



US Army Corps
of Engineers
Alaska District
Regulatory Branch (1145b)
805 Frontage Road, Suite 200C
Kenai, Alaska 99611-7755

Public Notice

Date: February 8, 2005
Identification No: SPN 2005-03

In reply, refer to the above
Identification No.

SPECIAL PUBLIC NOTICE No. 2005-03

REISSUANCE OF GENERAL PERMIT (GP) 1987-3P

MOORING BUOYS ON THE KASILOF RIVER

The District Engineer (DE), Alaska District, U.S. Army Corps of Engineers (Corps) has reissued a General Permit (GP) 1987-3P under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), to authorize the seasonal placement of mooring buoys in the Kasilof River.

In response to Special Public Notice 2004-10, dated October 13, 2004, proposed GP 1987-3P was revised to reflect comments submitted by local, State, and Federal agencies, and the interested public. Based on a review of all pertinent information, including a prepared Environmental Assessment, I have concluded that issuance of this permit will not have more than minimal adverse impact on the environment and is not contrary to the public interest.

The GP authorizes the seasonal placement of 120 mooring buoys and associated anchors and chains into the Kasilof River for the purpose of mooring fishing vessels during the commercial fishing season. The locations and numbers of all mooring buoys are assigned by the Corps.

Activities not authorized under the GP include:

1. The placement of any dredged and/or fill material into waters of the U.S. including wetlands.
2. The placement of non-commercial mooring buoys.
3. The placement of commercial mooring buoys not assigned by the Corps.

The activities excluded from GP coverage would be subject to other established permit evaluation procedures available to the Alaska District, U.S. Army Corps of Engineers.

All authorized activities must be in accordance with the conditions of the GP, a copy of which, is attached. Failure to comply with the terms and conditions of the permit could result in suspension, modification or revocation of the permit, and/or imposition of penalties as provided by law.

If the proposed placement of mooring buoys within the Kasilof River does not meet the GP's terms and conditions, the GP does not apply and the applicant will be required to apply for a different form of authorization.

The placement of mooring buoys authorized under this GP may not be undertaken and completed without prior notification to the Corps of Engineers. As stated under the GP's "Authorization Procedure" (beginning on page 3), a notification of intended activity is required from all permittees every 2 years.

GP 1987-3P would be valid for a period of five years, effective the date of the signature shown on the last page of the permit. The DE may at any time during this five-year period, alter, modify, suspend, or revoke this permit if he deems such action to be in the public interest.

Any questions or requests for additional information should be directed to: Alaska District, Corps of Engineers, ATTN: Ms. Lisa M. Gibson, Regulatory Branch, 805 Frontage Road, Suite 200C, Kenai, AK 99611-7755; phone (907) 283-3519.

District Engineer
U.S. Army Corps of Engineers

Attachment

GENERAL PERMIT 1987-3P

Under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) the Secretary of the Army proposes to reauthorize the Alaska General Permit (GP) 87-30 for mooring buoys on the Kasilof River with GP 1987-3P. The permit allows for mooring buoys to be seasonally placed on the Kasilof River for a period of five years.

This GP is valid for a period of five years from the date of issuance. The District Engineer (DE) of the Alaska District Corps of Engineers (Corps) 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:

This GP authorizes the seasonal placement of mooring buoys and associated anchors and chains in the Kasilof River for the purpose of conducting commercial fishing operations.

ACTIVITIES NOT AUTHORIZED UNDER THE GP:

The placement of any dredged and/or fill material into waters of the U.S., including wetlands.

INSPECTION:

The DE, or his designated representative, may 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.

GENERAL CONDITIONS: Each buoy owner (permittee) shall be required to obtain a letter from the Corps verifying their use of this GP. Verifications will be valid for a period of 2 years and may be extended by the permittee upon confirming their use of the permit.

All activities identified and authorized by this permit shall be consistent with the following conditions:

1. The permittee shall notify the Corps every two years regarding the use of the permitted buoy and any address changes. Individual verifications shall expire if the permittee does not use the authorized buoy location over two consecutive years, if the permittee does not submit the required information to the Corps on the required date and if the Corps does not issue a letter verifying the use of this GP.
 2. The mooring buoys and attached vessel(s) shall be placed and kept outside of the navigation channel so as not to impede or obstruct navigation, or otherwise hinder safe access to, and use of the waterway by the general public. In addition, mooring buoys shall not be placed in locations that would hinder safe access to, or use of existing docks, piers, boat launch ramps, buoys, dolphins, floats, piles, or any other existing structures or facilities within the Kasilof River. The number of vessels moored to each buoy, the size of the anchor and associated chains as well as the swinging radius of the buoy and attached vessel(s) shall be considered when determining compliance with this condition.
 3. The permittee shall be responsible for ensuring that all vessels attached to authorized mooring buoys are tied directly to the mooring buoy (i.e. the vessel is not tied to another vessel that is tied to the mooring buoy).
3. All buoy locations and numbers shall be assigned by the Corps and the permittee shall be responsible for placing and maintaining authorized buoys at the assigned location shown on the attached map.. Mooring buoys assigned by the Corps shall be located not less than 165 feet apart in the lower river and not less than 135 feet apart in the upper river. The dividing line between the upper and lower river is the upstream side of the old "Waterfall Cannery" located at Kasilof River mile 0.61, Latitude: 60° 22.90' N, Longitude: 151° 17.24' W. In addition, no mooring buoy shall be placed within 150 feet of the old ADOT dock, located at river mile 0.1, Latitude: 60° 23.18' N, Longitude: 151° 17.87' W.

4. The color of all buoys shall be white or international orange and shall be a minimum of 24 inches in diameter, clearly marked with the buoy number in black figures with a minimum of 2" high lettering. (i.e. mooring buoy number 1 in the Kasilof River shall have the designation KAS 1).
5. Mooring buoys may not be set in the Kasilof River prior to April 1 of each year and shall be removed by November 1 of each year.
6. Regarding disputes involving the placement of buoys, the permittee agrees that the Corps' decision is final. The permittee agrees to take the action directed by the Corps in resolving such disputes including relocation or removal of the buoy.
7. The permittee agrees not to use any buoy for which the Corps is involved in the resolution of a violation or disputed location and has so notified the permittee. The permittee further agrees that he or she will make arrangements to moor boats elsewhere until the conflict is resolved to the satisfaction of the DE.
8. The permittee shall maintain the activity authorized by this GP in good condition and in conformance with the terms and conditions of the GP. The permittee is not relieved of this requirement if the permitted activity is abandoned (i.e. permittee moves, etc.), although the permittee may make a good faith transfer to a third party in compliance with GC 9 below. Should the permittee wish to cease to maintain the authorized activity or desire to abandon it without a good faith transfer, approval from this office must be obtained.¹
9. The permittee may transfer their authorization by written notification to this office. At initial contact, please provide the full name, address, and phone number of the transferee. A letter must be received from the permittee requesting and authorizing the transfer. A second letter must be received from the transferee stating their agreement to comply with all terms and conditions of the GP. This written agreement must be included in the permit file for final authorization.
10. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.
11. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: Commander (oan), 17th Coast Guard District, P.O. Box 25517, Juneau, Alaska 99802, (907) 463-2269.
12. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
13. The proposed activity shall not adversely affect any designated critical habitat or species listed as threatened or endangered under the Endangered Species Act of 1973, as amended. In addition, the proposed activity shall not jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat.
14. 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

¹ Permits do not automatically transfer upon abandonment of the permit by the permittee. A request for a transfer must be submitted in accordance with GC 9.

Office of what you have found. The Corps 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.

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 mooring buoys, and/or imposition of penalties as provided by law.

Any work in and/or structures placed in the Kasilof River not in accordance with the terms and conditions of this GP is a violation of Section 12 of the Rivers and Harbors Act (33 U.S.C 406) providing penalties of not less than \$500, and not more than \$2,500, per day of violation or by imprisonment of up to one year, or both.

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.

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 U.S. in the public interest.
3. Damages to persons, property, or to other permitted or unpermitted 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.

AUTHORIZATION PROCEDURE:

A. Current Permittees:

For individuals that were authorized the placement of one or more mooring buoys in the Kasilof River under General Permit 87-30, authorization of GP 1987-3P will be given without further public review provided the permittee gives written notification of intended activity to the Corps regarding their intended use of the authorized buoy location and their agreement to comply with all terms and conditions of this GP.²

² Mailing instructions can be obtained by calling the Corps at (907) 753-2712 or (907) 283-3519.

The notification must include the following information³:

- 1) The current name, address and telephone number of the permittee;
- 2) The Kasilof River mooring buoy number and Corps file number;
- 3) Use of the mooring buoy during the previous 2 fishing seasons;
- 4) Intended use of the mooring buoy for the following fishing season;
- 5) Verification of the location of the proposed mooring buoy; and;
- 6) A statement verifying that the permittee has read and agrees to comply with all terms and conditions of the GP.

Following receipt of the required information the Corps will issue a letter of authorization to the permittee.

B. New Permittees

Individuals wishing to be considered for buoy authorization in locations where previous authorizations have expired, been abandoned or revoked should contact this office, in writing. A list will be kept in the order requests are received.

This request must include the following information⁴:

- 1) The current name, address and telephone number of the project proponent;
- 2) The location and number of the preferred location for a mooring buoy in the Kasilof River; and
- 3) The purpose and need for a mooring buoy in the Kasilof River.

In order for the permittee to retain their authorization under GP 1987-3P, a notification of intended activity must be received by December 31 every two years.⁵

EVALUATION CRITERIA USED FOR PROJECT VERIFICATIONS:

In reviewing all proposed projects for this GP, the DE will determine whether or not the proposal:

- 1) Is consistent with the GP;
- 2) Will have a negative impact on navigation;
- 3) Will result in more than minimal individual or cumulative adverse environmental effects; and,
- 4) Is contrary to the public interest.

After this determination is made, the DE will notify the applicant in writing to verify the proposal either qualifies for the GP, which may include special conditions necessary to avoid and minimize impacts to the aquatic environment, or it does not qualify for the GP and a standard individual permit is required.

Should a standard individual permit be required, the DE will publish a public notice in accordance with 33 CFR Part 325.3(d).

REEVALUATION OF PERMIT DECISION:

The Corps may reevaluate its decision to verify a GP authorization to any permittee at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

³ A sample form that can be returned to this office is attached to the back of this permit.

⁴ Alternatively, an applicant may elect to submit either the Kenai River Center's Multi-Agency Permit Application or application form, ENG Form 4345, Jul 97.

⁵ The dates the form must be received by are: March 1, 2004, December 31 2006, and December 31, 2008.

1. The permittee fails to comply with the terms and conditions of this permit.
2. The information provided by the permittee in support of the application proves to have been false, incomplete or inaccurate.
3. Substantial new information surfaces, which this office did not consider in reaching the original public interest determination.

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.

MODIFICATION, REVOCATION AND EXTENSION OF THE GENERAL PERMIT:

Should, at any time, the DE determine that the individual or cumulative effects of the activities authorized herein are having an unacceptable adverse effect upon the public interest, the DE may modify or revoke this GP with the issuance of a Public Notice. Should the DE revoke the GP all new applications will be evaluated under other available permit application review procedures. The DE will also decide on a case-by-case basis if prior GP verifications should be revoked, suspended, or modified.

The DE, during the fifth year of the GP, will review the GP along with the work verified under it in order to determine if the GP should be modified, extended, or discontinued.

District Engineer
U.S. Army, Corps of Engineers

PERMIT HOLDER	FILE NUMBER	MOORING BUOY NUMBER
Vincent Arbucci	POA-1984-242-B	1
Salamatof Seafoods	POA-1981-113-B	2
Ocean Beauty Seafoods	POA-1986-300-B	3, 4, 5
Vacant	POA-1986-472-B	6
Jerry L. Hatten	POA-1986-352-B	7
Icicle Seafoods	POA-1986-247-B	8, 9, 10
John W. Martin	POA-1986-366-B	11
Snug Harbor Seafoods	POA-1982-161-B	12, 13
John Brockel	POA-1986-480-B	14
Salamatof Seafoods	POA-1982-655-B	15, 16
Salamatof Seafoods	POA-1982-104-B	17
The River Company LLC.	POA-1982-199-B	19, 20, 21, 22, 23, 24
Robert Correia, Ronald Russell, Linda Wright	POA-1995-587-B	25
Heath Duncan	POA-1986-461-B	26
Dan Evenson	POA-1986-471-B	27
Dick Gunlogson	POA-1986-478-B	28
Snug Harbor Seafoods	POA-1982-161-B	29, 30, 31, 32
Vacant	POA-1986-460-B	33
Kelly Duncan	POA-1986-453-B	34
Freddie Blevins	POA-1986-346-B	35
Icicle Seafoods Inc	POA-1986-345-B	36
Vacant	POA-1986-458-B	37
Emmet Heidemann	POA-1986-477-B	38
Theo Matthews	POA-1986-160-B	39
George Clouston	POA-1986-378-B	40
Vacant	POA-1986-427-B	41
Ocean Beauty Seafoods	POA-1986-491-B	42, 43
Dan Garrouette	POA-1986-497-B	44
Cynthia Duffy	POA-1986-479-B	45
Cherrier King & Cherrier	POA-1984-454-B	46, 47, 48
Forest Tressler	POA-1986-209-B	49, 50
Debra Holle	POA-1986-148-B	51, 52
Lee Martin	POA-1986-502-B	53
Tony Western	POA-1986-283-B	54
Van Swan	POA-1985-257-B	55
Roland Maw	POA-1986-489-B	56
Vacant	POA-1985-192-B	57
Dorius And Helen Carlson	POA-1978-049-B	58, 59, 60
Inlet Fisheries Inc	POA-1986-401-B	61, 62
Robert Warner	POA-1986-282-B	63
Ken Duffus	POA-1994-1109-B	64
Bruce Gabrys	POA-1986-279-B	65
Stephen Vanek Jr.	POA-1986-464-B	66
John D. Mccombs	POA-1986-465-B	67

Ronald Cox	POA-1986-496-B	68
Ocean Beauty Seafoods	POA-1986-491-B	69, 70, 71
Icicle Seafoods	POA-1992-229-B	72
Ocean Beauty Seafoods	POA-1986-300-B	73
Eds Kasilof Seafoods	POA-1986-521-B	76
Jack Hughes	POA-1986-536-B	77
Steve Webb	POA-1986-494-B	78
Cosmo Mercurio	POA-1986-404-B	79, 80
Lawrence Waechtler	POA-1986-389-B	81, 82
Kasilof Riverside Properties	POA-1986-416-B	83, 84
Kasilof Riverside Properties	POA-1965-37-B	85, 86, 87, 88, 89, 90, 91, 92, 93, 94
Gary Jackinsky	POA-1986-538-B	95
Ridgley Stier	POA-1986-557-B	96
Emmet Heidemann	POA-1986-559-B	97
Inlet Fisheries Inc	POA-1987-273-B	98, 99, 100, 101, 102, 103
David Scheer	POA-1987-659-B	104
Emmet Heidemann	POA-1988-215-B	105
Dave Beck	POA-1988-214-B	106
Vacant	POA-1988-213-B	107
Daniel A. Smith, Jr	POA-1988-217-B	108
Dyer Vandevere	POA-1988-212-B	109
Jerold Breuneman	POA-1988-216-B	110
Icicle Seafoods Inc	POA-1988-552-B	111
Icicle Seafoods Inc	POA-1988-551-B	112
Vacant	POA-1988-553-B	113
Kurt Weichand	POA-1988-550-B	114
Deborah Nakada	POA-1988-554-B	115
Vacant	POA-1988-555-B	116
Larry Gjovig	POA-1989-354-B	117
Dragnet Fisheries	POA-1990-415-B	118, 119, 120
Vacant	POA-1990-416-B	121

**ALASKA COASTAL MANAGEMENT PROGRAM
FINAL CONSISTENCY RESPONSE
CONCURRENCE**

DATE ISSUED: NOVEMBER 15, 2004

PROJECT TITLE: PROPOSED GENERAL PERMIT 1987-3P, KASILOF RIVER SEASONAL MOORING BUOYS AND ASSOCIATED ANCHORS AND CHAINS

STATE ID. NO.: AK 0410-01AA

AFFECTED COASTAL RESOURCE DISTRICT(S): KENAI PENINSULA BOROUGH

PROJECT DESCRIPTION AND SCOPE OF THE PROJECT SUBJECT TO CONSISTENCY REVIEW:

Except for the water quality issues addressed through the DEC 401 Certification process, the activity subject to this consistency review is the proposed issuance of General Permit (GP) 1987-3P for the seasonal placement of mooring buoys and associated anchors and chains in the Kasilof River for the purpose of conducting commercial fishing operations. The Kasilof River supports an important commercial and recreational fishery for several species of salmon, trout and Dolly Varden. The first 2.8 miles of the Kasilof River are used heavily by commercial fishermen for boat moorage during the commercial fishing season, as well as by the various processing plants and weighing stations. Because of this heavy commercial use, and to eliminate the need for a formal 60 to 90 day permit processing period for each mooring buoy, the Corps first authorized the placement of mooring buoys in the Kasilof River on June 20, 1986, with GP 86-1. Modifications in the past resulted in only minor changes in the General Permit. The current authorization for 121 mooring buoys on the Kasilof River, GP 87-30, expired on August 24, 2004. Throughout the 18 years the GP has been in existence, the number of mooring buoys authorized has increased from 109 to 121 mooring buoys, located on the first 2.8 miles of the Kasilof River. The objective of the GP authorization is to: 1. Expedite the permitting process by relieving the regulatory burden of a 60 to 90 day review process on permittees with authorized mooring buoy sites on the Kasilof River. 2. Allow the Department Engineer (DE) to better allocate regional resources towards projects having greater potential to harm the aquatic

FINAL CONSISTENCY RESPONSE- CONCURRENCE

environment. The draft proposed GP includes authorized activities, activities not authorized, inspection, general conditions, penalties for violations, limits of the authorization, limits of federal liability, authorization procedures, evaluation criteria used for project verifications, reevaluation of permit decision, and modification, revocation and extension of the general permit, and would be valid seasonally for a period of 4 ½ years from the date of issuance. This general permit is for the Kasilof River from Mile 0 to 2.8 miles upstream of the Kasilof River.

CONSISTENCY STATEMENT: OPMP concurs with the consistency certification submitted by the Alaska Corps of Engineers.

AUTHORIZATIONS: State agencies shall issue the following authorizations within five days after OPMP issues the final consistency determination that concurs with the applicant's consistency certification, unless the resource agency considers additional time to be necessary to fulfill its statutory or regulatory authority.

The activity may require the following federal and State permits:

Alaska Department of Natural Resources- Division of Mining, Land and Water
Land Use Permit

Alaska Department of Environmental Conservation (DEC)
Certificate of Reasonable Assurance (401)

The Department of Environmental Conservation (DEC) will review any activities subject to DEC permits, certifications, approvals, and authorizations for consistency with 6 AAC 80.140. The issuance of the permits, certifications, approvals, and authorizations by DEC establishes consistency with 6 AAC 80.140 for those specific activities.

Please note that, in addition to their consistency review, State agencies with permitting responsibilities will evaluate this proposed project according to their specific permitting authorities. Agencies will issue permits and authorizations only if they find the proposed project complies with their statutes and regulations in addition to being consistent with the coastal program. An agency permit or authorization may be denied even though the State concurs with the ACMP. Authorities outside the ACMP may result in additional permit/lease conditions. If a requirement set out in the project description (per 11 AAC 110.260) is more or less restrictive than a similar requirement in a resource agency authorization, the applicant shall comply with the more restrictive requirement. Applicants may not use any State land or water without Department of Natural Resources (DNR) authorization.

APPEAL: This final consistency response is a final administrative order and decision under the ACMP and for purposes of Alaska Appellate Rules 601-612. Any appeal from this decision to the superior court of Alaska must be made within thirty (30) days of the date this response is

FINAL CONSISTENCY RESPONSE- CONCURRENCE

issued.

ADVISORIES:

Please be advised that although OPMP concurs with the determination that the project is consistent to the maximum extent practicable with the ACMP, the Corps of Engineers is still required to meet all applicable State and federal laws and regulations. This consistency finding may include reference to specific laws and regulations, but this in no way precludes the Corps of Engineers responsibility to comply with other applicable laws and regulations.

If the proposed activities reveal cultural or paleontological resources, please stop any work that would disturb such resources and immediately contact the State Historic Preservation Office (907-269-8720) and the U.S. Army Corps of Engineers (907-753-2712) so that consultation per section 106 of the National Historic Preservation Act may proceed.

Final Consistency Response Prepared By:
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Anchorage, AK 99501
(907) 269-7475

Amanda Tuttle
[Name]

11/15/04
[date]