



Special Public Notice

US Army Corps
of Engineers
Alaska District
Regulatory Branch (1145b)
Post Office Box 6898
Elmendorf AFB, Alaska 99506-0898

Date:
17 February 2006
Identification No:
SPN-2006-215
In reply refer to Identification Number

SPECIAL PUBLIC NOTICE SPN-2006-215
Notice of Intent to Re-issue General Permit 98-01
Wrangell Industrial Park Subdivision

The public is hereby notified that the Alaska District, U.S. Army Corps of Engineers (Corps), is proposing to re-issue General Permit (GP) 98-01, Wrangell Industrial Park Subdivision, for five more years. The activities covered under the GP 98-01 remain the same. The General and Special Conditions are essentially the same although some editing was done for simplification. A copy of the modified GP 98-01-N is attached. We are soliciting and accepting comments on our intent to re-issue the GP for the next 30 days.

GP 98-01 was issued under authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. Seq) and authorizes the discharge of fill material into waters of the U.S., including wetlands, within certain lots in the Wrangell Industrial Park Subdivision. The Subdivision is located on the northeast edge of the City of Wrangell, Alaska, in section 24, T. 62 E., R. 83 S., Copper River Meridian at Latitude 56.466 °N, Longitude 132.366 °W.

Purpose: The GP was developed to streamline the permitting process for industrial development on certain lots within the Wrangell Industrial Park Subdivision.

Background: Development in the Wrangell Industrial Park Subdivision was started in 1997 by the City of Wrangell under DA permit POA-1997-702 which authorized existing infrastructure as well as road construction and utility work. General Permit 98-01 was subsequently developed and issued to the City of Wrangell on December 10, 1998. The GP was later transferred from the City to "other private or public entities" to direct administration of the GP from the City back to the Corps of Engineers. On January 22, 2001 the GP was modified to create a vegetated buffer on the west side of the subdivision by putting several lots into a Restrictive Covenant. During the seven years the GP was in effect, one verification was issued. The GP expired on January 22, 2006.

Authorized Activities: Construction of foundation fill pads, associated driveways, parking areas, and utility installations in the following lots in the Wrangell Industrial Park Subdivision: Block 59B lots 1, 2, 9,10; Block 60 lots 9A, 10A; Block 61 lots 1A, 2A, 7A, 8A, 9, 10; Block 63A lots 3-5; Block 63B lots 3-8; Block 64 lots 3-5, 6A, 7A, 8A; Block 65 lots 3-8; Block 66 lots 3-13.

Water Quality Certification: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation (ADEC). ADEC issued a Certificate of Reasonable Assurance for GP 98-01 to the Corps of Engineers on August 5, 1998, (amended on August 2, 2000) and included seven stipulations. The Certification expired on January 22, 2006, with the expiration of the GP.

Coastal Zone Management Act Consistency Determination: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that activities affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. GP 98-01 was found consistent with the Alaska Coastal Management Program with the inclusion of seven stipulations. The original Consistency Determination was issued by Alaska Division of Governmental Coordination on July 27, 1998, and for the GP Modification on August 2, 2000. The Corps of Engineers has determined that the proposed 5 year extension of GP 98-01 is not significant.

Mitigation: Mitigation for the initial unauthorized development included preserving a 485-foot by 50-foot greenbelt south of Howell Avenue. Issuance of the original GP 98-01 included preserving a 300-foot by 100-foot area near Fourth Avenue as green space. Modification of the GP in January 2001 included putting 18 lots and portions of 3 other lots and the area designated as Mission Street into a "Restrictive Covenant" with the intent of retaining the area in its natural, wetland condition.

Public Hearing: A public hearing is unnecessary because GP-98-01-N is the same as the previous GP.

Cultural Resources: There are no listed or eligible properties in the vicinity of the Wrangell Industrial Park. 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 application 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 the requested permit will be considered in our final assessment of the described work.

Tribal Consultation: Consultation with the Wrangell Cooperative Association was undertaken during the development and subsequent issuance of GP 98-01.

Endangered Species: No threatened or endangered species are known to use the GP 98-01 project area. It was previously determined that the described activity would 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).

Essential Fish Habitat: GP 98-01 was evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. It was determined that the described activity within the proposed area would not adversely affect EFH, including anadromous fish and federally managed fishery resources.

Evaluation: The decision whether to re-issue GP 98-01 for another five years 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 the factors that 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 authorize a proposal, 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. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

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 issue, modify, condition or deny a permit for this proposal. 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 described work, 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 Mary Leykom at (907) 753-2712, toll free from within Alaska at (800) 478-2712, or by email at mary.f.leykom@poa02.usace.army.mil if further information is desired concerning this notice.

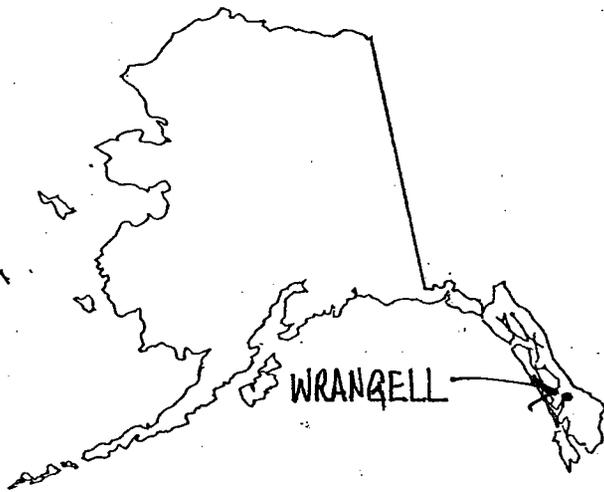
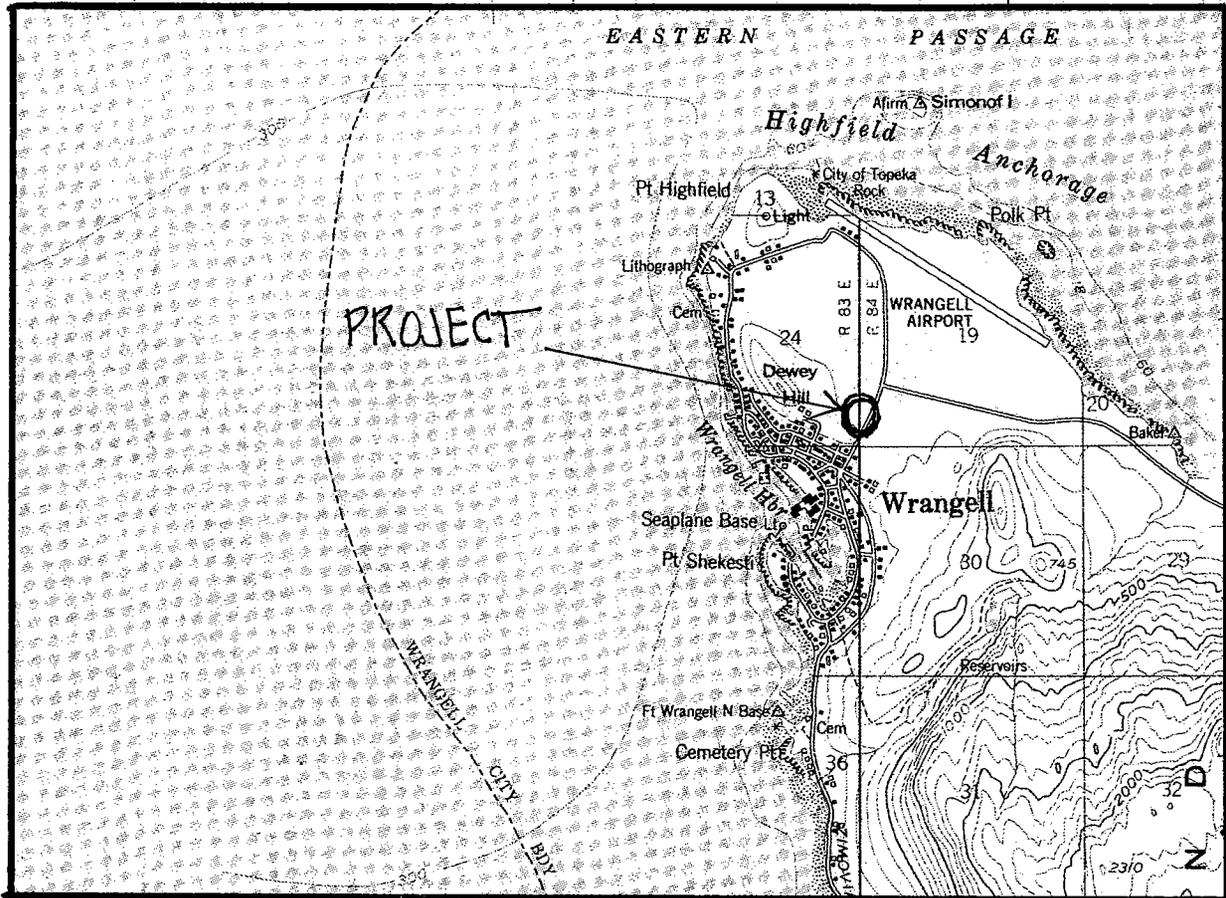
Authority: This permit will be issued or denied under the following authority:

(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).

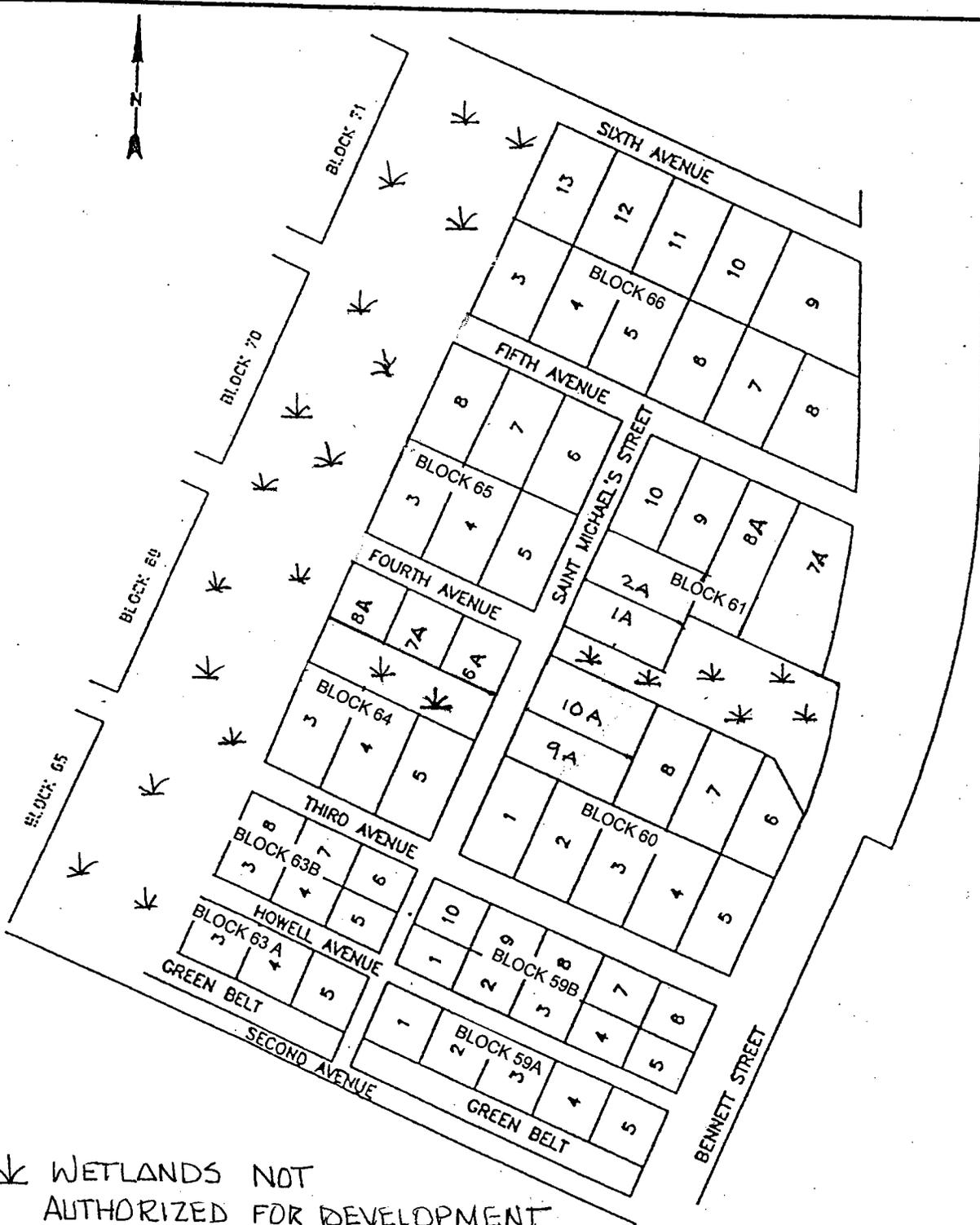
A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Special Public Notice.

District Engineer
U.S. Army, Corps of Engineers

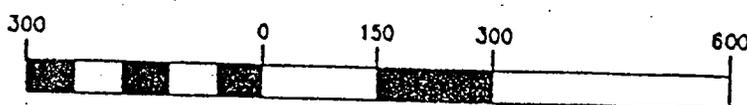
Attachments



GENERAL PERMIT 98-01-N
 (POA-2006-216 Stikine Strait)
 Wrangell Industrial Park Subdivision
 Re-issue for five years
 Location Map
 February 2006



✱ WETLANDS NOT AUTHORIZED FOR DEVELOPMENT



SCALE IN FEET

GENERAL PERMIT 98-01-N
 (POA-2006-216 Stikine Strait)
 Wrangell Industrial Park Subdivision
 Re-issue for five years
 Subdivision Map
 February 2006

STATE OF ALASKA

OFFICE OF THE GOVERNOR

Department of Environmental Conservation

DIVISION OF WATER

401 Certification Program

Non-Point Source Water Pollution Control Program

NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the Corps of Engineers intends to re-issue Department of the Army (Department) **General Permit 98-01, Wrangell Industrial Park Subdivision**, for an additional five years. The GP re-issuance is described in Special Public Notice POA-2006-215 and serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project with respect to Water Quality Certification may submit written comments within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation
WQM/401 Certification
410 Willoughby Avenue
Juneau, Alaska 99801-1795
Telephone: (907) 465-5321
FAX: (907) 465-5724

FRANK H. MURKOWSKI, GOVERNOR

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT AND PERMITTING
302 GOLD STREET, SUITE 202
JUNEAU, ALASKA 99801-1127
PHONE: (907) 465-3562/FAX: (907) 465-3075

**NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM**

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Special Public Notice POA-2006-215, the re-issuance of **General Permit 98-01, Wrangell Industrial Park Subdivision** for five more years, complies with the Alaska Coastal Management Program and that work verified under GP 98-01 will be conducted in a manner consistent with that program.

The Office of Project Management and Permitting requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.

GENERAL PERMIT 98-01-N

WRANGELL INDUSTRIAL PARK SUBDIVISION

INTRODUCTION

This General Permit (GP) authorizes the placement of dredged and/or fill material, and structures, into wetlands associated with industrial development in the Wrangell Industrial Park Subdivision. Authorized activities include foundation pads, associated driveways, parking areas, and lot utilities. The General Permit area includes the following lots within the Wrangell Industrial park Subdivision: Block 59B Lots 1, 2, 9,10; Block 60, Lots 9A, 10A; Block 61 Lots 1A, 2A, 7A, 8A, 9,10; Block 63A Lots 3-5; Block 63B Lots 3-8; Block 64 Lots 3-5 and Lots 6A, 7A, 8A; Block 65 Lots 3-8; Block 66 Lots 3-13. A map of the project area is attached.

All activities must be performed in accordance with the requirements, procedures and conditions of the GP. Failure to comply with the terms and conditions of the permit may result in suspension, modification or revocation of the permit and/or imposition of penalties as provided by law.

REQUIREMENTS FOR USE OF THE GP

The attached Special and General Conditions describe the criteria which must be met for work to be accomplished under this GP. An individual wishing to perform work under the GP must review these conditions carefully. If the proposed work does not meet the requirements or the conditions, the GP will not apply and an individual Department of the Army permit application must be submitted.

PROCEDURES

Individuals wishing to perform work under this GP shall submit, in writing, to the District Engineer, the following information:

1. The Block and Lot number of the Wrangell Industrial Park Subdivision of the proposed activity;
2. A description of the work including the size of fill pads, driveways and any other features or structures requiring fill;
3. 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. The drawing must include stream locations, drainage patterns and topography. Plans must show location and size of culverts or other water body/drainage crossing structures.
4. The type and source of fill material to be used and the disposal site for any excavated material must also be included;
5. Other information including photographs that would verify that the proposed work meets the terms and conditions of the GP.

The information provided will be reviewed by this office for compliance with the terms and conditions of the GP. Normally, within 30 days of receiving the required information, a letter will be sent from this office to the applicant stating whether or not the proposed project is authorized by the GP. Copies of the provided information will be furnished to Alaska Department of Natural Resources, Office of Project Management and Permitting and other interested parties. No fill placing activity can begin until the applicant has received written verification from the Corps of Engineers that the project is authorized.

Modification of the work authorized by the GP, including changes in the size or location of the footprint of the project, or the amount or type of fill material, requires submittal of revised plans for review and approval prior to doing any work.

GENERAL CONDITIONS

1. You must maintain the work authorized by this GP in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity. Should you cease to maintain the authorized activity or abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
2. If you discover any previously unknown historic or archaeological remains while accomplishing the work authorized by this GP, you must immediately phone this office of what you have found at 1-800-478-2712. We 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 associated with this GP, you must contact the Alaska District Corps of Engineers to validate the transfer of this authorization.
4. You must allow representatives from this office to inspect the authorized work at any time deemed necessary to ensure that it is in compliance with the terms and conditions of the GP.

SPECIAL CONDITIONS

1. Prior to beginning construction, the limits of the proposed excavation and fill areas must be staked and/or flagged to prevent the inadvertent encroachment of fill material into adjacent wetlands.
2. Prior to construction, erosion control measures, such as silt fencing, sediment traps, or water diversion structures, must be properly deployed and installed. During construction, silt and sediment from the site work must be prevented from entering wetlands or water bodies outside the authorized project limits.
3. Site preparation, excavation, and fill placement must be conducted in a manner to prevent adverse hydrologic effects. Natural drainage patterns must be maintained using appropriate ditching, culverts, storm drain systems and other measures, without causing ponding or drying. Excessive ponding and/or dewatering of areas adjacent to fill areas will indicate non-compliance with this condition.
4. During excavation and fill placement, heavy equipment must not be operated in wetlands outside the authorized excavation and fill area.
5. Dredged or fill material must not consist of unsuitable material (e.g. trash, metal debris, overburden material, wood waste, etc.) and must be free from petroleum products. All material discharged must be free of toxic pollutants in toxic amounts as defined by Alaska State Law and Toxic Pollutants List in Section 307 of the Clean Water Act.
6. Temporary storage of excavated and/or excess material on-site must be managed to prevent sediment from being carried into adjacent wetlands and waters, and to prevent leachate from causing odor problems or degradation of water quality.
7. Excavated areas must be filled within the shortest reasonable time, so that ground is not left exposed for extended periods. Excavation of overburden must take place on successive units sufficiently limited in size so that placement of fill can occur expeditiously.
8. Disturbed areas not covered with rock fill must be stabilized and re-vegetated with native species in a timely manner to minimize erosion and sedimentation.
9. Unusable or excess material must be disposed of at an approved disposal site.
10. The proposed activity must not adversely affect any species listed as threatened or endangered under the Endangered Species Act of 1973, as amended (ESA), or endanger the critical habitat of such species. In addition, the proposed activity must not jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat.
11. All conditions on the State of Alaska Department of Natural Resources, Office of Project Management and Permitting (OPMP) Coastal Zone Management Consistency Determination are fully enforceable conditions of this GP. A copy of the OPMP Final Consistency Determination is attached to this permit.

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 United States in the public interest.
3. Damages to persons, property, or to the 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.

RE-EVALUATION OF PERMIT DECISION

The Corps may re-evaluate its decision to issue a GP verification to any person or agency at any time the circumstances warrant. Circumstances that could require a re-evaluation include, but are not limited to the following:

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

Such a re-evaluation may result in a determination 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, accomplish the corrective measures by contract, or otherwise bill you for the cost.

PENALTIES FOR VIOLATIONS

Failure to comply with the terms and conditions of the GP may result in suspension of the work, revocation of the permit, removal of the dredged and/or fill material or other structures, directed 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.

TERM, EXTENSION, AND REVOCATION OF THE GENERAL PERMIT

GP 98-01-N may be revoked by issuance of a Public Notice at any time the District Engineer (DE) determines that the individual or cumulative effects of the activities authorized therein 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 will decide on a case-by-case basis if previously authorized activities should be revoked, suspended, or modified.

The time limit for authorizing work under this GP ends five years from the date of issuance. Any activity verified by this GP before the expiration date must also be completed by that date, unless activities are underway or will be completed within twelve months of the expiration date, and the permittee notifies the Corps of his/her intent to continue work on the project. Further time extension may be considered on a case-by-case basis under provisions of 33 CFR 325.6. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the expiration date.

FOR THE DISTRICT ENGINEER

Glen E. Justis, Chief
East Section, Regulatory Branch

Date

DRAFT