



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: August 6, 2012
EXPIRATION DATE: September 6, 2012
REFERENCE NUMBER: POA-2012-33
WATERWAY: Akutan 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 project drawings located online at the Alaska District Regulatory Division website <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 **Jack Hewitt** at (907) 753-2708, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at jack.j.hewitt@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Native Village of Akutan, Post Office Box 89, Akutan, Alaska 99553.

AGENT: HDR Alaska, Inc., 2525 C Street, Suite 305, Anchorage, Alaska 99503.

LOCATION: The project site is located within Sections 9, 10, and 11, T. 70 S., R. 112 W., Seward Meridian, USGS Quad Map Unimak A-6, Latitude 54.131° N., Longitude 165.833° W., in Akutan, Alaska.

PURPOSE: The applicant's stated purpose is to provide safe and efficient road access between the new Akutan small boat harbor, the community of Akutan, and the Trident Seafood Plant. Currently, access to the harbor is by boat, or on foot. Inclement weather makes access by small skiff unsafe, especially in the dark. Travel on foot is limited to times when the tide is low and to people in good physical condition. Access on foot also limits the amount of equipment and gear that can be transported.

PROPOSED WORK: Discharge fill material into 1.3 acres of freshwater wetlands, and 4.2 acres of marine waters below the high tide line. All work would be performed in accordance with the plan, 10 sheets, dated 4/30/2012 located online at <http://www.poa.usace.army.mil/reg/PNNNew.htm>.

ADDITIONAL INFORMATION: The proposed road would be 2 miles long, with a 16' wide driving surface. Access would begin near the Akutan Community Center; follow a route above Trident Seafoods, maintaining a low elevation on the hillside, before crossing Whalebone Creek at the head of Akutan Harbor. The road would accommodate two-way traffic for all terrain vehicles, but would be limited to one-way traffic for larger vehicles. The gravel driving surface would include turnouts for vehicles when meeting oncoming traffic. Culverts would be installed where necessary to maintain natural drainage. North Creek would be spanned by a large diameter culvert and Whalebone Creek would be crossed with a clear span bridge.

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 project has been designed to avoid impacts to waters of the U.S. through route choice, construction methods, and selective siting of the project components.

b. Minimization: Minimization measures include designing a 16' wide road surface on a minimum width footprint with steepened 1.5:1 embankment slopes. The road would incorporate 43 culverts to maintain surface water drainage patterns. Native fill material would be used to the extent possible to construct the road. Erosion and sedimentation control measures would be employed during construction, and permanent stabilization measures would be implemented as early as possible. The work corridor would be staked to delineate permitted disturbance area. Check dams in ditches would be used as necessary to reduce erosion during construction. Riprap would be used to stabilize slopes in coastal sections of the access road. Spill response equipment would be on site and construction workers would be trained in its use.

c. Compensatory Mitigation: There are two options being considered for compensating for the 1.3 acres of wetland impacts and 4.2 acres of intertidal fill. Either an in-lieu-fee, at a 2:1 ratio, would be made to the Conservation Funds, or a permittee responsible restoration and enhancement project in Akutan Harbor would be conducted.

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: We have determined the described activity is in the historic range of the Steller sea lion, (*Eumetopias jubatus*), Steller's eider (*Polysticta stelleri*), and northern sea otter (*Enhydra lutris*), but would have no effect on these species under the Endangered Species Act of 1973 (87 Stat. 844). However, any comments the U.S. Fish and Wildlife Service (USFWS) or the National Marine

Fisheries Service (NMFS) may have concerning endangered or threatened wildlife or plants will be considered in our final assessment of the described work.

The project area is partially located within the area designated as critical habitat for northern sea otter. We are currently gathering information regarding a determination of effect. Should we find that the described activity may affect northern sea otter designated critical habitat, we will follow the appropriate consultation procedures under section 7 of the Endangered Species Act of 1973 (87 Stat. 844). Any comments the USFWS or NMFS may have concerning designated 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). 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 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).

Notice of Application for State Water Quality Certification is enclosed with this Public Notice and Project drawings are located online at the Alaska District Regulatory Division website <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-2012-33, Akutan Harbor, 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.