



US Army Corps
of Engineers
Alaska District

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

Public Notice of Application for Permit

PUBLIC NOTICE DATE:	Jun 13, 2024
EXPIRATION DATE:	Jun 28, 2024
REFERENCE NUMBER:	POA-1971-00039
WATERWAY:	St. Paul Harbor

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 or submitted via email to jennifer.a.mercer@usace.army.mil 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: Mr. Glenn Melvin, City of Kodiak, 2410 Mill Bay Road, Kodiak AK 99615

AGENT: Chris Lynch, Kodiak Construction Services, 104 Center Avenue, Suite 100B, Kodiak AK 99615

LOCATION: The project site is located within Section 31, T. 27 S., R. 19 W., Seward Meridian; USGS Quad Map Kodiak D-2 SE; Latitude 57.7877° N., Longitude 152.4123° W.; St. Paul Harbor, Kodiak, Alaska.

PURPOSE: The applicant's stated purpose is to improve pedestrian facilities along Shelikof Street and to reduce pedestrian/vehicle conflicts by constructing a parking area.

PROPOSED WORK: The applicant proposes to dredge up to 310.8 cubic yards of poorly graded gravel (7-10% silt and sand) and riprap from 0.29 acres below the mean high water mark (MHW, 7.6 feet above the 0.0 foot contour) of St. Paul Harbor, a navigable water of the United States (U.S.). In addition, 3,410 cubic yards of silts, sands, gravels, and riprap would be discharged into 0.27 acres below the high tide line (HTL, 10.7 feet above the 0.0-foot contour) of St. Paul Harbor in order to construct a solid fill bulkhead to support a parking lot.

The solid fill portion of the dock would be constructed in lifts by wrapping rock and dredged material in geotextile fabric. The face of the geotextile wrapped fill would be protected by a timber bulkhead wall. The timber bulkhead wall would be installed through excavation rather than pile driving. The foot of the bulkhead would be protected with dredged rip rap, supplemented with new riprap. The dredging would be conducted using an excavator positioned on the shore. The excavation for setting the vertical members of the timber bulkhead would be conducted using hand tools or using an excavator. All excavation and fill activities would occur while the tide is out and the area is dewatered.

All work would be performed in accordance with the enclosed plan (sheet 1, dated June 20, 2016 and sheets 2-3, dated October 7, 2016).

ADDITIONAL INFORMATION: This project represents the 10th modification of the original permit. The original permit, issued in 1971, authorized the construction of a rock breakwater. Subsequent modifications authorized the construction of a dock and floats; dredging; float extensions and replacement; and boat grid installation, removal, maintenance, and replacement.

A permit for the described activities was issued February 22, 2017 and expired on February 28, 2022. The project was not completed during this time frame. A time extension request was received after the expiration of the permit; however, there have been no changes to the proposed work from the original authorization.

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, because the project is located in downtown Kodiak, there are no reasonable alternatives that would meet the purpose and need of the project.

b. Minimization: The applicant reduced the proposed footprint of fill from 0.39 acres to 0.27 acres through design changes. Additional minimization was achieved by reducing the slopes of the rip rap embankment to 2:1.

c. Compensatory Mitigation: The applicant states that the proposed project would fill an already disturbed slope consisting of rip rap. The adverse effects of the project area would be considered minimal as the project is located in a heavily used boat harbor and would result in no tangible negative effects on marine habitat, existing floodplain, or the aquatic environment.

The applicant states that the adverse effects of the proposed project would be minimal and no compensatory mitigation is necessary.

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 permit area has been determined to be the entire footprint of the proposed project, including the areas that would lie in uplands. 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 permit area or within the vicinity of the permit area. 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 ground in the permit area has been disturbed by the construction of the existing roadway, construction and removal of a boat grid, construction of the existing harbor facilities, and bank stabilization activities. Therefore, the Corps has determined that the proposed project would have No Potential to Cause Effects to historic properties because the proposed project area was created in modern times and has been extensively disturbed and modified. Consultation with the State Historic Preservation Office (SHPO), Federally recognized Tribes, and other consulting parties is not required. However, 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*), northern sea otter (*Enhydra lutris kenyoni*) and their designated Critical Habitat, Steller's eider (*Polysticta stelleri*), the Mexico distinct population segment (DPS) and Western North Pacific DPS of humpback whale (*Megaptera novaeangliae*) and their designated Critical Habitat, the fin whale (*Balaenoptera physalus*), the north Pacific right whale (*Eubalaena japonica*), and the and the Western DPS Steller sea lion (*Eumetopias jubatus*). The proposed activity is 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 proposed activity would be conducted 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 the Pacific cod (*Gadus macrocephalus*), Dover sole (*Microstomus pacificus*), northern rock sole (*Lepidopsetta polyxystra*), southern rock sole (*Lepidopsetta bilineata*), yellowfin sole (*Limanda aspera*), rex sole (*Glyptocephalus zachirus*), flathead sole (*Hippoglossoides elassodon*), arrowtooth flounder (*Atheresthes stomias*), sablefish (*Anoplopoma fimbria*), rougheye rockfish (*Sebastes aleutianus*), northern rockfish (*Sebastes polyspinis*), yelloweye rockfish (*Sebastes ruberrimus*), pink salmon (*Oncorhynchus gorbuscha*), chum salmon (*Oncorhynchus keta*), sockeye salmon (*Oncorhynchus nerka*), Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), Alaska skate (*Rajidae*), and Alaska plaice (*Pleuronectes quadrituberculatus*).

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. This application is being 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:

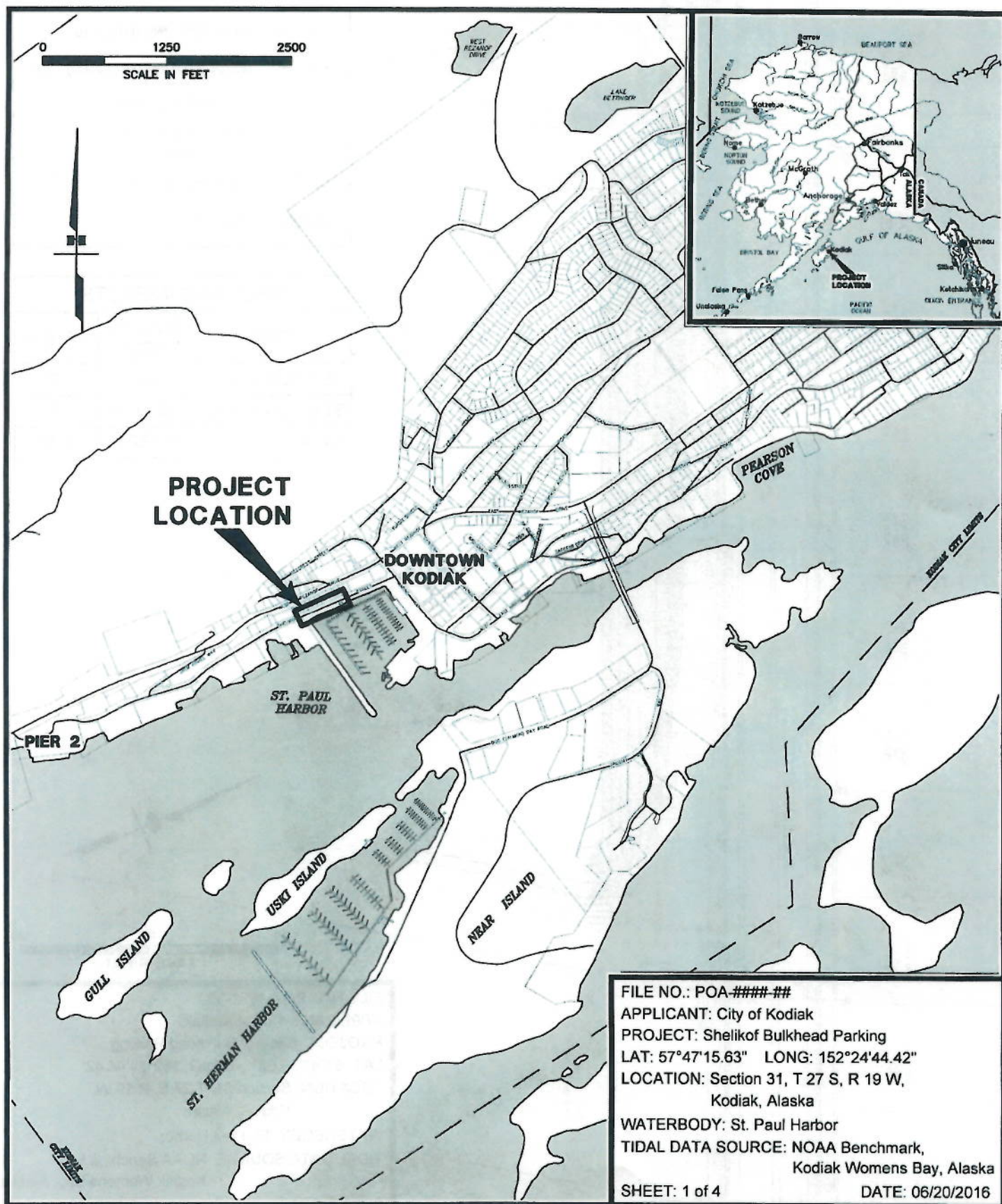
(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

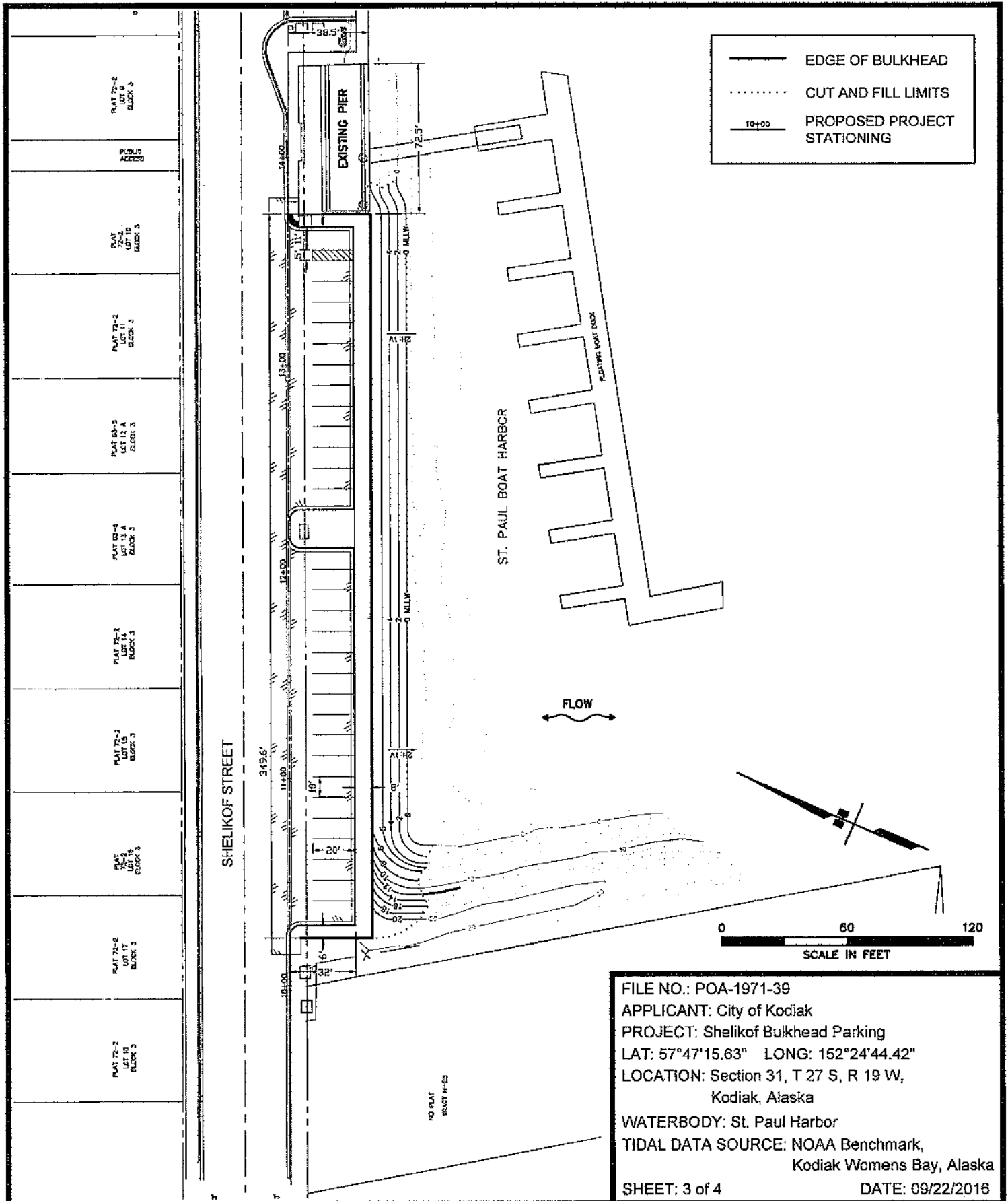
(X) Discharge dredged or fill material into waters of the United States – Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

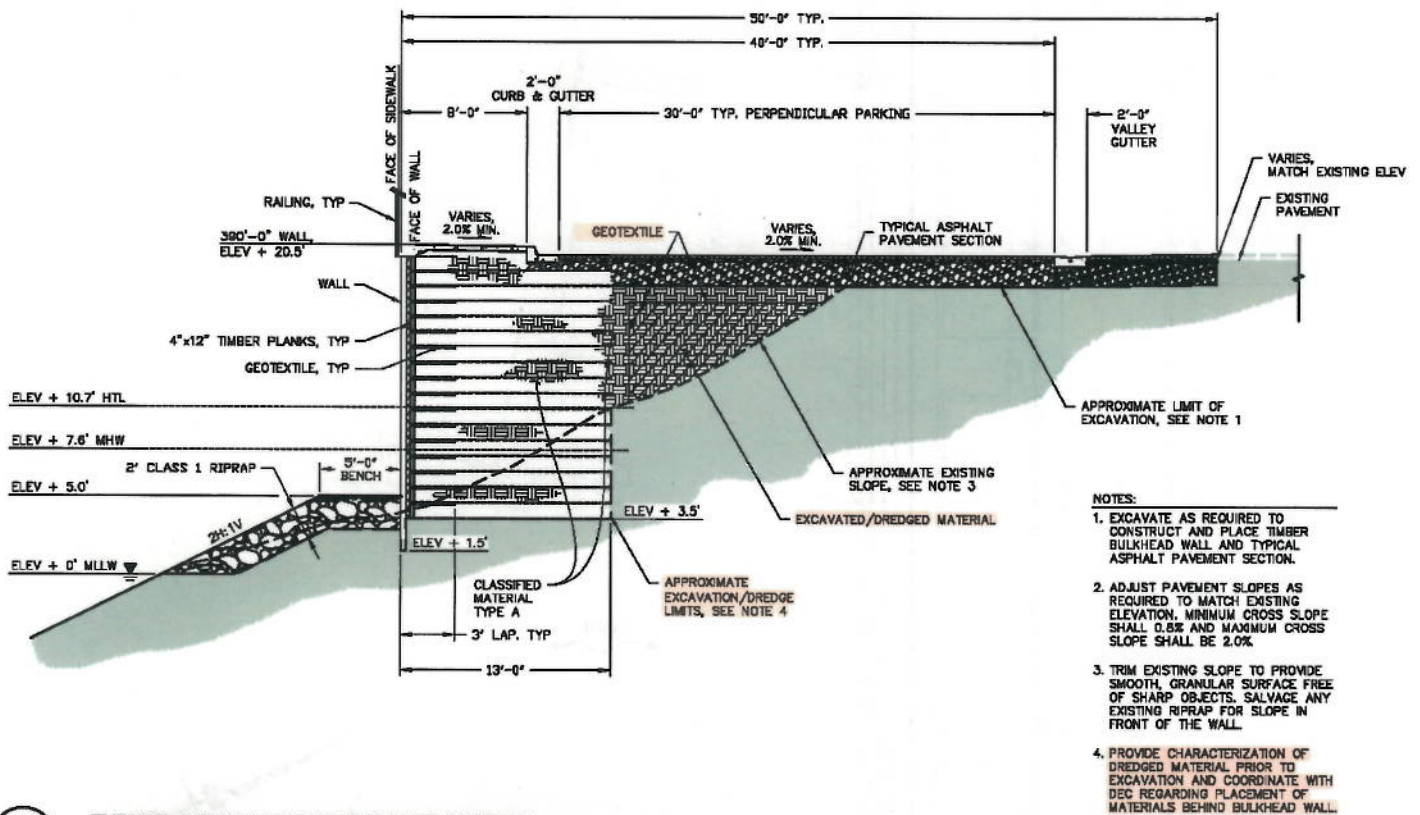
Project drawings are enclosed with this public notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures







1 TYPICAL BULKHEAD PARKING AREA SECTION
4 NTS STATION 10+15.00 TO STATION 13+80.58

FILE NO.: POA-1971-39
APPLICANT: City of Kodiak
PROJECT: Shellkof Bulkhead Parking
LAT: 57°47'15.63" LONG: 152°24'44.42"
LOCATION: Section 31, T 27 S, R 19 W,
Kodiak, Alaska
WATERBODY: St. Paul Harbor
TIDAL DATA SOURCE: NOAA Benchmark,
Kodiak Womens Bay, Alaska
SHEET: 4 of 4
DATE: 10/07/2016