



DEPARTMENT OF THE ARMY
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
P.O. BOX 35066
FORT WAINWRIGHT, ALASKA 99703

September 15, 2022

Regulatory Division
POA-2020-00353

Mr. Harry Rietze
Haines Packing Company
P.O. Box 290
Haines, Alaska 99827

Dear Mr. Reitze:

This is in regard to your application for a Department of the Army (DA) permit to place shot rock to a depth of 9 feet along a 200-foot by 72-foot area below the high tide line in a vegetated intertidal area of Letnicof Cove to expand your fish processing and storage facilities. The file number is POA-2020-00353, Letnicof Cove. Enclosed are copies of letters or emails from the commenters, Alaska Department of Fish and Game email dated July 22, 2022; Takshanuk Watershed Council (TWC) letter received August 26, 2022; Michael Hass letter dated August 25, 2022; and the State Historic Preservation Officer (SHPO) letter dated August 22, 2022.

It is the policy of the DA to provide an applicant the opportunity to furnish a proposed resolution or rebuttal to all objections and other substantive comments before a final decision is made on a proposed project. In this regard, I would appreciate receiving any comments that you may have on this matter. In particular, I request that you address the following issues and any other issues you would like to discuss:

1. Provide alternatives that would not require placing of fill material below the high tide, such as placing the work in uplands or on existing pilings (Michael Haas). Please explain if the alternatives would not meet your project purpose, not be practicable, or would cause greater impact to the marine environment.
2. Please provide an aerial photo that clearly shows the boundaries of the proposed fill material.
3. What protections would be in place to prevent the fill material from moving into the deeper portions of the cove and tideland beaches and potentially impacting the marine environment and navigation in the cove (Michael Haas)?
4. Are there plans for additional fill in tidal waters such as a retaining wall or for further expansion of the cannery facilities (Michael Haas)?

5. What protections would exist regarding potential spills from toxic chemicals into the marine environment (Michael Hass)?
6. Was the impact of rising sea levels considered in a long term plan? What impact would rising sea levels have on the project (Michael Haas)?
7. How could the project be constructed to limit impacts to the viewshed to landowners especially across the cove (Michael Haas)?
8. The TWC has offered to assist you in finding suitable compensatory mitigation options including credits from a nearby provider. The intertidal areas in the review areas are likely foraging and rearing habitat for Pacific salmon and other fish and saltwater species. Would you be willing to volunteer to do compensatory mitigation in cooperation with TWC for the proposed fill of 0.33 acre of this intertidal habitat?
9. In response to the SHPO comments, please determine the eligibility status of the Haines Packing Company property for the National Register of Historic Places. We will use this information in our revised effects to historic properties determination (Corps of Engineers Appendix C regulations; 800 regulations).

You may voluntarily elect to contact the commenters in an attempt to resolve the matter but are not required to do so, since the DA alone is responsible for making the final decision on the application. However, you should be aware that all recommendations on projects proposed to be authorized by a permit must be given full consideration in making our public interest review determination, as required by law.

The concerns expressed by the commenters appear to this office to be substantive. In order to complete the public interest review these concerns must be addressed. Please give your immediate attention to this matter in order to expedite the evaluation process of your permit application. It is recommended that you provide us with your comments on the matter within **30 days** of the date of this letter. Failure to do so could result in the denial of your permit unless there are substantive mitigating factors to preclude such a response.

Please contact me via email at John.C.Sargent@usace.army.mil, by mail at the address above, by phone at (907) 347-1801 if you have questions. For more information about the Regulatory Program, please visit our website at www.poa.usace.army.mil/Missions/Regulatory.

Sincerely,



John Sargent
Project Manager

Enclosures

From: [Kanouse, Kate M \(DFG\)](#)
To: [Sargent, John C CIV USARMY CEPOA \(USA\)](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] Re: POA-2020-00353, Letnikof Cove_PN
Date: Wednesday, July 27, 2022 9:42:56 AM

Hi John,

Cannery Creek (ADF&G Stream No. 115-32-10230) drains into Letnikof Cove near the proposed project site, and supports coho salmon, cutthroat trout, and Dolly Varden char. The stream course varies within the intertidal reach, the substrate consists mostly of angular gravel and mud, and the furthest extent at MLLW likely ends a couple hundred feet south of the proposed project site. Therefore the proposed project should not affect the stream, and does not require a fish habitat permit from ADF&G Habitat Section.

Thank you for the opportunity to review.

Kate Kanouse
Southeast Regional Supervisor
ADF&G Habitat Section
907-465-4290

From: Egeberg, Sara C CIV USARMY CEPOA (USA) <Sara.C.Egeberg@usace.army.mil>
Sent: Tuesday, July 26, 2022 11:43 AM
To: harry@hainespacking.com <harry@hainespacking.com>; hainespacking@gmail.com <hainespacking@gmail.com>; jcozzi@haines.ak.us <jcozzi@haines.ak.us>; hbrouillette@chilkoot-nsn.gov <hbrouillette@chilkoot-nsn.gov>; schnabel@haines.ak.us <schnabel@haines.ak.us>; hsmith@haines.ak.us <hsmith@haines.ak.us>; afullterton@hains.ak.us <afullterton@hains.ak.us>; catherine.petty@mail.house.gov <catherine.petty@mail.house.gov>; azabel.ordaz@mail.house.gov <azabel.ordaz@mail.house.gov>; carrie_keil@sullivan.senate.gov <carrie_keil@sullivan.senate.gov>; services@murkowski.senate.gov <services@murkowski.senate.gov>; klukwan@chilkat-nsn.gov <klukwan@chilkat-nsn.gov>; jbrower@chilkat-nsn.gov <jbrower@chilkat-nsn.gov>; lwilliams@chilkoot-nsn.gov <lwilliams@chilkoot-nsn.gov>; alex@adn.com <alex@adn.com>; diane.sam@alaska.gov <diane.sam@alaska.gov>; Rypkema, James (DEC) <james.rypkema@alaska.gov>; Weimer, Willow A (DEC) <willow.weimer@alaska.gov>; DEC 401 Cert (DEC sponsored) <dec-401cert@alaska.gov>; Larson, Clifford A (DNR) <clifford.larson@alaska.gov>; Kirkham, Russell A (DNR) <russell.kirkham@alaska.gov>; julie.smith@alaska.gov <julie.smith@alaska.gov>; DNR, Parks OHA Review Compliance (DNR sponsored) <oha.revcomp@alaska.gov>; abailey@petroleumnews.com <abailey@petroleumnews.com>; StephensD@akrr.com <StephensD@akrr.com>; greenbaumJ@akrr.com <greenbaumJ@akrr.com>; alexandre.Lai@alaska-pipeline.com <alexandre.Lai@alaska-pipeline.com>; lonniea@amaktowing.com <lonniea@amaktowing.com>; jengen@bellingham-marine.com <jengen@bellingham-marine.com>; rkemnitz@blm.gov <rkemnitz@blm.gov>; bobb@claalaska.com <bobb@claalaska.com>; BCharles@kniktribe.org <BCharles@kniktribe.org>; BrothertonPipeline@gmail.com <BrothertonPipeline@gmail.com>; BryceEricksonConsult@Outlook.com <BryceEricksonConsult@Outlook.com>; cmoody@3PPI.net <cmoody@3PPI.net>; cwyatt@nrdc.org <cwyatt@nrdc.org>; dcollins@traylor.com <dcollins@traylor.com>; Dana_Herndon@murkowski.senate.gov

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kord.christianson@cityofsitka.org <kord.christianson@cityofsitka.org>;
mappingboundarybranch@boem.gov <mappingboundarybranch@boem.gov>; SMB-D17Juneau-
LNM@uscg.mil <SMB-D17Juneau-LNM@uscg.mil>; 404PNS-R10-OW@epa.gov <404PNS-R10-
OW@epa.gov>; FW7_POANotices@fws.gov <FW7_POANotices@fws.gov>; DEC 401 Cert (DEC
sponsored) <dec-401cert@alaska.gov>; DNR, Parks OHA Review Compliance (DNR sponsored)
<oha.revcomp@alaska.gov>; nmfs.akr.habitat@noaa.gov <nmfs.akr.habitat@noaa.gov>;
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<sero@alaska.gov>; reporter@khns.org <reporter@khns.org>; KHNS Haines News
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Cc: Sargent, John C CIV USARMY CEPOA (USA) <John.C.Sargent@usace.army.mil>; Schoelen, Amie M
CIV USARMY CEPOA (USA) <Amie.M.Schoelen@usace.army.mil>
Subject: POA-2020-00353, Letnicof Cove_PN

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States.

PUBLIC NOTICE DATE: **July 25, 2022**

EXPIRATION DATE: **August 25, 2022**

REFERENCE NUMBER: **POA-2020-00353**

WATERWAY: **Letnicof Cove**

APPLICANT: **Harry Rietze, Haines Packing Company**

LOCATION: **The project site is located within Letnicof Cove, Latitude 59.172362 ° N., Longitude -135.390154° W.; Letnicof Cove, at the Haines Packing Company cannery, 5.5-mile Mud Bay Road in Haines, Alaska.**

PURPOSE: **The applicant's stated purpose is to expand the usable area of land so that additions can be made to the processing facility, while maintaining adequate emergency access.**

CONTACT: Please contact John Sargent at (907) 347-1801
John.C.Sargent@usace.army.mil if further information is desired concerning this notice.

All comments regarding this Public Notice should be sent to this address:

U.S. Army Corps of Engineers
Alaska District
Regulatory Division, CEPOA-RD
2204 3rd Street, Post Office Box 6898
JBER, Alaska 99506-0898

If you desire to submit your comments by email, you should send it to the Project Manager's email as listed above or to regpagemaster@usace.army.mil. All comments should include the Public Notice reference number listed above.

Please do not reply to this email.

The full text of this public notice, as well as associated maps and drawings, are available on our website at:

<http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>

(Note: if the above link isn't clickable or part of the link is cut off, please copy and paste the entire URL into your browser's address bar and press Enter)

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****NOTICE TO EDITORS:** This public notice is provided as background information and is not a request or contract for publication.

****NOTICE TO POSTMASTERS:** It is requested that this notice be conspicuously and continually placed until the expiration date.

Michael Haas
Attorney at Law

Street

116 Queen

P.O. Box 1699
Okanogan, WA 98840
(509) 422-9701
haaslawoffice@yahoo.com

August 25, 2022

US Army Corp of Engineers – Alaska District
Fairbanks Field Office
Regulatory Division (1145)
CEPOA-RD
P.O. Box 35066
Fort Wainright, AK 99703

Via email: regpagemaster@usace.army.mil & John.C.Sargent@usace.army.mil

RE: POA-2020-00353

Waterway: Letnicof [sic] Cove

Dear Reviewing Personnel:

The Haines Packing Company (HPC) proposes to fill an area of coastal tidelands 200' by 72' to a depth of approximately nine feet on Letnikof Cove, near Haines, Alaska. I believe that is about 4800 cubic yards of material; assuming the sides remain vertical, which will not be the case on at least three sides.

My mother has owned the property immediately to the north of the proposed project area for decades. Her property extends down to the tidelands area near the project area. Currently her property is undeveloped.

I write to express concerns related to the above project on behalf of myself and my family. We do not necessarily oppose the project *per se* but are concerned about what, if any, safeguards will be in place to prevent further degradation of the marine environment in that immediate area. We trust the Corps will address the following issues in its review, particularly as it considers the overarching purposes of the Clean Water Act:

- Has any form of an environmental impact statement been performed, and if not, why not?
- Is the impact of rising sea levels contemplated in the overall long-term plan?
- Why is there no proposed environmental mitigation plan? If 1/3 of an acre of tideland is being destroyed it seems appropriate for some form of mitigation equivalent in scope and value be required.

- If building over this tideland is permitted, what protections will exist related to spillage of materials unfriendly to the maritime environment (e.g., petroleum products or other noxious chemicals)?
- Will a mechanism such as a retaining wall be built to prevent the slide of fill material into the deeper parts of the cove given what appears to be a very steep drop off (a sheer wall of 8 – 10 fathoms) to the eastern side of the project? What about the northern and southern sides? If a retaining wall is to be built, what additional disruption would it cause to the ecosystem in that area?
- If there is no retaining wall to hold the fill in, will this fill material cause unintended damage to a greater area of the seabed than the proposal outlines - as it sloughs off into the deeper portion of the Cove to the east, and the adjacent tidelands to the north and south?
- It is not clear from the project site map which HPC building will be affected by this project. If it is to HPC's northernmost large building, then the proposal could have a significant impact on the flora and fauna adjacent to my mother's property. If that is the case, we would require assurance that the project will not result in fill sloughing off into water to the north of the project. In the image below, the approximate area of my Mother's land is highlighted in yellow (to the north). HPC property is to the left or southerly.



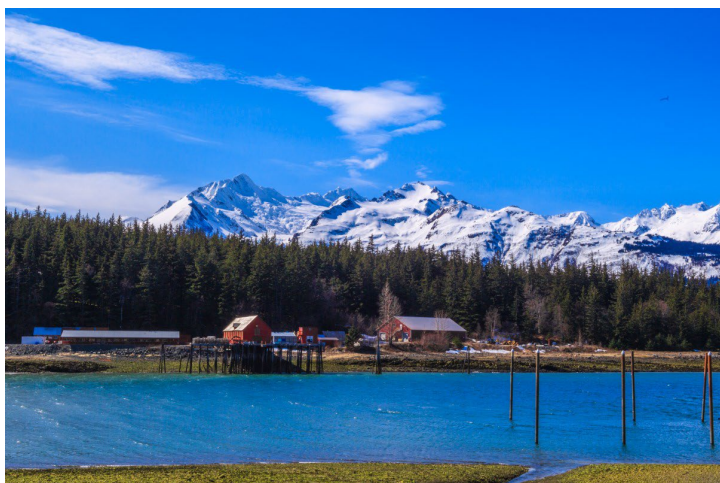
- Is there a reason this project cannot be completed on the land side/western side of HPCs land which would not directly affect the marine environment in this area? In the notice materials it appears HPC has several acres available to it for building to the land side of their property.

RE: POA-2020-00353

Page three

- Other non-environmental concerns involve diminution in value of the surrounding properties. While the historical HPC buildings have been in place for generations and most likely add to the value of the area, this would be a new addition to the waterfront. For the reviewers of this project, this proposed site presents one of the most iconic and most photographed sites in the Chilkat Valley. If an industrialized “look” with a number of freezer containers were placed over the water it’s a virtual certainty that the value of non-industrial land in the area will diminish.
- Will HPC compensate taxpayers if it receives 1/3 acre of land by filling in taxpayer’s tidelands? If so, may my Mother fill in an additional 1/3 of an acre to expand her land holdings? Obviously that is a rhetorical question but if every land owner on the Cove did this, there would soon be no Cove.

The area in question:



Thank you for reviewing this matter carefully and do not hesitate to reach out to me if you have any questions.

Very truly yours,

*/s/Michael Haas, WSBA #17663
sent without signature to expedite*

Michael Haas
Attorney at Law

MH/hlh



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

DIVISION OF PARKS AND OUTDOOR RECREATION
Office of History & Archaeology

550 West 7th Avenue, Suite 1310
Anchorage, AK 99501-3561
907.269-8700
<http://dnr.alaska.gov/parks/oha>

August 22, 2022

File No.: 3130-1R COE-R / 2022-00946

John Sargent
Project Manager
US Army Corp of Engineers
Regulatory Division, CEPOA-RD
2204 3rd Street, PO Box 6898
JBER, Alaska 99506-0898

Subject: POA-2020-00353, Haines Packing Company Cannery Project

Dear Mr. Sargent,

The Alaska State Historic Preservation Office (AK SHPO) received the subject Public Notice (PN) on July 26, 2022. Upon review, we are unable to concur with the finding of 'no adverse effect' at this time. We offer the following comments for your consideration:

We recommend that USACE pursues further identification efforts and effect assessment for the purposes of compliance with the Section 106 regulations (36 CFR 800). Although the PN acknowledged the presence of the Haines Packing Company Cannery (SKG-00053), the consideration of the potential effect of this project to this resource was incomplete.

We strongly recommend that USACE use the services of a qualified cultural resource professional to further evaluate Haines Packing Company Cannery through a formal determination of eligibility and provide their recommendations to avoid, minimize or if necessary, mitigate the effect of the project on historic properties. Our office can provide a list of cultural resources contractors at your request.

Pursuant to Section 106 of the National Historic Preservation Act, until the identification and evaluation of this potential historic resources have been resolved, we are unable to concur with your finding of no historic properties adversely affected.

We look forward to the receipt of the required documentation found in 36 CFR § 800.11. Thank you for the opportunity to comment. Please contact Amy Hellmich at amy.hellmich@alaska.gov or (907)269-8724 to discuss our office's recommendations or if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Judith E. Bittner".

Judith E. Bittner
JEB/ash



Date: August xx, 2022

To: Mr. John Sargent
Fairbanks Field Office, COE
PO Box 35066
Fort Wainwright, AK 99703

RE: Letnicof Cove, POA-2020-00353

Mr. Sargent:

Please accept these comments on behalf of the Takshanuk Watershed Council (TWC). TWC works to provide stewardship for the Chilkat, Chilkoot, and Ferebee River systems. Through restoration, education, research, and community involvement we strive to benefit the natural ecology, economy, and quality of life valued by all residents. In support of this mission TWC has been involved with local watershed issues for many years. Generally, TWC does not advocate for or against specific projects, but tries to ensure decisions are based on complete and accurate information. In this manner the public and agencies can make decisions that account for the full implications on our watershed and community

The following comments are related to the proposed expansion at Haines Packing Company by placing fill in .33 acres of intertidal wetlands. This waterfront access dependent business provides value-added processing of local natural resources. The expansion of this business and the services they provide should be a net positive for the community of Haines and the entire watershed.

Avoidance

The applicant states there are no 'feasible alternatives' to filling intertidal wetlands in order to meet the project purpose. TWC accepts that a pile supported structure and/or blasting into the hillside are not financially practical alternatives to the proposed project. Though these options should be considered.

Minimization

Contrary to the statement in the Public Notice, TWC would recommend that fill be placed during low tide to minimize disturbance and more accurately place the fill.

Compensatory

The vegetated intertidal area to be filled is within a protected area of Letnikof Cove, but adjacent to a decades old fish processing plant. There is also a boat harbor within this protected area. Which highlights the fact that there are few such protected areas in the upper Lynn Canal that public use and natural resources both need to thrive. Though the area to be filled is only

submerged during higher tides, these vegetated areas provide filtering and a food source for the multitude of salmon smolts and other aquatic organisms that utilize this protect area. These values should be acknowledged by requiring compensatory mitigation.

Summary

Unlike the numerous intertidal fills in Portage Cove for parking lots, this proposal is to expand an existing and growing marine dependent business. However, TWC still feels compensatory mitigation is a reasonable requirement for this type project. TWC would be glad to work with the applicant and COE to find a nearby project or recommend credits from a certified provider

Thank you for considering these comments.

Sincerely,

A handwritten signature in cursive script that reads "Ben Kirkpatrick".

Ben Kirkpatrick
for TWC Board of Directors