



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

ANCHORAGE FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
1600 A Street, Suite 110
Anchorage, AK 99501-5146

PUBLIC NOTICE DATE:	December 19, 2013
EXPIRATION DATE:	January 21, 2013
REFERENCE NUMBER:	POA-2013-604
WATERWAY:	Zimovia Strait

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 Shane McCoy at (907) 753-2715, toll free from within Alaska at (800) 478-2712, by fax at (907) 279-0064, or by email at Shane.M.McCoy@usace.army.mil if further information is desired concerning this notice.

APPLICANT: BW Enterprise, Post Office Box 2121, Wrangell, Alaska 99929; Mr. Brett Woodbury (907) 874-2190

AGENT: Woodbury Enterprise, Post Office Box 1934, Wrangell, Alaska 99929; Mr. George Woodbury (907) 874-4140

LOCATION: The project site is located within Section 24, T. 62 S., R. 83 E., Copper River Meridian; USGS Quad Map AK-PETERSBURG B-2; Latitude 56.4754° N., Longitude 132.390° W.; Lots 6, 7, 19, and 20; approximately 400 feet north of the Alaska Marine Highway Ferry Terminal, in Wrangell, Alaska. .

PURPOSE: The applicant's stated purpose is to construct a marine transfer facility that can be used to offload and stage materials and equipment for the applicant's construction company.

PROPOSED WORK: The applicant proposes to discharge 8933 cubic yards (cy) of clean shot rock and 244 cy of stacked rock for the outside wall into 0.5-acre of intertidal waters of the U.S. The project would be constructed from above the High Tide Line outward to the area the stacked rock wall is proposed; the clean shot rock would be dumped, to the greatest extent practicable, when the area is dewatered so that access could continue for the compaction and spreading of the clean shot rock during times of higher water. The final dimensions of the pad would be 104 linear feet on the outer edge of the pad and would be approximately 223 feet long. The applicant states no permanent structures would be constructed on the fill. All work would be performed in accordance with the enclosed plan (sheets 1-2), dated November 2, 2013.

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: A marine transfer facility is a water dependant activity, so complete avoidance is not possible.

b. Minimization: The applicant states that the filling of the area during low water (dewatered if practicable) which would reduce the in-water noise. Additionally, the area is an industrialized setting, with the Alaska Marine Terminal close to the site, so noise associated with boats is common in the vicinity currently.

c. Compensatory Mitigation: The applicant states that if compensation is required, the Southeast Seal Trust would be used to purchase credits.

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: The project area is within the known or historic range of the Stellar sea lion Western DPS (*Eumetopias jubatus*), Fin whale (*Balaenoptera mystecus*), Humpback whale (*Megaptera novaeangliae*), Sperm whale (*Physeter macrocephalus*).

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 consultation procedures under section 7 of the Endangered Species Act of 1973 (87 Stat. 844). Any comments the U.S. Fish and Wildlife Service or the National Marine Fisheries Service 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 Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), sockeye salmon (*O. nerka*), pink salmon (*O. gorbuscha*), and chum salmon (*O. keta*).

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

JUNEAU

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-2013-604, Zimovia 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.