



US Army Corps
of Engineers
Alaska District

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

Public Notice of Application for Permit

PUBLIC NOTICE DATE:	April 15, 2015
EXPIRATION DATE:	May 14, 2015
REFERENCE NUMBER:	POA-2015-197
WATERWAY:	Portage Cove

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: Greg Schlachter, Front Street LLC, PO Box 1129, Haines, AK 99827.

LOCATION: The project site is located within Section 35, T. 30 S., R. 59 E., Copper River Meridian; USGS Quad Map Skagway A-2; Latitude 59.236° N., Longitude 135.440° W.; Haines Townsite, Block 21; 4 Front Street, in Haines, Alaska.

PURPOSE: The applicant's stated purpose is to provide safe and efficient movement of marine vessels from the Haines Harbor for storage, maintenance, and repair, including commercial and retail space.

PROPOSED WORK: The applicant requests authorization for the following work:

Discharge approximately 25,030 cubic yards of gravelly sand with silt and 2,600 cubic yards of riprap/armor rock (dredged and/or fill material) into approximately 1.16 acres of waters of the United States below the plane of the high tide line (approximate elevation +21.2 feet above the 0.0 foot contour) and mean high water mark (approximate elevation +15.8 feet above the 0.0 foot contour) to construct a marine repair and boat storage facility, office and retail space, recreational vehicle park, and restaurant/bar.

All work would be performed in accordance with the enclosed plan (sheets 1-6), dated March 2015.

ADDITIONAL INFORMATION: The fill material for the proposed work described in this public notice may be sourced from dredging of the proposed South Portage Cove Harbor expansion or an alternate source. The alternate source for fill and rip-rap would be the existing 4.6 Mile, Haines Highway quarry.

PND Engineers, Inc. on behalf of the Haines Borough submitted to the U.S. Army Corps of Engineers, Alaska District (Corps) a sediment characterization and analysis report dated January 2015, for a proposal to expand the existing Haines Borough, South Portage Cove Harbor. The proposed project would involve dredging approximately 6.28 acres in navigable waters of the United States encompassing the harbor area, including proposed open water discharge of approximately 120,648 cubic yards of dredged material. This sediment characterization study was performed under a sediment sampling plan approved on June 18, 2015, by the Corps. Based on the results of the report, none of the samples exceeded the screening levels for the chemicals of concern in the approved sampling and analysis plan. The Corps has determined that material dredged from the South Portage Cove Harbor appears to be suitable for in-water disposal, provided all other regulatory requirements to offset impacts to the aquatic environment are satisfied.

In order to proceed with the proposed work the applicant is required to obtain a Haines Borough Land 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: “Front Street LLC is not able to entirely avoid impacts to waters of the United States.”

b. Minimization: “The following measures will be incorporated into the proposed project:

- Removal of the existing marine repair facility along with engineered enhancements to site will improve rainwater drainage along with the addition of contaminant containment systems.
- Erosion of the core fill (dredged material), will be mitigated by constructing a berm which will be placed around the perimeter of the core fill. The berm will be constructed using class I riprap as the inner lens with class III riprap as the outer lens (a total of 4 ft thick). This rock will contain the material from escaping the fill area. Depending upon the material encountered, if additional protection is necessary with use of a riprap liner, it will be provided/installed. A riprap liner will be available and on-site during construction.
- Armor rock, used in the rubble mound, has been known to improve marine habitat and will be the preferred alternative over concrete blocks or sheet pile construction.

- Work in waters of the US will be conducted in accordance with the terms and conditions of the Corps of Engineers permit.
- Placement of armor rock and fill will occur during lower tidal cycles to avoid or minimize in-water work. Armor rock used for the authorized work will be clean, free from pollution in toxic amounts. Armor rock will be free of fine sediments to the extent practicable, to reduce suspended material from entering the water column during tidal cycles.
- A Hazardous Materials Control plan (HCMP) for handling, storage, cleanup, and disposal of petroleum products and hazardous materials needed for the project. Front Street will provide and maintain a hazardous waste clean-up kit on-site at all times.
- Front Street will be required to prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) prior to any construction activities in accordance with standard DOT&PF design and construction requirements. The SWPPP will incorporate Best Management Practices (BMPs) to prevent erosion and control sediment release to water.”

c. Compensatory Mitigation: “The 1.16 acres that will be filled for this project have an unvegetated sand and cobble bottom. The riprap used in the armor rock provides a medium for marine vegetation to grow, and interstitial spaces for migrating salmonids, thus creating 0.36 acres of high value marine habitat.

Front Street LLC proposes the following compensation for the loss of 1.16 acres of low-moderate value intertidal habitat:

- Provide Alaska Chilkat Bald Eagle Preserve with 3.25 acres of the Porcupine Point Pond (26 Mile, Haines Highway), the entirety of the portion privately owned, for restoration as wetlands. If they are unwilling to take the property, land owner will place a deed restriction specifying the sole use for preservation & restoration of the property.
- Provide Alaska Chilkat Bald Eagle Preserve with adjacent privately-owned, delineated high value wetland, which we estimate to be 1-1.5 acres and will conduct an official Army Corps approved wetland delineation as soon as conditions allows in the Spring.
- Use riprap for the rubble mound as opposed to concrete block construction or sheet pile construction.

In discussions with Takshanuk Watershed Council and Southeast Alaska Watershed Coalition, the Porcupine Pond has been deemed a high quality restoration project, as well a priority for both councils. Although the Haines region does not have a watershed assessment, this restoration project is considered a watershed priority.

Intertidal areas in need of restoration are challenging to find in the Haines area, this is why we’ve proposed upland wetlands for our 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 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 Humpback whale (*Megaptera novaeangliae*) and Western Distinct Population Segment of Steller sea lions (*Eumetopias jubatus*).

We have determined the described activity would have no effect on the Humpback whale or Western Distinct Population Segment of Steller sea lions, and would have no effect on any designated or proposed critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service is required. 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 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 the following species chum (*Oncorhynchus keta*), coho (*Oncorhynchus kisutch*), pink (*Oncorhynchus gorbuscha*), and sockeye (*Oncorhynchus nerka*) salmon. The proposed project location is nearshore shallow water habitat primarily used by adult and juvenile salmon migration, as these waters provide refuge from predators and opportunity to rest. The proposed project would involve filling activities, which may increase the potential for injury or mortality to salmon from elevation of suspended particulates within the water column and/or loss of 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).

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-2015-197, Portage Cove**, 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.