

US Army Corps of Engineers Alaska District

ANCHORAGE Regulatory Division (1145) CEPOA-RD Post Office Box 6898 JBER, Alaska 99506-0898

Public Notice of Application for Permit

| PUBLIC NOTICE DATE: | December 5, 2024 |
|---------------------|------------------|
| EXPIRATION DATE: | January 4, 2025 |
| REFERENCE NUMBER: | POA-2024-00594 |
| WATERWAY: | Klawock Inlet |

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 Olivia Ortiz at (907) 753-2586, toll free from within Alaska at (800) 478-2712, or by email at Olivia.K.Ortiz@usace.army.mil if further information is desired concerning this public notice.

<u>APPLICANT</u>: Robert Anderson P.O. Box 135 Klawock, AK 99925 <u>bobandersonfire@gmail.com</u> Residence: (206) 910-7702

<u>AGENT</u>: Trevor Sande & Ian Owens R&M Engineering-Ketchikan, Inc 7180 Revilla Road, Suite 300 Ketchikan, AK 99901 <u>trevorsande@rmketchikan.com</u>; <u>Ian@rmketchikan.com</u> Business: (907) 225-7917 <u>LOCATION</u>: The project site is located within Section 5, T. 74 S., R. 81 E., Copper River Meridian; Latitude 55.4781° N., Longitude 133.1448° W.; in Craig, Alaska.

<u>PURPOSE</u>: The applicant's stated purpose is to construct a two-finger boat dock to accommodate up to three (3) vessels.

<u>PROPOSED WORK</u>: The project would consist of installing a new boat dock to accommodate three (3) vessels. Construction would include a 60-foot aluminum gangway with a 15 cubic yard concrete abutment, 750 square feet of wood float, five (5) new 12-inch diameter steel piles, 2,000 cubic yards of dredging, 170 cubic yards of stacked rock wall, and 150 cubic yards of rip rap armor rock. The dredging would be limited to -8 mean lower low water (MLLW) and consist of beach gravel. A track mounted hydraulic excavator would load the dredged material into a 10-yard dump truck, where the material would be transported to the Shaan Seet 62 pit waste site on Port St. Nicholas Road approximately two (2) miles from the project location. An 80-lineal foot stacked rock wall and 40-linear foot rip rap armored slope would be constructed on the east side of the site to provide erosion protection. A crane/spud barge would be used for the pile driving. Piles would be started with an ICE 216B vibratory hammer with a maximum vibrations per minute (VPM) of 1,750 and 50 tons of driving force. If embedment is not achieved, an ICEI-19 impact hammer with 200 tons of driving force would be utilized to finish installation. All work would be performed in accordance with the enclosed plan (sheets 1-5), dated October 27, 2024.

<u>ADDITIONAL INFORMATION</u>: The applicant has contacted the City of Craig and the Alaska Department of Environmental Conservation to inquire about other potential permit requirements.

<u>APPLICANT PROPOSED MITIGATION</u>: 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 avoidance is not possible since this project involves construction of a residential boat dock in U.S. waters. Dredging is required to allow approach and access of ocean vessels utilizing the dock. Fill is the minimal amount required to retain the bank of the excavated material for stability. The dock is sized and positioned to minimize the impact on waterways and the adjacent Craig Harbor.

b. Minimization: The applicant states the site is the minimum to plan and is sized to be the minimum practicable to serve the proposed dock. To minimize impacts to wetlands and waterways during development of the site, an extensive stormwater pollution and prevention plan (SWPPP) would be in place. The contractor performing the site work must apply permanent and temporary soil stabilization and erosion controls, including but not limited to: maintaining control areas for entering and exiting the site with equipment and trucks, developing silt fences, sediment control ponds and ditching, and reseeding/revegetating disturbed areas not slated for further development. The marine contractor would utilize a crane/spud barge for the marine work. Piles would be started with a vibratory hammer. If embedment is not achieved, an impact hammer would be utilized to finish installation. Turbidity is negligible using these methods.

c. Compensatory Mitigation: The applicant states no compensatory mitigation is proposed for this project because wetlands would be created.

<u>WATER QUALITY CERTIFICATION</u>: 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. A prefiling meeting request was submitted with the Alaska Department of Environmental Conservation on November 12, 2024.

<u>CULTURAL RESOURCES</u>: 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 known 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 project within jurisdictional waters of the U.S. (WOTUS) under the Corps authority. 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. This application is being coordinated with the State Historic Preservation Office (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. The Corps is requesting the SHPO's concurrence with this determination.

<u>ENDANGERED SPECIES</u>: The project area is within the known or historic range of the Mexico Distinct Population Segment (DPS) humpback whale (*Megaptera novaeangliae*), and the proposed sunflower sea star (*Pycnopodia helianthoides*).

We have determined the described activity may affect the Mexico DPS humpback whale and the proposed sunflower sea star. We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service or 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.

<u>ESSENTIAL FISH HABITAT</u>: 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*), Chinook salmon (*Oncorhynchus tshawytscha*), sockeye salmon (*Oncorhynchus nerka*), chum salmon (*Oncorhynchus keta*), and coho salmon (*Oncorhynchus kisutch*).

We have determined the described activity may adversely affect EFH in the project area for the species listed above.

Pile driving may affect prey species by generating intense underwater sound pressure waves. The sound waves impact bottom-living fish and invertebrates, as well as fish with swim bladders more than those in the water column and without gas-filled cavities. Pile driving noise can disrupt fish schooling behavior and their ability to coordinate movements with each other (Limpinsel et al. 2023).

The placement of fill has the following impacts: reduces the production of detritus, an important food source for aquatic invertebrate (e.g., shredders); alters the uptake and release of nutrients to and from adjacent aquatic and terrestrial systems; reduces wetland vegetation, an important source of food for fish and invertebrates; hinders physiological processes in aquatic organisms (e.g., photosynthesis, respiration) because if degraded water quality and increased turbidity and sedimentation; alters hydrological dynamics, including flood control and groundwater recharge; reduces filtration and absorption of pollutants from uplands; and alters nitrogen and oxygen cycles (Limpinsel et al. 2023).

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.

<u>TRIBAL CONSULTATION</u>: The Corps fully supports tribal self-governance and government-togovernment 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. 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.

<u>PUBLIC HEARING</u>: 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.

<u>AUTHORITY</u>: 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 of Engineers

Enclosures









