

## RE-ISSUANCE OF GENERAL PERMIT POA-2016-476 (formerly POA-2011-124)

### Discharge of Dredged and/or Fill Material into Wetlands In Bethel, Alaska

Under the authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. Seq.), the Secretary of the Army authorizes the placement of dredged and/or fill material into waters of the United States (U.S.), including wetlands, within specific areas of Bethel, Alaska. A maximum of 7,696 acres of waters of the United States are included within the area subject to this General Permit (GP) and would potentially be authorized for development. The GP boundary is limited to an area within the city limits of Bethel less restricted areas (Enclosure 1).

#### **Authorized Activities**

This GP authorizes the discharge of fill material into waters of the U.S., including wetlands, for the purpose of constructing and/or expanding building foundation pads utilities, roads, driveways, and parking areas for residential, commercial and public works developments. The GP also authorizes excavation activities including mechanized land clearing and other activities that could result in a re-deposition of fill material.

#### **Maximum Acreage Limitations**

Discharges of dredged and/or fill material in waters of the U.S. authorized by this GP for single and complete projects may not exceed 1.0 acre.

#### **Excluded areas and activities**

1. A map showing the boundaries of areas covered and excluded under this GP is attached for planning purposes (Enclosure I). Maps showing the areas subject to authorization under this GP, and areas specifically excluded, are available for public use at the City of Bethel, Planning Department Office, and at the Alaska District, Corps of Engineers Regulatory Division (Corps). Excluded areas are depicted in red and would require authorization from the Corps through permitting mechanisms other than the GP (e.g., Individual and Nationwide Permits).
2. Activities that are denied any required local, State or Federal authorization are not authorized by the GP.
3. Activities that the Corps determines may result in more than minimal adverse impacts on aquatic resources or other public interest factors. The District will notify the applicant that the project does not qualify for the GP and instruct the applicant on the procedures to seek authorization under a nationwide or standard individual DA permit. The District may also, on a case-by-case basis, require an Individual Department of the Army (DA) permit for unauthorized activities, regardless of acreage.

## **Application Procedures**

Individuals wishing to perform work under this GP shall submit in writing, directly to the Corps or to the Corps through the City of Bethel Planning Department, a Pre-Construction Notification Form (PCN) containing the following information at minimum:

1. Name, address, and phone number of the applicant;
2. Location of the proposed work to include Section, Township, Range and latitude and longitude;
3. A detailed description of the project, its purpose, the dimensions including the size of the structure or the fill area, fill quantity and type of fill being used.
4. Plan drawings, including a plan view and a cross-section view of the project, showing the layout of the driveway, pads and structures in relation to other features. Drawings do not have to be prepared by a professional, but should be clear and easily understood.
5. An approved Site Plan from the City of Bethel.
6. The application and drawings should be sent to: U.S. Army Corps of Engineers, Regulatory Division, North Branch Chief (CEPOA-RD-N), Post office Box 6898, JBER, Alaska 99506-0898 or by email to REGPAGEMASTER.

## **Corps Verification Process**

The information provided will be reviewed by the Corps for compliance with the terms and conditions of the GP. The City of Bethel Planning Department may choose to provide an opinion of compliance with the terms and conditions of the GP if submitting an application on behalf of a citizen. Normally, within 15 days of receiving the required information, a letter will be sent from this office to the applicant verifying whether or not the proposed project meets the terms and conditions of the GP.

## **Compliance**

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

Should the Corps determine that an activity is not in compliance with the GPs, 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 GP authorization (pursuant to 33 CFR 325.7), initiation of legal action by the Federal Government, issuance of a monetary penalty ranging from \$2,500 to \$25,000 per day of violation, and/or imprisonment for up to one year.

## **Reevaluation of the GP**

The Corps may initiate suspension, revocation and modification procedures, pursuant to 33 CFR 325.7, if the public interest so warrants, regardless of whether the project is in compliance with the GPs. Instances that may warrant such action include, but are not

limited to: discovery that applicant provided incomplete, inaccurate or false information; changes in applicable State water quality standards; and/or, the discovery of previously unevaluated archaeological, flooding or environmental impacts.

**Restrictions**

The work authorized by this GP would also be subject to the attached general conditions and any other special conditions necessary to reduce impacts to the minimum level.

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## General Conditions

1. The time limit for completing the work authorized ends **5 years from the date of the General Permit (GP) issuance.**
2. **Obtain GP Verification Prior to Construction** No work shall construct under this GP without first obtaining a GP Verification in writing from the Alaska District Corps of Engineers (Corps). The City of Bethel Planning Department may provide an Opinion of Compliance and submit the required Pre Construction Notification form (attached) to the Corps on behalf of the applicant. However, written verification from the Corps must be received prior to commencing construction.
3. **No Adverse Impact to Adjacent Waters of U.S** For activities to comply with these GPs they shall not adversely impact adjacent wetlands by causing ponding, drainage, siltation or inadvertent fill. Culverting, buffer zones, or other methods may be required to ensure compliance with this condition.
4. **Permafrost** If permafrost is present, sufficient fill (or other methods of insulation) shall be placed on the ground to provide thermal stability. Signs of thermokarsting or standing water indicate non-compliance with this condition.
5. **Water Quality Certification** You must comply with all conditions specified as part of the Alaska Department of Environmental Conservation Water Quality Certification, which is part of this GP.
6. **Endangered Species** The activity must not jeopardize the continued existence of a threatened or endangered species, as identified under the Endangered Species Act, nor endanger the critical habitat of such species.
7. **Essential Fish Habitat** The activity must not adversely affect Essential Fish Habitat (EFH).
8. **Historic and Archaeological Sites** This GP does not authorize activities, including the use of material borrow sites, in or that adversely affect known historic properties listed or potentially eligible for the National Register of Historic Places, nor any such sites listed or found to be potentially eligible in the future. The permittee shall stop work when cultural resources are inadvertently discovered during the course of work and notify the Corps. The Corps will enter into consultation with the Alaska State Historic Preservation Office to determine if historic properties will be affected by the permitted work. Work shall resume after cultural resources have been evaluated pursuant to Section 106 of the National Historic Preservation Act.

- 9. Maintenance** You must maintain the authorized activity in good state, and in conformance with the terms and conditions of these GPs. You are not relieved of this requirement even if you abandon the authorized activity, although you may make a good faith or legal transfer to a third party, as described below. Should you wish to cease to maintain the activity or abandon it without a good faith transfer, you must obtain a modification of the GP authorization from the Corps Regulatory Division either directly. Such modification may require restoration of the area.
- 10. Inspections** You must permit the District Engineer, or his designated representatives, to inspect the authorized activity at any time deemed necessary to ensure that it is being, or has been accomplished in accordance with the terms and conditions of this GP.
- 11. Sale or Transfer of Property** If you sell or transfer the property associated with the authorized activity, you must obtain the signature of the new property owner and contact the Corps Regulatory Division with appropriate documentation of the transaction. You must submit this information within 30 days of the property transfer, to validate transfer of the GP authorization to the new party.
- 12. Modification by Other Authorizations:** If the work proposed under this GP is subsequently modified by any other Federal, State, or local governmental authorization, a modification of the GP including verification by the Corps to perform activities under this GP may need to be obtained.
- 13. Use of Multiple General Permits, including Nationwide Permits:** The use of more than one GP or Nationwide Permit (NWP) for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the GP and/or NWPs does not exceed the acreage limit of the GP/NWP with the highest specified acreage limit.

## **LIMITS OF THIS AUTHORIZATION**

- 1) This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.
- 2) This permit does not grant any property rights or exclusive privileges.
- 3) This permit does not authorize any injury to the property or rights of others.

- 4) This permit does not authorize interference with any existing or proposed Federal project.

#### **LIMITS OF FEDERAL LIABILITY**

In issuing this GP, the Federal Government does not assume any liability for the following:

- 1) Damages to the permitted project or uses thereof as a result of other permitted or non-permitted activities or from natural causes.
- 2) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States which are not contrary to the public interest.
- 3) Damages to persons, property, or to other permitted or nonpermitted activities or structures caused by an activity authorized by this GP.
- 4) Design or construction deficiencies associated with the permitted work.
- 5) Damage claims associated with any future modification, suspension, or revocation of this permit.