



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

PUBLIC NOTICE DATE:	18 December 2023
EXPIRATION DATE:	03 January 2024
REFERENCE NUMBER:	POA-2023-00458
WATERWAY:	Zimovia Strait

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. 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 Jennifer Mercer at (907) 753-2779, or by email at Jennifer.A.Mercer@usace.army.mil if further information is desired concerning this public notice.

APPLICANT: Mason Villarma, 223 Stikine Avenue, Wrangell, AK 99929

AGENT: Tyler Riberio, Tydi Creek Environmental, P.O. Box 2105, Wrangell, AK 99929

LOCATION: The project site is located within Section 24, T. 62 S., R. 83 E., Copper River Meridian; USGS Quad Map Petersburg B-2 NE; 56.473242° N., 132.389871 X° W.; 223 Stikine Avenue in Wrangell, Alaska.

PURPOSE: The applicant's stated purpose is to protect a residential property from wave action while also providing the applicant with additional usable area within their privately-owned tidelands.

PROPOSED WORK: The applicant proposes to discharge no more than 450 cubic yards of riprap and shotrock into 0.04 acre below the high tide line (HTL, approximately 19.7 feet above the 0.0-foot contour) and mean high water mark (MHW, approximately 15.1 feet above the 0.0-foot contour) of Zimovia Strait, a navigable water of the United States (WOTUS), for the purpose of constructing a rock wall and fill pad for erosion control. The proposed seawall would extend 29 feet seaward of the existing structure. Fill would be placed 8.19 feet below the HTL for 44 linear feet along the length of the treated bank. Work is proposed to take place during the winter of 2023-2024. All work would be performed in accordance with the attached project plans, sheets 1 – 4, dated September 2023.

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 states that avoidance is not possible because to achieve the project purpose, the proposed fill area must be located along the existing residential structure.

b. Minimization: The applicant states that work would be completed in dewatered conditions, as practicable, to limit sedimentation of marine waters.

c. Compensatory Mitigation: The applicant proposes no 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. According to AHRs, there are no cultural resources in the permit area or within the vicinity of the permit area. The permit area has been determined to be the footprint of the proposed project within WOTUS. Consultation of the AHRs constitutes the extent of cultural resource investigations by the U.S. Army Corps of Engineers (Corps) at this time, and we are otherwise unaware of the presence of such resources. The Corps has made a No Historic Properties Affected (No Effect) determination for the proposed project. The State Historic Preservation Office (SHPO) concurred with this determination on November 22, 2023. This application is being coordinated with the SHPO, Federally recognized Tribes, and other consulting parties. Any comments SHPO, Federally recognized Tribes, and other consulting parties 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 short-tailed albatross (*Phoebastria albatrus*), humpback whale (*Megaptera novaeangliae*) Western

North Pacific distinct population segment (DPS), and the Steller sea lion (*Eumetopias jubatus*). The proposed activity is also within the known range of the sunflower sea star (*Pycnopodia helianthoides*), which the National Marine Fisheries Service (NMFS) has proposed for listing on March 16, 2023, under the ESA as a threatened species (88 FR 16212). The Corps has determined that the proposed project would have no effect to the short-tailed albatross as it is a pelagic species and would not utilize the action area. No sunflower sea stars are located in the project area or its vicinity, and the proposed work would take place before the species is potentially listed. The humpback whale and Steller sea lion are likely to occur within the vicinity of the project; however, there are no activities proposed that would introduce sound into the water column, and effects to these species would be avoided entirely by working when the site is dewatered.

We have determined the described activity would have no effect on any listed or proposed threatened or endangered species 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 (NMFS) 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 (Magnuson-Stevens 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 mapped EFH for pink salmon (*Oncorhynchus gorbuscha*), chum salmon (*Oncorhynchus keta*), sockeye salmon (*Oncorhynchus nerka*), Chinook salmon (*Oncorhynchus tshawytscha*), and coho salmon (*Oncorhynchus kisutch*). The project area consists almost exclusively of bedrock. There are no submerged aquatic plant communities, including eelgrass beds, that could act as EFH. Therefore, we have determined the described activity would not adversely affect EFH in the project area.

TRIBAL CONSULTATION: The Corps 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 Corps, 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 rights or resources. Consultation may be initiated by the affected Tribe upon written request to the District Commander. If applicable this application will be coordinated with federally recognized tribes and other consulting parties. Any comments federal recognized tribes and other consulting parties may have concerning presently unknown archeological or historic data that may be lost or destroyed by the work under the requested permit will be considered in the Corps final assessment of the described work.

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:

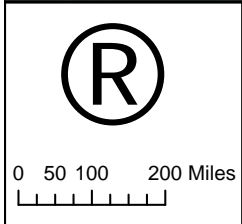
(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(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 are enclosed with this public notice.

District Commander
U.S. Army, Corps

Enclosures



Villarma Erosion Protection
USACE Permit Application

Figure 1: Vicinity Map

September 2023

