2008, and September 19, 2011; each modification authorized a time extension to complete authorized activities. Thus far, the City has completed construction of the rock armoring and stockpiling of fill material in preparation for the public dock construction. The current time extension is set to expire on September 30, 2016.

In the spring of 2015, the City entered into an agreement with the Lake and Peninsula Borough (the Borough) concerning funding, ownership, operations and maintenance of the pending public dock facility. This agreement prompted a permit transfer, and on August 26, 2015, POA-200-641 was successfully transferred from the City to the Borough. By this application, the Borough is seeking modifications to the authorized public dock facility.

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 that impacts to waters of the United States cannot be avoided while meeting the project purpose.
- b. Minimization: The applicant has indicated that impacts to waters of the United States have been limited to the smallest area necessary for the proposed dock facility.
- c. Compensatory Mitigation: The applicant stated they are not proposing compensatory mitigation as it is not economically practicable.

WATER QUALITY CERTIFICATION: A permit for the described work would 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 listed or eligible properties in the vicinity of the worksite. Consultation of the AHRs constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. 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 or historic range of the Steller sea lion (*Eumetopias jubatus*), humpback whale (*Megaptera novaeangliae*), Steller's eider (*Polystripta stelleri*), short-tailed albatross (*Phoebastria albatrus*), and northern sea otter (*Emhydra lutris kenyoni*).

We have determined the described activity would have no effect on the short-tailed albatross under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service is required for that species. 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.

We have determined the described activity may affect the threatened northern sea otter and Steller's eider and the endangered Steller sea lion and humpback whale, and may affect northern sea otter critical habitat. We have initiated the appropriate consultation procedures under section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). 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 Alaska Plaice (*Pleuronectes quadrituberculatus*) Flathead Sole (*Hippoglossoides elassodon*), Pacific Cod (*Gadus macrocephalus*), Rock Sole (*Lepidopsetta bilineata*), Walleye Pollock (*Theragra chalcogramma*), Arrowtooth Flounder (*Atheresthes stomias*), Squid (*Architeuthis spp.*), Sculpin (*Cottoidea superfamily*), Skate (*Amblyraja hyperborean*), Chum salmon (*Oncorhynchus keta*), Pink salmon (*Oncorhynchus gorbuscha*), Coho salmon (*Oncorhynchus kisutch*), Sockeye salmon (*Oncorhynchus nerka*), and Chinook salmon (*Oncorhynchus tshawytscha*).

We have determined the described activity may adversely affect EFH in the project area for the following species Chum salmon (*Oncorhynchus keta*), Pink salmon (*Oncorhynchus gorbuscha*), Coho salmon (*Oncorhynchus kisutch*), Sockeye salmon (*Oncorhynchus nerka*), and Chinook salmon (*Oncorhynchus tshawytscha*). The proposed placement of fill and in-water work may result in injury or mortality to juvenile salmonids and adults of said species. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH, and the applicant-proposed removal of Special Condition 2C from the original permit and this modification, 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

## **ANCHORAGE**

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-2000-641-M4, Anchorage 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.