



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:	January 11, 2017
EXPIRATION DATE:	February 13, 2017
REFERENCE NUMBER:	POA-2016-537
WATERWAY:	Port Valdez

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 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 if further information is desired concerning this notice.

APPLICANT: Valdez Fisheries Development Association (VFDA), POC: Mr. Victor Weaver, Post Office Box 125, Valdez, Alaska 99686

LOCATION: The project site is located within Section 3, T. 9 S., R. 6 W., Copper River Meridian; USGS Quad Map Valdez A-7; Latitude 61.1203° N., Longitude 146.2797° W.; across the street from the Valdez Fisheries Development office on Mineral Creek Loop Road, all the way down the unmarked side road to the ocean, in Valdez, Alaska.

PURPOSE: The applicant's stated purpose is to store six new fish hatchery net pens in the winter months to keep them from becoming damaged by winter storm action.

PROPOSED WORK: Excavate 4,181 cubic yards (CY) of gravel-mix below the High Tide Line (HTL) and Mean High Water (MHW) line and construct a level pad next to the shore. The gravel-mix would be deposited on top of the level gravel area belonging to the City of Valdez above the MHW line. Up to 522 CY of this gravel-mix would be used for fill as needed in the excavated area. The remaining gravel-mix would be given to the City of Valdez for their use.

Four steel piles, up to 18 inches in diameter, would be installed by vibratory hammer at the four corners of the constructed pad. In addition, an abandoned small barge would be relocated or cut up and removed. All work would be performed in accordance with the enclosed plan (sheets 1-7), dated January 5, 2017.

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 VFDA had originally looked at disassembling the net pens to store them on land, but the amount of time and labor was a huge factor. Additionally, there is considerable damage from excessive handling. The impact to the shoreline from launching the net pens with heavy equipment would also cause considerable damage and erosion. The 16 net pens we [VFDA] currently utilized are moored in the same area in a cove that was built to the west under POA-2010-524. The cove that was built to moor the original net pens unfortunately is not large enough to store the 6 additional pens, which is the reason for the request to build another mooring area. It is also not possible to extend the current location for the new net pens as it is uplands that are owned by Alaska Marine Lines."

b. Minimization: "...this site was chosen because it requires less excavation of the shoreline to accommodate the net pens than any other land available to the VFDA. It also takes advantage of natural protections which lessen the amount of excavation necessary to provide protected moorage. The design as proposed is to excavate the upland to the maximum extent with regards to the property boundaries and structures. The site has established access for motor vehicles from shore and access for the vessels on the water. This location we [VFDA] are requesting to store the new net pens utilizes a small section of land extending from the shore into the water that will provide protection from the wind during the winter months. The shoreline will need minimal modification and the area in the water requires minimal dredging to create a pad for the net pens to rest on during low tide."

c. Compensatory Mitigation: "It is our [VFDA] feeling that compensatory mitigation for unavoidable impacts created by this project is not appropriate due [to the] relative small size of the excavation and its impacts to existing pre-disturbed fill. However, a permittee responsible compensatory mitigation will include removal of an old abandoned, deteriorating barge located within the tidal zone. The responsibility and cost borne for the removal of this barge is yet to be determined as VFDA is seeking to determine its ownership. VFDA also enhances the marine environment and fisheries of Prince William Sound through its hatchery activities."

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 Corps has determined that the permit area under the National Historic Preservation Act (NHPA) is limited to the footprint of the proposed project in waters of the U.S. 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. No listed or eligible properties are within the permit area. The Corps has determined that the proposed project would have no effect to historic properties. This application is being coordinated with the State Historic Preservation Office (SHPO), and the Corps is requesting the SHPO's concurrence with this determination.

ENDANGERED SPECIES: The project area is within the known or historic range of the humpback whale (Mexico distinct population segment; *Megaptera novaeangliae*), and the Steller sea lion (western distinct population segment; *Eumetopias jubatus*). We have determined the described activity may affect the listed species. We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife 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). According to the NMFS's online EFH mapper, 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 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
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-2016-537, Port Valdez**, 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.