



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD
805 Frontage Road, Suite 200C
Kenai, Alaska 99611-7755

PUBLIC NOTICE DATE: July 9, 2012
EXPIRATION DATE: August 9, 2012
REFERENCE NUMBER: POA-1977-141-M7
WATERWAY: Cook 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.

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 **Katherine A. McCafferty** at (907) 283-3519, by fax at (907) 283-3981, or by email at **Katherine.a.mccafferty2@usace.army.mil** if further information is desired concerning this notice.

APPLICANT: Mr. Joey Willis, Offshore Systems, Kenai, 12019 76th Place NE, Kirkland, WA 98034, (425)828-6434.

AGENT: Ms. Robin Reich, Solstice Alaska Consulting, Inc., 2607 Fairbanks Street, Suite B, Anchorage, AK 99503, (907)929-5960.

LOCATION: The project site is located within NW $\frac{1}{4}$, Section 36, T. 8 N., R. 12 W., Seward Meridian; USGS Quad Map Kenai C-4; Latitude 60.742950° N., Longitude 151.311736° W.; Alaska Tidelands Survey 647 and 384 West 1178.94 feet thereof; Kenai Peninsula Borough parcel numbers 012-020-12 and 012-020-13; Nikiski, Alaska.

PURPOSE: The applicant's stated purpose is to increase safety and efficiency at the Offshore Systems, Kenai (OSK) dock by increasing dock area and by dredging along the outside of the dock.

PROPOSED WORK: The applicant would dredge 15,000 cubic yards of material from 2.2 acres below the mean high water mark (MHWM, 19.7 feet elevation) of the Cook Inlet to a depth of -12 feet mean low low water (MLLW, 0 feet elevation) and discharge 15,000 cubic yards of dredged material and an additional 82,000 cubic yards of sand and gravel into 2.5 acres below the high tide line (HTL, 26.3 feet elevation) of the Cook Inlet. As part of the proposed project, 817 linear feet of sheet pile would be installed to expand the northeastern side of the dock, and 274 linear feet

of sheet pile would be installed to expand the northwestern side of the dock, for a total of 1,091 linear feet of new sheet pile. The existing 396 foot wide by 600 foot long sheet pile and solid fill dock would be expanded to a maximum width of 805 feet. The length of the dock would not be increased.

Sheet piles would be driven with a vibratory hammer. In the event of encountering an isolated obstruction, an impact hammer would be used. The impact hammer would be used for no more than five hours.

All work would occur between August 16 and November 1, 2012.

All work would be performed in accordance with the enclosed plan (sheets 1-4), dated June 1, 2012.

ADDITIONAL INFORMATION:

Driving of the 1,091 linear feet of sheet pile would take up to six weeks, working up to five hours per day.

Dredging would take up to six weeks, working up to 10 hours per day. Dredging would be accomplished with a 4.5 cubic yard clam bucket. The dredged material would not be stockpiled before being placed behind the proposed sheet pile.

Most of the dredging and a portion of the sheet pile driving would occur using a crane on the existing dock. Up to four days of the dredging and a portion of the sheet pile driving would occur using either a 180 foot by 50 foot crane barge or a 230 foot by 60 foot material barge.

The additional 82,000 cubic yards of material would come from an existing material site in Kenai, Alaska.

Ten previous authorizations have been issued for the subject site. Permit POA-1961-24, issued on April 25, 1961, authorized James Arness to construct a 320 foot wide by 150 foot long solid fill dock. In March 21, 1966, the permit was modified to authorize the expansion of the existing dock and the construction of a breakwater. A portion of the new structure consisted of sunken Liberty ships. A second modification, dated June 3, 1976, authorized dock repair and breakwater modification. On May 31, 1977, these permits were transferred to Wade Oil Services.

Under a second file number, POA-1977-141, on October 20, 1977, Wade Oilfield Services, Inc. was authorized to modify and extend the existing dock and breakwater by constructing a bulkhead and 400,000 cubic yards of fill. This permit was modified on October 23, 1985, authorizing the discharge of an additional 200,000 cubic yards of material into an area 510 feet by 450 feet. Modification number 2, issued to Offshore Systems-Kenai on August 3, 1989, authorized the dredging of approximately 10,000 to 12,000 cubic yards of material from an area 1,250 feet long and 600 feet wide, below the MHWM of the Cook Inlet and the construction of a 300 foot long by 100 foot wide bulkhead, backfilled with dredged material. Modification number 3, issued on July 22, 1992, authorized the discharge of 1,500 cubic yards of gravel and sand into 0.14 acres below the HTL of the Cook Inlet for the construction of a 150 foot long by 40 foot wide barge ramp and the placement of 70 pre-cast concrete planks below the MHWM of the Cook Inlet. Modification number 4, issued on March 1, 1993, authorized the construction of two 60 inch diameter steel, tripod mooring dolphins. Modification number 5, issued on July 13, 1993, authorized the discharge of 124,000 cubic yards of material into 4 acres of the

Cook Inlet to expand the existing dock to 825 feet wide and 420 feet long. Modification 6, issued on March 14, 1996, extended the time limit to complete all previously authorized work to March 31, 1999. The work authorized in Modification 5 was not constructed. All authorizations for construction have expired.

Additional project information may be obtained by contacting the applicant's agent, Ms. Robin Reich, of Solstice Alaska Consulting, Inc., at (907)929-5960.

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 has state that in order to meet their stated purpose, avoidance of impacts to waters of the U.S. is not possible.

b. Minimization: The applicant has stated that the project uses the most compact possible, while meeting the vessel demands in the area. In addition, the applicant would use sheet piles to contain the fill footprint.

c. Compensatory Mitigation: The applicant proposes to offset impacts to waters of the U.S. by providing compensatory mitigation in the form of an In-Lieu Fee, at a ratio of 1:1.

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 is an unevaluated property in the vicinity of the worksite. It has been designated KEN-517. Because the property has been determined to be outside of the permit area, no further action is required. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time. This application is being coordinated with SHPO. Any comments SHPO or other 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 Cook Inlet beluga whales (*Delphinapterus leucas*), Steller sea lions (*Eumetopias jubatus*), and Steller's Eiders (*Polysticta stelleri*).

We have determined the described activity would have no effect on Steller's Eiders (*Polysticta stelleri*), under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife 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.

We have determined the described activity may affect but is not likely to adversely affect the endangered Cook Inlet beluga whales (*Delphinapterus leucas*) its designated critical habitat. We will initiate the appropriate consultation

procedures under section 7 of the Endangered Species Act with the National Marine Fisheries Service. 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 Pink salmon (*Oncorhynchus gorbuscha*), Chum salmon (*Oncorhynchus keta*), Sockeye salmon (*Oncorhynchus nerka*), Chinook salmon (*Oncorhynchus tshawytscha*), and Coho salmon (*Oncorhynchus kisutch*).

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat 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).

Project drawings and a Notice of Application for State Water Quality Certification are enclosed with this Public Notice.

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-1977-141-M7, Cook Inlet, 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.