



Public Notice

US Army Corps
of Engineers
Alaska District
Regulatory Branch (1145b)
Post Office Box 898
Anchorage, Alaska 99506-0898

Date: JANUARY 14, 2002

Identification No: SPN 2002-01

In reply refer to above Identification Number

EXPIRATION DATE: FEBRUARY 13, 2002

SPECIAL PUBLIC NOTICE SPN-2002-01

GENERAL PERMIT 2001-02
SEAVIEW ESTATES SUBDIVISION

A General Permit (GP) has been issued pursuant to Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et seq.), and in accordance with the Department of Army Regulations (33 CFR Part 320-330) for the discharge of fill material into waters of the United States, including wetlands, within the Seaview Estates Subdivision. This General Permit (GP) authorizes placement of clean fill material within as much as 0.25 acres of wetlands per lot, within the Seaview Estates Subdivision, Kotzebue, Alaska, (section 11, T. 17 N., R. 18 W., Kateel River Meridian, Lat. 66.8949°N, Long. 162.5446°W.). Seaview Estates Subdivision is owned by Bish Gallahorn & Associates, Inc., Post Office Box 909, Kotzebue, Alaska 99752. The GP authorizes fill placement within approximately 40 lots for the construction of driveways, utilities, as well as fill placement within each lot associated with house pads and yards. The purpose of this GP is to authorize fill placement for the development of approximately 40 driveways and house pads for use as single-family homes. The placement of fill material associated with residential construction activities which does not fall within the scope of this GP, or which fails to meet the terms and conditions, are not authorized by this GP.

In response to Special Public Notice 2001-12 dated September 11, 2001, the proposed GP was revised to reflect comments and address concerns submitted by the interested public and other resource agencies. The State of Alaska Division of Governmental Coordination (ADGC) found the project consistent with Alaska Coastal Management Program. The Corps has added the ADGC recommended conditions to the GP. The Corps has also added the recommended conditions made by the U.S. Fish & Wildlife Service. Based on a review of all pertinent information including a prepared environmental assessment, I have concluded that the issuance of this GP will not have more than minimal impacts on the environment, and is not contrary to the public interest.

The attached GP-2001-02 outlines the criteria which must be met in order for work to be accomplished. An individual wishing to perform work under this general permit must review these conditions carefully. If the proposed work does not meet the requirements of the conditions, the general permit will not apply and an individual Department of the Army permit application must be submitted.

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

This general permit has been issued for a period of five years, effective the date of the signature shown on the last page of the permit. At the end of this five-year period, an evaluation of the general permit will be made, and at that time it will be decided whether or not this general permit should be renewed. The District Engineer, or his authorized representative, 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.

District Engineer
Alaska District
U.S. Army Corps of Engineers

Attachment



US Army Corps
of Engineers
Alaska District

Regulatory Branch (1145b)
Post Office Box 898
Anchorage, Alaska 99506-0898

Public Notice

Date: JANUARY 14, 2002

Identification No. GP-2001-02

In reply refer to above Identification Number

GENERAL PERMIT 2001-02

SEAVIEW ESTATES SUBDIVISION

INTRODUCTION

This General Permit (GP) authorizes the placement of clean fill material within as much as 0.25 acres of wetlands per house lot, within the Seaview Estates Subdivision, Kotzebue, Alaska, (section 11, T. 17 N., R. 18 W., Kateel River Meridian, Lat. 66.8949°N, Long. 162.5446°W.). Seaview Estates Subdivision is owned by Bish Gallahorn & Associates, Inc., Post Office Box 909, Kotzebue, Alaska 99752. The GP authorizes fill placement within approximately 40 lots for the construction of driveways, utilities, as well as fill placement within each lot associated with house pads and yards. The Alaska State Division of Governmental Coordination would not issue a Final Consistency Finding that states that the undertaking authorized under this permit was consistent with the Alaska Coastal Management Program unless the Corps made it a condition of this permit that only above ground holding tanks could be used for sewage disposal within Seaview Estates Subdivision and that underground sewage disposal systems would not be used within Seaview Estates Subdivision. Based on the demands of Alaska Division of Governmental Coordination the Corps placed a condition on this permit that only above ground holding tanks could be used for sewage disposal within Seaview Estates Subdivision and that underground sewage disposal systems would not be used within Seaview Estates Subdivision. However, the Corps does not have the legal authority to enforce the condition that only above ground holding tanks could be used for sewage disposal within Seaview Estates Subdivision and that underground sewage disposal systems would not be used within Seaview Estates Subdivision. A map of the project area, and plan view drawings of the proposed infrastructure and development are attached.

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

REQUIREMENTS FOR GP USE

The attached special and general conditions outline 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 of the conditions, the GP will not apply and an individual Department of the Army permit application must be submitted.

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

- 1) The project location (section, township, range, block and lot number)
- 2) A description of the work including the structures, the size of fill pad, and driveway;
- 3) A map and plans, including plan and cross-section views of the project, showing the layout of the driveway, pad and structures in relation to other features. Maps should show stream locations, drainage patterns and topography. Plans must show location and size of culverts or other waterbody-crossing structures.
- 4 The type and source of material to be used. The disposal site for any excavated material must also be included.
- 5) Photographs or any other information that would verify that the proposed work meets the conditions of the GP.

The plans will be reviewed by this office for compliance with the terms and conditions of the GP. Normally within 30 days of receiving a complete request, 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 letter will be furnished to Alaska Department of Governmental Coordination and other interested parties. No filling activity shall commence until the applicant has received written verification from the Corps of Engineers that the project is authorized.

Modification of authorized work, including changes in the size or location of the footprint of the project, or the amount or type of fill material, shall require submittal of revised plans for review and approval prior to construction.

GENERAL CONDITIONS

1. You must maintain the activity authorized by this permit 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 wish to cease to maintain the authorized activity or should you desire to 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 archeological remains while accomplishing the activity authorized by this permit you must immediately notify this office of what you have found. 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 permit, 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 activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

SPECIAL CONDITIONS:

1. A maximum of 0.25 acres of wetlands per house lot may be filled with clean material.
2. The boundaries of the excavation and fill area in wetlands must be staked and/or flagged prior to construction to prevent inadvertent encroachment of adjacent wetlands.
- 3 During excavation and fill placement, heavy equipment shall not be operated on wetlands outside the authorized excavation and fill area.

4. Silt and sediment from site excavation and fill materials shall be prevented from entering wetlands or water bodies outside the project site. Erosion control measures, such as silt fencing, sediment traps, or water diversion structures, shall be properly installed and maintained prior to commencing construction.
5. Temporary storage of excavated materials on-site must be managed to prevent sediment from being carried into adjacent wetlands and waters, and to prevent degradation of water quality.
- 6 Excess material shall be disposed at an approved disposal site
7. No discharged dredged or fill material may consist of unsuitable material (e.g., trash, metal debris, overburden material, woodwaste, etc.) and must be free from petroleum products. All material discharged shall 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.
8. All disturbed areas shall 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.
9. Natural drainage patterns shall be maintained to the extent practicable by the installation of culverts in sufficient number and size under driveways and other fills to prevent drying, ponding, diversion, or concentrated runoff that would result in adverse impacts to adjacent wetlands and other fish and wildlife habitats. Excessive ponding and/or dewatering of areas adjacent to fill areas shall indicate non-compliance with this condition.
10. Disturbed areas not covered with rock fill must be stabilized and revegetated with native species in a timely manner to minimize erosion and sedimentation.
11. The proposed activity shall 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 shall not jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat.
12. Also, a minimum 50-foot buffer of native vegetation shall remain undisturbed adjacent to any natural stream, drainage, pond, and seasonally flooded wetland. Wetland areas and buffers shall be delineated on the final subdivision plat and included in the protective covenants.
13. Individual lots must use above ground holding tanks for the purpose of sewage disposal. Below ground septic systems are not permitted under this GP

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 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.

REVALUATION OF PERMIT DECISION:

The Corps may reevaluate its decision to issue a GP authorization to any person or agency at any time the circumstances warrant. Circumstances that could require a reevaluation 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 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 accomplish the corrective measures by contract or otherwise and 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:

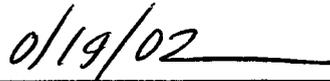
This GP may be revoked by issuance of a Public Notice at any time the DE determines that the individual or cumulative effects of the activities authorized herein are having an unacceptable adverse effect upon the public interest. Following such revocation, all new applications will be processed under 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.

The time limit for authorizing work under this GP ends five years from the date of issuance. Any activity authorized by this GP before the expiration date must also be completed by that date, unless the activities are underway, will be completed within twelve months of the expiration date, and the permittee notifies the Corps of his 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 you request for a time extension to this office for consideration at least one month before the expiration date.

FOR THE DISTRICT ENGINEER



Michiel E. Holley, Chief
North Section



DATE

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF GOVERNMENTAL COORDINATION

TONY KNOWLES, GOVERNOR

SOUTHCENTRAL REGIONAL OFFICE
550 W. 7TH AVENUE, SUITE 1660
ANCHORAGE, ALASKA 99501
PH: (907) 269-7470/FAX: (907) 269-3981

CENTRAL OFFICE
P.O. BOX 110030
JUNEAU, ALASKA 99811-0030
PH: (907) 465-3562/FAX: (907) 465-3075

PIPELINE COORDINATOR'S OFFICE
411 WEST 4TH AVENUE, SUITE 2C
ANCHORAGE, ALASKA 99501-2343
PH: (907) 271-4317/FAX: (907) 272-3829

December 6, 2001

Robert Jobson
Corps of Engineers
Regulatory Branch (1145b)
P.O. Box 898
Anchorage, AK 99506-0898

RECEIVED
DEC 11 2001
REGULATORY BRANCH
Alaska District, Corps of Engineers

Dear Mr. Jobson:

**SUBJECT: General Permit (GP) 2001-2 (Sea View Estates)
STATE I.D. NO. AK 0109-02AA
FINAL CONSISTENCY FINDING**

The Division of Governmental Coordination (DGC) is coordinating the State's review of the Corps of Engineer's proposed GP 2001-2 for consistency with the Alaska Coastal Management Program (ACMP) and has developed this final consistency finding based on reviewers' comments.

Scope of Project Reviewed

The proposed activity is the issuance of a COE GP for placement of clean fill material in up to 0.25 acres of wetlands per lot within the Sea View Estates subdivision. The fill will be placed to construct driveways, house pads, and yards and for the placement of utilities. Approximately 40 houses will be constructed within the subdivision (lots range between 9,000 SF and 15,000 SF in size). Houses will have aboveground holding tanks for sewage collection, no below or in ground sewage systems will be allowed. The conditions (both general and special conditions) listed on the COE's proposed general permit 2001-02 are incorporated into this project description. The subdivision's location is T. 17 N., R. 18 W., Section 11, SM.

The remainder of the project (located at T. 16 N., R. 18 W., Sec. 3 and 4), including a material site and access roads from the material site to the subdivision, is being reviewed as Kotzebue Sound 63, State ID # AK 0108-17AA. Approximately 2.5 acres of wetlands will be filled during road construction and up to 17 acres of wetlands will be filled by individuals purchasing lots within the subdivision. The private material source is located approximately 6 miles southeast of Kotzebue (US Survey No. 10663, situated on the easterly shore of Kotzebue Sound at the confluence with the right bank of Sadie Creek). This site will provide the fill for the access road

portion of the project. At the material site, no gravel extraction will occur within 75' from the shoreline (defined by the beginning of vegetation). A 10' vegetated buffer will be preserved between the gravel extraction source and the beach. The preserved area is part of the dune system and will clearly separate the activity from the active beach face. No gravel will be stockpiled on the site. Material will be moved to the project site or to an upland location, as it is excavated. Gravel will be hauled across 3 native allotments and public roads.

This consistency finding, developed under 6 AAC 50, applies to the federal consistency determination required for the activity per 15 CFR 930 Subpart C. You will also need the following federal and State authorizations for the activity:

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

Most State agencies should issue permits within five days after DGC issues a final consistency finding. This consistency finding does not obligate any State agency to issue an authorization under its own statutory authority, nor does it supersede state agency statutory obligations. Authorities outside the ACMP may result in additional permit/lease conditions not contained in the consistency finding.

The Alaska Departments of Environmental Conservation, Fish and Game, and Natural Resources and the Northwest Arctic Borough coastal resource district have reviewed your proposed activity. Based on that review, the State concurs with your determination that this proposed project is consistent with the ACMP to the maximum extent practicable because you have revised the project description in your project proposal.

Advisories.

Please be advised that although the State agrees the project is consistent with the ACMP, based on your project description and any alternative measures contained herein, you/the COE are still required to meet all applicable State and federal laws and regulations. Your consistency finding may include reference to specific laws and regulations, but this in no way precludes your/the COE's responsibility to comply with other applicable laws and regulations.

This consistency finding is ONLY for the activity as described. If you propose changes to the approved activity, including its intended use, prior to or during its siting, construction, or operation, you must contact this office immediately to determine if further review and approval of the revised project is necessary. Changes may require amendments to the State approvals listed in this consistency finding.

This final consistency determination represents a consensus reached between you as the project applicant and the reviewing agencies listed above, regarding the conditions necessary to ensure

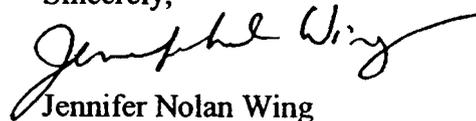
the proposed project is consistent with the ACMP. We are informing the federal agency responsible for approving a federal authorization for your project that your original proposal has been modified subject to the alternative measures in this consistency determination.

This final consistency determination is a final administrative decision for purposes of Alaska Appellate Rules 601-612. Any appeal from this decision to the superior court must be made within 30 days of the date of this determination.

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 Corps of Engineers (907-753-2712) so that consultation per section 106 of the National Historic Preservation Act may proceed.

If you have any questions regarding this process, please contact me at 907-269-7475 or email jennifer_wing@gov.state.ak.us.

Sincerely,



Jennifer Nolan Wing
Project Review Coordinator

cc: Tim Rumfelt, ADEC
Nancy Ihlenfeldt, ADFG
Roselynn Ressa Smith, ADNR
Noah Naylor, NWAB Coastal District
Linda Streit, Bish Gallahorn and Associates, Kotzebue

STATE ALASKA

**DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF AIR AND WATER QUALITY
NON-POINT SOURCE WATER POLLUTION CONTROL**

Certified Return Receipt
7099 3400 0016 8434 4275

December 7, 2001

Robert Jobson
U.S. Army Corps of Engineers
Regulatory Branch
PO Box 898
Anchorage, AK 99506

RECEIVED
DEC 12 2001
REGULATORY BRANCH
Alaska District, Corps of Engineers

Subject: General Permit 2001-02, Seaview Estates Subdivision
State I.D. No. AK 0109-02AA

Dear Mr. Jobson

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation is issuing the enclosed Certificate of Reasonable Assurance for the proposed general permit for fill placement on residential lots, within Seaview Estates subdivision, Kotzebue, Alaska.

This certification is one of the approvals required as part of a coastal management consistency determination issued by the Division of Governmental Coordination under AAC 50.070.

Department of Environmental Conservation regulations provide that any person who disagrees with any portion of this action may request an adjudicatory hearing in accordance with 18 AAC 15.200-920. This request should be mailed to the Commissioner of the Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801-1795. Please also send a copy of the request for hearing to the undersigned. Failure to submit a hearing request within thirty days of receipt of this letter constitutes a waiver of that person's right to judicial review of this action.

By copy of this letter we are advising the Division of Governmental Coordination of our actions and enclosing a copy of the certification for their use.

Sincerely,



Tim Rumpfelt
Environmental Specialist

Enclosure
cc: (with encl.)
Jennifer Nolan Wing, DGC
Karlee Gaskill, DNR/DMLW

EPA, AK Operations
Wayne Dolezal, ADFG
F&W

Clean Air, Clean Water

**STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE**

A Certificate of Reasonable Assurance, in accordance with Section 401 of the federal Clean Water Act and the Alaska Water Quality Standards, is issued to U.S. Army Corps of Engineers, Alaska District, Regulatory Function Branch, PO Box 898, Anchorage, Alaska 99506, for a proposed general permit covering the placement of clean fill onto individual lots within a residential subdivision. The fill will be used for utilities, house pads, and driveways.

The proposed activity is located within section 11, T17N, R18W, Kateel River Meridian, Seaview Estates Subdivision, Kotzebue, Alaska.

Public notice of the application for this certification was given as required by 18 AAC 15.180.

Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a Corps of Engineers permit identified as General Permit 2001-02, Seaview Estates Subdivision, and a discharge may result from the proposed activity.

Having reviewed the application and comments received in response to the public notice, the Alaska Department of Environmental Conservation certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act, the Alaska Water Quality Standards, 18 AAC 70, and the Standards of the Alaska Coastal Management Program, 6 AAC 80.

Date 12/7/01



Tim Rumfelt
Environmental Specialist