



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

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

**PUBLIC NOTICE DATE:** June 12, 2012  
**EXPIRATION DATE:** July 12, 2012  
**REFERENCE NUMBER:** POA-1986-95  
**WATERWAY:** Sitkalidak Strait

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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 project drawings available online at the Regulatory Division website: [www.poa.usace.army.mil/reg/PNNNew.htm](http://www.poa.usace.army.mil/reg/PNNNew.htm).

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 **Roberta Budnik** at (907) 753-2785, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at [roberta.k.budnik@usace.army.mil](mailto:roberta.k.budnik@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Old Harbor Tribal Council, 2702 Denali Street, Suite 100, Anchorage, Alaska 99503.

**LOCATION:** The project site is located within Sections 21 and 22, T. 34 S., R. 25 W., Seward Meridian; USGS Quad Map Kodiak A-4; Latitude 57.2188° N., Longitude 153.2689° W.; at the Old Harbor airport, in Old Harbor, Alaska.

**SPECIAL AREA DESIGNATION:** The project is located within the Kodiak National Wildlife Refuge.

**PURPOSE:** The applicant's stated purpose is to decrease turbulence during landings and take-offs created by cross winds that are a result of the steeply cut hillsides on both sides of the airport runway. Also, the hillsides protrude into designated airport safety zones and need to be cut back out of these zones.

**PROPOSED WORK:** Lay back steeply cut hillsides adjacent to the airport runway and discharge up to 235,400 cubic yards of the overburden into nearby upland and wetland disposal sites. Of that overburden, up to 47,500 cubic yards would be discharged into a maximum of 4.6109 acres of wetlands would be filled by overburden. Overburden would be removed with dozers, backhoes, and other heavy equipment and would be hauled to disposal sites in loaders and dump trucks. Any

rock beneath the overburden would be removed by a backhoe, dozer, and excavator, as well as by drilling and blasting. Rock removed would be stored in upland sites for later use in construction and maintenance. All work would be performed in accordance with the plan (sheets 1-13), dated March 30, 2012, available online at the Regulatory Division website: [www.poa.usace.army.mil/reg/PNNNew.htm](http://www.poa.usace.army.mil/reg/PNNNew.htm) under file reference number POA-1986-95, Sitkalidak Strait.

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 designed the proposed project to avoid streams, lakes, and marine shorelines. However, due to the size and location of the proposed project, complete avoidance of impacts to waters of the U.S., including wetlands cannot be reached.

b. Minimization: The applicant has designed the proposed project to have the smallest overall footprint as possible, without compromising the value of the improvements to the airport runway. Uplands would be utilized as disposal sites to the maximum extent practicable. Silt fencing, straw bales, re-vegetation, and other best management practices would be employed to prevent fill material from migrating off-site into waters of the U.S., including wetlands, that are not proposed to be used as overburden disposal sites. Timing and monitoring would be employed to protect birds and their nests. The applicant proposes to work directly with the Aleutiq Museum to monitor for historic cultural sites within the project vicinity, although none are expected to be encountered.

c. Compensatory Mitigation: The applicant is not proposing any compensatory mitigation to offset the proposed project's impacts to waters of the U.S., including wetlands. The applicant states that the proposed project would only affect mixed uplands, moist tundra, and wet tundra, all of which are common around Old Harbor and the region. With this in consideration, and that the proposed project would not impact streams, marine waters, or other high-functioning habitats compensatory mitigation is not warranted. The applicant also feels that compensatory mitigation is not warranted because the Old Harbor occupies only a small area of shoreline at the base of mountains, and is the only development for more than 40 miles. The applicant also states that there are no human-generated disturbances to wetlands or other waters of the U.S. that could be remediated or restored to produce meaningful compensatory mitigation to offset the proposed project's impacts, and that because much of the land near Old Harbor is either owned or administered by tribal or other Native entities or federal and state government agencies, development potential is severely limited. Therefore, conservation easements as a mitigation strategy would not be meaningful as there is little potential for substantial future development at Old Harbor.

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: No threatened or endangered species are known to use the project area. 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 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). No EFH species are known to use the project area. We have determined the described activity would not adversely affect EFH in the project area.

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 authority:

(**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).

Notice of Application for State Water Quality Certification is enclosed with this Public Notice and Project Drawings are available online at the Regulatory Division website: [www.poa.usace.army.mil/reg/PNNNew.htm](http://www.poa.usace.army.mil/reg/PNNNew.htm).

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  
555 CORDOVA STREET  
ANCHORAGE, ALASKA 99501-2617  
PHONE: (907) 269-7564/FAX: (907) 334-2415

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-1986-95, Sitkalidak Strait, 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.