



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

Regulatory Division (1145)  
CEPOA-RD  
Post Office Box 6898  
Elmendorf AFB, Alaska 99506-0898

**PUBLIC NOTICE DATE:** June 6, 2008

**EXPIRATION DATE:** 30 Days

**REFERENCE NUMBER:** POA-2006-1608

**WATERWAY:** Susitna River

Notice is hereby given that the U. S. Army Corps of Engineers, Alaska District (Corps) under the authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. seq.) is soliciting comments on the proposed South-central Alaska Regional Mitigation Banking Proposal.

**APPLICANT:** Matanuska-Susitna Borough, 350 East Dahlia Avenue, Palmer, AK 99645, contact Ms. Tracy K. McDaniel, Real Estate Acquisition Officer, phone (907)745-9607; and Su-Knik, LLC, 9 Teaberry Lane, Tiburon, CA 94920, Contact Mr. Jerome Ryan, phone (415)435-3653.

**LOCATION:** The proposed umbrella mitigation bank service area consists of that portion of the Matanuska-Susitna Borough lying between Knik Arm and the Susitna River and south of the Talkeetna mountains. Individual service areas are identified by watersheds, including the greater Fish Creek, and lower Susitna and Little Susitna watersheds. The proposed mitigation bank properties and associated geographic service areas are shown in appendices 2 and 3.

**PURPOSE:** Establish a mitigation bank within the Matanuska-Susitna Borough.

**PROPOSED ACTION:** The Matanuska-Susitna Borough (herein referred to as the Borough) and Sustainable Environments LLC, (together, herein referred to as Su-Knik) entered a wetland preservation bank agreement, on December 10, 2006, to propose the establishment of a mitigation bank on Borough owned lands. The purpose of the mitigation bank is to provide Department of the Army permit applicants the opportunity to purchase bank credits as mitigation for unavoidable impacts to waters of the United States resulting from projects authorized under Section 404 of the Clean Water Act, and Section 10 of the Rivers and Harbors Act.

**PUBLIC MEETING:** An informational public meeting will be held at the Matanuska Susitna Borough Administration Building, 350 E. Dahlia Avenue, Palmer, Alaska 99645, Assembly Chambers (lower level), on June 12<sup>th</sup>, at 6 PM.

ADDITIONAL GENERAL INFORMATION: The objective of the Clean Water Act (CWA) is "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters". The CWA generally prohibits the discharge of dredged or fill material into wetlands, lakes, streams, and other waters of the United States without a permit from the Corps.

Applicants are required to take appropriate and practicable steps to avoid and minimize impacts to aquatic resources from proposed discharges. For unavoidable impacts, compensatory mitigation may be required to replace the loss of wetland, stream, and/or other aquatic resource functions. The Corps is responsible for determining the appropriate form and amount of compensatory mitigation required.

Methods of providing compensatory mitigation include aquatic resource restoration, establishment, enhancement, and preservation. Compensatory mitigation is typically accomplished through the following three ways:

1. Mitigation Banks: A mitigation bank is an area that contains wetlands, streams or other aquatic resources that have been restored, established, enhanced, or preserved. This resource area is then set aside to compensate for future impacts to aquatic resources resulting from permitted activities. The value of a bank is determined by quantifying the aquatic resource functions restored, established, enhanced, and/or preserved in terms of "credits". Permit applicants can acquire these credits to meet their requirements for compensatory mitigation.

2. In-Lieu Fee Mitigation: A permit applicant may make a payment to an in-lieu fee program that will conduct wetland, stream or other aquatic resource restoration, creation, enhancement, and/or preservation activities. In-lieu fee programs are generally administered by government agencies or non-profit organizations.

3. Permittee-Responsible Mitigation: Permit applicants may be required to provide compensatory mitigation through an aquatic resource restoration, establishment, enhancement and/or preservation activity. This compensatory mitigation may be provided at or adjacent to the impact site (i.e., on-site mitigation) or at another location, usually within the same watershed as the permitted impact (i.e., off-site mitigation). The permittee retains responsibility for the implementation and success of the mitigation project.

On March 31, 2008, the Corps and U.S. Environmental Protection Agency (EPA) announced new compensatory mitigation standards (Final Mitigation Rule) intended to improve the effectiveness of mitigation. More information on the Final Mitigation Rule and mitigation banks may be found at the following links:

Final Mitigation Rule: [http://www.usace.army.mil/cw/cecwo/reg/Mitigation Banking Fact Sheet:](http://www.usace.army.mil/cw/cecwo/reg/Mitigation%20Banking%20Fact%20Sheet)  
<http://www.epa.gov/owow/wetlands/facts/fact16.html>

ADDITIONAL PROJECT INFORMATION: The proposed Su-Knik Mitigation Bank consists of a regional umbrella banking instrument and individual site-specific banks. Each site-specific bank is a geographic area which contains wetlands and has a corresponding service area within which mitigation credits may be sold. See Appendix 3 for a map of proposed service areas. This Public Notice covers the umbrella banking instrument and the Big Lake South site-specific bank.

Additional site-specific banks may be developed in the future and would be appended to the regional umbrella banking instrument upon approval of the Corps and the Interagency Review Team (IRT). The IRT consists of representatives from both State and Federal Resource Agencies.

Su-Knik owns the mitigation banking rights on the lands upon which the proposed mitigation banks would be established, and be responsible for maintaining wetland functions at their current level. Su-Knik would establish escrow funds for each site-specific bank to cover the cost of monitoring for adverse impacts and any necessary restoration actions. Contributions to the escrow funds would come from credit sales.

The mitigation bank lands would be protected by conservation easements. A third party nonprofit group would hold the easements on the bank lands and ensure that the aquatic resources are protected. The Borough would retain underlying fee-title to the land and continue to own the properties in perpetuity.

A functional assessment would be conducted on each site-specific bank and a detailed description of the existing aquatic resources would be made available. The acreage of riverine, lacustrine, and slope flat wetlands would be measured by the Su-Knik GIS system. The functional assessment of the various wetland types would utilize the Hydrogeomorphic (HGM) Approach.

The HGM approach yields functional capacity index (FCI) scores for each type of wetland. These FCI scores would be combined with the acreage of each wetland type (riverine, lacustrine, and slope-flat) to calculate the total available mitigation credits for each site-specific bank.

Credits for the entire bank will be available for transfer to bank customers upon adoption of the individual bank plans into the umbrella agreement and execution of the respective conservation easements.

See the attached Executive Summary (Appendix 1) for more detail regarding the proposed Su-Knik mitigation bank. The complete umbrella banking instrument and Big Lake South site-specific documents can be found at the following sites: <http://www.pos.usace.army.mil/reg>; <http://www.matsugov.us/LandManagement/>.

WATER QUALITY CERTIFICATION: A Department of the Army (DA) permit is not required for the proposed umbrella agreement. Therefore, a 401 Water Quality Certification is not required for the Corps to certify the mitigation bank.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires a permit applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program (ACMP). The proposed umbrella agreement would not require a DA permit, therefore consistency with the ACMP is not required for the Corps to certify the mitigation bank.

CULTURAL RESOURCES: Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time. Establishment of the mitigation bank would not result in adverse impacts to listed or eligible historic properties. This application is being coordinated with the State Historic Preservation Office (SHPO).

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area. The proposed mitigation bank would not result in land modifications and therefore, will not adversely impact any threatened or endangered species or modify their designated critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). 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 proposed mitigation bank.

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ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Preliminarily, the described activity will not affect EFH within the mitigation bank area. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our certification process.

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EVALUATION: The decision whether to approve this prospectus 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 would 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.

The Corps 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 certification of 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 proposed agreement, 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 Jack Hewitt at (907) 753-2708 or toll free in Alaska at (800) 478-2712, if further information is desired concerning this notice.

AUTHORITY: This agreement will be verified or denied under the authority of 33 CFR Parts 325 and 332.

(X) Section 404 Clean Water Act (33 U.S.C. 1344) Part 332, Compensatory Mitigation for Losses of Aquatic Resources.

District Engineer  
U.S. Army, Corps of Engineers

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Attachments

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## EXECUTIVE SUMMARY

**Subject:** Establish a mitigation bank in the Matanuska-Susitna Valley.

**Objective:** The objective of the proposed Su-Knik mitigation bank is to provide Department of the Army (DA) permit applicant's additional compensatory mitigation opportunities. ~~Compensatory mitigation may be required to offset unavoidable impacts to aquatic resources on permitted project sites after mitigation sequencing of avoidance and minimization have been fully implemented.~~ The proposed Su-Knik preservation mitigation bank would protect the aquatic resources on selected lands in perpetuity through conservation easements administered by a third party non-profit group. The Matanuska Susitna Borough (Borough) would retain fee title ownership of the property and Su-Knik Environments, LLC, (Su-Knik) owns the mitigation banking rights on all lands certified under the mitigation bank.

**Site Selection Criteria:** The areas selected for the mitigation bank contain ~~important aquatic resources with fundamental hydrologic functions that contribute to the sustainability of local watersheds.~~ These aquatic resources have been identified and selected because the areas are located within the path of projected development in the Matanuska Susitna Valley.

**Site Protection Instruments:** The individual mitigation bank lands will be permanently protected by conservation easements monitored by the third party nonprofit group and administered by Su-Knik. Financial assurances will be created for monitoring and maintenance of adverse impacts. Su-Knik will set-up a second endowment account that will be used for enforcement, restoration, and protection of resources within the individual banks.

**Baseline Information:** The baseline information (i.e., wetland locations, size, type, and functional conditions) will be assessed for all proposed individual bank wetlands. Wetlands within the individual bank areas will be delineated using routine methods described in the 1987 Corps of Engineers Wetlands Delineation Manual (Technical Report Y-87-1). Boundaries will be GPS located in a GIS data base and individual wetland types and areas will be verified in the field.

In compliance with the Compensatory Mitigation Final Rule (April 10, 2008, 33 CFR Parts 325 and 332, and 40 CFR Part 230 Section 404(b)(1), an appropriate assessment method (i.e., hydrogeomorphic approach to wetlands functional assessment) (HGM) will be used to assess and describe the aquatic resource types that will be preserved by the individual mitigation banks. An HGM based rapid assessment model may be utilized by DA permit applicants to evaluate the functional capacity of wetlands on a proposed project site. The procedure will provide a functional evaluation to determine potential aquatic resource impacts.

**Credit Determination Methodology:** The currency of compensatory mitigation is credits. Credits are a measure of the wetland functional capacity. Credits will be calculated and tracked on an individual function basis for each wetland type. The function index scores for individual wetland functions may also be combined and averaged for each of the three major functional groups: hydrologic, biogeochemical, and habitat. This will allow the bank to trade mitigation credits under all possible mitigation scenarios: by individual wetland function (i.e., stormwater retention), by functional group (i.e., hydrologic), or even by acreage of wetland type if a functional assessment has not been conducted for a project site.

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**Mitigation Work Plan:** Individual bank plans will be proposed for incorporation under the parent agreement (the umbrella instrument) and will be appended to the umbrella instrument. The signed umbrella instrument will constitute certification of the overall plan and the individual bank plans. Certification of each individual bank plan will include the adoption of the perpetual protection easement provisions. Once certification is complete the individual bank credits will be available for trade with DA permittees. For more information please see Su-Knik Mitigation Bank Umbrella Mitigation Instrument Section: "Functional Assessment and the Mitigation Process," pages 8 and 9, and Big Lake South Individual Bank Plan Section: "Mitigation Work Plan," page 7.

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**Maintenance Plan:** Upon certification, the conservation easement will be transferred to a third party non profit group for monitoring. Maintenance issues, such as trash removal, signage upkeep, and invasive species removal will be identified by the third party non profit group. Su-Knik will implement maintenance tasks. For more information please see Su-Knik Mitigation Bank Umbrella Mitigation Instrument Sections: "Financial Assurances and Access Maintenance Plan," "Contingency and Remedial Actions and Responsibilities," and "General Responsibilities of Long-term Manager," pages 11- 14, and Big Lake South Individual Bank Plan Sections: "Long Term Management and Monitoring Plan," pages 22 and 23, "Attachment C: Stewardship Fee Details," and "Attachment D: Long Term Management/Endowment Account Details."

**Ecological Performance Standards:** The functional condition scores identified by the HGM analysis will serve as performance standards against which the properties will be evaluated on an annual basis. For more information see Su-Knik Mitigation Bank Umbrella Mitigation Instrument Section: "Contingency and Remedial Actions and Responsibilities," page 12, and Big Lake South Individual Bank Plan Section: "Baseline Information, pages 10 - 20.

**Monitoring Requirements:** The third party non profit group will monitor the property and verify that the restrictions in the conservation easement are maintained over time. The results of the monitoring efforts will be GPS located, and summarized in a report of the findings including any remediation taken. The report will be submitted at the end of each calendar year. Any problems that are not remediated during the monitoring process will be described in the reports along with suggested remedial measures. Remedial measures will be implemented as soon as possible or in the following calendar year. For more information see Su-Knik Mitigation Bank Umbrella Mitigation Instrument Section: "General Responsibilities of the Long-term Manager," pages 12 and 13, and Big Lake South Individual Bank Plan Sections: "Long Term Management and Monitoring Plan," pages 22 and 23, "Attachment C: Stewardship Fee Details," and "Attachment D: Long Term Management/Endowment Account Details."

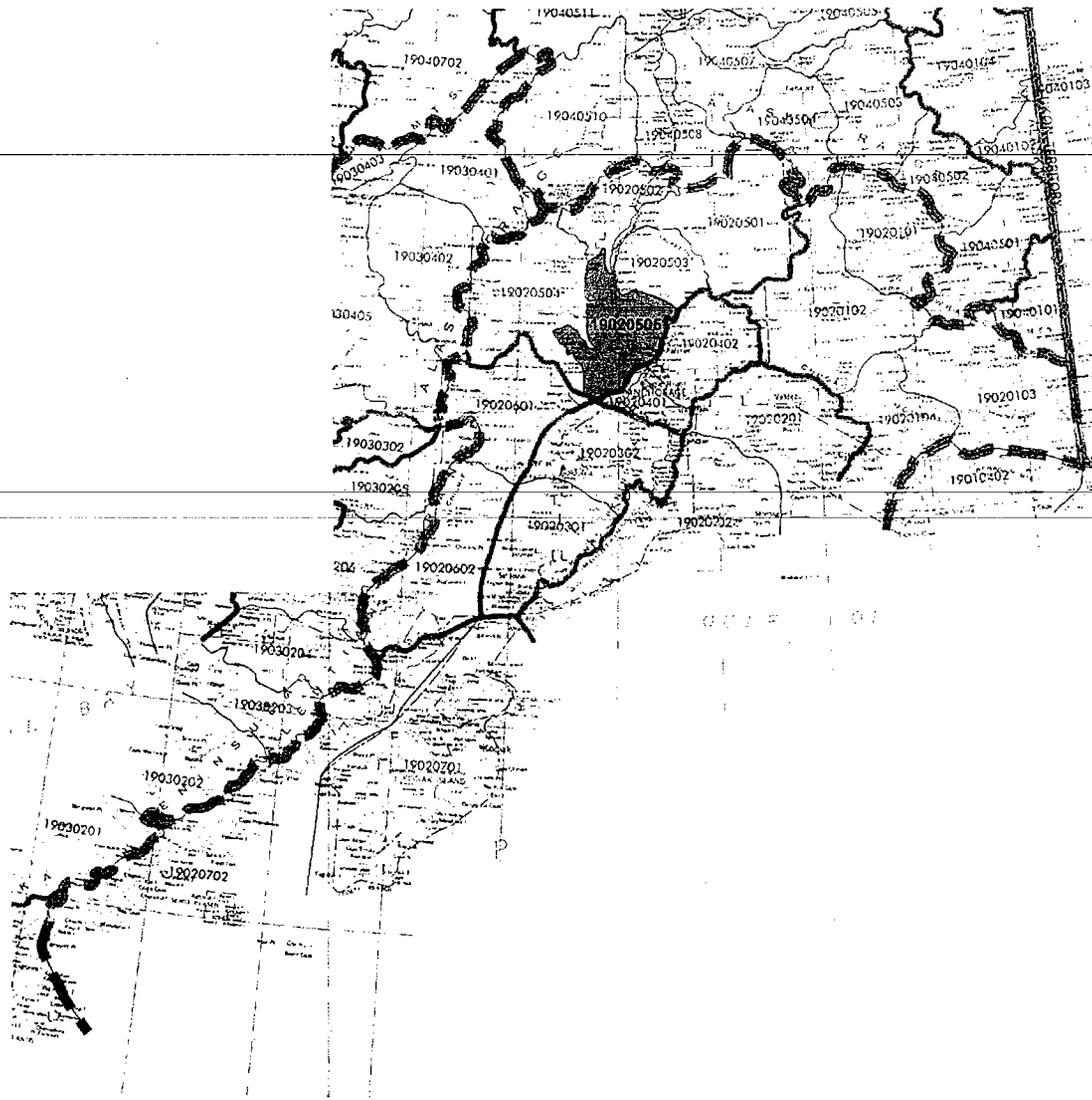
**Long-term Management Plan:** Conservation easements will be placed on the bank parcels in order to preserve the functional capacity of the wetlands in perpetuity. Upon approval, the conservation easement will be transferred to the agreed upon third party non profit group easement holder for long term management. The third party non profit group will monitor the individual bank properties and verify that the restrictions stated in the easements are maintained over time.

The bank parcels are intended to be self-sustaining, but some active management and maintenance may be required to ensure their long-term viability and sustainability. This responsibility includes acting to both avoid and respond to aquatic resource impacts. For more information please see Su-Knik Mitigation Bank Umbrella Mitigation Instrument Section: "Financial Assurances and Access Maintenance Plan," pages 11 and 12, and Big Lake South Individual Bank Plan Sections: "Long Term Management and Monitoring Plan," pages 22 and 23, "Attachment C: Stewardship Fee Details," and "Attachment D: Long Term Management/Endowment Account Details."

**Adaptive Management Plan:** If adverse impacts or degradation occurs to the properties, the third party non profit group will contact the long-term manager for enforcement action. For more information please see Su-Knik Mitigation Bank Umbrella Mitigation Instrument Section: "Financial Assurances and Access Maintenance Plan", pages 11 and 12, and Big Lake South Individual Bank Plan Sections: "Long Term Management and Monitoring Plan," pages 22 - 24 and "Attachment C: Easement for Fish Creek Parcel."

**Financial Assurances:** An escrow stewardship fund will be created for each individual bank. The third party non profit group will be responsible for administering the stewardship funds (as defined in the easement). The third party non profit group will inspect the property annually. The stewardship fund will not be used for restoration or repairing adverse impacts. A second endowment account will be set up and used for enforcement, restoration, and protection purposes. For more information please see Su-Knik Mitigation Bank Umbrella Mitigation Instrument Section: "Financial Assurances and Access Maintenance Plan," pages 11 and 12, and Big Lake South Individual Bank Plan Section: "Proof of Financial Assurances," page 9.

Appendix 2



HUC 1902

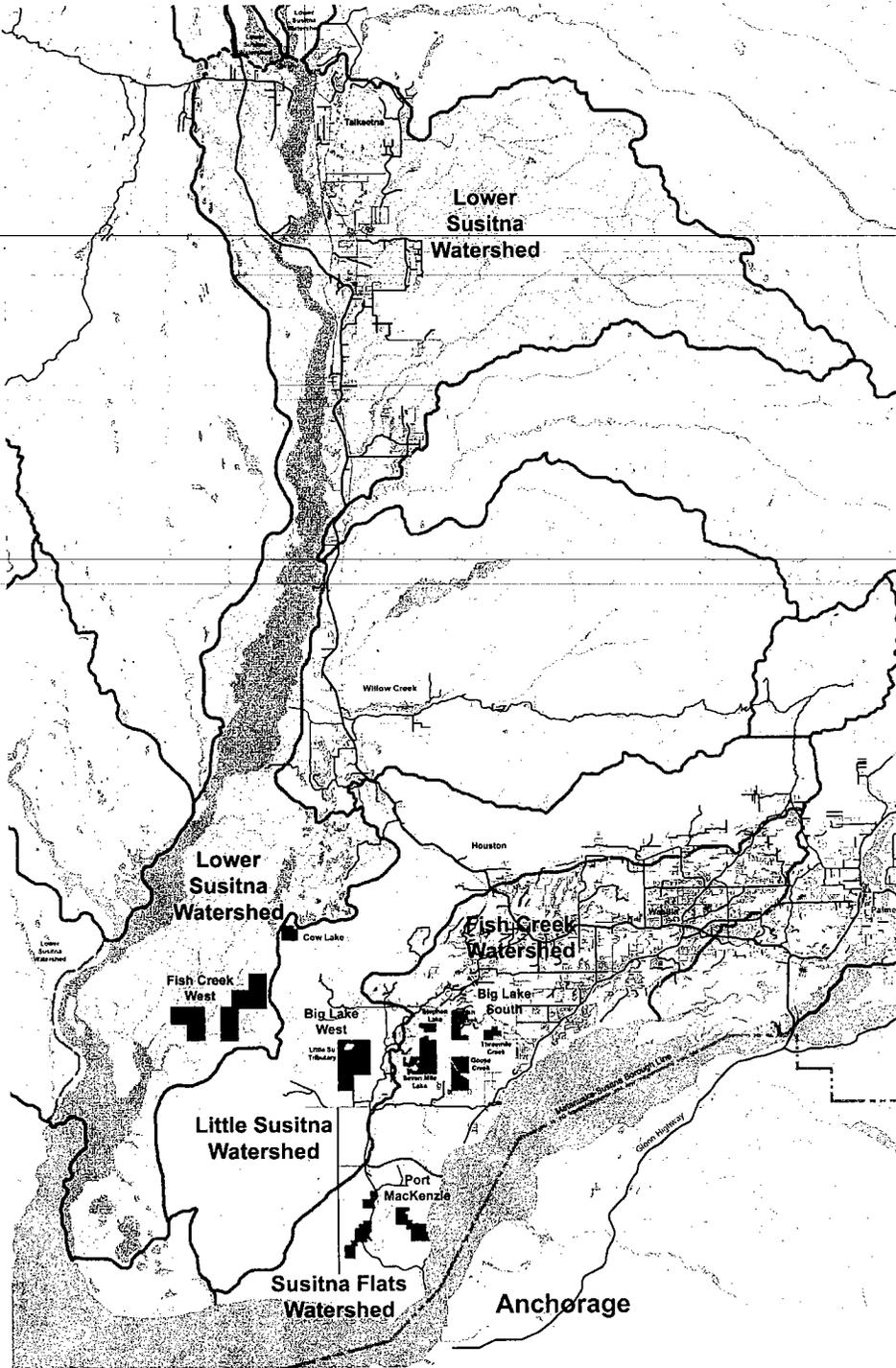
# USGS Watershed

Su-Knik Environmental Bank  
Matanuska-Sitka Borough Alaska



February 2007

Sustainable Environments LLC



**Umbrella Bank Service Area**  
Su-Knik Environmental Bank  
Matanuska-Susitna Borough Alaska

GIS Data Sources:  
Matanuska-Susitna Borough 2005 Parcel Transportation and Stream and Lakes, Roads Borough Boundary, Contour  
Scale: 1"=100,000  
0 25,000 50,000 100,000  
Revised January 2007 Sustainable Environments LLC