MEMORANDUM FOR RECORD

1 Introduction and Overview

This document discusses the factors considered by the Corps of Engineers (Corps) during the issuance process for this Regional General Permit (RGP-05) (POA-2013-0094), referred to hereinafter as "RGP." This document contains: (1) the public interest review required by Corps regulations at 33 CFR 320.4(a)(1) and (2); (2) a discussion of the environmental considerations necessary to comply with the National Environmental Policy Act; and (3) the impact analysis specified in Subparts C through F of the 404(b)(1) Guidelines (40 CFR Part 230). This evaluation of the RGP includes a discussion of compliance with applicable laws, consideration of public comments, an alternatives analysis, and a general assessment of individual and cumulative impacts, including the general potential effects on each of the public interest factors specified in 33 CFR 320.4(a).

1.1 Text of the Regional General Permit

NOTE: The term "wetlands," as used in this permit, refers to jurisdictional wetlands, a category of waters of the United States (WOTUS). The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the Alaska District of the U.S. Army Corps of Engineers, Regulatory Division, having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

REGIONAL GENERAL PERMIT AUTHORIZATIONS

The general public is authorized to perform work across the North Slope of Alaska (as defined by the boundaries of the North Slope Borough, see Enclosure 1) in accordance with the terms and conditions of this RGP as specified below, after satisfying all the applicable conditions.

Under the authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. Seq.) and Section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403), the Secretary of the Army authorizes the discharge of dredged and/or fill material by the general public into WOTUS across the North Slope of Alaska in accordance with terms and conditions of this RGP.

AUTHORIZED ACTIVITIES

This RGP authorizes the discharge of dredged and/or fill material into WOTUS for the purpose of new construction or the expansion of existing pads and accompanying infrastructure, linear projects, and coastal erosion.

Maximum Acreage Limitations:

1. The following acreage limitations for single and complete projects apply to discharges authorized by RGP-05:

a. Discharges for development of a new fill pad (and accompanying infrastructure) or the expansion of an existing fill pad may not exceed ten (10) acres of impacts to WOTUS, including wetlands. Repeated use of this RGP for the same facility or project may authorize no more than twenty (20) acres of total discharge for the term of this RGP. After impacting ten (10) acres for a project, the proposal may be subject to an elevated review if more than 50% of an increase in impacts is requested.
b. Discharges for development of new linear projects may not exceed ten (10) acres to WOTUS, including wetlands. Discharges for widening existing roads are authorized without a defined acreage limit – however, the applicant shall identify a clear purpose and need for the expansion, to be verified by the district engineer.
c. Discharges for coastal erosion projects may not exceed twenty (20) acres.

Excluded Areas and Activities (this exclusion does not apply to coastal erosion projects)**:**

1. Under this RGP, dredged and/or fill material may not be discharged into or within:
   a. Five hundred (500) feet of marine, estuarine, or the major riverine waters listed here: Colville, Kuparuk, Sagavanirktok, Shaviovik, Kadleroshilik, and Canning; or,
   b. One hundred (100) feet of other riverine waters, lacustrine waters, or the following types of palustrine wetlands with:
      i. an unconsolidated bottom (PUB),
      ii. the subclass 2 (PEM2, indicating the presence of *Arctophyla*), or
      iii. a water regime modifier of F, G, H, L, or N (PEMF/G/H/L/N, including beaded streams).

   The 100' and 500' setbacks from the specified waters must be indicated on project plans and staked in the field. The district engineer may waive this criterion by making a written determination concluding that the discharge will result in minimal adverse effects (potential examples include projects in villages, road crossings, or expansions of existing projects).

2. Discharges associated with the development of new wastewater treatment facilities or landfills are not authorized by this RGP.

3. Activities that are denied any required local, State or Federal authorization are not authorized by this RGP.

APPLICATION PROCEDURES

Applicants wishing to perform work under this RGP may use the General Permit Site Description (Enclosure 2) and must also include the additional information listed below. Submit the completed application package to the Corps by email to: regpagemaster@usace.army.mil, or at the following address for verification and coverage under this RGP: U.S. Army Corps of Engineers, Regulatory Division, North Section Chief (CEPOA-RD-N), Post Office Box 6898, JBER, Alaska, 99506-0898.

1. Four types of drawings (see enclosed figures 1-4) that include:
    a. Vicinity map depicting the location of the project in a map such as a 1:63,360 USGS quadrangle map and on a smaller scale map of Alaska (see enclosed example Figure1).
    b. Delineation of the project should provide a map showing Cowardin wetland classifications, and distances from project activities to the Cowardin classifications (listed in number 1 under Excluded Areas and Activities above), drainage patterns, and topography.
    c. Plan view of the project showing the layout of buildings, roads, and other project features in relation to adjacent features such as ponds and creeks (to scale if possible). Plans must include total footprint size of project fill pad and show location and size of proposed culverts.
    d. Cross section of fill including approximate side slopes. The cross section represents the project as it would appear if cut internally for display (see enclosed example Sheet 4 of Figures 1-4). Since drawings may be replicated, use clear, heavy lines. Drawings do not have to be prepared by a professional but should be clear and easily understood.
2. The type of material and location of the material source to be used as fill for the project.
3. Photographs (if available) or any other information that would verify that the proposed work is in WOTUS and meets the conditions of this RGP. This could include the project footprint overlaid on an aerial photo.
4. A mitigation statement should be included describing how impacts to WOTUS are to be avoided, minimized and compensated for, or a statement explaining why compensatory mitigation should not be required for the proposed impacts. See Mitigation Statement section below and the attached GP Pre-Construction Notification for further information.
5. Previous permit identification numbers for any prior Corps permits associated with the proposed project (such as expansion of an existing fill area).
6. Complete Form 500 Traditional Land Use Inventory (TLUI) Clearance with the North Slope Borough and provide a copy of the completed form with your application submittal. Instructions and the application forms for the TLUI Form 500 can be found at http://www.north-slope.org/ departments/planning-community-services/applications-and-forms.

Corps Verification Process:

1. Applicant submits a request to the Corps for a permit by methods outlined in the verification procedures above. No work may be performed under this RGP until written verification is obtained from the Corps.
2. The Corps reviews the verification submittal and preliminarily determines whether this RGP is applicable, or based upon review, the Corps notifies the applicant that an Individual Permit would be required for the proposed project.
3. The Corps will send the project plans to appropriate agencies and Tribes for review. Agencies then have ten (10) calendar days to contact the Corps by letter or by email with comments on the project. If the agencies need additional time to provide substantive, site-specific comments, the Corps will wait an additional fifteen (15)

calendar days to receive the comments before making a permit decision. Specific condition recommendations by the agencies will be incorporated as appropriate.

4. The Corps issues the applicant an RGP verification letter.

Mitigation Statement:
By following the RGP acreage limitations and avoiding excluded areas and activities as described under Authorized Activities above, the applicant will have ensured that the project has been designed to avoid and minimized impacts to highest functioning WOTUS.

For all projects covered by this RGP, the district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

a. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent to wetlands to the maximum extent practicable at the project site (i.e., on site).
b. Mitigation in all its forms (avoiding, minimizing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.
c. Compensatory mitigation will be considered on a case by case basis for all wetland losses, unless the district engineer determines in writing that either some other form of mitigation would be environmentally preferable or the adverse effects of the proposed activity are minimal and provides a project-specific waiver for this requirement. For wetland losses the district engineer may determine on a case by case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic must comply with the applicable provisions of 33 CFR 332.

The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment in the following order of preference:

a. *Mitigation bank credits.* When permitted impacts are located within the service area of an approved mitigation bank, and the bank has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from the sponsor.
b. *In-lieu fee program credits.* Where permitted impacts are located within the service area of an approved in-lieu fee program, and the sponsor has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from the sponsor. Where permitted impacts are not located in the service area of an approved mitigation bank, or the approved mitigation bank does not have the appropriate number and resource type of credits available to offset those impacts, in-lieu fee mitigation, if available, is generally preferable to permittee-responsible mitigation.

c. *Permittee-responsible mitigation under watershed approach*. Where permitted impacts are not in the service area of an approved mitigation bank or in-lieu fee program that has the appropriate number and resource type of credits available, permittee-responsible mitigation is the only option.
d. *Permittee-responsible mitigation through on-site and in-kind mitigation.* In cases where a watershed approach is no practicable, the district engineer should consider opportunities to offset anticipated aquatic resource impacts by requiring on-site and in-kind compensatory mitigation. The district engineer must also consider the practicability of on-site compensatory mitigation and its compatibility with the proposed project.
e. *Permittee-responsible mitigation through off-site and out-of-kind mitigation.* If, after considering opportunities for on-site, in-kind compensatory mitigation, the district engineer determines that these compensatory mitigation opportunities are not practicable, are unlikely to compensate for the permitted impacts, or will be incompatible with the proposed project, and an alternative, practicable off-site and/or out-of-kind mitigation opportunity is identified that has a greater likelihood of offsetting the permitted impacts or is environmentally preferable to on-site or in-kind mitigation, the district engineer should require that this alternative compensatory mitigation be provided.

Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the RGP authorization, instead of components of a compensatory mitigation plan.

Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of this RGP, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with this RGP.

CONDITIONS

The work authorized by this RGP is subject to the following general conditions and any special conditions necessary to reduce impacts to the minimal level.

Special Conditions: Any verification issued may include special conditions that this office determines are necessary to ensure compliance with the conditions of the RGP and to ensure that the activity will not result in more than minimal individual or cumulative adverse impacts to the aquatic ecosystem or other public interest factors.

General Conditions:

1. **Permit Expiration.** This RGP is effective for 5 years from the date of issuance unless otherwise modified, suspended, or revoked. Discharges authorized by this RGP generally must be completed by the date specified in the Corps' authorization letter. Activities which have commenced (i.e., are under construction) or are under

contract to commence in reliance upon this RGP will remain authorized provided the activity is completed within twelve months of the date of this RGP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization. Activities completed under the authorization of this RGP continue to be authorized by the RGP.

2. **Notification.** The applicant must submit the required project information to the Corps. Written verification that the project may proceed under RGP-05 must be received from the Corps prior to commencing construction.

3. **Excluded Areas** (this general condition does not pertain to coastal erosion projects). Fill material shall not be discharged within 500 feet of marine or estuarine waters, or the Colville, Kuparuk, Sagavanirktok, Shaviovik, Kadleroshilik, and Canning rivers; or within 100 feet of other riverine waters, lacustrine waters, or the following types of palustrine wetlands with: an unconsolidated bottom (PUB), the subclass 2 (PEM2, indicating the presence of Arctophyla), or a water regime modifier of F, G, H, L, or N (PEMF/G/H/L/N, including beaded streams), unless a waiver is received from the district engineer.

4. **Avoidance and Minimization.** To the maximum extent practicable, the activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent to WOTUS on the project site (i.e., on site). Side slopes on fill embankments should generally be no greater than 2:1 horizontal to vertical. For fill pads, the fill area shall be minimized by consolidating activities to the maximum extent practicable.

   Any portion of a pipeline must maintain a 7-foot minimum clearance from the ground surface, including any vibration dampeners. The pipelines, when parallel to roads or other pipelines shall be a minimum of 500 feet away from the road wherever practicable to provide for movement of wildlife.

5. **Maintenance of Hydrology Patterns.** Site preparation and fill placement shall be conducted in a manner that prevents adverse hydrologic effects. Natural drainage patterns shall be maintained using appropriate ditching, culverts, storm drain systems, and/or other measures to prevent ponding or drying. Ponding and/or dewatering of areas adjacent to fills that results in a measurable change in site hydrology or drainage from the pre-project condition indicates non-compliance with this condition.

6. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practicable date. Increased water turbidity and sediment beyond the fill

footprint indicates non-compliance with this condition. Erosion control products should be removed when fill has been stabilized and they are no longer necessary.

7. **Flagging.** The boundaries of the fill area in wetlands shall be clearly delineated with stakes and/or flagged prior to construction to prevent inadvertent encroachment beyond the authorized area of fill placement. No fill or construction materials shall be stockpiled in WOTUS outside the delineated project boundary.

8. **Suitable Fill Material.** All fill material shall come from existing, authorized gravel sources; this RGP does not allow the development of new gravel material sites. Fill material must be comprised of clean materials. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, cement, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

9. **Permafrost.** Fill thickness shall be a minimum of five (5) feet to provide thermal stability and prevent detrimental thermal degradation of underlying permafrost. Signs of thermokarsting or standing water where it didn't previously occur, indicate non-compliance with this condition. Applicants may propose the use of rigid insulation to allow shallower fill embankments. An individual verification approving the use of rigid insulation will include specific conditions identifying the required depth of fill.

10. **Water Quality Certification.** You must comply with all conditions specified as part of the Alaska Department of Environmental Conservation (ADEC) Certificate of Reasonable Assurance, which is part of this RGP. Material must be available at the site to contain and clean up incidental spills and leaks and must be used to contain and clean up any petroleum product spilled as a result of construction activity.

11. **Contaminated Sites.** A soil remediation plan shall be approved by the ADEC prior to commencing work on a site containing contaminated soil as defined by the Toxic Pollutant List referred to as Table 1 in Section 307 of the Clean Water Act and by Alaska State Law, 18 AAC 70 Alaska Water Quality Standards, 18 AAC Oil and Hazardous Substance Pollution Control, and 18 AAC 78 Underground Storage Tanks. If contaminated soils are discovered during the activity, ADEC shall be contacted, and work shall commence only upon receiving ADEC approval.

12. **Hazardous Waste.** This RGP does not allow the construction of landfills including the disposal of hazardous waste. These materials are defined in the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act (RCRA), 42 U.S.C. 6901 et seq., and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Contact the ADEC or the U.S. Environmental Protection Agency for information about hazardous substances.

13. **Endangered Species.** Activities covered under this RGP shall follow the Minimization Measures of the current Programmatic Biological Opinion for Wetland Impacts on the North Slope (PBO) written by the Fairbanks Fish and Wildlife Field Office Endangered Species Branch of the U. S. Fish and Wildlife Service (FWS), when the project is within the PBO boundaries (Utqiaġvik and the rest of the Barrow Triangle are outside the boundary of the PBO). These activities will be coordinated with the FWS to determine whether the cumulative effect limits identified in the PBO have been reached.

    For projects in the exclusion areas of the PBO the Corps will initiate informal consultation with FWS. The applicant would be required to follow the project specific Minimization Measures set forth in the corresponding FWS Biological Opinion.

14. **Migratory Birds.** Discharges are prohibited from June 1st through July 31st, to avoid impacts to active bird nests, nestlings, and nesting habitat during the bird nesting season. Land-disturbing activities such as clearing, excavation, and hydro-axing should be avoided from June 1st through July 31st, as these activities can damage nests and eggs, and cause injury or death to nestlings.

    Lighting for the project shall be shielded down lighting and shall be attached to buildings unless in the middle of a storage/parking area. Any lighting less than a mile from the coast shall be shielded to the east.

    If utilities (i.e., power, communication and fiber optic lines) are not placed within the fill pad, they shall be hung in trays with pipelines to minimize impacts of potential bird collisions with the lines. New power lines on pads shall have bird diverters.

15. **Essential Fish Habitat.** The activity must not adversely affect Essential Fish habitat (EFH).

16. **Floodplains.** The activity must comply with applicable FEMA approved state or local floodplain management requirements. Fuel storage tanks shall be located above the 100-year flood level and must be designed to withstand a 100-year flood event when a 100-year flood level has been established for a site. If the 100-year flood level has not been established for a site, the tank flood design shall be developed by an engineer to withstand flood levels based on anecdotal evidence, physical evidence, climate data, and good engineering judgment.

17. **Stream Crossings.** This condition applies to the construction of culverts and bridges within/over fish bearing waters. Natural stream channels conveying perennial flow are presumed to be fish bearing. It does not apply to culverts whose sole purpose is to provide cross-drainage or equalization within wetlands. This RGP only authorizes the construction of culverts and bridges within/over entrenched channels with narrow floodplains (i.e., ratio of flood prone width/ordinary high water mark (OHWM) width < 2.2). Authorized stream crossing structures are restricted to:

1. full-span bridges without structures or fill below the stream's OHWM or
2. a single embedded metal culvert or a bottomless arch with a minimum effective culvert width of at least 120% of the channel width at the OHWM.

The bottom (invert) of circular culverts shall be countersunk at least 30% of the culvert diameter below the surface of the streambed. The invert of squash pipe arches shall be countersunk at least 20% of the culvert rise below the surface of the streambed.

Stream crossing structures other than above (e.g., culverts with an effective width less than 120% of the channel width); or within/over channels with extensive flood plains (i.e. ratio of flood prone width/OHWM width > 2.2) require authorization via individual permit.

18. **Cultural Resources.** This RGP requires consultation with the State Historic Preservation Office (SHPO) for projects determined by USACE to be an undertaking with the potential to affect historic properties. If a determination of eligibility for a potential historic property in the project area has not been previously completed, an evaluation of its potential significance using the National Register Criteria (36 CFR 60.4) must be completed. If USACE determines the project would have 'no effect', or 'no adverse effect' the RGP may be verified after SHPO concurs. Discharges that are determined to have an 'adverse effect' to a historic property would be required to go through the individual permit process. The activity must not adversely affect subsistence resources.

19. **Inadvertent Discoveries.** If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

20. **Invasive Plant and Animal Species.** Measures should be implemented to prevent the introduction and spread of invasive plant and animal species, such as washing equipment to remove dirt and debris that might harbor invasive seeds before entering the jobsite, using weed-free fill, disposing of spoil and vegetation contaminated with invasive species appropriately, and re-vegetating with local native plant species.

21. **Maintenance.** You must maintain the authorized activity in good state, and in conformance with the conditions of this RGP. The permittee may transfer the permit to a third party in compliance with the Section on **Transfer of General Permit Verification**. Should the permittee cease to maintain the authorized activity, or

should they desire to abandon the project without a transferee, then the permittee must obtain approval from this office, which may require restoration of the area.

22. **Inspections.** You must permit the district engineer, or his designated representative(s), to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the conditions of this RGP. Reports shall be prepared for all field inspections and entered into the official RGP file.

23. **Modification by Other Authorizations.** If the work proposed under this RGP is subsequently modified by other Federal, State, or local governmental organization, a modification of the RGP including verification by the Corps to perform activities under this RGP may need to be obtained.

24. **Use of Multiple General Permits, including Nationwide Permits.** The use of this RGP in conjunction with other RGPs or Nationwide Permits (NWPs) for a single and complete project is prohibited, except when the acreage loss of WOTUS authorized by the RGP and/or NWPs does not exceed the acreage limit of the RGP/NWP with the highest specified acreage limit.

25. **Transfer of Regional General Permit Verification.** If the permittee sells or transfers the lease on the property associated with an RGP verification, the permittee may transfer this RGP verification to the new owner by submitting a letter to the Corps to validate the transfer. A copy of this RGP verification must be attached to the letter, and the letter must contain the following statement and signature: “When the structures of work authorized by this RGP are still in existence at the time the property is transferred, the conditions of this RGP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this RGP and the associated liabilities associated with compliance with its conditions, the signature of the transferee and date appear below.”

_____ _____

(*Transferee signature*) (*Date*)

_____

(*Printed name*)

COMPLIANCE

Compliance with the RGP requires strict adherence to the conditions specified both herein and any special conditions within the verification letter. Corps representatives may inspect sites to determine whether the work is being, or has been, performed in accordance with the conditions of this RGP.

Should the Corps determine that an activity is not in compliance with the RGP, the permittee may be required, at their expense, to implement corrective measures, remove fill and/or restore any areas affected by the noncompliance, in accordance with 33 CFR Part 326 and Section 309 of the Clean Water Act. Noncompliance could also result in suspension, revocation or modification of the RGP authorization (pursuant to 33 CFR 325.7), initiation of legal action by the Federal Government, issuance of a monetary penalty ranging from $21,934 to $53,833 per day of violation, and/or imprisonment for up to one year.

In addition, periodic field inspections shall be undertaken by this office of projects authorized under this RGP. Reports shall be prepared for all field inspections and entered into the official RGP file. The Regulatory Division shall maintain a file of RGP-related documents and monitoring efforts. Information contained in this RGP file shall provide the basis for the decision whether or not to revise or renew this RGP. If it is determined that projects authorized by this RGP result in greater than minimal adverse environmental impacts, then this RGP shall be modified, suspended, or revoked to prevent further impacts.

FURTHER INFORMATION

1. **Congressional Authorities.** Authorization to undertake the activities descried above is pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403)

2. **Limits of this Authorization.**
   a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.
   b. This RGP does not grant any property rights, either in real estate or material, or any excusive privileges; and it does not authorize any injury to property, invasion of rights, or infringement of federal, state, or local laws or regulations.
   c. This permit does not authorize the interference with any existing or proposed federal projects.

3. **Limits of Federal Liability.** In issuing this permit, the federal government does not assume any liability for the following:
   a. Damages to the permitted project or uses thereof resulting from other permitted or non-permitted activities or from natural causes.
   b. Damages to the permitted project or uses thereof resulting from current or future activities undertaken by or on behalf of the United States which in the public interest.
   c. Damages to persons, property, or to other permitted or non-permitted activities or structures caused by an activity authorized by this permit.
   d. Design or construction deficiencies associate with the permitted work.
   e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data.** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information provided by the applicant.

5. **Reevaluation of Decision.** This office may reevaluate its decision on RGP verification at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
   a. The permittee fails to comply with the conditions of this permit.
   b. The information provided by the permittee in support of the application proves to have been false, incomplete, or inaccurate (See 4 above).
   c. Significant new information surfaces, which this office did not consider in reaching the original public interest decision.

   Reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for conditions of the permit and for the initiation of legal action where appropriate.

6. **Reevaluation of this RGP.** This office may also reevaluate its decision to issue the RGP-05 at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7.

1.2 Statutory Authority

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

Section 404 of the Clean Water Act (33 U.S.C. 1344)

1.3 General

RGPs are a type of general permit issued on a regional basis to authorize certain activities that are substantially similar in nature and cause only minimal individual and cumulative environmental impacts. RGPs must comply with the related laws cited in 33 CFR 320.3. Specifically, evaluation of this RGP considers compliance with each of the following laws as applicable: Section 401, 402, and 404 of the Clean Water Act, Section 307(c) of the Coastal Zone Management Act of 1972, as amended, Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, the National Environmental Policy Act of 1969, the Fish and Wildlife Act of 1956, the Fish and Wildlife Coordination Act, the National Historic Preservation Act of 1966, the Interstate Land Sales Full Disclosure Act; the Endangered Species Act; the Magnuson-Stevens Fishery and Conservation and Management Act, the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and the Alaska National Interest Lands Conservation Act. In addition,

compliance of the RGP with other Federal requirements, such as Executive Orders and Federal Regulations addressing issues such as floodplains, essential fish habitat, and critical resource waters are considered.

Activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment cannot be authorized by RGP's. Individual review of each activity proposed for authorization by the RGP would be performed through the pre-construction notification to the Corps and would be required for verification that an activity complies with the RGP.

1.4 Avoidance and Minimization of impacts to waters of the U.S. (WOTUS):

To avoid and minimize impacts under this RGP (with the exception of coastal erosion projects) dredged and/or fill material would not be discharged into or within:

a. Five hundred (500) feet of marine, estuarine, or the major riverine waters listed here: Colville, Kuparuk, Sagavanirktok, Shaviovik, Kadleroshilik, and Canning; or,

b. One hundred (100) feet of other riverine waters, lacustrine waters, or the following types of palustrine wetlands with:

i. an unconsolidated bottom (PUB),

ii. the subclass 2 (PEM2, indicating the presence of Arctophyla), or

iii. a water regime modifier of F, G, H, L, or N (PEMF/G/H/L/N, including beaded streams).

The 100' and 500' setbacks from the specified waters would be indicated on project plans and staked in the field. In limited cases the district engineer could waive this criterion by making a written determination concluding that the discharge would result in minimal adverse effects (potential examples include projects in villages, road crossings, or expansions of existing projects).

The Authorized Activities section of the RGP provides for Maximum Acreage Limitations and includes the Excluded Areas and Activities. With these stringent measures the RGP fulfills the avoidance and minimization of impacts to waters of the U.S. requirements for activities permitted under this RGP. Because of these limitations and others listed in the RGP no further avoidance and minimization factors would be required.

1.5 Proposed Mitigation and discussion:

The District Engineer (DE) may add special conditions to the RGP authorizations to require mitigation to reduce the adverse environmental effect so that they are no more than minimal. Mitigation will be determined on a case-by-case basis during each permit verification.

1.6 Applicable History: The Corps has over the last decade either not received many, and sometimes no, comments on most of the proposed projects across the North Slope when the proposed impacts were under 20 acres in size. The intent of developing this RGP was to provide agencies with an opportunity for interjecting sound science and principles through best management practices which would

become a part of the limitations, exclusions and conditions of the RGP for any permit the Corps would authorize/verify. It was developed to minimize degradation of wetlands and habitat. By developing this RGP, not only is the Corps able to streamline the process for permitting actions upfront, applicants also would provide an application that more definitively avoids and minimizes impacts to those wetlands that are considered high value across the north slope for their importance for habitat and functions. Additionally, this would shorten the timeline for permitting projects for both the applicant and the U.S. Army Corps of Engineers, Regulatory staff.

1.6 Terms and Conditions

The conditions of the RGP are listed as 1-25 under the subtitle CONDITIONS. Any verification issued may also include special conditions that this office determines are necessary to ensure compliance with the conditions of the RGP and to ensure that the activity will not result in more than minimal individual or cumulative adverse impacts to the aquatic ecosystem or other public interest factors.

2 Review Process

The analysis in this document and the coordination that was undertaken prior to the issuance of this RGP fulfill the requirements under the National Environmental Policy Act (NEPA) and the Fish and Wildlife Coordination Act (FWCA).

The state must grant or waive a Clean Water Act Section 401 water quality certification (WQC) for this RGP prior to a final Corps permit decision. A Section 401 WC was granted for this RGP on January 21, 2020; pursuant to this general certification, specific activities authorized under the RGP would not be subject to Section 401 on a case-by-case review.

RGP's that authorize activities within, or affecting land or water uses within a state that has a federally approved coastal zone management program (CZM), must also be certified as consistent with the state's program. By operation of Alaska State law, the federally approved CZM program expired July 1, 2011, resulting in a withdrawal from participating in the Coastal Zone Management Act's (CZMA) National Coastal Management Program. The CZMA is there not applicable to RGP's.

2.1 Scope of Analysis

The determination of the scope of analysis for the Corps federal action is guided by the Corps NEPA implementing regulations 33 CFR 325, Appendix B.

The scope of analysis includes the specific activity requiring a Department of the Army permit. Other portions of the entire project are not included unless the Corps has sufficient control and responsibility to warrant federal review.

Final description of scope analysis: This RGP is proposed across the entire North Slope of Alaska. For each activity to be verified under this RGP a site-specific

separate General Permit (GP) combined decision document (CDD) that identifies NEPA scope would also be required to be completed.

Determination of the "Corps action area" for Section 7 of the Endangered Species Act (ESA): For each separate action proposed under this RGP the direct and indirect effects of the action would define this area and would be further described in a separate CDD. The area directly affected by each proposed project would typically be the footprint of the proposed project. The area indirectly affected by the proposed project would be delineated by a zone of influence surrounding the project.

Determination of permit area for Section 106 of the National Historic Preservation Act (NHPA): The permit area includes only those areas comprising water of the United States that will be directly affected by the proposed work or structures. Activities outside of waters of the U.S. are not included unless all three tests identified in 33 CFR 325, Appendix C(g)(1) have not been met.
The final description of the permit area for each project would be determined in a separate GP CDD analysis for each project.

Final description of the permit area: For each project a separate GP CDD analysis and permit area determination would be completed.

2.2 Purpose and Need:

The purpose and need, basic project purpose, and the overall project purpose for each project would be discussed in the CDD for each project.

2.3 Water Dependency Determination

Most activities proposed under this RGP would not require access or proximity to or siting within a special aquatic site to fulfill its basic purpose. Activities would be evaluated on a project by project basis.

2.4 Overall project purpose, as determined by the Corps: The overall project purpose would be determined by the Corps for every project through the completion of a CDD on each individual project.

2.5 Public Comment and Response

A Public Notice (PN) describing the RGP was issued (mailed/Emailed) and posted on the Corps website (http://www.poa.usace.army.mil/Missions/Regulatory/Special-Public-Notices/) on June 25, 2019. The PN expired on July 25, 2019.

Table 1 – Comments Received			
Agency and/or Person provided with Public Notice:	Response received? Y/N	Date Received:	Comments/Issues Raised, Applicant's Response and Corps Evaluation:
U.S. Environmental Protection Agency (EPA)	Y	25 July 2019	See below for discussion.
U.S. Fish and Wildlife Service (USFWS)	Y	18 July 2019	See below for discussion.
U.S. Coast Guard (USCG)	N		
Federally Recognized Tribes	N		
Alaska Department of Fish and Game (ADF&G)	N		
Alaska Department of National Resources (ADNR)	N		
AKDNR, Office of History and Archeology (OHA)	N		
Alaska Department of Environmental Conservation (ADEC)	Y	21 Jan 2020	401 Cert issued for RGP
Local Agencies	N		
Individuals	Y	25 July 2019	ConocoPhillips Alaska, Inc. See below for discussion.

Comment 1: U.S. Fish and Wildlife Services (USFWS), requested 22 minor changes or editorial corrections to the proposed GP and Application Form, see FWS matrix in electronic file.

Corps Evaluation: The Corps accepted most recommendations. Many of these comments were valid and the RGP has been changed where possible to reflect them.

Comment 2: ConocoPhillips Alaska, Inc.;

1) requested all avoidance and minimization to count, and for no compensatory mitigation to be required.
2) They asked that the RGP cover only wetlands.

3) Asked for the excluded areas be reduced both for distance from high values wetlands and those specific types of wetlands
4) Requested that permits from other agencies be sought concurrently
5) Commented on duplicate language on several items.
6) Revise the condition about suitable material
7) Reword the condition on hazardous waste
8) Requested change to condition on culverts/bridges
9) Requested change to native plant species
10) Change multiple references to NWP on the application form.

Corps Evaluation: The Corps is not inclined at this juncture to have the RGP blankly state no compensatory mitigation would be required.

1) The RGP does clarify that the 10 acres impacts is specific to waters of the U.S., including wetlands. The types of wetlands included for exclusion were specifically listed to minimize impacts to wetlands where Arctophyla grows.
2) For the TLUI Form 500 with the North Slope Borough the RGP has been revised to state the applicant must provide documentation showing it has been submitted.
3) Duplicity has been removed where the Corps determined it was not necessary. The condition on suitable material has been revised.
4) The condition on hazardous waste has been reworded to state the construction of landfills are not allowed under this RGP.
5) Because the RGP is not meant to develop new roads this condition was not revised.
6) The Corps does not routinely require re-vegetation on smaller projects; therefore the Corps does not believe this condition is excessive.

Comment 3: Environmental Protection Agency (EPA)

1) EPA believes that the Corps should reinstate the condition concerning the placement of fuel storage tanks above the 100-year flood level and that they be designed to withstand a 100-year flood.
2) 332.3(b)(5) ‘permittee responsible mitigation on site and in kind’ was not included as an option for mitigation under this RGP, EPA requested it be included as a mitigation option.

Corps Evaluation:

1) The Corps has reinstated the condition on the placement of fuel tanks.
2) The Corps reinstated 332.3(b)(5)

2.6 RGP changes Subsequent to the Public Notice

The RGP has been changed so that it can be used for additional impacts to any previous project, regardless of the original size as long as it does not exceed ten (10) acres of new impacts and is not greater than 50% of the original impacts.

3 Alternatives

This evaluation includes an analysis of alternatives based on the requirements of NEPA, which requires a more expansive review than the Clean Water Act Section 404(b)(1) guidelines. The alternatives discussed below are based on an analysis of the potential environmental impacts and impacts to the Corps, federal, tribal, and state resources agencies, the general public, and prospective permittees. Since the consideration of off-site alternatives under the 404(b)(1) guidelines does not apply to specific projects authorized by general permits, the alternatives analysis discussed below consists of a general NEPA alternatives analysis for the RGP.

3.1 Alternative 1: No Action:

Under this alternative, the RGP would not be issued. The no-action alternative would not achieve one of the goals of the Corps Permit Program, which is to reduce the regulatory burden on applicants for activities that result in minimal individual and cumulative adverse effects on the aquatic environment.

The no-action alternative would also reduce the Corps' ability to pursue the current level of review for other activities that have greater adverse effects on the aquatic environment, including activities that require Individual Permits (IP) as a result of the Corps exercising its discretionary authority under the RGP.

If this RGP is not available, additional resources would be required for the Corps to evaluate these minor activities through the IP process, and for the public, federal agencies, tribal entities, and state resource agencies to review and comment on the public notices for these activities. Another important benefit of the proposed RGP that would not be achieved through the "no action" alternative is the incentive for project proponents to design their project so that those activities meet the terms and conditions of the RGP (e.g., minimization and acreage limits). RGPs are intended to reduce adverse effects to the aquatic environment as applicants modify their projects to comply with the RGPs to achieve a more expedited permit evaluation process.

However, the no action alternative will need to be evaluated on a case by case basis in the project specific CDDs.

3.2 Alternative 2: On-Site: The RGP is conditioned to avoid and minimize discharges of dredged or fill material into WOTUS to the maximum extent practicable on the project site. The applicant is required to co-locate infrastructure when possible, avoid higher functioning WOTUS, and to minimize impacts by reducing the size of the impacts as much as possible.

3.3 Alternative 3: Off-Site: The RGP is conditioned to avoid and minimize discharges of dredged or fill material into WOTUS to the maximum extent practicable on the project site. The consideration of off-site alternatives is not directly applicable to general permits (40 CFR 230.7(b)(1)).

3.4 Practicable alternatives to the proposed discharge consistent with 40 CFR 230.5(c) are evaluated in Section 3. The statements below summarize the analysis of alternatives.

In summary, based on the analysis above, the no-action alternative, which would not involve discharge into waters, is not generally practicable. However, the no action alternative will need to be evaluated on a case by case basis in the project specific CDDs.

The RGP contains exclusions, conditions and terms that would limit the impacts to the highest functioning WOTUS, and it incorporates other measures to minimize impacts by co-location of infrastructure as well as other conditions. For these reasons the Corps has determined that proposals submitted under this RGP would appropriately minimize impacts to WOTUS as required by subpart H of the 404(b)(1) guidelines.

4 Affected Environment

4.1 Environmental Consequences

This document contains a general assessment of the foreseeable effects of the individual activities authorized by this RGP and the anticipated cumulative effects of those activities. In the assessment of these individual and cumulative effects, the terms and limits of the RGP, pre-construction notification requirements, and the RGP general conditions are considered. The individual permitting action decision document will address how each permitted action would affect the individual and cumulative effects in each watershed.

The following evaluation comprises the NEPA analysis, the public interest review specified in 33 CFR 320.4(a)(1) and (2), and the impact analysis specified in Subparts C through F of the 404(b)(1) Guidelines (40 CFR Part 230).

The issuance of an RGP is based on a general assessment of the effects on public interest and environmental factors that are likely to occur as a result of using this RGP to authorize activities in waters of the United States. As such, this assessment must be speculative or predictive in general terms. Since this RGP authorize activities across the North Slope of Alaska, projects eligible for RGP authorization may be constructed in a wide variety of environmental settings.

Therefore, it is difficult to predict all of the indirect impacts that may be associated with each activity authorized by an RGP. For example, the RGP verification that authorizes 25 cubic yard discharges of dredged or fill material into waters of the United States may be used to fulfill a variety of project purposes, and the indirect effects will vary depending on the specific activity and the environmental characteristics of the site in which the activity takes place. Indication that a factor is not relevant to a particular RGP does not necessarily mean that the RGP would never have an effect on that factor, but that it is a factor not readily identified with the authorized activity. Factors may be relevant, but the adverse effects on the aquatic environment are negligible, such as the impacts of a coastal erosion project on water level fluctuations or flood hazards. Only the reasonably foreseeable direct, indirect, and cumulative effects are included in the environmental assessment for this RGP. The DE will impose, as necessary, additional conditions on the RGP authorization or exercise discretionary authority to address locally important factors or to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects. In any case, adverse effects will be controlled by the terms, conditions, and additional provisions of the RGP.

Indirect impacts could include the sedimentation of wetlands adjacent to the new development, but would be expected to be minimal due to the incorporation of best management practices and conditions of the RGP to prevent erosion and runoff from the project area. There would be a direct impact through the loss of habitat for wildlife within the area, as habitat is lost and animals continue to become displaced further from the developed areas. Additional projects are likely to be proposed across the North Slope for schools, hospitals, and large oil and gas projects that would exceed the limits of the RGP under the Individual Permit process; however, those projects would be required to go through a public process as well. Some large developments would also require the need for an Environmental Impact Statement when the impacts are determined to cause significant impacts to the human environment.

4.2 General Evaluation Criteria

This document contains a general assessment of the foreseeable effects of the individual activities authorized by the RGP and the anticipated cumulative effects of those activates. In the assessment of these individual and cumulative effects, the terms and limits of the RGP, Pre-Construction Notification (PCN) requirements, and the RGP General Conditions (GC) are considered.

The following evaluation comprises the NEPA analysis, the public interest review specified in 33 CFR 320.4(a)(1) and (2), and the impact analysis specified in Subparts C through F of the 404(b)(1) guidelines (40 CFR 230).

The issuance of an RGP is based on a broad assessment of the effects on public interest and environmental factors that are likely to occur as a result of using this RGP to authorize activities in WOTUS.

The indication that a factor is not relevant to the RGP does not necessarily mean that the RGP would never have an effect on that factor, but that it is a factor not readily identified with the authorized activity. Factors may be relevant, but the adverse effects on the aquatic environment are negligible, such as the impacts of a buried utility line to water level fluctuations or flood hazards. Only the reasonably foreseeable direct or indirect effects are included in the environmental assessment for this RGP. The DE would impose, as necessary, additional conditions or to ensure the authorized activity results in nor more than minimal individual and cumulative adverse effects on the aquatic environment. In any case, adverse effects would be controlled by the terms, General Conditions (GC), and additional provisions of the RGP.

Cumulative impacts under this RGP would include the loss of approximately 250 acres of wetlands for approximately 300 actions over a five year period if the RGP if approved. In the development of this RGP the Alaska District reviewed actions over a five year period starting on October 1, 2013 to October 1, 2018 to determine how many actions would potentially be able to utilize this RGP, and how many acres of impacts would be estimated over a projected five year period. The activity likely to occur under this RGP within five years, based on that review, would be up to 300 separate actions impacting up to a total of 250 acres of waters of the U.S., including wetlands across the North Slope.

4.3 Impact Analysis

A case-by-case impact analysis would occur to ensure that the specific activities would have minimal individual and cumulative adverse effects on the aquatic environment. A PCN is required for all activities authorized by this RGP, at which time an abbreviated impacts analysis is considered as part of the verification. The PCN requirement allows the DE to review proposed activities on a case-by-case basis to ensure that the individual and cumulative adverse effects of those activities on the aquatic environment are minimal. If the DE determines that the adverse effects of a particular project are more than minimal after considering mitigation, then discretionary authority would be asserted, and the applicant would be notified that an individual permit would be required.

When making the minimal adverse environmental effects determinations, the DE would consider the direct and indirect effects caused by the RGP activity. The DE would also consider site-specific factors, such as the environmental setting in the vicinity of the RGP activity, the type(s) of resource(s) that will be affected by the RGP activity, the functions provided by the aquatic resource that would be affected by the RGP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resources functions would be lost as a result of the RGP activity (e.g., partial or complete loss), the duration of the adverse effects (e.g. temporary or permanent), the importance of the aquatic resource functions to the region (e.g. watershed or ecoregion), and mitigation required by the DE. The DE may add case-by-case special conditions to the RGP authorization to address site-specific environmental concerns.

4.4 Cumulative Analysis

During the development of this RGP, the Alaska District reviewed actions over a five year period starting on October 1, 2013 to October 1, 2018 to determine how many actions would potentially be able to utilize this RGP, and how many acres of impacts would be estimated over a projected five year period. The activity likely to occur under this RGP within five years, based on that review, would be up to 300 separate actions impacting up to a total of 250 acres of waters of the U.S., including wetlands across the North Slope. The various impacts could include increases to existing oil and gas infrastructure pads and roads, or new pads of up to ten acres in size, housing development within villages across the North Slope, and a variety of village infrastructure and/or coastal erosion projects. The following acreage limitations for single and complete projects would apply to discharges authorized under RGP-05:

a) Discharges for development of a new fill pad (and accompanying infrastructure) or the expansion of an existing fill pad would not exceed ten (10) acres. Repeated use of this RGP for the same facility or project would authorize no more than twenty (20) acres of total discharge for the term of this RGP. After impacting ten (10) acres for a new project, any additional proposal may be subject to an elevated review if more than 50% of an increase in impacts is requested.

b) Discharges for development of new linear projects would not exceed ten (10) acres. Discharges for widening existing roads could be authorized without a defined acreage limit – however, the applicant would need to identify a clear purpose and need for the expansion, minimize to the maximum extent possible, and it would need to be verified by the district engineer.

c) Discharges for coastal erosion projects would not exceed twenty (20) acres. (This was changed after the issuance of the draft RGP on public notice, because there may be cases where coastal erosion prevention would exceed ten acres and the intent of the RGP is to streamline those projects that typically don't raise agency concerns. Additionally, those projects are specifically designed to meet the needs of the location and to prevent further erosion and damage to public infrastructure.)

4.4.1 The geographic scope for the cumulative effects assessment is:
The geographic scope for the RGP would include the complete North Slope area as defined by the North Slope Borough boundary lines. It would cross portions of six HUC-6 watersheds and three ecoregions: Arctic Coastal Plain, Brooks Foothills and portions of the Brooks Range ecoregion

4.4.2 The temporal scope of this assessment covers: The temporal scope covers the last forty five years and goes into the future for an additional five years.

4.4.3 Describe the affected environment: Numerous geological studies initiated by the U.S. Navy and the U.S. Geological Survey in the 1920's and continuing through

the early 1960's were conducted in search of a source of fuel for the U.S. Government but the activities did not really resulted in measurable land disturbance. Additionally, Atlantic Richfield Company and British Petroleum were also conducting geological studies in the late 1950s and into the 1960s without any measurable land disturbance. It was with the start of development across the North Slope within the Prudhoe Bay and Kuparuk oil fields lease units, and the construction of the Trans Alaskan Pipeline System (TAPS) in the mid-1970s the begin to have a measurable land disturbance/placement of fill in waters of the U.S., including wetlands.

Based on historical data the population of the North Slope Borough in 1970 was 2,663; this includes the communities, Anaktuvuk Pass, Atqasuk, Kaktovik, Nuiqsut, Point Hope, Point Lay, Utqiaġvik (formerly known as Barrow), and Wainwright. The current population growth estimates the population to be close to 10,000 for year 2018.

Most villages have continued to have slow growth. Potentially because of the work available across the North Slope, the residents can work a typical schedule of two weeks on/two weeks off in the oil field camps and then be home in the village on their time off work.

4.4.4 Determine the environmental consequences: In just over four decades the impacts have gone from small developments within the individual communities to large industrial size infrastructure in the Prudhoe Bay, Kuparuk, Milne and Alpine areas. The land mass identified as the North Slope encompasses 50,395,873 acres of land, with 44,305,642 acres being some type of aquatic resource. The current data shows that just 0.239% of the waters of the U.S., including wetlands have been filled. The NLD shows the current level of impacts to be at 16,545 acres, adding an additional impact of 250 acres of development over five years would increase the impacts to a total of 16,795 (before consideration of other development across the North Slope). The Nanushuk project, and GMT2 are large developments that have already been permitted in the area but have not been completed. Willow development is currently under review at the EIS level and has the potential to be quite large as well.

Within the next five years no significantly adverse cumulative environmental consequences to resources would occur due to the issuance of this RGP. In the reasonably foreseeable future, impacts for all environmental factors in Sections 6 and 7 analysis above are likely to increase in intensity when compared to existing conditions because of other project development both in the villages and the oil and gas fields.

4.4.5 Conclusions regarding cumulative impacts:

When considering the overall impacts that will result from the proposed activity, in relation to the overall impacts from past, present, and reasonably foreseeable future activities, the incremental contribution of the proposed activity to cumulative impacts in the area described in section 9.2, are not considered to be significant. Compensatory mitigation will be determined for each specific proposal under a separate CDD; and if determined to be necessary will be required to help offset the impacts to eliminate or minimize the proposed activity's incremental contribution to cumulative effects within the geographic area described in Section 9.2. Mitigation required for the proposed activity is discussed in Section 8.0.

During the February 10, 2021, to February 9, 2026, issuance of this RGP, the demand for activities authorized could increase or decrease from these estimates.

5. Public Interest Review Public Interest Review Factors (33 CFR 320.4(a)(1)) All public interest factors have been reviewed and those that are relevant to the proposal are considered and discussed in additional detail. See Table 9 and any discussion that follows.

Because the impacts would be different for proposed projects in wetlands as opposed to projects for erosion control in Section 10 waters of the U.S., there are two separate tables to address the Public Interest Factors.

FOR INFRASTRUCTURE PROJECTS THAT WOULD BE WITHIN WETLANDS, WITH MINOR CROSSINGS OF RIVERS:

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
1. Conservation: See below for discussion.				x		
2. Economics: See below for discussion.					x	
3. Aesthetics: See below for discussion.				x		
4. General Environmental Concerns: See below for discussion.				x		
5. Wetlands: See below for discussion.		x				
6. Historic Properties: See below for discussion.	x					
7. Fish and Wildlife Values: See below for discussion.				x		
8. Flood Hazards: See below for discussion.	x					

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
9. Floodplain Values: See below for discussion.				x		
10. Land Use: See below for discussion.					x	
11. Navigation: See below for discussion.						x
12. Shoreline Erosion and Accretion: See below for discussion.						x
13. Recreation: See below for discussion.				x		
14. Water Supply and Conservation: See below for discussion.			x			
15. Water Quality: See below for discussion.				x		
16. Energy Needs: See below for discussion.				x		
17. Safety: See below for discussion.				x		
18. Food and Fiber Production: See below for discussion.						x
19. Mineral Needs: See below for discussion.				x		
20. Consideration of Property Ownership: See below for discussion.					x	
21. Needs and Welfare of the People: See below for discussion.					x	

Additional discussion of effects on factors above:

None	**Historic Properties** projects would not be authorized under this RGP unless there was a no effect or no potential to cause effect determination made for historic properties within the project area. **Flood Hazards** infrastructure projects would not be allowed to be developed if they would be a flood hazard or could cause a flood hazard.
Detrimental	**Wetlands** the North Slope consists of abundant continuous wetlands, projects authorized under this RGP would exclude high value wetlands. Consequently, placement of fill into these waters of the U. S. and wetlands would be detrimental but considered minimal within the watersheds across the North Slope.

Neutral (Mitigated)	**Water Quality** any changes to water quality would be considered neutral because the applicants would have to comply with a 401 Water Quality Certification.
Negligible	**Conservation** is achieved by collocating infrastructure and excluding impacts to high value wetlands. **Aesthetics** – infrastructure projects would be negligible as projects would typically be constructed adjacent to existing infrastructure and would be similar in appearance to the surrounding area. **General Environmental Concerns** because less than 1% of the wetlands have fill on them and conditions within the RGP would exclude impacts to those wetlands deemed to be high value, infrastructure would be collocated, impacts to areas with ESA listed species would have to follow minimization measures within the most current Programmatic Biological Opinion (PBO) (those projects within the Barrow Triangle area would have an individual Biological Opinion (BO) that would likely more stringent than those in the PBO) and there are other conditions within the RGP that minimize additional environmental concerns the general environmental concerns would be negligible **Fish and Wildlife Values** because most projects under this RGP would be adjacent to existing infrastructure or would be located within a community on the North Slope where wildlife has been previously displaced, the minimal expansion within the project areas would have a negligible impact on wildlife. **Floodplain values** impact would be minimal. **Recreation** no more than minimal impacts. **Water Supply and Conservation** impacts to water supplies would usually only occur during the construction phase of a project and would be negligible. **Energy Needs** energy needs for most projects would only be necessary during construction or would be part of a planned community development and would be considered negligible. **Mineral Needs** gravel would come from existing mine sites and would be negligible overall.

Beneficial	**Economical** the permitting entity would gain increased revenues from the development of the project or the construction of a new home/community building. **Land Use** a project construction on an individual's land would provide a residence, Infrastructure projects would be beneficial to the community, the NSB and the State of Alaska providing increased value to lands and by revenue. **Safety** would be developed through Best Management Practices **Considerations of Property Ownership** – the majority of the lands where projects would be expanded are on state or North Slope Borough leased property, and would increase revenues for the landowner; **Needs and Welfare of the People** infrastructure to support the oil and gas industry would be beneficial to the public for fuel and energy production and because derivatives of these products are used to create multiple products utilized around the world.
Not Applicable	**Navigation** does not occur within the area the RGP would be utilized. **Shoreline Erosion and Accretion** no projects would be constructed along shorelines so this in not applicable. **Food and Fiber Production** does not occur across the North Slope

FOR EROSION CONTROL PROJECTS:

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
1. Conservation: See below for discussion.				x		
2. Economics: See below for discussion.					x	
3. Aesthetics: See below for discussion.				x		
4. General Environmental Concerns: See below for discussion.				x		
5. Wetlands: See below for discussion.		x				
6. Historic Properties: See below for discussion.	x		x			

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
7. Fish and Wildlife Values: See below for discussion.				x		
8. Flood Hazards: See below for discussion.					x	
9. Floodplain Values: See below for discussion.					x	
10. Land Use: See below for discussion.					x	
11. Navigation: See below for discussion.				x		
12. Shoreline Erosion and Accretion: See below for discussion.					x	
13. Recreation: See below for discussion.				x		
14. Water Supply and Conservation: See below for discussion.				x		
15. Water Quality: See below for discussion.				x		
16. Energy Needs: See below for discussion.				x		
17. Safety: See below for discussion.					x	
18. Food and Fiber Production: See below for discussion.						x
19. Mineral Needs: See below for discussion.				x		
20. Consideration of Property Ownership: See below for discussion.					x	
21. Needs and Welfare of the People: See below for discussion.					x	

Additional discussion of effects on factors above:

None	**Historic Properties** projects would not typically be authorized under this RGP unless there was a no effect or no potential to cause effect determination made for historic properties within the project area. However, there could be some instances where projects would occur near or within the vicinity of cultural resources or within historic districts, these would require consultation with SHPO and potentially require mitigation to have the effect be neutral.
Detrimental	**Wetlands** the loss would be detrimental however, no more than minimal cumulative losses are anticipated.

Neutral (Mitigated)	**Historic Properties** projects would not typically be authorized under this RGP unless there was a no effect or no potential to cause effect determination made for historic properties within the project area. However, there could be some instances where projects would occur near or within the vicinity of cultural resources or within historic districts, these would require coordination with SHPO and potentially require mitigation to have the effect be neutral.
Negligible	**Conservation** coastal erosion protective barrier would conserve resources that would potentially be lost if it were not constructed. **General Environmental Concerns** would be mitigated by the construction of a protective erosion barrier. **Aesthetics** coastal erosion projects would be negligible as they would typically be new construction with an elevated appearance and may obstruct the view of the ocean or river it is meant to protect. **Fish and Wildlife Values** under coastal erosion protection projects fish would likely be temporarily disturbed during the construction of the barrier by work in waters of the U.S.; within coastal communities on the North Slope wildlife already have been displaced, any project would further displace them but because the uninhabited areas are expansive it would have a negligible impact on wildlife. **Conservation** coastal erosion protective barrier would conserve resources that would potentially be lost if it were not constructed. **General Environmental Concerns** would be mitigated by the construction of a protective erosion barrier. **Aesthetics** coastal erosion aesthetics would be negligible as they would typically be new construction with an elevated appearance and may obstruct the view of the ocean or river it is meant to protect. **Fish and Wildlife Values** under coastal erosion protection projects fish would likely be temporarily disturbed during the construction of the barrier by work in waters of the U.S.; within coastal communities on the North Slope wildlife already have been displaced, any project would further displace them but impacts would have a negligible impact on wildlife.

Negligible (cont.)	**Navigation** could be temporarily disturbed by the construction activity **Recreation** could be temporarily disturbed during the construction of a protective barrier **Water Supply and Conservation** would be temporary if needed so would be considered negligible. **Water Quality** could have temporary turbidity during construction **Energy Needs** energy needs for most projects would only be necessary during construction so would be considered negligible. **Mineral Needs** gravel would come from existing mine sites and would be negligible overall.

Beneficial	**Economics** very often FEMA would be involved in the construction of an erosion protection barrier. **Flood Hazards** coastal erosion projects would prevent or at least minimize flood hazards **Floodplain values** coastal erosion projects would prevent or at least minimize impacts to the floodplain **Land Use** a coastal erosion project would provide a measure of security and safety for the community and increase revenue for the land owner. **Shoreline Erosion and Accretion** would be abated or minimized by a coastal erosion protective barrier. **Safety** a protective barrier to coastal erosion would provide a great measure of safety to the community. **Considerations of Property Ownership** most of the property where coastal erosion projects would occur would be either North Slope Borough land, Native community lands or the State of Alaska lands and the protective barrier would be at their request. **Needs and Welfare of the People** protective barriers against coastal erosion would specifically be for the needs and welfare of the local community for protection of housing, public resources.
Not Applicable	**Food and Fiber Production** does not occur across the North Slope

4.5 Additional Public Interest Review Factors (33 CFR 320.4(a)(2)

4.5.1 Relative extent of the public and private need for the proposed structure or work:

This RGP authorizes activities across the North Slope of Alaska that have no more than minimal individual and cumulative adverse environmental effects. These activities satisfy public and private needs for housing, oil and gas infrastructure, and coastal erosion protection. The need for this RGP is based upon the number of these activities that occur annually with no more than minimal individual and cumulative adverse environmental effects.

4.5.2 Were there any unresolved conflicts as to resource use, the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work?

Most situations in which there are unresolved conflicts concerning resource use arise when environmentally sensitive areas are involved (e.g., special aquatic sites, including wetlands) or where there are competing uses of a resource. The nature and scope of the activity, when planned and constructed in accordance with the terms and conditions of this RGP, reduce the likelihood of such conflict. In the event that there is conflict, the RGP contains provisions that are capable of resolving the matter (see section 1.2 of this document).

The RGP requires permittees to avoid and minimize adverse effects to WOTUS to the maximum extent practicable on the project site. Consideration of off-site alternatives locations is not required for activities that are authorized under general permits. General permits authorize activities that have no more than minimal individual and cumulative adverse effects on the environment and the overall public interest. The DE will exercise discretionary authority and require an individual permit if the proposed activity will result in more than minimal adverse environmental effects on the project site. The consideration of off-site alternatives can be required during the individual permit process.

4.5.3 The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work is likely to have on the public and privates uses to which the area is suited:

Detrimental effects are expected to be minimal and permanent.

Beneficial effects are expected to be minimal and permanent.

Because of the vast wetlands across the North Slope the effects would be considered minimal but permanent. The beneficial aspects of project would provide infrastructure in both villages and throughout the oil and gas production areas, these would be expected to be permanent facilities.

5 Clean Water Act Section 404(b)(1) Guideline Analysis

5.1 Alternatives

See Section 3.

5.2 Prohibitions (40 CFR 230.10(b))

No discharge of dredged or fill material shall be permitted if it:

1) Causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard;
2) Violates any applicable toxic effluent standard or prohibition under section 307 of the Act;
3) Jeopardizes the continued existence of species listed as endangered or threatened under the Endangered Species Act of 1973, as amended, or results in likelihood of the destruction or adverse modification of a habitat which is determined by the Secretary of Interior or Commerce, as appropriate, to be a critical habitat under the Endangered Species Act of 1973, as amended. If an exemption has been granted by the Endangered Species Committee, the terms of such exemption shall apply, in lieu of this subparagraph;
4) Violates any requirement imposed by the Secretary of Commerce to protect any marine sanctuary designated under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

5.3 Findings of Significant Degradation (40 CFR 230.10(c))

Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted, which will cause or contribute to significant degradation of the WOTUS. Findings of significant degradation related to the proposed discharge shall be based upon appropriate factual determinations, evaluations, and tests required by subparts B and G, after consideration of subparts C through F, with special emphasis on the persistence and permanence of the effects outlined in those subparts. Under these Guidelines, effects contributing to significant degradation considered individually or collectively, include:

1) Significantly adverse effects of the discharge of pollutants on human health or welfare, including but not limited to effects on municipal water supplies, plankton, fish, shellfish, wildlife, and special aquatic sites;
2) Significantly adverse effects of the discharge of pollutants on life stages of aquatic life and other wildlife dependent on aquatic ecosystems, including the transfer, concentration, and spread of pollutants or their byproducts outside of the disposal site through biological, physical, and chemical processes;
3) Significantly adverse effects of the discharge of pollutants on aquatic ecosystem diversity, productivity, and stability. Such effects may include, but are not limited to, loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients, purify water or reduce wave energy; or
4) Significantly adverse effects of the discharge of pollutants on recreational, aesthetic, and economic values.

5.4 Factual Determinations (40 CFR 230.11)

The factual determinations are required in 40 CFR 230.11 and are discussed in Section 6.6.2.

5.5 Appropriate and Practicable steps to minimize adverse impacts (40 CFR 230.10(d))

As demonstrated by the information in this document, as well as the terms, conditions, and provisions of this RGP, actions to minimize adverse effects have been thoroughly considered and incorporated into the RGP. General conditions require the permittees to avoid and minimize discharges of dredged or fill material into WOTUS to the maximum extent practicable on the project site. Compensatory mitigation may be required by the DE to ensure that the net adverse effects on the aquatic environment are no more than minimal and will be determined on a case by case basis for each permit verification.

5.6 Evaluation Process (40 CFR 230.7(b))

5.6.1 Cumulative effects (40 CFR 230.7(b)(3)

The 404(b)(1) Guidelines at 40 CFR 230.11(a) define cumulative effects as "...the changes in an aquatic ecosystem that are attributable to the collective effect of a

number of individual discharges of dredged or fill material." For the issuance of general permits, the 404(b)(1) Guidelines require the permitting authority to "set forth in writing an evaluation of the potential individual and cumulative impacts of the categories of activities to be regulated under the general permit." [40 CFR 230.7(b)]

If a situation arises in which cumulative effects are likely to be more than minimal, and the proposed activity requires further review or is more appropriately reviewed under the individual permit process, provisions of the RGP allow the DE to take such action.

The individual and cumulative adverse effects on the aquatic environment resulting from the activities authorized by this RGP would be minimal. The Corps expects that the convenience and time savings associated with the use of this RGP would encourage applicants to design their projects within the scope of the RGP, including its limits, rather than request individual permits for projects that could result in greater adverse impacts to the aquatic environment. The DE would restrict or prohibit the use of this RGP on a case-specific basis if it is determined that these activities would result in more than minimal individual and cumulative adverse effects on the aquatic environment.

See Section 4.4 for further evaluation of the potential individual and cumulative effects.

5.6.2 Section 404(b)(1) Guidelines Impact Analysis. Subpart C through F

*Impacts for projects that would occur for both infrastructure projects and coastal erosion projects are marked with an **'x'**, solely for infrastructure are marked **'in'** and for coastal erosion **'ce'*.** Additionally a separate GP CDD would also be completed for each individual project authorized under this RGP.*

Note "Major effect" is likely to be selected to address those effects that are expected to contribute, wholly or in part, to factual determination(s) that support a finding of significant degradation. See 40 CFR 230.10(c), which requires that "Except as provided under Section 404(b)(2), no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States."

*when dependent on inclusion of special conditions

Table 1 – Potential Impacts on Physical and Chemical Characteristics						
Physical and Chemical Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Substrate					x	
Suspended particulates/ turbidity				x		
Water			in	ce		
Current patterns and water circulation			in*	ce		
Normal water fluctuations			x*			
Salinity gradients	in		ce			

Discussion: The substrate would be permanently impacted by any project verified under this RGP. Suspended particulates and turbidity may increase for most projects under this RGP, but are anticipated to be short-term and minor. Impacts to water on coastal erosion projects are expected to be minor and short-term in comparison to the devastation caused by storms in the area. For infrastructure projects impacts to water would be negligible with the inclusion of special conditions. Normal water fluctuations would only be negligible for all projects proposed under this RGP. There would not be any salinity gradients for infrastructure projects because they would not be located in tidal zones, however the salinity gradients would be negligible for coastal erosion projects during construction.

Table 2 – Potential Impacts on Biological Characteristics						
Biological characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Threatened and endangered species					x	
Fish, crustaceans, mollusk, and other aquatic organisms			in*	ce		
Other wildlife					x	

Discussion: For infrastructure projects there would be a negligible effect on fish (projects, unless they are widening existing roads, would not be near any fish

bearing streams), crustaceans, mollusk, and other aquatic organisms within continuous wetlands areas. For coastal erosion projects the impacts would be minor and short term if work was conducted when the species were present (further discussion on impacts would be discussed in individual GP CDDs).

Long term there would be minor effects to the T&E species (fill would be placed outside the bird nesting window for infrastructure projects) as they are displaced due to their habitat being covered with fill. Other wildlife would also be affected for a long time during construction and would permanently remove habitat. However, there would still be large areas adjacent to any proposed project across the North Slope to which the animals could relocate.

Table 3 – Potential Impacts on Special Aquatic Sites

Special Aquatic Sites	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Sanctuaries and refuges					x	
Wetlands					x	
Mud flats	x					
Vegetated shallows	x					
Coral reefs	x					

Discussion: Impacts to any project allowed to be developed within a sanctuary or refuge (i.e. Arctic National Wildlife Refuge) would be considered minor with a long term effect. Those projects would go through a thorough environmental review completed by the land manager of the sanctuary or refuge and also require its own GP CDD from the Corps.

Impacts to wetlands would be 'minor long term'. The North Slope consists of continuous wetlands with less than 0.01% cumulative impacts percentage wise within the watersheds; placement of fill would typically last for decades so the impact would be considered long term. Due to the lack of cumulative impacts most project would result in minor impacts to watersheds. However, every project will be evaluated individually.

There are no mud flats, coral reefs, or vegetated shallows within the project area so impacts for those criteria are not applicable.

No infrastructure projects would be allowed in vegetated shallows due to the exclusions listed in the RGP; most coastal erosion projects would be considered a minor effect, long term as the project would be constructed to

prevent further damage to the existing waters of the U.S. caused by seasonal storms and would provide protection for the surrounding waters of the U.S., including wetland areas. The majority of coastal shorelines are undisturbed with no human infrastructure where coastal erosion is a concern, therefore, overall CE projects authorized by the RGP would not result in more than minor impacts in the region.

Table 4 – Potential Impacts on Human Use Characteristics						
Human Use Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Municipal and private water supplies			x			
Recreational and commercial fisheries			x			
Water-related recreation	in		ce			
Aesthetics					x	
Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves					x	

Discussion: For infrastructure projects requiring water withdrawals during construction they would need to get authorization from the State of Alaska but the impacts would be negligible, recreational and commercial fisheries impacts would be negligible with just a few individuals doing recreational fishing, water-related recreation could occur in locations where coastal erosion projects are constructed but impacts again would only be negligible.

There are not any national seashores or research sites within the limits of the RGP so impacts would not be applicable to those resources.

The RGP has been conditioned for the review of any cultural resources and each project would be coordinated with the State Historic Preservation Office when required. Any project within a wilderness area or preserve (Gates of the Arctic Wilderness Area or Noatak Park and Preserve) would go through an environmental review process by the land manager and would be incorporated

with the GP CDD if this RGP would apply to the project. These impacts would be minor but would be considered long term.

The effect on aesthetics for infrastructure projects would be minor but long term as projects would typically be constructed adjacent to existing infrastructure and would be similar in appearance to the surrounding area. Coastal erosion projects would typically be new construction with an elevated appearance and may obstruct the view of the ocean or river it is meant to protect.

5.6.3 Pre-testing evaluation (Subpart G, 40 CFR 230.60):

The following has been considered in evaluating the biological availability of possible contaminants in dredged or fill material. See Table 5:

Table 5 – Possible Contaminants in Dredged/Fill Material	
Physical characteristics	x
Hydrography in relation to known or anticipated sources of contaminants	
Results from previous testing of the material or similar material in the vicinity of the project	
Known, significant sources of persistent pesticides from land runoff or percolation	
Spill records for petroleum products or designated (Section 331 of CWA) hazardous substances	
Other public records or significant introduction of contaminants from industries, municipalities, or other sources	
Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities	

Discussion: The fill material will come from material sources or stockpiles of gravel/sand that do not contain contaminants.

It has been determined that testing is not required because the proposed material is not likely to be a carrier of contaminants because it is comprised of sand, gravel or other naturally occurring inert material.

5.6.4 Evaluation and testing (Subpart G, 40 CFR 230-61):

Discussion: N/A testing will not be required.

5.6.5 Actions to minimize adverse impacts (Subpart H). The following actions, as appropriate, have been taken through application of 40 CFR 230.70-230.77 to ensure minimal adverse effects of the proposed discharge. See Table 6:

Table 6 – Actions to Ensure Adverse Effects are Minimized	
Actions concerning the location of the discharge	x
Actions concerning the material to be discharged	x
Actions controlling the material after discharge	x
Actions affecting the method of dispersion	x
Actions affecting plant and animal populations	x
Actions affecting human use	x

Discussion: The exclusions, conditions and terms of the RGP minimize the adverse impacts within waters of the U.S., including wetlands. For each project a separate GP CDD would be completed to address additional aspects of actions which may be required to minimize adverse impacts of individual permits.

5.6.6 Factual Determinations (Subpart B, 40 CFR 230.11). The following determinations are made based on the applicable information above, including actions to minimize effects and consideration for contaminants. See Table 7:

Impacts for projects that would occur for both infrastructure projects and coastal erosion projects are marked with an 'x', solely for infrastructure are marked 'in' and for coastal erosion 'ce'. Additionally a separate GP CDD would also be completed for each individual project authorized under this RGP.

Table 7 – Factual Determinations of Potential Impacts						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Physical substrate					x	
Water circulation, fluctuation and salinity			x			
Suspended particulates/turbidity				x		
Contaminants	x					
Aquatic ecosystem and organisms					x	
Proposed disposal site					x	
Cumulative effects on the aquatic ecosystem					x	

Table 7 – Factual Determinations of Potential Impacts						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Secondary effects on the aquatic ecosystem					x	

Discussion: The projects would have a minor long term effect on the physical substrate as it would be covered with fill material and would no longer be considered a water of the U.S., or a wetland. Actions by each applicant would be taken to address the location of the discharge into wetlands, based on the exclusions, conditions and terms of the RGP. The materials would come from pre-approved gravel sources or existing stockpiles from known material sources without contaminants, and the fill would be stabilized to minimize sediment entering wetlands and waters of the U.S. Cumulative and secondary effects would be minor but have long term effects on the ecosystem.

The proposed project would occur outside of the bird nesting window to minimize impacts to nesting/breeding birds.

5.6.7 Findings of compliance or non-compliance with the restrictions on discharges (40 CFR 230.10(a-d) and 230.12). Based on the information above, including the factual determinations, the RGP has been broadly evaluated to determine whether any of the restrictions on discharge would occur. Each individual project will be evaluated for compliance with the guidelines. See Table 8:

Table 8 – Compliance with Restrictions on Discharge		
Subject	Yes	No
1. Is there a practicable alternative to the proposed discharge that would be less damaging to the environment (any alternative with less aquatic resource effects, or an alternative with more aquatic resource effects that avoids other significant adverse environmental consequences?)		x
2. Will the discharge cause or contribute to violations of any applicable water quality standards?		x
3. Will the discharge violate any toxic effluent standards (under Section 307 of the Act)?		x
4. Will the discharge jeopardize the continued existence of endangered or threatened species or their critical habitat?		x
5. Will the discharge violate standards set by the Department of Commerce to protect marine sanctuaries?		x

Table 8 – Compliance with Restrictions on Discharge		
Subject	Yes	No
6. Will the discharge cause or contribute to significant degradation of waters of the U.S.?		x
7. Have all appropriate and practicable steps (Subpart H, 40 CFR 230.70) been taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?	x	

Discussion: The exclusions, conditions and terms of the RGP will minimize environmental impacts for infrastructure projects. The RGP has been conditioned to provide avoidance and minimization of high value waters of the U.S., including wetlands. For the coastal erosion projects there are no alternative locations as the projects would be sited where the erosion issues occur and the proposed protection berms would further protect the surrounding wetlands.

Generally the discharges authorized by the RGP would not contribute to violations of any applicable water quality standards, would not violate any toxic effluent standards, would not jeopardize the continued existence of ESA species, would not violate standards set by the DEC to protect marine sanctuaries, and would not cause or contribute to significant degradation of waters of the U.S., however, all projects would be evaluated individually. All appropriate and practicable steps have and will be taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem.

6 Compliance with Other Laws, Policies, and Requirements

6.1 Determination of Section 7 of the Endangered Species Act (ESA)

For each separate action proposed under this RGP the direct and indirect effects of the action would define the action area. The determination and rationale for effects on ESA listed species would be in each individual verification and described within its own RGP CDD.

Are there listed species or designated critical habitat present or in the vicinity of the Corps' action area? The species, if present would be listed and an effect determination made, in a separate GP CDD for the individual project.

Consultation with either the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service would be initiated and completed as required, for any determinations other than "no effect". For each project proposed under the RGP a separate consultation would occur, if needed to fulfill Section 7(a)(2) responsibilities.

6.2 Magnunson-Stevens Fishery Conservation and Management Act, Essential Fish Habitat (EFH)

For most projects the Corps would be the lead agency, for any project located on a Federal Agencies' managed land or when the project is fully funded through another agency that agency would be the lead for EFH. For each project authorized under this RGP, the Corps would complete a separate GP CDD and EFH discussion, and if necessary complete consultation with the National Marine Fisheries Service.

6.3 Section 106 of the National Historic Preservation Act (Section 106)

For most projects to be authorized under this RGP, the permit area would only include the project area and not any of those activities outside of WOTUS because all three tests identified in 33 CFR 325, Appendix c(g)(1) would not have been met.

For a limited number of projects, the permit area would include those areas comprising WOTUS that would be directly affected by the proposed work or structures as well as activities outside of WOTUS because all three tests identified in 33 CFR 325, Appendix c(g)(1) have been met.

General Condition #18 describes the process for consultation under Section 106.

The final description of the permit area for each project would be determined during the individual project CDD analysis.

6.4 Tribal Trust Responsibilities

For those projects requiring government-to-government consultation a description of that consultation would be discussed within the separate GP CDD completed for the project. For most projects Federally-recognized Tribes who have tribal resources within the project area will be notified of the project and given an opportunity to provide cultural resource information to the Corps.

6.5 Coastal Zone Management Act (CZMA)

By operation of Alaska State law, the federally approve CZM program expired July 1, 2011, resulting in a withdrawal from participating in the Coastal Zone Management Act's (CZMA) National Coastal Management Program. The CZMA is there not applicable within the State of Alaska.

6.6 Wild and Scenic Rivers Act

Projects permitted under this RGP would not be located in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system.

6.7 Water Quality Certification under Section 401 of the Clean Water Act

On January 21, 2020, the ADEC granted a Water Quality Certification pursuant to Section 401 of the CWA and the Alaska State Water Quality Standards (18 AAC 70). This certification does not have an expiration date.

6.8 Other as needed: N/A

7 Determinations

7.1 Executive Orders

7.1.1 EO 13175, Consultation with Indian Tribes, Alaskan Natives, and Native Hawaiians: This action has no substantial effect on one or more Indian tribes, Alaska or Hawaiian natives.

7.1.2 EO 11988, Floodplain Management:

Alternatives to location within the floodplain, minimization, and compensatory mitigation of the effects were considered above.

7.1.3 EO 12998, Environmental Justice:

In accordance with Title III of the Civil Right Act of 1964 and Executive Order 12898, it has been determined that the project would not directly or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin nor would it have a disproportionate effect on minority or low-income communities.

7.1.4 EO 13112, Invasive Species:

There are no invasive species issues involved in this proposed project.

7.1.5 EO 13212 and EO 13302, Energy Supply Availability:

The review was expedited and/or other actions were taken to the extent permitted by law and regulation to accelerate completion of this energy-related project while maintaining safety, public health, and environmental protections.

7.1.6 EO 13547, Stewardship of the Ocean, Our Coast, and the Great Lakes:

These actions of projects proposed under the RGP would maintain the stewardship of the Ocean and Our Coast but would not impact the Great Lakes.

7.2 Section 404(b)(1) Guidelines Compliance

This RGP has been evaluated for compliance with the 404(b)(1)Guidelines, including Subparts C through G. Based on the information in this document, the Corps has determined that the discharges authorized by this RGP comply with the 404(b)(1) Guidelines, with the inclusion of appropriate and practicable conditions necessary to minimize adverse effects on affected aquatic ecosystems. The activities authorized by this RGP would result in minimal individual and cumulative adverse effects on the aquatic environment.

7.3 Effects on Corps Civil Works Projects (33 USC 408)

Does the applicant also require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy or use a Corps Civil Works project? The RGP would not be utilized for projects that would impact a Corps Civil Works project, an individual permit would be required.

7.4 Corps Wetland Policy (33 CFR 320.4(b))

Does the project propose to impact wetlands? Yes, for most projects. Some coastal erosion projects would only place fill in waters of the U.S.; for those projects there would not be impacts in wetlands.

Based on the public interest review herein, the beneficial effects of the project outweigh the detrimental impacts of the project.

7.5 Section 176(c) of the Clean Air Act General Conformity Rule Review

This RGP has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities authorized by the RGP would not exceed de minimis levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR 93.153. Any later indirect emissions are generally not within the Corps continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons, a conformity determination is not required for the RGP.

7.6 Findings of No Significant Impacts

Based on the information in this document, the Corps has determined that the issuance of this RGP would not have significant impacts on the quality of the human environment. Therefore, the preparation of an Environmental Impact Statement is not required.

7.7 Public Interest Determination

In accordance with the requirements of 33 CFR 320.4, the Corps has determined, based on the information in this document that the issuance of this RGP is not contrary to the public interest.

PREPARED BY:

Mary Romero
_____
Mary Romero, Project Manager

Date: February 9, 2021

REVIEWED and APPROVED BY:

Shannon Morgan
_____
Shannon Morgan, North Branch Chief

Date: February 11, 2021