



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

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

<b>PUBLIC NOTICE DATE:</b>	<b>July 31, 2015</b>
<b>EXPIRATION DATE:</b>	<b>August 31, 2015</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2015-306</b>
<b>WATERWAY:</b>	<b>Iliuliuk 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 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:** City of Unalaska, Director of Public Works, PO Box 610, Unalaska, AK 99685

**AGENT:** Regan Engineering, PO Box 889, Camas, WA 98607

**LOCATION:** The project site is located within Section 10, T. 73 S., R. 118 W., Seward Meridian; USGS Quad Map Unalaska C-2; Latitude 53.8751° N., Longitude 166.545259° W.; near Airport Beach Rd., in Unalaska, Alaska.

**PURPOSE:** The applicant's stated purpose is to provide recreational access to the east side of Iliuliuk Bay and access to a historical site used for the manufacture of salt.

**PROPOSED WORK:** The applicant is proposing to permanently discharge 4,500 cubic yards (cy) of clean shot rock fill, varying in size from gravel to 2' boulders into 0.9 acres of waters of the U.S., below the high tide line (HTL, approximate elevation +4.7 foot above 0.0 foot elevation) and mean high water mark (MHW, approximate elevation +3.3 foot above 0.0 foot elevation) of Iliuliuk Bay, a navigable water of the U.S., to construct of a 900' long pedestrian trail along the waterfront to access the old Saltery buildings from an existing parking area. The path would have a 10' wide usable area for pedestrians, once constructed.

In addition to the material discharged below the HTL and MHW, an additional 6,200 cy of shot rock material would be used to raise the elevation +10 foot above 0.0 foot elevation to prevent over topping of the trail during storm events.

All work would be performed in accordance with the enclosed plan (sheets 1-2), dated April 20, 2015.

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 physical topography limits options for routing and site selection. There is essentially no other way to access the Saltery buildings by land. The upland slopes would be left undisturbed, minimizing erosion and sediment loading into the bay.

b. Minimization: The fill section width is the minimum required to allow construction using heavy equipment. Armor stone on the face of the fill would be placed with an excavator bucket with thumb attachment. This helps interlock the rock and prevents materials from spilling into adjacent tidelands.

c. Compensatory Mitigation: The applicant has stated that compensatory mitigation is not appropriate or practical for this project. The project provides trail access to areas that are otherwise marginally accessible. The trail makes the waterfront area accessible independent of the tidal stage. The trail would enhance as opposed to negatively impact surrounding waters.

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 (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 registered or eligible properties in the vicinity of the worksite. The sites have been designated **UNL-00120** and **UNL-00390**. Because it has been determined that site UNL-0390, is outside of the project area, no further action is required. Additionally it has been determined that site UNL-00120, includes the project area and it is a designated National Historic Landmark. The Corps has determined that the project, as proposed, would have no effect. This project is being coordinated with the State Historic Preservation Officer (SHPO) and the National Park Service will also be consulted. Consultation of the AHRs constitutes the extent of cultural resource investigations by the District Commander at this time. 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 northern sea otter (*Enhydra lutris kenyom*) and their designated critical habitat, Steller's eider (*Polysticta steller*), Short-Tailed albatross (*Phoebastria (=diomedea) albatrus*), Steller sea lion (*Eumetopias jubatus*) and their designated critical habitat, blue whale (*Balaenoptera musculus*), humpback whale (*Megaptera novaeangliae*), North Pacific right whale (*Eubalaena japonica*) and sperm whale (*Physeter macrocephalus*).

We have determined the described activity would have no effect on the listed species under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service or National Marine Fisheries Service is required for those 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.

**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 weathervane scallop (*Patinopecten caurinus*), chum salmon (*Oncorhynchus keta*), pink salmon (*O. gorbuscha*), coho salmon (*O. kisutch*), sockeye salmon (*O. nerka*), and Chinook salmon (*O. tshawytscha*).

We have determined the described activity would not adversely affect EFH in the project area.

**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).

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-2015-306, Iliuliuk 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.