



Public Notice

US Army Corps
of Engineers
Alaska District
Regulatory Branch (1145b)
3437 Airport Way, Suite 206
Fairbanks, Alaska 99709-4777

Date:
January 20, 2004
Expiration Date:
February 19, 2004
Identification Number:
SPN-2004-02
In reply refer to above Identification Number

SPECIAL PUBLIC NOTICE 2004-02

Proposed Re-issuance of General Permit 92-11

Discharge of dredged and fill material into waters of the United States, including wetlands for South Fairbanks, Light and Heavy Industrial Area

The District Engineer (DE), Alaska District, U.S. Army Corps of Engineers, is inviting comments of the proposed reissuing of General Permit (GP) 92-11 under the authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C 1344et. Seq.), to authorize the placement of dredged and fill material into waters of the United States (U.S.), including wetlands, for certain activities associated with industrial development in South Fairbanks, Alaska. If you have comments for our consideration, please provide them by the expiration date noted above.

GPs are considered appropriate for activities which are substantially similar in their nature and impacts on water quality and the aquatic environment. They should have minimal adverse effects both separately and cumulatively on water quality and the aquatic environment, and should provide a more effective administration of the Clean Water Act and Rivers and Harbor Act of 1899 without creating an undue burden on the public.

Forty permits have been authorized under 92-11 since the GP was issued on April 30, 1993, including six in 1993, five in 1994, five in 1995, one in 1996, four in 1997, one in 1998, eight in 1999, three in 2000, two in 2001, three in 2002, and two in 2003.

The total cumulative impact of GP 92-11 (almost 10 ½ years) is the loss or alteration of approximately 322 acres of wetlands. Base upon past permit applications, it is expected that only a small portion of the proposed industrial area would be brought into use each year under this authority. Historically, 2-4 projects of less that 40-acres total have been authorized annually in this area. During this same time period approximately 532 acres of wetlands were filled or altered under Individual Permits.

PURPOSE: Authorized purposes for the fill would include activities having a demonstrated need as verified by the Corps of Engineers. The goal of the GP authorization is to: (1) encourage use of tracts within the South Fairbanks area for industrial development rather than spreading the impacts of such development to adjoining lands, and (2) expedite the permitting process for land development within this boundary, while still protecting the aquatic resource.

PROPOSED ACTIVITY: The placement of dredged and fill material into waters of the U.S., including wetlands, for certain activities associated with industrial development in South Fairbanks, Alaska. A total of 1466 acres of wetlands and waters of the United States were estimated within GP boundary area before the GP was first issued in 1992. Twenty-two percent of the known wetlands within the GP

boundary have been filled or altered due to work authorized under this GP. The GP boundary tracts covered by this GP are shown on the attached map dated January 12, 2004.

ADDITIONAL INFORMATION: Areas excluded from the GP coverage would be subject to an Individual Permit (IP) review. During this same 10-½ year time period for GP 92-11 an additional thirty-four IP's were issued and/or modified within the South Fairbanks Industrial area. The total cumulative impacts from the IP's are the loss or alteration of approximately 532 acres of wetlands. Based upon past permits applications, it is expected that the larger wetland impacts will be reviewed through the Individual Permit process.

GENERAL PERMIT BOUNDARY: The proposed GP boundary would generally follow the perimeter of the areas designed for "light and heavy Industrial use" in the South Fairbanks, as shown on the Comprehensive Plan Map adopted by the Fairbanks North Star Borough (FNSB) in March 1984 and amended March 1990.

Areas within this zone that are excluded from the GP are lands owned by the Fairbanks International Airport, residential areas in Section 16, all Section 19 land, the majority of the southwest 1/4 of the Section 20, a portion of the southwest 1/4 of the southeast 1/4 of Section 20, and all Section 29 north of the dike except the northeast 1/4 of Section 29.

WATER QUALITY CERTIFICATION: A water quality certification or waiver of the certification as required under Section 401 of the Clean Water Act (Public Law 95-217), is required from the Alaska Department of Environmental Conservation before this GP can be re-issued.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal to re-issue the GP. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the proposed GP area. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Engineer at this time, and he is otherwise unaware of the presence of such resources. This public notice is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under this GP will be considered in our final assessment of the GP. If the permittee discovers any previously unknown historic or archeological remains, he must immediately notify the DE. The DE will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register.

ENDANGERED SPECIES: A preliminary determination has been made that re-issuance of this GP will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This determination will be coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the GP.

FLOODPLAIN MANAGEMENT: Evaluation of the work proposed under this GP shall include a determination concerning conformance with appropriate State or local floodplain standards and weighing of the positive, concentrated and dispersed, and short and long-term impacts to the floodplain.

EVALUATION: The decision to authorize work under this GP will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all those factors, which become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to issue this GP, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. This GP will not be issued if the discharge that would be authorize would not comply with the Environmental Protection Agency's 404(b)(1) guidelines.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to re-issue GP 92-11 and to specify conditions of the permit. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the re-issuance of GP 92-11 for Discharge of Dredge and/or Fill Material into waters of the United States, and wetlands at South Fairbanks, Alaska, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Mr. Forrest E. McDaniel at (907) 474-2166, if further information is desired concerning this notice.

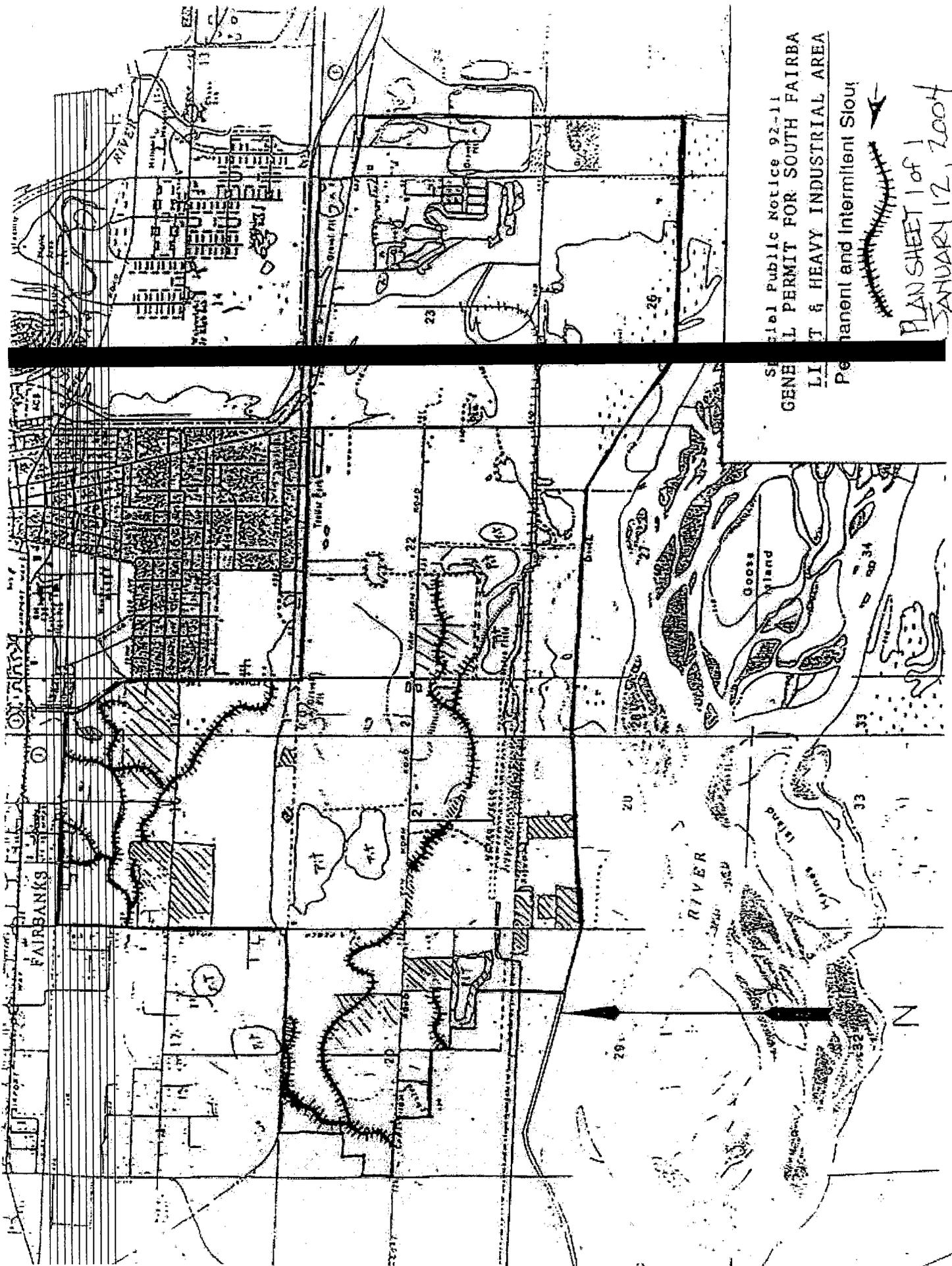
AUTHORITY: This GP is subject to the following authorities:

(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

A Notice of Application for State Water Quality Certification, and project map dated March 26, 1993, are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments



Special Public Notice 92-11
 GENERAL PERMIT FOR SOUTH FAIRBA
 NKS HEAVY INDUSTRIAL AREA
 Permanent and Intermittent Slough

PLAN SHEET 1 of 1
 JANUARY 12, 2004

GENERAL PERMIT 92-11-M (Expired 1/14/2004)

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 proposes to authorize the general public to place dredged and/or fill material into waters of the United States (U.S.), including wetlands, for certain activities associated with industrial development in south Fairbanks, Alaska. The General Permit (GP) boundary would generally follow the perimeter of the areas designated for "light and heavy Industrial use" in south Fairbanks, as shown on the Comprehensive Plan map adopted by the Fairbanks North Star Borough in March 1984 and amended in March 1990.

Areas within this Comprehensive Plan zone that are excluded from the GP are land owned by the Fairbanks International Airport, residential areas in section 16; all section 19 land; the majority of the southwest 1/4 of section 20; a portion of the southwest 1/4 of the southeast 1/4 of section 20; and all of section 29 north of the dike except the northeast 1/4 of the northeast 1/4 of section 29. Areas excluded from GP coverage would be subject to an individual permit review.

This GP would authorize the proposed discharge activities, if after consultation with Federal and State regulatory and resource agencies, nongovernmental agencies, and the general public, the DE determines that the proposed class of activities would be minor, and would not have more than minimal individual or cumulative impacts on the human environment.

All authorizations are contingent upon submitting an application or letter to the Corps of Engineers (Corps) and meeting the terms and conditions listed below. The application and project plans must be submitted directly to the Corps.

Information required for evaluating the request includes:

1. A description (drawing) of the proposed fill, including location, dimensions, and depth. The drawing shall also show the placement of structures and facilities to be located on the pad.
2. The purpose of the fill.
3. The source of the fill material, and verification that it meets Alaska Department of Environmental Conservation standards if treated fill material is proposed for use.
4. A site drainage plan is required which shows how drainage is accommodated, and erosion is prevented. The capacities of the existing or proposed drainage system must not be exceeded.
5. Other information demonstrating that the proposal meets the conditions of the GP as listed below.

No work can proceed without confirmation from the Corps that the work would be covered under the GP.

This proposed reissuance of GP 92-11 would be valid for a period of five years. The DE may, at any time during this period alter, modify, or revoke the permit if he deems such action to be in the public interest.

AUTHORIZED ACTIVITIES:

The GP would authorize the placement of dredged and fill material into waters of the U.S., including wetlands, for certain activities associated with industrial development in south Fairbanks, Alaska. The limit of the fill area authorized is

determined by the project purpose, and meeting the terms and conditions listed below. The GP would also authorize mechanized landclearing and other excavation activities that can result in the deposition of material. The GP boundary tracts covered by this GP are shown on the attached map dated January 12, 2004.

1. Only certain light industrial, heavy industrial, and commercial use activities, as defined in the Fairbanks North Star Borough zoning ordinance, Chapter 18.32, 18.34, 18.36, 18.38, and 18.40 will be permitted by this GP.

2. The GP does not authorize placement of fill for the following uses: hazardous waste management facilities, service stations, landfills, petrochemical plants, or other projects involving the manufacture, storage, transfer, or disposal of waste/toxic substances.

SPECIAL CONDITIONS:

1. Local surface drainage shall be controlled on-site and maintained by such means as installation of sufficient size and number of culverts or other approved drainage structures. A drainage plan is required to be submitted with the application showing that drainage is accommodated, erosion is prevented, and water quality standards are met. Capacities of existing or proposed drainage systems shall not be exceeded.

2. For any fill activities on properties within the GP boundary having existing or proposed gravel pit operations, applicants shall include: a) a Plan of Operation on how impacts to adjacent areas would be minimized. The plan must address impacts such as sedimentation in water bodies and wetlands, temporary lowering of the local water table, and increased flow in streams and wetlands, and b) a Plan for Rehabilitation of the pits(s) for wildlife habitat to be implemented within one year of final closure or abandonment of the gravel pit(s). The U.S. Fish and Wildlife Service, Fairbanks office, is available to provide site-specific recommendations and assistance to applicants for their Plan of Operation and Plan of Rehabilitation requirements. However, the determination whether the plans are acceptable would rest solely with the U.S. Army Corps of Engineers.

3. Upon completion of the fill activity, at least 15% of each parcel shall be vegetated. Vegetation may include: a) areas excluded from fill activity under Special Condition 7, b) disturbed areas that have been vegetated as described in Special Condition 4, c) existing vegetation, or d) any combination of the above.

4. Work conducted under this GP shall be performed in a manner so as to minimize degradation of water quality, and other sources of non-point source pollution. All disturbed areas shall be stabilized by other means at the completion of project construction.

5. All fill material shall be free from toxic pollutants in toxic amounts as defined by Alaska State law/guidance letters.

6. Design plans for any on-site sewage disposal systems to be placed in or in association with the authorized fill must be approved by the Alaska Department of Environmental Conservation prior to placement of any fill or said system.

7. There shall be no fill placed or disturbance of existing vegetation within 50 feet of the top of banks of sloughs specified and mapped as Permanent and Intermittent sloughs within the GP boundary (see attached plan sheet (1) of (1), dated December 2, 1998, for general information). Also no fill placement or disturbance of existing vegetation would be authorized within 50 feet of the top of banks of open water bodies (excluding operating gravel pits). Large detailed maps (scale 1"=200', and 1"=400') of the GP area identifying the above sloughs and open water bodies may be viewed at the U.S. Army Corps of Engineers, Alaska District, Regulatory Branch, building 21-710, Elmendorf Air Force Base, Anchorage, Alaska 99506-0898; U.S. Army Corps of Engineers, Fairbanks Field Office, 3437

Airport Way, Suite 206, Fairbanks, Alaska 99709-4776; Fairbanks North Star Borough, 809 Pioneer Road, Fairbanks, Alaska 99701; U.S. Fish and Wildlife Service, Northern Alaska Ecological Services, 101 12th Avenue, Room 232, Fairbanks, Alaska 99701, or the Alaska Department of Environmental Conservation, Industrial Operations/401 Certification, 610 University Avenue, Fairbanks, Alaska 99709-3643.8. No current unauthorized fills shall be authorized by this GP.

8. All incidental storage of fuel, toxic or hazardous wastes associated with facilities authorization under this GP shall meet State and Federal requirements for storage and handling of such materials.

9. The proposed activity shall not adversely affect a threatened or endangered species as identified in 50 CFR 17.11 and 17.12, July 15, 1991, "Endangered and Threatened Wildlife and Plants" and subsequent updates, or endanger the critical habitat of such species. The subsequent discovery of the presence of a threatened or endangered species which may be affected by a permitted action or related activities shall result in immediate suspension of the GP for the specific operation until Section 7 consultation required by the Endangered Species Act of 1973, as amended, is completed.

GENERAL PERMIT CONDITIONS:

All activities identified to be authorized by this GP shall be consistent with the following conditions:

1. You must maintain the lands and facilities subject to this GP in good condition and in conformance with the terms and conditions of this GP. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with condition "3" below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain approval from this office, which may require restoration of the area.

2. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this GP, you must immediately notify this office, and the State Historic Preservation Office of what you have found. The DE will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

3. If you sell the property rights or transfer a lease associated with an activity authorized by this GP, you must obtain the signature of the new property owner or new lessee, along with appropriate documentation to record the transaction, and submit them to this office within 30 days to validate the transfer of the authorized activity.

4. A conditioned water quality certification was issued for this permit on December 2, 1998. You must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached

5. You must allow the DE, or his designated representatives, to inspect the authorized activity at any time deemed necessary to ensure that the work is being or has been accomplished in accordance with the terms and conditions of this GP.

If the proposed work authorized under this GP is subsequently modified by any other Federal, State, or local governmental authorization, a modification of the authorization to perform activities under this GP may need to be obtained from the Corps.

Further Information:

a. Limits of this Authorization.

(1) This permit does not obviate the need to obtain other Federal, state, or local authorizations 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.

b. Limits of Federal Liability. In issuing this permit, 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 unpermitted 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 in the public interest.

(3) Damages to persons, property, or to other permitted or unprompted activities or structures caused by the activity authorized by this permit.

(4) Design or construction deficiencies associated with the permitted work.

(5) Damage claims associated with any future modification, suspension, or revocation of this permit.

c. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

(1) You fail to comply with the terms and conditions of this permit.

(2) Appropriate 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 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

INSPECTION

The DE, or his designated representative, may inspect sites of authorized work to determine that the work is being, or has been, performed in conformance with the terms and conditions of this GP. In the event that work is being, or has been, performed in noncompliance with this GP, appropriate measures shall be taken to resolve the violation, and may include a requirement to obtain an individual permit, even though others in the same area are not required to do so.

PENALTIES FOR VIOLATIONS

All work performed shall be in compliance with the terms and conditions of this GP. Failure to comply with the terms and conditions of this GP may result in suspension of the work, revocation of the permit, removal of dredged and/or fill material or other structures, restoration of waters and/or wetlands, and/or imposition of penalties as provided by law. The discharge of dredged and/or fill material not in accordance with the terms and conditions of this GP is a violation of Section 301 of the Clean Water Act (33 U.S.C. 1319), and upon conviction thereof is punishable, in accordance with Section 309 of the Clean Water Act (33 U.S.C. 1319), by a fine of not less than \$2,500, nor more than \$25,000, per day of violation, or by imprisonment of not more than one year, or both. That individual is also subject to a civil penalty not to exceed \$25,000 per day of the violation.

EXTENSION, MODIFICATION, AND REVOCATION OF GENERAL PERMIT

This GP may be revoked by issuance of a Public Notice at any time the DE determines that the singular or cumulative effects of the activities authorized herein are having an unacceptable adverse effect upon the public interest. Following such revocation, all new applications will be processed under individual permit application review procedures and the DE would decide on a case-by-case basis if previously authorized activities should be revoked, suspended, or modified.

This GP and its associated State Water Quality Certification will be in effect for a period of 5 years. At the end of the 5-year period, an evaluation of the program will be made and at that time it will be decided whether or not the permit should be renewed. The DE shall at any time during this 5-year period, alter, modify, or revoke this permit, if he deems such action to be in the public interest.

FOR THE DISTRICT ENGINEER:
Chief, North Section
Regulatory Branch
Alaska District, Corps of Engineers